



**MINUTES
CITY OF ST. AUGUSTINE BEACH
PLANNING AND ZONING BOARD
REGULAR MONTHLY MEETING
TUESDAY, APRIL 19, 2016, 7:00 P.M.**

City Hall
2200 A1A South
St. Augustine Beach, FL 32080

I. CALL TO ORDER

Vice-Chairman David Bradfield called the meeting to order at 7:00 p.m.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

BOARD MEMBERS PRESENT: Vice-Chairman David Bradfield, Steve Mitherz, Roberta Odom, Elise Sloan, Senior Alternate Jeffrey Holleran, Junior Alternate Hester Longstreet.

BOARD MEMBERS ABSENT: Chairman Jane West, Zachary Thomas, Karen Zander.

STAFF PRESENT: Building Official Gary Larson, City Attorney James Wilson, City Manager Max Royle, Officer Ed Martinez; Recording Secretary Bonnie Miller.

IV. APPROVAL OF MINUTES OF MARCH 22, 2016 REGULAR MEETING

Motion: to approve the minutes of the March 22, 2016 regular monthly meeting. **Moved** by Roberta Odom, **seconded** by Elise Sloan, **passed 6-0** by unanimous voice-vote.

V. PUBLIC COMMENT

There was no public comment on any issue or item not on the agenda.

VI. NEW BUSINESS

- A. Conditional Use File No. CU 2016-04, for a renewal of conditional use permit for outside seating and food and/or beverage service and consumption outside of an enclosed building on the premises of an existing restaurant, Sunset Grille, in a commercial land use district at 421 A1A Beach Boulevard, Parrot Heads Inc., Peter Darios, Michael Rosa, Applicants

Peter Darios, 421 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, applicant, said Sunset Grille's current conditional use permit allowing outside seating and food and beverage service was granted by the City Commission five years ago, when the second-story deck was built. They haven't had any problems or complaints, so he'd like to ask that it be extended for 20 years, if possible, or at least 10 years, as they're not asking to do anything that's not already happening.

Mr. Mitherz asked if the request to renew the conditional use permit for outside seating is only for the second-story deck, as is stated in the current order, and if the downstairs outside area in front of the restaurant will remain just as an area where people can get drinks while waiting for a table.

Mr. Darios said yes, they don't plan to use this area for serving any food at all, as when the restaurant is full inside and upstairs, the kitchen can't really handle anything else. This area was created as a waiting station, and it will remain so, as serving food there would defeat the purpose. He also asked that the condition in the current conditional use order that prohibits an exterior sound system of any type and any live or recorded music, whether amplified or not, be removed. They're not doing any live music, but other restaurants in the City with outside seating have outdoor music.

Mr. Larson said the Board needs to be advised that the City Attorney ruled that because businesses have to adhere to the City's noise ordinance regarding outside music, it can't be stipulated they can't have any outdoor music, so this condition should be deleted.

Mr. Holleran said to clarify, if condition number two is eliminated, what they're saying is music can be played as long as it doesn't exceed the decibel levels allowed per the City's noise ordinance.

Mr. Wilson said that's correct. A requirement saying the law has to be followed doesn't need to be put in the conditional use order, as that's a given, and pretty much the way it works anyway.

Mr. Bradfield said basically, the same circumstances and conditions for regulating other businesses doing the same thing should apply. He asked for public comment. There was none.

Ms. Longstreet asked if it would be possible to grant the conditional use for longer than 10 years, as Mr. Darios requested.

Mr. Darios said this should be streamlined, in his opinion, as there are other places on the beach that have upstairs outside seating, so what you do for one place should be the same as what you do for another place. He doesn't know if anyone else has been granted more than 10 years.

Mr. Holleran said he doesn't think this Board has really approved anything for more than 10 years, or even for more than five years, so 10 years would be the biggest jump he's seen.

Mr. Mitherz said sometimes, if it's a new request, everyone would like to see the track record for the new applicant. This is why there are some differences in the time periods that are granted.

Mr. Bradfield said he doesn't foresee, barring some major catastrophic event, that 10 years from now, Mr. Darios wouldn't be allowed to extend the conditional use permit again, as long as his restaurant is operating in a safe and sound manner, as it has been. He asked Mr. Larson if he'd recommend Sunset Grille's conditional use for outside seating be extended for more than 10 years.

Mr. Larson said staff recommendation is for a 10-year extension. If the Board wishes to extend it for more than 10 years, that is the prerogative of the Board.

Mr. Darios said they've been here for 26 years, so he thinks they have a good track record.

Mr. Bradfield said he thinks it would be appropriate to extend the conditional use permit for 10 years, but beyond that, what can happen in a 10-year time period is quite a bit, so it might be smart to reevaluate it again in 10 years, just in case something happens or circumstances change.

