

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting August 2, 2022

The Planning and Zoning Board met in formal session Tuesday, August 2, 2022, at 2:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Grant Misterly, Chairperson and the following were present:

1. Roll Call:
Grant Misterly, Chairperson
Mike Davis, Vice- Chairperson
Jon DePreter
Carl Blow
Charles Pappas
Christina Griggs

Absent: Sarah Ryan, excused

City Staff: Amy Skinner, Director, Planning & Building Department
Jacob Fredriksson, Planning & Building Planner
Isabelle Lopez, City Attorney
Elyse Wiemann, Recording Secretary

2. General Public hearings for Items Not on the Agenda

BJ Kalaidi

3. Approval of Minutes

Mr. Blow asked for clarification regarding the motion on page seven.

Mr. DePreter clarified the motion for Item 6(d) was referenced under Item 4(a).

Ms. Wiemann noted that was accurate but would clarify for notability.

MOTION

Mr. Pappas MOVED to APPROVED the June 7, 2022 minutes with the above changes. The motion was SECONDED by Mr. DePreter and APPROVED by UNANIMOUSLY VOICE VOTE.

Ms. Skinner announced Item 4(a) needed to be postponed and suggested moving the item to after Item 6(a), as the applicant called

and said he was running late but would be in attendance. She noted item 7(g), 0 Seminole Drive had been withdrawn by the applicant.

MOTION

Mr. DePreter MOVED to move Item 4(a) to after Item 6(a). The Motion was SECONDED by Mr. Blow and APPROVED by UNANIMOUSLY VOICE VOTE.

Mr. DePreter MOVED to withdraw the applicant's request for Item 7(g). The Motion was SECONDED by Mr. Blow.

Mr. Blow asked if this were to return to the PZB, would it be a new application.

Ms. Lopez replied in the affirmative and advised the motion was not needed as the applicant withdrew the application.

4. Preliminary Plat Approval

Item heard after Item 6(a).

4. (a) 2022-0040 James G. Whitehouse, Esq. – Applicant c/o St. Johns Law Group

**Lion Gate of St. Augustine LLC– Owner
Sidney Street / PID 125210-0010**

To approve a preliminary subdivision plat at Sidney Street/Madeore Street PID 125210-0010 to create two conforming lots within the Residential single-family-two (RS-2) zoning district.

Mr. Fredriksson read the staff report and said based on a review of the applicable city codes, and without the support of evidence to the contrary, staff finds that the Board can APPROVE the preliminary subdivision plat (replat) at 0 Sidney Street/ PID 125210-0010.

James Whitehouse reviewed the application.

The Board provided their ex parte communication.

20 certified notices were sent, 0 were returned in favor, 2 returned opposed and 2 had comments.

Public hearing was opened.

BJ Kalaidi spoke in opposition to the application and said she was unaware of what would happen to the trees and felt the tree canopy would be destroyed. She said to subdivide the lots would increase density and decrease the quality of life in West City of St. Augustine. She questioned how storm water would be handled and if the entry to these parcels would be on Sydney Street.¹

Kevin Kelly said he did not have an objection to people building on the site; however, his concern was the community, and there was value in keeping the tree canopy. He said the trees on the property were old and valuable and important to the wildlife. He encouraged the builder to keep the trees.

Public hearing was closed.

Mr. Misterly asked staff to advised what criteria the Board needed to use to either approve or deny a plat.

Ms. Skinner said the Board was only confirming that the lot size met the zoning lot size for the district. She said there was no special criteria.

Mr. Misterly noted the tree removal would have to come before the Board.

Ms. Skinner said that would take place later once a plan was submitted for construction regarding protected trees and sizes.

Mr. Misterly asked if the Board was allowed to assume that more trees would be cut down by dividing the lots and they could deny the plat.

Ms. Lopez said the Board was limited for plats and this was a zoning verification. She said the plat would go through a technical review at a later date; however, the tree issue was separate. She said the Board could not deny the application due to the trees on site.

The Board discussed:

- Board was unable to do anything since it met the requirements but thought it could be more difficult to build on
- In favor of application as it was two conforming lots
- Could build on the property with a possibility of saving the trees

MOTION

Ms. Griggs MOVED to APPROVE Preliminary Subdivision Plat 2022-0040 at Sydney Street. The motion was SECONDED by Mr. Pappas.

¹ Photo attached to packet

VOTE ON MOTION:

AYES: Griggs, Pappas, Blow, DePreter, Davis, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY²

5. Variance

**5. (a) 2022-0038 – Randall & Laura Rupp–
Applicant & Owner
20 Bird Island Drive**

To reduce the rear setback from 10' to 6'6" on a Residential general-one (RG-1) lot to allow for the installation of a pool screen enclosure.

Mr. Fredriksson read the staff report and said based on a review of Section 28-29 and without the support of evidence to the contrary, staff finds that the Board can APPROVE a variance to the decrease the rear yard setback at 20 Bird Island Drive/ PID 161252-0490 from 10' to 6'6".

Randall Rupp reviewed the application.

Mr. Misterly asked what the applicant meant by stating the plans had been approved by the City.

Mr. Fredriksson stated the plans for the pool were approved which had different setbacks than structures attached to the main house.

Mr. Misterly said the pool had been approved but adding the screen was the reason the application was before the Board.

Mr. Fredriksson replied in the affirmative.

The Board provided their ex parte communication.

10 certified notices were sent, 6 were returned in favor, 0 returned opposed and 2 had comments.

Public hearing was opened; however, there was no response.

Mr. Blow informed the Board the other homes on the cul-de-sac except this one had large backyards, and this was a specific problem to this property, which was one of the criteria for a Variance. He said others had enclosures over their pools and did not feel this would be contrary to the public interest.

MOTION

Mr. Blow MOVED to APPROVE the application 2022-0038. The motion was SECONDED by Mr. Davis.

