

MINUTES OF THE REGULAR MONTHLY MEETING OF THE COMPREHENSIVE PLANNING AND ZONING BOARD of the City of St. Augustine Beach, Florida, held Tuesday, May 21, 2013, at 7:00 p.m. in the City Commission Meeting Room, City Hall, 2200 State Road A1A South, St. Augustine Beach, Florida, 32080.

I. CALL TO ORDER

Vice-Chairman Alfred Guido called the meeting to order at 7:00 p.m.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

BOARD MEMBERS PRESENT: Vice-Chairman Alfred Guido, Patricia Gill, Michael Hale, Steve Mitherz, Roberta Odom, Daniel Stewart, Senior Alternate David Bradfield, Junior Alternate Elise Sloan.

BOARD MEMBERS ABSENT: Chairman Greg Crum.

STAFF PRESENT: Doug Burnett, James Whitehouse, City Attorneys; Max Royle, City Manager; Bonnie Miller, Recording Secretary.

IV. APPROVAL OF MINUTES OF TUESDAY, APRIL 16, 2013 REGULAR MONTHLY MEETING

Mr. Stewart **MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MONTHLY MEETING OF TUESDAY, APRIL 16, 2013.** The motion was seconded by Ms. Odom and passed 7-0 by unanimous voice-vote.

V. PUBLIC COMMENT AND DISCUSSION

Mr. Guido asked for public comment on any issue not on the agenda. There was none.

VI. NEW BUSINESS

Mr. Guido said the Board will hear three new applications filed under the City's mixed use ordinances. The Board's approval on mixed use applications is final. If denied, they may be appealed to the City Commission. All three applicants request an economic hardship variance, per Section 3.02.02.01.L of Ordinance No. 08-09. He suggested any conditions the Board may wish to put on any approval be clearly stated for the record.

1. MIXED USE DISTRICT FILE NO. 2013-01, filed by Clint C. Richardson, 18 A Street, St. Augustine Beach, Florida, 32080, for an economic hardship variance per City

of St. Augustine Beach Ordinance No. 08-09, for a rear yard setback reduction from 20 (twenty) feet, per Section 6.01.03 of the City of St. Augustine Beach Land Development Regulations, to 0 (zero) feet, for proposed new construction of a two-story, 1,026-square-foot addition to The Pit Surf Shop, in a commercial land use district in the mixed use district at 18 A Street, PERTAINING TO LOTS 13 AND 15, BLOCK 11, CHAUTAUQUA BEACH SUBDIVISION, REAL ESTATE PARCEL NUMBER 169050-0000, SECTION 34, TOWNSHIP 7, RANGE 30, AKA 18 A STREET, AS RECORDED IN MAP BOOK 2, PAGE 5, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

Mr. Burnett introduced James Whitehouse, a new addition to St. Johns Law Group, who brings with him 17 years of legal experience, and who is also board-certified in city, county and local government law. As the application before the Board is a quasi-judicial proceeding, he asked for disclosure from the Board members of any ex parte communication with the applicant or any neighboring property owners. There was none.

Clint Richardson, 18 A Street, St. Augustine Beach, Florida, 32080, applicant and owner of The Pit Surf Shop, said he's basically requesting to connect the two buildings on his property, which consists of two lots, one of which is primarily used for parking. He'd like to connect the two buildings to create a better retail environment for shopping and all-around better functioning of his business, as it's always been weird to have the two unconnected buildings, because you have to go outside of one to get to the other.

Mr. Mitherz asked if there are people living upstairs, over the surf shop.

Mr. Richardson said yes, there are two one-bedroom units, which were there years before he bought the property, above the main building of the shop. The smaller two-story building, which just has bikes and surfboards in it, was built with a zero setback along the rear property line. The two-story addition will continue along the same lines of this building and connect the first floor of the main building with the second building in back.

Ms. Gill asked how a \$50,000 homestead exemption is claimed on this property.

Mr. Richardson said he claims one of the one-bedroom units as his residence.

Jeff Rhoden, 3533 Red Cloud Trail, St. Augustine, Florida, 32086, said he's the building contractor for the proposed two-story addition, which will be a continuation of the detached, two-story building in back of the main building. The addition will continue in a southerly direction along the back property line until it connects with the main building.