Motion: to recommend the City Commission approve Conditional Use File No. CU 2016-04 for a ten (10)-year period, with the removal of condition number two as stated in the current conditional use order. **Moved** by Mr. Bradfield, **seconded** by Mr. Mitherz, **passed 6-0** by unanimous roll-call vote.

- B. Conditional Use File No. CU 2016-05, for a conditional use permit for a home occupation for massage therapy on the premises of an existing single-family residence in a low density residential land use district at 502 C Street. Anne Bobrowski, Applicant

Anne Bobrowski, 502 C Street, St. Augustine Beach, Florida, 32080, applicant, said she and her daughter started a massage therapy business at 770 A1A Beach Boulevard in 2010. What she's requesting now is a permit to be able to downsize her business, and have a room in her home for her massage therapy clients. She feels massage therapy is such a low-key thing it wouldn't really alter the residential flavor of her neighborhood. Her home is on the corner of C Street and 5th Avenue, so there's a little more traffic on 5th Avenue going to Atlantic Oaks Circle, but she'll only have one client at a time coming to her home. One of the reasons she wants to downsize the business at this time is because her daughter, who is also her business partner, has a full-time job at Flagler Hospital as a respiratory therapist, and is expecting a baby in August, so obviously, she's not going to be doing that much work. She doesn't want to do that much work either, she wants to be a grandmother, and downsize the business but still work with the clients they've established.

Mr. Mitherz asked what the size of the room the applicant is asking to use as office space in her home is, as it needs to be approximately 20 percent, or less, of the total floor space of the home.

Ms. Bobrowski said she's not sure of the exact square footage of the master bedroom, which is the room she'll use for clients, but she feels it's less than 20 percent of the total floor area of her home.

Ms. Odom said 20 percent of the total floor area of the house would be approximately 338 square feet. She doubts if a master bedroom would be that big.

Ms. Bobrowski said no, the master bedroom is not that big.

Ms. Sloan said so the room to be used for massage therapy is in the applicant's home, not in an attached building or anything like that, only the applicant will be providing massage services, and there will be no change to the outside appearance of the house to indicate there is a business there.

Ms. Bobrowski said no, if anything, the house will look nicer, and be better landscaped.

Ms. Sloan said they just have to cover all the rules and regulations for home occupations, which also state a home occupation shall not generate any extra traffic. She asked if the applicant

understands only one client car at a time can be parked at her home, and this parking space must be provided off the street, and whether the applicant can provide this off-street parking

Ms. Bobrowski said yes.

Ms. Odom asked how many days a week clients will be coming to the applicant's home.

Ms. Bobrowski said right now, they're closed on Sunday, and hours on other days are from 10 a.m. to 6 p.m. Massages are done by appointment only, and some days, they only do one massage. There will only be one client car coming and going at a time at her home, and she's spoken to pretty much all of her adjacent neighbors, who are fine with what she's asking to do.

Mr. Bradfield said as he understands, a conditional use for a home occupation has previously been approved for someone else doing a similar service on 13th Street, with no problems whatsoever.

Mr. Larson said that's correct, and to date, there have been no problems with this home occupation

Ms. Odom asked if staff received anything back when the letters were sent out to the adjacent property owners notifying them of this application.

Mr. Larson said no. Staff recommendation is to approve this conditional use permit for a home occupation for massage therapy for at least two years.

Mr. Bradfield asked for public comment. There was none

Motion: to approve Conditional Use File No. CU 2016-05 for a home occupation for massage therapy for a two (2)-year period. **Moved** by Ms. Sloan, **seconded** by Mr. Bradfield, **passed 6-0** by unanimous voice-vote.

- C. Preliminary Plat Approval File No PPA 2016-01, for a replat of Kings Quarry, Lots 1 and 2, 617 and 613 Old Beach Road, respectively, to Lots 1, 2, and 3, for Lake Sienna 3, in a low density residential land use district on the southeast corner of Old Beach Road and Ron Parker Road, Jerry W. Smith, Applicant

Jerry Smith, 149 Island Cottage Way, St Augustine, Florida, 32080, applicant, said he was originally approved to plat three lots on the tract of land he owns in Lake Sienna. A good friend approached him a couple of years ago and suggested he replat the three lots into two lots, so they could each build a house on a lot, with his friend offering to build his house for cost, as he owed him a favor. This sounded like a good deal, so he replatted the three lots to two lots, but as time went by, neither of them decided to build. He's now asking to replat back to the original approval and same footprint of three lots, all of which are bigger than any one lot in Lake Sienna.