Mr. Pappas asked when a variance was approved, was it specific to the pool enclosure or would it be for any structure on the property.

Ms. Lopez advised it was specific to the application.

VOTE ON MOTION:

AYES: Blow, Davis, Griggs, Pappas, DePreter, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

**5. (b) 2022-0041 – Oasis Equity Holdings
LLC– Applicant & Owner
93 Oneida Street**

To reduce the side yard setbacks from 4' to 1' on a Residential single-family-two (RS-2) lot to allow for the relocation of the existing home.

Mr. Fredriksson read the staff report and said based on a review of Section 28-29 and without the support of evidence to the contrary, staff finds that the Board can APPROVE a variance to decrease the side yard setbacks at 93 Oneida Street / PID 208010-0060 from 4' to 1'.

² Break from 3:29p.m.-3:45p.m.

The applicant was not present at the meeting.

The Board provided their ex parte communication.

24 certified notices were sent, 0 were returned in favor, 0 returned opposed and 0 had comments.

Public hearing was opened; however, there was no response.

Board discussion:

- Not in favor of hearing the application without the applicant present
- In favor of continuing the application to the next Board meeting
- Not enough information to make a decision

Ms. Skinner said the application had been approved by the Board but had expired. She said they were keeping the same setbacks; however, the impact was different, so it needed to be reviewed.

Mr. Fredriksson said this was a different request and that was why the prior approval was not included in the staff report.

There was a brief discussion about moving the item to later in the meeting if the applicant showed.

There was Board consensus to continue the application since the applicant was not present and had not communicated with staff.

MOTION

Mr. DePreter MOVED to CONTINUE the application 2022-0041. The motion was SECONDED by Mr. Pappas.

VOTE ON MOTION:

AYES: DePreter, Pappas, Griggs, Blow, Davis, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

5. (c) 2022-0045 – Thomas Burd– Applicant & Owner c/o Fullerwood Construction 28 Macaris Street

To reduce the rear setback from 20' to 13' on a Residential single family-one (RS-1) lot to allow for the proposed addition to the single-family residence.

Mr. Fredriksson read the staff report and said based on a review of Section 28-29 and without the support of evidence to the contrary, staff finds that the Board can APPROVE a variance to the decrease the rear yard setback at 28 Macaris Street / PID 153530-0000 from 20' to 13'.

Mr. Fredriksson said this was previously approved on July 11, 2017 and it had expired, but the request was the same.

Victor Sarris representative for the applicant, reviewed the application.

Mr. Misterly stated the approval that had been granted had a condition to match the existing structure. He said the request was for a side yard setback and his understanding was the applicant also needed the rear yard setback and asked if that was in compliance.

Mr. Sarris said the thirteen-foot setback was on the rear of the property where there was an existing structure that was thirteen-feet away from the rear of the property.

Mr. Misterly asked if the applicant was requesting to reduce the rear setback.

Mr. Sarris demonstrated to the Board the request that the applicant was asking for.

Mr. Misterly said what had been submitted in 2017 was a smaller addition and this was the same but larger.

Mr. DePreter asked if these two lots were together.

Mr. Sarris responded in the affirmative.

Mr. DePreter said it looked to be already built.

Mr. Sarris said there was an existing structure at the thirteen-foot setback, and the applicant wanted to add two structure in the same setback on both sides of the building.

The Board provided their ex parte communication.

16 certified notices were sent, 0 were returned in favor, 1 returned opposed and 1 had comments.

Public hearing was opened.

Susan Farber spoke in opposition to the application and said the owner was running a construction company out of the yard. She said there was heavy equipment moving in and out and she had put in a Code Enforcement complaint as she felt this needed to be reviewed.

Mr. Misterly reminded the public of the criteria that was able to be considered for a variance.

Nancy Bertogli felt there was not enough information regarding the application and thought there should be more information provided. She urged the Board to postpone the application.

BJ Kalaidi felt the application was not clear; however, the application was contrary to public interest. She urged the Board to continue the application in order for the applicant to provide more information show the community what would be done.

Public hearing was closed.

The Board discussed:

- Agreed with the public and thought more information should be provided
- In favor of a continuance or a denial
- Both lots combined were just over 10,000 feet and were non-conforming
- Wanted to have a clear idea available of what was being done
- Unclear as what was being requested and how it would be used

Applicant response:

- The established structure (original home) was thirteen feet away from the north property line
- Wanted to fill the space that was open on the north elevation
- Would be a two-story building and would be in line with the thirteen-foot setback
- Wanted to meet all the historical requirements, all the Impervious Surface Ratio (ISR) requirements and any other requirements from the City
- Concerned with having plans drawn up if it was denied
- Prior plans had been approved and thought it was the same for this side just mirror imaged

Mr. Misterly explained the Board would want to see a site plan and footprint of where it would be located. He said the application was not the same and they were building on two lots and reducing the setbacks.

Mr. Sarris asked if this was being reviewed as one or two lots.

Mr. Blow said both lots were non-conforming, and the structure encroached on the two lots; therefore, there could only be one structure.

Ms. Skinner replied in the affirmative. She said because the structure overlapped the lot line, it was still non-conforming. She said it

met the width requirement but did not meet the area requirement.

Mr. Blow said the new addition would be the same from the rear property line; however, this was a new addition and the application was based on the criteria.

Mr. Sarria said the thirteen-foot setback was approved in 2017 on the northeast side.

Mr. DePreter noted what had been approved in 2017 was not what was being presented not.

Mr. Sarris said he understood the Board wanted more information regarding the plan.

MOTION

Mr. DePreter MOVED to CONTINUE Variance 2022-0045 to the October 2022 meeting and that the applicant would return with what had been requested: a site plan with a footprint of exactly what would be built on the site.

Mr. Sarris asked for exactly what the Board was requesting and if the 2017 approved plan carried any weight since they wanted it to be mirror imaged.