Mr. Richardson said right now, there's a deck with a walkway connecting the two buildings, so people have to walk outside the main building and along the deck and walkway to get to the second, detached building.

Mr. Mitherz asked if the parking spaces in front of Stir-It-Up, which faces A Street on the east side of the main building, will remain where they are.

Mr. Richardson said yes, basically two cars will still be able to park there.

Mr. Stewart said Mr. Larson, in his memo to the Board, addressed the concerns with water run-off from this proposed new addition. He asked what type of roof system will be put on the new structure and where the water run-off will go.

Mr. Rhoden said the exact same roofline of the existing, detached building will be continued over to connect to the main building. It will be a metal roof system with a large commercial-grade gutter system on both sides to catch the water run-off so it doesn't impact the adjacent property owner behind The Pit Surf Shop, to the east.

Mr. Stewart asked where the water run-off caught in the gutters will run to.

Mr. Rhoden said he's not sure of that yet, but it's possible they may be able to bring it into a downspout and drain it out onto 1st Lane.

Mr. Guido said Mr. Larson had some real concerns about water run-off, and expressed some desire for a redesign of the roofline to protect the adjacent neighbor to the east.

Mr. Richardson said he talked to Mr. Larson briefly about this, and is willing to work with everyone to do whatever Mr. Larson thinks is best, as he doesn't want water run-off on his property or on his neighbor's. It will either be collected it into a gutter system and drained onto 1st Lane, or another option is to have a 300-gallon water collection tube below ground that could be used for irrigation. Water run-off from the detached building in back of the main building goes into the existing gutter system and currently drains onto 1st Lane. The main building, which is almost 100 years old, doesn't have gutters, so water run-off goes down off the roof and percolates into the ground. They've had problems with water run-off coming off A Street, but that's a whole different issue. He had the parking lot redesigned with brick pavers a few years ago, so water run-off drains onto 1st Lane and then goes into a catch basin on A1A Beach Boulevard. It was a dirt parking lot before the pavers were put in, and since then, he hasn't really had any drainage problems.

Mr. Stewart said he thinks part of the concern with the proposed new addition is that it will be much closer to the house next door, to the east. The existing structure doesn't really impact the house next door, because there's a fair amount of space between the back of this house and 1st Lane, but the new addition will be even with it, so drainage is an important issue. He asked if the addition will be used for retail space or storage space.

Mr. Richardson said it will be used for retail space. Downstairs will be more for clothing and accessories, and the upstairs will mainly have surfboards.

Mr. Guido said instead of trying to design or redesign the roof and/or a gutter and drainage collection system, he suggested any approval from the Board should be conditioned on Mr. Larson's approval of a roof run-off collection system.

Mr. Bradfield said he agrees this should be subject to Mr. Larson's approval, as he is who

will have to sign off on it. There's no question at least fifty percent of the roof run-off will watershed to the adjacent neighbor's property, without a drainage system.

Mr. Burnett suggested the verbiage for the condition of approval relating to the stormwater issue state, "Approval shall be subject to the Building Official's approval of a stormwater management plan to control run-off from the proposed new structure's roof or displaced by the proposed new structure so that the property immediately to the east of the site is not negatively impacted by the proposed improvements. Should the applicant be unable to satisfy the Building Official, the approval granted herein shall terminate and the matter shall be required to come back before the Comprehensive Planning and Zoning Board of the City of St. Augustine Beach for review."

Mr. Richardson said that sounds fair to him.

Mr. Stewart **MADE A MOTION TO APPROVE MIXED USE FILE NO. 2013-01 WITH THE CONDITION RELATED TO THE STORM-WATER ISSUE AS READ INTO THE RECORD BY MR. BURNETT.** The motion was seconded by Ms.Odom and passed 7-0 by unanimous roll-call vote.