Mr. Bradfield asked what this tract of land was prior to being platted into these lots, and if the lots were ever part of the original plat of Lake Sienna Subdivision

Mr. Smith said he was approached by a guy named Ed Farley about buying this tract, which was

Tract C, and going into partnership with him, as Mr. Farley said he was going to put in five lots coming off of King Quarry Lane. This tract was part of the original plat of Lake Sienna. To make a long story short, Mr. Farley left town, and he had to sue him to get title to the property. He did this, and negotiated with the Lake Sienna Homeowners Association, in terms of money and giving the association half the property, for the drainage issues the subdivision had. They agreed to scale down to three lots in Tract C, so he's just trying to get back to what he was initially approved for.

Mr. Bradfield asked if he is correct in understanding Mr. Smith is required to pay the Lake Sienna Homeowners Association \$7,500 per lot, as the three lots he's requesting to go back to are sold

Mr. Smith said no, he thinks the agreement is that he has to pay the association \$7,500 for the three lots, after the first lot is sold.

Mr. Wilson said that's part of a mediated settlement agreement, which is part of the record, but it's not for the Board to get into the particulars of the mediated agreement. The Board has to go with what the final ruling on the mediation was, and what the final settlement was, without going into the all particulars as to how they got there. At all times, mediated agreements are not to be discussed, other than just what's on the face of the agreement. That's what they're here to enforce today, and this is what Mr. Smith is trying to go back to now. The Board can't discuss how they got to this agreement, or what was given up or exchanged. The final deal is what they get to see.

Mr. Bradfield asked if the mediation was between Mr. Smith and the City Commission.

Mr. Smith said it was mediated between himself, Lake Sienna Homeowners Association, the City, and the attorneys, Doug Burnett and Mac McLeod, and this is what they all agreed to, monetarily, and property-wise. The replat he's requesting to go back to is the exact same mediated agreement.

Ms. Sloan said to clarify, the mediation was for three lots, then Mr. Smith came before the Board in March 2014 to replat the three lots into two lots, and he now wants to go back to three lots.

Mr. Smith said yes, that's all that is happening here.

Mr. Mitherz asked Mr. Larson if everything complies with the City's rules and regulations and building codes, and if he has any objections to what Mr. Smith is asking to do.

Mr. Larson said no, he has no objections. Number two is the only stipulation the Board is following in the mediated settlement agreement, as this states Mr. Smith was approved for three lots. He replatted to two lots, and now wants to go back to three lots. Exhibit B in the application information provided to the Board clearly defines the three lots that were originally approved.

Mr. Wilson said there will be a new plat filed to cover the replat back to the original three lots.

Ms. Sloan said it's her understanding that the lots are the correct size, per the City's current regulations for minimum lot size.

Mr. Larson said yes, actually, they're larger than the minimum lot size required.

Mr. Bradfield said he's a little confused because Mr. Larson's staff memo says two lots were allowed under the modified final development order, and had this document not been recorded. Mr. Smith's request to go back to the original three lots would have been approved in-house, per mediation agreement. He asked if this is the mediation agreement they're referencing here.

Mr. Larson said yes.

Mr. Bradfield said being that this went to mediation, he asked if he understands correctly that they're bound by the results of that mediation to honor it in every way as it is scripted.

Mr. Wilson said yes.

Ms. Sloan said the applicant is just asking for a replat to go from two lots back to three, and as it meets all the requirements, she doesn't see any problem with it.

Mr. Holleran said he agrees, as long as they're not getting into any legal issues here

Mr. Wilson said everything's just going back to what was originally agreed to, and it meets all the requirements of the Code.

Mr. Bradfield asked if the cause of the mediation was that the City Commission turned Mr. Smith down in getting these lots replatted.

Mr. Wilson said that really doesn't make any difference. This was part of what was discussed at the mediation, but all the parties settled it, and that's the end of it. They're all entitled to get what the mediation agreement calls for, so they can't go back and revisit this. To begin with, subdivision plats, as long as they meet City and State Code, are pretty much non-discretionary, as they're done the way the law calls for them to be done. In this case, he understands there were some other issues involving the homeowners association, but all of this has been worked out through the mediation, so their only concern here is whether the proposed plat meets City and State Code for platting, which it does. Mr. Smith is entitled to do what the finished mediation agreement says.

Mr. Bradfield said if the replat meets all City and State Code requirements, water management, and the previous approval for Lake Sienna Subdivision, his only concern is that this parcel was described previously as a conservation tract, and now it's being parceled into three lots. However, Mr. Smith has the right to do what's stipulated in the agreement. He asked for public comment.

William A. Keefe, 109 Kings Quarry Lane, St. Augustine Beach, Florida, 32080, said he's currently the president of Lake Sienna Homeowners Association. This replat application is indeed going back to where they were at the end of the mediated settlement agreement. In response to the question Mr. Bradfield asked earlier, paragraph 11 of that agreement says that upon the sale of any one of the lots, whether individually or as part of any group sale of the lots, Mr. Smith shall pay unto Lake Sienna \$7,500, and upon the sale of any second lot within the lots, whether individually or as part of any group sale of the lots, Mr. Smith shall pay unto Lake Sienna \$7,500.