Mr. DePreter stated this application needed to be complete as this was not the 2017 application.

Mr. Davis added to make it clear, show the approved 2017 plan that was not built in one color and then show what was being requested in another color to show a full complete picture as to what would be built.

The motion was SECONDED by Mr. Pappas.

Mr. Sarris asked to continue the application to November 1, 2022 meeting.

Mr. DePreter AMENDED the motion to reflect the change from the October 2022 meeting to the November 1, 2022 meeting. Mr. Pappas SECONDED the amended motion.

VOTE ON MOTION:

AYES: DePreter, Pappas, Griggs, Blow, Davis, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. Use by Exception

6. (a) 2022-0039 – Judith Dembowski–Applicant

St. Augustine Society Inc – Owner
64 Washington Street

To approve off-site parking within 400 feet as a permitted use by exception.

Mr. Fredriksson read the staff report and said based on a review of Section 28-29, and without the support of evidence to the contrary, staff finds that the Board can APPROVE a use by exception for off-site parking for the St. Francis Family Shelter at 64 Washington St. / PID 208120-0000.

Judith Dembowski reviewed the application.

The Board provided their ex parte communication.

21 certified notices were sent, 0 were returned in favor, 0 returned opposed and 0 had comments.

Public hearing was opened.

Doug Murr said he appreciated the services provided by St. Francis House; however, felt they had issues managing what they had currently and expanding did not seem logical. He asked what was best for the community and was unsure if this one building would be the impact the community needed. He thought there might be a better location within the City that could help more people.

BJ Kalaidi questioned where the 400 feet parking would be located.

Ms. Skinner said the proposed parking was in the City parking lot on the corner of Granada Street and Bridge Street.

Ms. Kalaidi thanked City staff for the clarification.

Paul Morris appreciated the work done at St. Francis House, and was familiar with the area since he had lived near there for the past twenty-two years. He said two years ago, he purchased the property to the south and they had removed several dumpsters of trash and other items, and noted it was a struggle to keep clean. He said at the moment there were individuals living in their vehicles on the street. He said St. Francis House had a vast impact on the street and thought a lot happened on this corner. He said expanding put a lot of pressure on residents and business owners as it was a City-wide issue.

Public hearing was closed.

Ms. Dembowski responded to public comment and stated St. Francis House owned the building and it operated as shelter prior to hurricane Matthew and Irma. She said it had been vacant due to needing repairs. She said this was not a new expansion for the agency as they were only restoring what they had once used. She said the agency only provided services to those who wanted to get out of homelessness and into housing.

Mr. Mistely stated this would operate as it did prior to the hurricanes and serve the same number of people.

Mr. Dembowski replied in the affirmative.

The Board discussed:

- Staff report noted twenty people were the limit for the operation at the facility
- Asked if those living in vehicles were associated with the agency

- Questioned the current capacity of the parking lot

Applicant response:

- Fire Code allowed thirty-seven but no more than twenty unrelated people
- Building was for people with minor children
- People in the vehicles were not associated with the organization but they had reached out to offer services
- Without receiving services from St. Francis House, people did not receive showers or food from the agency

Ms. Skinner said there was space for the amount of parking requested; however, they were not assigned spaces.

Mr. Misterly asked where the spaces were and what type of lot it was.

Ms. Skinner said it was the City parking lot on the corner of Granada and Bridge Street and it was determined there was capacity for the requested spaces. She said there would be an agreement between the City and St. Francis House to clarify no one could live in the vehicles.

Mr. Misterly asked if these spaces were public parking or City employee parking.

Ms. Skinner said it was both. She said her understanding were these nine parking spaces were extra which was verified thought other City departments and the nine spaces were required by Code.

Mr. DePreter asked what the City policy for people sleeping in their vehicles in the City parking lot.

Ms. Lopez said they would only be allowed to use the parking per the agreement and the parking lot was proprietary.

Board discussion:

- Felt it was a reasonable request and lot was within 400 feet
- City had explained there would be no sleeping in their vehicles and parking was available
- Had testimony that people sleeping in their vehicles were not receiving services
- Provided a wonderful service and was a social issue that needed to be solved
- Not in favor of giving up parking in a public area as parking was hard to find in the area
- Asked if those who received services had to be registered
- Building was used prior to hurricanes and would not increase the capacity
- Questioned how many people in the program had vehicles, even though this could change daily
- Asked where people parked when this location was open before
- Questioned how the number of spaces was determined
- Asked if staff would use the parking
- Felt parking in St. Augustine was limited and if there was excess employee parking should convert those to public parking

Applicant response:

- Everyone had to complete an intake process to receive services
- Data collected was entered into the Homeless Management Information Systems Database
- Around 50% of the families had vehicles, but thought only four or five spaces at a time would be in use
- Parking was grandfathered in and was on Washington Street; however, due to remodeling now had to meet the new code standards
- Parking spaces would only be used for families with children and singles would not have access
- Parking had been determined from the nine permanent beds in the facility

- Staff parks where everyone else did

Ms. Skinner noted there had been several studies completed in relation to parking and there were a large number of spaces on the street and in downtown parking lots that were available. She said the City was actively working on informing the public regarding the parking that was available. She said there was a parking problem but most of the time it was management of the parking.

Mr. Blow noted this was the extreme south end of the parking where the City had vehicles parked.

Mr. Misterly stated he was not in favor of giving up public parking.

Mr. Davis said the parking was public. He noted the parking was on Washington Street before and due to the hurricanes, they had to update and meet the current code standards. He said he would rather give up the nine parking spaces and help the families than not.

Mr. Misterly asked what type of passes these would be or if signage would be put up.

Ms. Skinner said it would be a hunting pass.

Mr. Blow said the key was the capacity was not being increased as they had used this building before.

Mr. Misterly said his issue was the parking but seemed as nothing else was changing.