2. MIXED USE DISTRICT FILE NO. 2013-02, filed by David Grande, 4 Remington Road, Ormond Beach, Florida, 32174, agent for Rajendra Patel, Jay Hotel Investments LLC, 311 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, for an economic hardship variance per City of St. Augustine Beach Ordinance No. 08-09, for a front yard setback reduction from 25 (twenty-five) feet, per Section 6.01.03 of the City of St. Augustine Beach Land Development Regulations, to 18 (eighteen) feet, for proposed new construction of a one-story, 315-square-foot breakfast room addition to the Super 8 Hotel, in a commercial land use district in the mixed use district at 311 A1A Beach Boulevard, PERTAINING TO PART OF THE NORTH 600 FEET OF GOVERNMENT LOT 1 LYING WEST OF THE RIGHT-OF-WAY OF A1A BEACH BOULEVARD, REAL ESTATE PARCEL NUMBER 163031-0000, SECTION 34, TOWNSHIP 7, RANGE 30, AKA 311 A1A BEACH BOULEVARD, AS RECORDED IN MAP BOOK 7, PAGE 1, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

David Grande, 4 Remington Road, Ormond Beach, Florida, 32174, agent for applicant, Rajendra Patel, Jay Hotel Investments LLC, 311 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, said his client requests a front yard setback reduction to 18 feet for an addition to the existing Super 8 lobby, to have an actual sit-down breakfast room. The current breakfast area is part of the hotel lobby, and is not very convenient for guests.

Mr. Guido asked if the proposed addition will be built in the place of an existing parking space in front of the lobby, and how it will affect the hotel signage.

Mr. Grande said yes, but it will have no effect on the parking, as no one uses this parking space, it is just an extra space, and it also will have no effect on the hotel signage.

Mr. Mitherz asked if there will be any outside customers using the breakfast room.

Mr. Grande said no, it will be used strictly by hotel guests. There will be no outside entry to the breakfast room except through the hotel lobby.

Ms. Odom asked if the landscaping in front of the lobby will have to be removed.

Mr. Grande said no landscaping will be removed, as the proposed addition will only take out the parking space in front of the lobby.

Mr. Stewart asked if the addition will go out to the little deck in front of the lobby.

Mr. Grande said no, the exterior wall of the addition will only go to the curb-cut on the east side of the parking space in front of the lobby.

Mr. Guido asked that the record show he didn't ask for public comment during the presentation of the last application, principally because there were no members of the public in the audience. He asked for public comment on this application. There was none.

Mr. Burnett asked for any ex parte communication disclosure. There was none.

Mr. Stewart **MADE A MOTION TO APPROVE MIXED USE FILE NO. 2013-02.** The motion was seconded by Mr. Mitherz and passed 7-0 by unanimous roll-call vote.

3. MIXED USE DISTRICT FILE NO. 2013-03, filed by Michael Stauffer, 303 Lions Gate Drive, St. Augustine, Florida, 32080, agent for Peter Darios and Michael Rosa, Parrot Heads Inc., 421 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, for an economic hardship variance per City of St. Augustine Beach Ordinance No. 08-09, for a front yard setback reduction from 25 (twenty-five) feet, per Section 6.01.03 of the City of St. Augustine Beach Land Development Regulations, to 15 (fifteen) feet, for proposed new construction of an 800-square-foot heated-and-cooled second-story dining area addition and a 775-square-foot second-story covered front deck addition to Sunset Grille Restaurant, in a commercial land use district in the mixed use district at 421 A1A Beach Boulevard, PERTAINING TO LOTS 104 AND 105, ATLANTIC BEACH SUBDIVISION, REAL ESTATE PARCEL NUMBER 167610-0000, SECTION 34, TOWNSHIP 7, RANGE 30, AKA 421 A1A BEACH BOULEVARD, AS RECORDED IN MAP BOOK 2, PAGE 50, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

Mr. Burnett asked for any ex parte communication disclosure related to this application.

Mr. Guido said he's not sure if this really comes under ex parte communication, but he had dinner at Sunset Grille with his wife last week, spoke pleasantries with Mr. Rosa, and mostly talked about their joint recent losses. They didn't discuss this application, with the

exception of Mr. Rosa saying as they left that he'd be seeing him in a couple weeks.