Mr. Wilson said that's really outside the purview of this Board, but it's in the agreement, so it's

something the homeowners association has the right to enforce.

Mr. Bradfield said so within the scope of the City approving, or not approving this, in the concept of moving forward with approval, all of the terms of this mediation will move forward as well.

Mr. Wilson said that's correct, but that's why they don't get involved in the mediation process, as the homeowner's association, not the City, has the right to enforce the part of the agreement as to how much Mr. Smith pays to the association upon sale of the lots.

Motion: to recommend the City Commission approve Preliminary Plat Approval File No. PPA 2016-01, for a replat back to the residential land use of the original three lots. **Moved** by Ms. Longstreet, **seconded** by Mr. Bradfield, **passed 6-0** by unanimous roll-call vote.

VII. OLD BUSINESS

There was no old business.

VIII. BOARD COMMENT

Mr. Mitherz asked Mr. Larson what the dump trucks, diggers and bulldozers on the Embassy Suites property site were doing there last week.

Mr. Larson said they're leveling the hotel site to prepare for excavation of an estimated 900-plus truckloads of dirt. A dewatering process, which will take about 90 days, will start within the next week or two before a total of 968 pilings are driven into the ground. The excavated dirt will be taken down Pope Road, to keep the dump trucks off the Boulevard and prevent traffic from being tied up on the Boulevard all summer, and stored at the City's Public Works Department until it's brought back to the property site. The City's Police and Sheriff's Department have been notified.

Mr. Bradfield said he noticed some traffic study calculators have been put across the Boulevard in the area near the hotel site.

Mr. Larson said a 2016 traffic study is probably being done, as the County usually does traffic studies on all County roads every two years.

Ms. Odom said she thinks Mr. Mitherz asked about the Ocean Ridge development at the Board's last meeting, and it was also brought up at the Commission's last meeting, and Mr. Larson said the Board might have modifications to the approved final development plan at their May meeting.

Mr. Larson said this probably won't come before the Board until June, as he thinks the deadline for applications for the Board's May meeting has already passed, but there's a workshop meeting next week, on Tuesday, April 26, to discuss Ocean Ridge with the developer.

Mr. Holleran asked if they have any open areas in the City where they could have some parking and provide a shuttle service for all the people who come to the beach all summer long. Downtown St. Augustine has a parking garage, so he asked if there's anything this City can do to bring these

people to the beach but keep them from parking all over their lawns and all up and down the streets.

Mr. Larson said he'll have to direct this with the City's Public Works Director, Mr. Joe Howell, and City Manager Max Royle.

Ms. Sloan said there is some parking here, at City Hall, where people could park and be shuttled to and from the beach.

Ms. Odom said as a comment, she's very proud to be a volunteer member of this Board, as she thinks all the Board members are. This shows in the questions they ask, and the time and efforts they put in on this Board. Personally, she feels a bit disrespected, and ignored by the Commission, or part of the Commission, as she doesn't think a lot of consideration has been given to their efforts as an ancillary board. They have no personal gain in anything on this Board, none whatsoever.

Mr. Holleran said they just care about where they live.

Ms. Odom said exactly, they do care, as most of them have lived here for a lot of their lives. She's been here at the beach since 1959, and in the County all her life. She volunteered to serve on the Board because she cares and wants to do more things for the City. She doesn't have an agenda, and doesn't think the other Board members have agendas. The Commissioners are not volunteers, they're elected, and she appreciates that, but sometimes there's the good ol' boy you scratch my back and I'll scratch yours, and she feels the Board was very disrespected in the last few months.

Ms. Sloan said this is very similar to the comment she made about three meetings ago.

Mr. Bradfield said he has an agenda, and that's to keep St. Augustine Beach from being overdeveloped, and developed differently from what the Land Development Regulations, that are here to protect them, specify. He doesn't see the Land Development Regulations being enforced the way they should be, and as a result, they're allowing things to be overdeveloped and improperly developed, with inadequate parking. The need for parking, public access, safety, bathrooms, showers, etc., is a critical part of the function of any municipality. The people who run this beach need to understand and make decisions that are for the people who live here, and he hopes everyone who sits on the Commission and this Board is doing it for the public interest. They have a fiduciary obligation to the people that live here, and this should be their priority.

X. ADJOURNMENT

The meeting was adjourned at 7:42 p.m.

David Bradfield, Acting Chairman

Bonnie Miller, Recording Secretary

(THIS MEETING HAS BEEN RECORDED IN ITS ENTIRETY. THE RECORDING WILL BE KEPT ON FILE FOR THE REQUIRED RETENTION PERIOD. COMPLETE VIDEO CAN BE FOUND AT WWW.STAUGBCH.COM OR BY CONTACTING THE OFFICE OF THE CITY MANAGER AT 904-471-2122)