MOTION

Mr. DePreter MOVED to APPROVE Use by Exception 2022-0039 and it meets the standards as laid out by the staff in the documents. The motion was SECONDED by Mr. Davis.

Mr. Blow asked if the police could be more aggressive in monitoring the illegal drug issues.

Ms. Lopez noted she had been in touch with Chief Michaux, City of St. Augustine Police, regarding the situation.

VOTE ON MOTION:

AYES: DePreter, Davis, Griggs, Blow, Misterly

NAYES: Pappas

MOTION CARRIED 5/1

7. Conservation Overlay Zone Development

Ms. Skinner announced that the applicant for item 7(f), Pelican Reef requested a continuance to the September 6, 2022 meeting as he had an emergency.

MOTION

Mr. DePreter MOVED to CONTINUE item 7(f) to September 6, 2022 meeting. The motion was seconded by Mr. Blow and was APPROVED by UNANIMOUSLY VOICE VOTE

7. (a) 2022-0005 Continued from February 1, 2022 meeting – Jessica Shafer– Applicant & Owner 40 Hildreth Way

To approve a retaining wall/landscape feature adjacent to riprap within Conservation Overlay Zone 1.

Mr. Fredriksson read the staff report and said based on a review of section 11-29 staff finds that the board can DENY the construction of a new wall/landscape feature per the applicant within Conservation Overlay Zone 1 at 40 Hildreth Way/ PID 151151-0010.

The applicant has not provided any additional information requested by the PZB in February or for clarification for staff on the permeability or distribution of water on or around the property.

By approval of this application, the City does not make representation, approval, or claim to riparian rights to any party.

Shane Shafer, Jessica Shafer, and Jonathan Summerfield, Professional Wetland Scientist, reviewed the application.

Mr. Misterly said Department of Environmental Protection (DEP) requested the applicant remove the coquina material that was on top of the wall and asked if the coquina was in the cells of the block too.

Mr. Summerfield said the coquina was not in the cells of the blocks. He said it was non-mortar, non-footer, tremron material that water could flow through. He said in front was the riprap and traditional rock; on top of that was a fabric material with coquina sand placed on top the riprap. He said the wall was independent of that and sand was not in the landscape wall. He said DEP considered the sand and filter fabric as fill and if it were removed, they would be in compliance.

Mr. Shafer stated they provided the engineer reports. He said DEP had sent two agents and they were in compliance, other than the shell that had been removed. He noted they had done everything that they thought needed to be done. He said they could demonstrate this would be acceptable.

The Board provided their ex parte communication.

31 certified notices were sent, 2 were returned in favor, 12 returned opposed and 13 had comments and additional emails attached.

Public hearing was opened.

Claire Norris spoke in opposition to the application and stated her property was adjacent to the Shafer's property. She said the water would have to go through her property and she no longer felt safe with the wall. She noted the applicant did not have permits when the riprap or wall was built. She urged the PZB to deny the application and refer the issue to Code Enforcement for removal of the wall. She asked the Board to protect the residences.

Ted Mooney spoke in opposition to the applicant and said Conservation Overlay Zone One was the most restrictive and felt the applicant's wall was not a benefit to the public as a whole nor was it determined to not having a significant impact on the natural systems. He asked what the site conditions were and what were they prior to the wall existing. He said no determination could be made that the wall did not have significant impacts as the applicant had not provided the requested documentation to the PZB. He questioned the drainage patterns as no studies or proposals had been provided. He was concerned with the flood plain and the effects it could have on the marsh and neighboring properties. He urged the Board to deny the application and refer the application to Code Enforcement for removal.

Tawny Kern said the neighborhood had become stressed due to the hurricanes. She said the neighbors were trying to work with the City to find a solution to help with the flood issues. She said other properties in the area had projects denied that were in the Conservation Overlay Zone and this was over 300 feet long and, in a Conservation, Overlay Zone without approval from the PZB. She urged the Board deny the application.³

Gina Burrell read the PZB meeting minutes from the February 1, 2022 and April 5, 2022 and said she was informed by Code Enforcement that two stop work orders had been issued December 10, 2021 and July 6, 2022. She agreed with the City Staff's recommendation to deny the wall. She said no report from a hydrology engineer had been provided and urged the PZB to refer the application to Code Enforcement for the removal of the wall. She spoke with Jason Newman, Environmental Specialist with DEP who emailed the warning letter regarding unauthorized riprap fill which was dated April 11, 2022 and provided the letter to the Board.

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³ Picture attached to packet

⁴ Letter attached to packet

Patrick Cod said he informed the City in November or December regarding the building at the neighbor's home. He said Mr. Boles, Code Enforcement Inspector, told him this was not allowed without a permit. He said the applicant applied for an after-the-fact permit the same day, and the construction continued. He said the applicants had tried to tell everyone it was a decorative wall but had been advertised as a marsh bulkhead. He encouraged the Board to deny the application.⁵

Mark Metterhouse said his home was on stilts; however, when the water comes in it is from all directions, and his home was the lowest on the street. He said the homes down from them had a wall, which was grandfathered in and the water flowed directly on to his property. He encouraged everyone to work together because great things could happen if they did.⁶

Charles Fern spoke in opposition to the application and said impact statements should have been done prior to any work taking place. He said permits were not applied for until after the work had started and felt this could set a precedent for others. He was concerned with where the water would go as this was an ongoing problem and urged the Board to deny the application.

Nancy Bertogli spoke in opposition to the application and said the flooding was getting worse and worse. She said not everyone had the financial means to mitigate flooding and expressed that the PZB should deny the application and send it to Code Enforcement for removal.

Robin Mooney spoke in opposition to the application and said the wall violated several code criteria. She said other comments had provided evidence and reasons why the application should be denied.