Mr. Bradfield said he also knows Mr. Darios and Mr. Rosa, and has known about some of their ideas for expansion, although he has not talked to them about the specifics of this application. He has, however, talked to them about the upcoming construction of Salt Life Restaurant as being one of their primary reasons for submitting this application.

Mike Stauffer, 303 Lions Gate Drive, St. Augustine, Florida, 32080, agent and architect for applicants Pete Darios and Mike Rosa, owners of Sunset Grille Restaurant, said as everyone may recall, they were before the Board last June and received approval for a ground-floor dining area and raw bar addition to Sunset Grille. With the impact of the upcoming construction of Salt Life Restaurant, and Salt Life's ability to have so much ocean view from its second-floor, Mr. Darios and Mr. Rosa asked him what their options were to basically take what was previously approved and move it up to the second level. He has been able to do this very easily, and the application before the Board tonight is exactly that. The proposed second-story heated-and-cooled enclosed dining area shown on the architectural drawings in the application is actually behind the required 25-foot front setback, so they're not asking for any variances for setback reductions for this area, and the mixed use allows porches and decks to extend into the front setback. There is a typo on the second-floor plan architectural drawing, as the proposed second-story porch is shown with a 12-foot front setback, but it will actually have a 15-foot front setback, as is stated in the application. By elevating the dining area and raw bar addition approved last year, a few parking spaces have been saved in front, and a portion of the proposed enclosed dining area will be built over the existing open second-floor deck.

Mr. Mitherz said the mixed use order for Sunset Grille dated June 19, 2012 approved a front yard setback reduction to 10 feet for a raw bar addition in front of the restaurant. He asked if the dimensions of the raw bar are being changed, and how the order dated June 19, 2012 will be affected by a new order, if the current application is approved.

Mr. Stauffer said if the current application is approved, the 2012 mixed use order will basically be abandoned, as the original ground-floor structure will not be built. To build this at ground-level, they had to go further toward A1A Beach Boulevard, compared to the current application, which has a portion of the second-story addition built over the existing second-floor deck, so the front setback will be 15 feet, instead of 10 feet.

Mr. Guido asked if a portion of the second-floor addition will be open, and asked about the windows or glass door materials that will be used in the covered portion.

Mr. Stauffer said the current idea is have an open second-floor porch area and use either impact-resistant glass garage doors, which roll up, or sliding windows, such as the Oasis Restaurant has on its second-floor, which can be closed in inclement weather.

Mr. Mitherz asked how many feet vehicles will have to back up to get out of the diagonal parking spaces in front of the restaurant, with the bollards of the second-floor porch extending forward into the front parking and driveway area. He noticed that the drawing

for the first-floor site plan shows a one-way in-and-out for these diagonal parking spaces.

Mr. Stauffer said yes, that driveway is essentially almost exactly what is there now. The only difference is that currently, there is just a continuous row of parking, so what they've done is reorganize the parking spaces, but not necessarily the drive path, which is supposed to be one-way now, even though not everyone adheres to this. With the bollards from the second-story porch extending down into the drive path, it will certainly be more restrictive, as there won't be the ability for vehicles going the wrong way to pull off to the side, so proper signage will be put up to indicate the one-way drive path.

Mr. Guido asked if vehicles will be driving under the second-floor porch.

Mr. Stauffer said correct. For safety reasons, all of the construction for the support of the second-story enclosed dining area and porch addition, from the first floor up, including the bollards, which are for extra protection, will be built of concrete.

Mr. Stewart asked how the proposed second-story additions compare, in terms of seating, to the raw bar addition that was approved last year.

Mr. Stauffer said the proposed enclosed second-floor dining area and porch addition will result in a net increase of 44 seats. After checking the application for the ground-floor raw bar, he said if this had been built, it would have resulted in a net increase of 56 seats.

Ms. Gill said the overflow parking lot across the street from Sunset Grille is quite efficient. She asked if the owners of Sunset Grille have purchased this property, or if the parking lot is leased to them, and if it is leased, if there is any indication that the lease may not be renewed in the future and therefore, they would not have this extra parking.

Peter Darios, 421 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, co-owner of the Sunset Grille, said it is leased, and there is no indication from the owner of the property, Mr. DeLorenzo, that they'll ever lose their lease for this parking.