⁵ Photos attached to packet

⁶ Photo attached to packet

Melinda Rakoncay spoke in opposition to the application and said applicants that provided information after the deadline should not be reviewed. She said the documentation requested in February should have been provided to the Board; however, it was not. She noted the denial recommendation from staff and urged the Board to do so.

Public hearing was closed.

Mr. Shafer replied to the public comment and said they were the lowest of the properties. He said the riprap had been in place for six or seven years. He said construction was not on going and they never worked after a stop work order.

Mr. Misterly pointed out the Board was not reviewing when construction took place as that was not part of the seventeen criteria.

Mr. Shafer said they had a letter from their engineer that stated, "decorative wall was pervious, and the riprap was pervious and was not adhered with any cementitious or mechanical fasteners". He said they were not trying to build up the yard. He said Les Thomas, Architect, said the blocks were permeable, and there was no back fill. He stated this wall was decorative and they were not trying to hurt the neighborhood.

Mr. Summerfield said the material used for riprap was the preferred method for erosion control on shorelines. He said what had been constructed would not be a retaining wall under regulatory statutes for the State. He said upland retaining walls were driven into the ground and made of impervious materials, and this wall was not that and had been placed in the uplands. He said upland retaining walls were not regulated as long as they did not cause adverse impacts by the configuration of them deflecting waves. He said wave energy was not an issue with this wall. He said the wall had no function when it came to deflecting or retaining water. He said the water did pool behind the wall which delayed the water from leaving the property; however, water would flow directly through it.

He said the concerns were when coquina was placed on top the riprap but had been removed over the past two weeks per DEP to be in compliance.

Ms. Lopez said there were 17 criteria and thought the Board needed to focus on those specifically.

Mr. Misterly noted some of the criteria he questioned that needed to be answered by the engineer; however, he was not available at this meeting. He said specifically the water was delayed when exiting the property which identified an impact to the drainage. He asked if code criteria seven was impacted which was "impact on vegetation and animal communities".

Mr. Summerfield replied no. He said this did not affect the wetlands which was less than five feet wide the riprap was appropriate with no impact on vegetation or wildlife.

The Board discussed:

- Questioned where the missing documentation was
- Saw survey was provided; however, it lacked topography
- To evaluate the drainage patterns on the site and for an engineer to properly evaluate a topography was needed
- Did not show the twenty-five-foot wetland buffer
- Questioned if the wall being in the wetland buffer would have an impact on wildlife and vegetation
- Asked for specification for the tremron blocks and why it was not provided
- Wanted the information from manufacturer to understand the porosity of the blocks to properly evaluate
- Questioned the ground water flow report in the engineer's report but wanted it for a better decision
- Was there any pending investigation from the DEP or a consent agreement
- DEP mentioned there was something added onto the riprap

- Questioned if there would be additional action by DEP for 40 Hildreth Way
- DEP could combine the two lots (40 Hildreth Way and 0 Hildreth Way) and have one consent agreement

Applicant and Mr. Summerfield response:

- Company who could have provided a topography survey did not feel comfortable entering neighboring properties
- Neighbors had called the City regarding trespassing
- Upland buffer was on the original survey, but surveyor would not add it to the new survey
- Not aware of the upland buffer prior to the wall, but in the condition it was in, would not impact it
- Wall would not have a significant affect as a clearing of the buffer
- Trees there were thriving, wildlife would adapt but not be adversely affected
- Blocks were not used as intended by the manufacturer
- No footer was used, and it was a split face block with alignment pins and used as a decorative wall
- Could be pushed over without force and only used to be in front of the riprap
- Blocks were used to beautify the property and was not structural
- No report was provided as far as he was aware
- Had requested a list of what was needed from staff and it was not provided
- Would be a consent agreement for 0 Hildreth Way and not 40 Hildreth Way
- DEP had deemed the riprap non-jurisdictional and DEP had no regulatory power over a wall placed in the uplands
- DEP had issues with the coquina and that was why it had been removed
- 40 Hildreth was in compliance with DEP but was unknown if DEP would treat the two lots separately or not
- Riprap did not meet the threshold for DEP and no permit was required

- Two lots combined did meet the threshold but had previous exemption verification for 40 Hildreth Way

Mr. Blow asked if the Board was looking directly at the decorative wall.

Ms. Skinner said the Board was correct in questioning the riprap and in 2016 when it was installed at 40 Hildreth Way it should have been reviewed by the Board for approval; however, Code Enforcement action was taken and the applicant was informed they would need to go before the PZB. She said in addition, the wall was installed behind the riprap and the riprap and wall were both issues, which had been continued onto the adjacent property.

Mr. Blow asked in 2016 when the riprap was installed, did PZB review the application and approve it.

Ms. Skinner advised she would need to check but knew there was a Code Enforcement file. She said property owners were contacted and they contacted DEP, and DEP stated it was not in their jurisdiction.

Mr. Davis asked if Curtis Boles, Code Enforcement Officer, was available.

Ms. Skinner said he was not.

Mr. Davis noted in the future if the Code Enforcement Officer attend and testify to understand the entire issue. He asked if the City had issued any stop work orders.

Ms. Skinner replied in the affirmative.

Board discussion continued:

- Board should have reviewed both the wall and riprap since it was in the Conservation Overlay Zone
- None of the documentation asked for was provided and there was not enough information to decide

- Had mixed testimony about the wall being permeable
- Thought 95% of the lot was impervious
- If wall were smaller, might have been in favor but had an issue with the height
- Felt applicant received clear direction from past meetings
- Did not satisfy the seventeen criteria
- Wanted City Public Works staff to review and provide a report if appropriate
- Letter from engineer was not received in time to be reviewed and was not present
- Seventeen criteria were not referenced in the engineer's letter and questions could not be answered
- Board continued the application many times and clear direction was provided
- Thought criteria three "natural and proposed drainage patterns" was not met
- Felt the burden of proof was on the applicant to meet the seventeen criteria
- Criteria six "impact on the flood plain" might have been answered but there was not expert present
- Thought the riprap needed to be solved because without it, there would not be a discussion of the wall
- Could deny the application based on the information requested that was not provided

Applicant response:

- Riprap was fine to have according to the DEP in 2017
- Had not been an on-going case since then
- Experts were scheduled to be at the July meeting; however, it was cancelled due to lack of quorum
- Felt a continuance should be granted and could provide necessary documentation
- If not approved, would have to remove trees and felt this was a delicate situation
- Plants would be destroyed from machinery used to remove the wall

Mr. Pappas pointed out this was not about the DEP, because the riprap wall needed a City permit.

Mr. DePreter said the City never permitted the riprap and thought the Army Corp of Engineers approval was needed which as well had not been received.

Mr. Summerfield noted in 2020 the DEP took over for the Army Corp of Engineers. He said DEP determined this was in state assumed waters and DEP was addressing it. He said for the record, after he was brought on to the project, he had reached out to almost ten engineers and it took month and half to get a response.

MOTION

Mr. DePreter MOVED to DENY Conservation Overlay Zone One Development 2022-0005 as it had failed to meet the burden of proof and the seventeen criteria specifically two, three, six, and eleven, and with staff recommendation to deny the application. The motion was SECONDED by Mr. Pappas.

Mr. Blow asked if the Board able to deny the application with or without prejudice.

Ms. Lopez said no; however, there was an appellate process in the Code and that would be the procedure if the application was denied.

Mr. Blow asked if the one year waiting period would apply.

Ms. Lopez said the applicant could ask for a waiver.

Mr. Misterly asked what the next step was if the application was denied.

Ms. Lopez explained the applicant had an appellate right to the City Commission and then the Court system. She said there was a pending Code Enforcement case as well.

Ms. Skinner advised Code Enforcement was waiting the outcoming from this meeting before proceeding.

VOTE ON MOTION:

AYES: DePreter, Pappas, Griggs, Blow, Davis, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

**7. (b) 2022-0043 – Jessica Shafer–
Applicant & Owner
0 Hildreth Drive / PID 151151-0020**

To approve a retaining wall/landscape feature adjacent to riprap within Conservation Overlay Zone 1.

Mr. Fredriksson read the staff report and said based on a review of section 11-29 staff finds that the board can DENY the construction of a new wall/landscape feature per the applicant within Conservation Overlay Zone 1 at 0 Hildreth Way / PID 151151-0020 based on a lack of information provided to thoroughly analyze this proposal.

By approval of this application, the City does not make representation, approval, or claim to riparian rights to any party.

Shane Shafer, Jessica Shafer, and Jonathan Summerfield, Professional Wetland Scientist, reviewed the application.

Mr. Misterly addressed the seventeen criteria and highlighted the ones that concerned the Board.

Mr. Shafer asked if the application could be continued in order to have a fair review.

Mr. Summerfield noted the differences between 40 Hildreth Way and 0 Hildreth Way. He explained it was a vacant property; however, the vegetation had been removed prior to purchasing the property. He said he was hired after DEP sent warning letters regarding the riprap and wall. He noted there was evidence that topsoil had been removed closer to the wetlands and wall. He said there was a different soil profile in the cluster of trees in the uplands on the site.

Mr. Misterly asked in relation to criteria seven if there was an impact of development on vegetative and animal communities.

Mr. Summerfield explained DEP had determined the wetland line was under the riprap. He said the riprap was meant to serve as shoreline protection and it was not a significant impact on the wildlife or the vegetation.

The Board provided their ex parte communication.

21 certified notices were sent, 0 were returned in favor, 3 returned opposed and 3 had comments and additional emails attached.

Public hearing was opened.

Ted Mooney said if the permit process had been followed and direction had been received early on in the process then the rules could have been followed. He said if it was as harmless as the applicants indicated they needed to prove it. He encouraged the Board to allow the applicants to provide the information.

Tawny Kern spoke in opposition to the application and said the rules had not been followed and thought there was a disregard for the neighbors. She said she loved her neighborhood and felt since they were contractors, they should have been aware of the process. She urged the Board to deny the application.

Patrick Cod said since the beginning the wall had been called decorative but felt this would not be something anyone would want to look at daily. He said the mangroves were beautiful and he did not understand how it could be any better than the natural state.

Mr. Misterly encouraged the public to base comments on the codes seventeen criteria.

Gina Burrell said the applicants had a long time to provide the needed documentation.

She said the applicants brought an Environmental Scientist, but the Board asked for a Hydrology Engineer. She urged the Board to deny the application

Melinda Rakoncay said the applicant was asking for a continuance based on the lack of quorum that cancelled the July meeting. She said all the documentation should have been turned in for the July meeting, but it was not. She said he had an extra month to prepare and still had not turned the documentation in. She felt the neighbors had dealt with this long enough.

Charles Smith spoke in opposition to the application and said if one were denied the other should be as they were joined and felt they could not be separated.

Nancy Bertogli urged the Board to deny the application and said there had been no evidence submitted that proved this met the criteria to be approved. She urged the Board to not continue the application as it brought neighbors back over and over. She asked the Board to deny the application.

Robin Mooney felt the Board should deny the application and send back to Code Enforcement. She said it was a continuous wall and if one application was denied this should be too.

Public hearing was closed.

Mr. Shafer felt it would be appropriate to continue the application in order to provide more documentation.

The Board discussed:

- Had to focus on the seventeen criteria
- Did not have information on the drainage plan
- Status of riprap had not been provided and unsure if PZB had approved
- Lack of information and unable to evaluate the application

- Wanted to know the elevations, ground height, and flood heights compared to the top of the wall and information was not available
- Board had been clear on what was required and should have provided the documents
- Application did not meet the following criteria #3 (natural and proposed drainage patterns), #6 (impact on flood plains), #11 (impact of development on shoreline by linear feet)
- Board had requested block information, topographic survey, and engineers hydrological report on how water moved
- Letter from engineer was too broad and was unable to connect the seventeen criteria
- Not in favor of continuing the application

Mr. Misterly asked if the motion could be different than the prior application.