Mr. Bradfield asked what the vertical height or clearance is for vehicles driving under the portion of the second-story porch which will extend over the front parking lot and driveway, and how the vehicle clearance height will be addressed.

Mr. Stauffer said the vertical clearance for SUV's, even if they have bikes on top of them, will not be a problem. He doesn't know the exact clearance height, but the clearance underneath the louver panels on the east facade, or front, of the building, as shown on the east elevation drawing included in the application, is over 11 feet, and on the north and south sides, the clearance is over 13 feet. Certainly they will have signs mounted on each side stating the clearance height, which will allow clearance of all standard vehicles, including RV's, UPS trucks and most other delivery trucks, but not semi-trucks.

Mr. Stewart said he has a question about the economic impact aspect of the mixed use ordinance. The applicants are claiming an economic impact, yet in comparing the number

of seats gained with the previously-approved raw bar addition with the number of seats that will be gained by the current application, they'll actually end up having less seats.

Mr. Stauffer said the economic impact is mostly from the fact that Salt Life's draw will be the large amount of seating with potential ocean views from the second level. The concern with the ground-floor raw bar, even though it would increase seating capacity, was that it would not provide the same quality, in terms of potential second-story views.

Mr. Guido said again, there are no members of the public present in the audience, so there is no public comment. He asked for any additional Board comment or discussion.

Mr. Stewart said for the Salt Life property, the Board requested the enclosure of a driveway entrance that was no longer needed. As the same thing applies here, he asked if this could be part of the written approval order, as there is a curb-cut or access point along A1A Beach Boulevard on the east side of the Sunset Grille property that apparently has been there for a long time, though it isn't being used. He thinks the sidewalks would be so much more pleasing to walk on if they were consistent and didn't have that slope in them.

Mr. Darios said they don't need this curb-cut, so it wouldn't be a problem to take it out.

Ms. Gill asked that the order of approval also state as one of the conditions of approval that the previous mixed use order for the ground-floor raw bar be abandoned or voided.

Mr. Burnett said he has four conditions in the written order of approval for this application, the first being the standard condition that approval is subject to the plans, which are the three architectural sheets drawn by Mr. Stauffer, submitted with the application. The second is also a standard condition, that the construction material shall be architecturally pleasing and consistent with the existing building. The third requires the removal of the asphalt in the location of the existing unused curb-cut along the Boulevard in front of Sunset Grille. The fourth condition is that the approval order amends and replaces the approval order for Mixed Use File No. 2012-02, which approved a front yard setback reduction for a first-floor expansion to the front of the building.

Mr. Mitherz made a motion to approve this mixed use application with the four conditions read into the record by Mr. Burnett.

Mr. Hale seconded the motion.

Mr. Guido called for discussion on the motion.

Mr. Stewart said Mr. Burnett did not reference the condition in the previous conditional use order which addressed not allowing a sound and amplification system. Before the Board takes a vote on this application, he thinks this issue should be discussed.

Mr. Darios said they don't plan to have any live music, but they'd like to have some piped-in Pandora-radio type of Jimmy Buffet music or something like that for upstairs

ambience. They're not asking for anything more than what is allowed at other places, as they don't want to disturb anybody, and they haven't had any noise complaints in years.

Mr. Stewart said he thinks condition number two in the conditional use order granted in 2011 for food and beverage service and consumption on the second-floor deck, which states no exterior sound system of any type, no live or recorded music, whether amplified or not, and no outside televisions will be allowed in the outside seating area, should be included as a condition of the approval order for the current application.

Mr. Guido asked Mr. Mitherz if he'll amend his motion to approve the application with this as the fifth condition, and if Mr. Hale, who seconded the motion, will also accept it.

Mr. Mitherz said yes.

Mr. Hale said yes also.

Mr. Guido asked for any further discussion on the motion.

Mr. Stauffer asked if outside speakers or music are allowed on Coquina Beach Club's outside deck, Salt Life's outside porches or decks, or Mango Mango's outside seating.