Ms. Lopez said each case was specific. She said the Board was able to use the evidence that would support a continuance or denial.

MOTION

Mr. DePreter MOVED to DENY Conservation Overlay Zone Development 2022-0043 on the grounds that it had not met the burden of proof for the seventeen criteria specifically:

- **#3 natural and proposed drainage patterns**
- **Wanted more information about one lot being lower than the other**
- **#4 effect of point and nonpoint discharge in the marine environment**
- **#2 the site's relationship to adjacent properties, bodies of water and surrounding conservation zones**
- **#11 Impact of development on shoreline by linear feet and percentage of site. This one specifically as 100% of the shoreline was covered**
- **Was a higher burden of proof since lot was 100% covered**

- **Staff had recommended denial**

The motion was SECONDED by Mr. Pappas.

Mr. Misterly asked if criteria #6 impact on flood plain, could be added to the motion and noted staff recommendation was based on lack of information.

Mr. DePreter AMENDED the MOTION to include criteria #6. The AMENDED motion was SECONDED by Mr. Pappas.

VOTE ON MOTION:

AYES: DePreter, Pappas, Griggs, Blow, Davis, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY⁷

7. (c) 2022-0031 Continued from June 7, 2022 meeting – Ryan Carter – Applicant c/o Carter Environmental Services John Andrews – Owner 97 Coquina Avenue

Ms. Griggs recused herself from the application.⁸

To approve the construction of a 665 square foot dock and boat lift within Conservation Overlay Zone 1.

Mr. Fredriksson read the staff report and said based on a review of section 11-29 and without the support of evidence to the contrary, staff finds that the board can APPROVE the construction of a new 665 square foot dock and boat lift within Conservation Overlay Zone 1 at 97 Coquina Avenue/ PID 223370-0000.

By approval of this application, the City does not make representation, approval, or claim to riparian rights to any party.

Ryan Carter reviewed the application.

The Board provide their ex parte communication.

There were no additional public notices as the item was continued from June meeting.

Public hearing was opened; however, there was no response.

The Board discussed:

- Docks in the area were small sitting docks and this would be the first big dock
- Concerned with the access of getting in/out during low tide
- Questioned the size to of the dock to the north of the proposed
- Unsure of dock size but felt owner should be allowed to have a dock
- In favor of the application and felt it hugged against the marsh to stay out of the channel as much as possible
- Was a risk of being stuck during low tide but informed boaters knew that
- Docks were more compact and was in support
- Felt applicant addressed the Boards concerns
- Vast improvement and provided more information regarding the navigation through the creek
- Asked if old dock would be removed and should it be added to the motion

Applicant response:

- Would be a twenty-foot slip and felt it was very reasonable request
- Unsure of the size but thought it was only an observation deck
- Some docks were older and did not follow the dock instruction guidelines and were not five feet above mean high water line
- If proposed dock were in place, it would be thirty-seven feet in the channel to pass
- Applicant noted old dock would be removed

⁷ Break from 5:47p.m.-5:58p.m.

⁸ Recusal form attached to original minutes

MOTION

Mr. Blow MOVED to APPROVE Conservation Overlay Zone the application 2022-0031 based on the revised drawing provided by the applicant and fact that the old existing dock would be removed. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:

AYES: Blow, Davis, Pappas, DePreter, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

7. (d) 2022-0032 Continued from June 7, 2022 meeting – Ryan Carter – Applicant c/o Carter Environmental Services John Andrews – Owner 99 Coquina Avenue

Ms. Griggs recused herself from the application.⁹

To approve the construction of a new 665 square foot dock and boat lift within Conservation Overlay Zone I.

Mr. Fredriksson read the staff report and said based on a review of section 11-29 and without the support of evidence to the contrary, staff finds that the board can APPROVE the construction of a new 665 square foot dock and boat lift within Conservation Overlay Zone I at 99 Coquina Avenue/ PID 223370-0060.

By approval of this application, the City does not make representation, approval, or claim to riparian rights to any party.

Ryan Carter reviewed the application and reviewed the revised drawing.

Mr. Blow asked if the revised drawing was allowed. He noted the Board had tied the revised drawing to the previous motion.

Ms. Lopez advised the Board any evidence provided could be included as part of the hearing.

Mr. Carter noted he would resend the evidence provided to staff.

The Board provided their ex parte communication.

There were no additional public notices as the item was continued from June meeting

Public hearing was opened; however, there was no response.

The Board discussed:

- In favor of the revised layout and liked that it hugged the marsh
- Kept the channel open to other boaters and property owners
- Was in support of the application

MOTION

Mr. Misterly MOVED to APPROVE Conservation Overlay Zone One Development 2022-0032 with the note that it was the revised layout as presented and not the one in the packet. The motion was SECONDED by Mr. Pappas.

VOTE ON MOTION:

AYES: Misterly, Pappas, Blow, DePreter, Davis

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

7. (e) 2022-0042 – Jennifer White Conner– Applicant White's Wharf – Owner 135 Avenida Menendez

To approve a modification of the walkway/access boardwalk to White's Wharf from Avenida Menendez within Conservation Overlay 1

⁹ Recusal form attached to original minutes

Mr. Fredriksson read the staff report and said based on a review of section 11-29 and without the support of evidence to the contrary, staff finds that the board can APPROVE the modification to White's Wharf walkway entrance at 135 Avenida Menendez/ PID 196210-0000.

By approval of this application, the City does not make representation, approval, or claim to riparian rights to any party.

Jennifer Conner reviewed the application.

Ms. Lopez asked if they were to remove the dogleg and the applicant agreed

The Board provided their ex parte communication.