Mr. Burnett said in looking at the previous orders on his laptop computer, Salt Life's 2012 variance order doesn't prohibit a sound system, and Barnacle Bill's (now Coquina Beach Club) 2011 conditional use order prohibits exterior sound systems of any type and any live or recorded music, whether amplified or not, in the outdoor seating area. Ripe Bistro's 2012 conditional use order for outside seating is similar to Salt Life's variance order, with no restrictions related to sound in it. As each application is reviewed on its own individual basis, there may be reasons for imposing different conditions. That's the answer from the legal standpoint of protecting the City, as there may be reasons why conditions need to be differentiated based on the approximate location of nearby residents and the way sound may travel out of one structure versus another. In Barnacle Bill's case, he specifically remembers a number of issues with neighboring property owners.

Mr. Bradfield said he thinks it's important the Board doesn't establish a double standard, so that if one place can have outside music, another should be able to have it.

Mr. Hale said he'd be comfortable using the same terminology that was used for Salt Life.

Mr. Bradfield said he agrees.

Mr. Stewart said Salt Life is not sitting next to residential housing.

Mr. Darios said if you hold a sound meter and stand across the street from Sunset Grille, the cars driving by on A1A Beach Boulevard make more noise than any loud music would make. They're not trying to create a loud atmosphere and they don't want to have live music, they just want to serve food with a little background music for ambience.

Mr. Guido suggested they look at the situation, as they may be making a mountain out of a molehill. Sunset Grille fronts A1A Beach Boulevard, with a hotel next to it on the north side, and another restaurant, Coquina Beach Club, to the south. They're not providing a dance floor, and the principle concern he recalls from the Salt Life discussions had to do with live entertainment on the big open decks causing noise problems.

Mr. Mitherz suggested prohibiting live music, and so amended his motion to state this.

Mr. Burnett asked if it will suffice if the fifth condition is written to state, "No exterior live music shall be allowed in the outside seating area."

Mr. Darios said they do not want to have live music, so that will not be a problem.

Mr. Mitherz **MADE A MOTION TO APPROVE MIXED USE FILE NO. 2013-03 SUBJECT TO THE FOUR CONDITIONS AS STATED BY MR. BURNETT ON PAGE 8 AND THE FIFTH CONDITION AS STATED ABOVE BY MR. BURNETT.** The motion was seconded by Mr. Hale and passed 6-1 by roll-call vote.

Mr. Hale	Yes
Mr. Bradfield	Yes
Mr. Mitherz	Yes
Ms. Odom	Yes
Ms. Gill	Yes
Mr. Stewart	No
Mr. Guido	Yes

VII. OLD BUSINESS

1. CONSIDERATION OF CRITERIA FOR DETERMINATION OF HISTORIC BUILDINGS/SITES IN THE CITY, continued from the Board's regular monthly meeting held on Tuesday, April 16, 2013, for the Board's discussion and consideration of criteria to define and preserve historic buildings and sites within the City limits.

Ms. Gill said she doesn't have anything new to add except that the community interest in this is growing, as she's received a couple of emails from people giving her the dates their houses were built. With the help of Robin Moore, historic research coordinator for St. Johns County, and Dr. Kelly Enright of Flagler College, things are slowly moving ahead.

VIII. BOARD COMMENT AND DISCUSSION

Mr. Mitherz said he'd really like some answers to the questions he's raised over the past couple of months about the bollards that were supposed to be put up between the parking and the outside seating at Ripe Bistro, in Anastasia Plaza, and the oceanfront property on

9th street, which has a pump house that was supposed to be taken down, but is still up.

Mr. Burnett asked if the owners of the property on 9th Street where the wall and the pump house were supposed to be taken down have exercised the approval that was given to them. They don't have to follow the conditions of the order of approval until they apply for a building permit to build what they sought, and were given approval, to build.

Ms. Gill asked if what Mr. Burnett is saying is that the property owners don't have to comply with the criteria given with the approval until they apply for a building permit to build the second-story additions they requested in their application before the Board.

Mr. Burnett said that's correct. In the approval the Board just gave to Sunset Grille, for example, the part of the old access point, or curb-cut, in the right-of-way has to be removed as one of the conditions of the approval for the second-story addition, but if this addition is never built, they don't have to remove that curb-cut.

Mr. Mitherz said that's true, but regarding the 9th Street property, it has been renovated and painted, the wall has been taken down, and it's being advertised as a vacation rental.

Mr. Hale said it sounds like what they've done is just preventive maintenance.

Mr. Burnett asked if there is anything about what has been done to date that required the owners to have new approval. He believes what they've done are things they could have done without any approval from the Board, and therefore, since they haven't gotten to any of the triggers requiring them to comply with the conditions of the approval order, they don't have to do the things required in the order. He said he'd be happy to discuss this further with Mr. Mitherz and Mr. Larson, as he doesn't think the owners have gotten to the triggers that would require them to abide by the conditions of the approval.

Mr. Mitherz said yes, he'd like to discuss this further with Mr. Larson and Mr. Burnett.

Mr. Stewart said he voted "no" to the last application before the Board, for the second-story addition to Sunset Grille, though obviously it was approved anyway. He asked how an economic impact can be used based on the impact Sunset Grille's owners think another restaurant will have on their business. An economic impact hardship was used under the mixed use ordinance, even though seating over what they already had was lost, and their explanation for doing so was based simply on something they think is going to happen.

Mr. Bradfield said he completely agrees with that statement, but he also completely agrees that the same statement could be used regarding quite a few of the variances granted to Salt Life. These economic hardship variances have quite a bit of subjectivity to them, and lack a lot of the requirements of burden of proof.

Mr. Mitherz agreed, and said if he'd asked for financial proof that Sunset Grille's business was affected by Salt Life, they would have laughed at him. He's conjecturing, as maybe they would have answered, but he doesn't really think they'd be able to give any specifics.

Mr. Guido said that section in the mixed use ordinance which addresses the economic hardship variance is almost meaningless anyway, because the Board can approve a mixed use application with or without conditions from the provisions of the ordinance. Barnacle Bill's came before the Board and requested outside seating because the Board approved outside seating for Sunset Grille's second-story deck, and they had the same situation with Mango Mango's, which requested outside seating because all the other restaurants around them have outside seating, and then they came back and asked to cover their outside seating, because Jack's Bar-B-Que had covered outside seating, so some of the businesses are trying to stay ahead of the game, and others are trying to play catch-up. He guesses the way the City Commission is looking at this is that they should be trying to encourage the expansion of businesses along the Boulevard.

Mr. Stewart asked where the Board's responsibility ends here. Will they just keep getting nit-picked to the extreme, until the ambience of the Boulevard is lost, he asked?

Mr. Guido said he doesn't know, but requiring these applications to come before the Board does give them some control over design.

Mr. Bradfield said the concept is good, but perhaps the way it is being implemented is a little inconsistent. The section in the mixed use ordinance addressing economic hardship says an economic hardship variance may be granted upon demonstration of a substantial reduction in the value of the property, based on a reasonable investment-backed standard. He thinks many of the variances that have been approved have not met that standard, so for the betterment and best interest of St. Augustine Beach, a more strict and rigid implementation of that standard would probably be appropriate for any future variances.

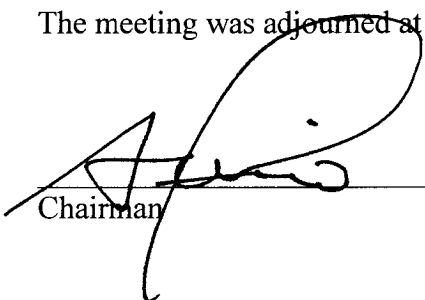
Mr. Guido said the Board just heard the justifications for an economic hardship variance from all three applicants tonight, and they really were all over the place.

Mr. Stewart said yes, but he also agrees with Mr. Bradfield, in that they are not asking for what they need to make a wise decision.

Ms. Gill said she thinks they need to look at and go back to the Vision Plan, which advised moving businesses out closer to the sidewalks along the Boulevard. This was her concept in approving some of the applications that have come before them, as one of the Vision Plan's recommendations was to make this a walking community. However, she agreed they need to be consistent and serious about what they want this City to look like.

X. ADJOURNMENT

The meeting was adjourned at 8:20 p.m.


Chairman


Recording Secretary