3 certified notices were sent, 0 were returned in favor, 0 returned opposed and 0 had comments.

Public hearing was opened; however, there was no response.

The Board discussed:

- Was a very minor change
- Trusted staff to assist with safety and ADA compliance
- Felt it did not trigger any of the seventeen criteria for the Conservation Overlay Zone
- Questioned if the old wooden dock including the piling would be removed

Applicant response:

- On City property but was willing to remove the pilings completely

Mr. Blow asked if the applicants were to be held liable for complying with the ADA requirements as there were many lawsuits over ADA compliance.

Ms. Lopez stated the liability was on the applicants as it was on their property; however, anything on the City's property

would have to comply with the ADA. She said the challenge was where the two slopes meet.

Mr. Davis felt this connection was no different to a sidewalk or driveway connection as it was from private property to City property; however, it was at a seawall instead.

Board discussion:

- Entire walkway would be on the owner's property which avoided long term potential with issues
- From the seventeen criteria this was an overall improvement
- Thought the walkway would be tricky along the Bayfront but encouraged the City to assist with the tie in
- Made a cleaner entrance to the restaurant

MOTION

Mr. Davis MOVED to APPROVE Conservation Overlay Zone One Development 2022-0042 on the basis that it meets all the criteria and the applicant would remove the piling completely and not cut them off at the mud line. The motion was SECONDED by Mr. Blow.

VOTE ON MOTION:

AYES: Davis, Blow, Griggs, Pappas, DePreter, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

**7. (f) 2022-0037 – Kevin Marks– Applicant
c/o Shoreland Home Builders
Paul Thompson – Owner
Pelican Reef of St. Augustine LLC
0 Pelican Reef Drive / PID 158573-0100**

To remove significant trees within Conservation Overlay 3.

See Motion under Item 7 before the 7(a) application.

**7. (g) 2022-0027 – Jason Stancil –
Applicant c/o Colour Homes, LLC
Darden Claire Harting Trust– Owner
0 Seminole Drive / PID 151370-0000**

Application was withdrawn by the applicant.

To approve the construction of a new single-family home within Conservation Overlay Zone 2.

8. Other Business

a. Planning and Zoning Board discussion to consider recommending a change to the Zoning Code to allow Not-for-profit clubs as a permitted use or a permitted use by exception in Historic Preservation District-three (HP-3).

Ms. Skinner provided a brief overview of the topic for the Board. She said that Staff would need a Board sponsor to continue the process and if so, it would be heard at a later date for a formal recommendation to the City Commission.

Dan Hilburn, who spoke on behalf on Matt Stevens, said there was a property at the end of Spanish and Cuna Street in the HP-3 district and the area could not have a not-for-profit club currently. He said the proposed idea was to have a private establishment for locals with food and drinks. He said if this were a for-profit establishment, it could be there as it was allowed; however, by being private entity it would be a more limited establishment. He said the positives were less people than a what could potentially be there, would be for locals only and could possible help raise money for local charities.

Mr. Misterly reminded the Board this was a proposal for a code change. He said if the code changed the proposed project would still have to be reviewed by the PZB as a Use by Exception.

Mr. DePreter asked if this was a rezoning request.

Ms. Lopez advised this was a legislative issue and the request was for anyone to have a private club in that zoning category.

Mr. DePreter said this would go before the City Commission for the same type of discussion and there was not a change of zoning or future land use.

Ms. Lopez said that would be part two. She said this would solve the zoning issue in HP-3.

Mr. DePreter asked what the criteria was.

Ms. Lopez it was a legislative change. She said the Board needed to think about if this was good public policy for the City as a whole for any applicant to have a private club in HP-3.

Public comment was opened.

BJ Kalaidi spoke in opposition to allowing 501(3)C clubs in the HP-3 district. She offered alternative locations in the hopes of preserving the HP-3 district. She said this should not be allowed in HP-3 for anyone. She said looking at the map provided, if City staff could provide the address of the locations pinpointed for the public to better understand and following along.

Mr. Misterly asked the general reason for being opposed to the change.

Ms. Kalaidi stated we needed to preserve the HP-3 district as there were multiple drinking locations and the club could find alternative locations to have their meetings. She felt this was not the proper place and thought this would add to the night life issues.

Mr. Davis said permitted by Use-by-Exception in HP-2 was not-for-profit clubs, cocktail lounges and taverns, but in HP-3, a not-for-profit club was not allowed but the others were.

Ms. Kalaidi said HP-3 needed to be left alone. She said her concern was preserving

what was in the downtown area. She felt the zoning needed to be upheld as the downtown character was changing. She said she thought there were other places to have this.

Melinda Rakonca said the only non-profit club was in HP-2 was the VFW, which no longer existed. She said there was no need to have it anymore in HP-2 and she was not sure why they would want to expand it into HP-3, which was the Colonial district. She was concerned with the Colonial district becoming the drinking area. She said the proposed location was the home of reenactments and it was tucked into more of the historic part and being associated with the distillery could provide a different feel. She said felt a private club would encourage drinking.

Public comment was closed.

Mr. Hilburn said this was not distillery sponsored in any way. He said one alternative location mentioned was in a residential neighborhood and he did not feel that was a good spot to have a not-for-profit. He said this location was zoned for a tavern, but they wanted to make this a place for locals and limit it while being respectful to the community.

Board Discussion:

- Not passionate about the topic
- Would be a Use-by-Exception and if approved would not be approving the proposed as that would require a formal hearing
- Particular proposed location did have a lot of noise complaints previously from bars
- Board had strongly opposed to approving bars in that particular area
- Not opposed to leaving the Code how it was
- Concept was to have a place for locals to avoid having to compete with tourist

- Concerned with how it would truly be a private entity
- Could address the concerns if this were a Use-by-Exception application
- Questioned why HP-2 and HP-3 definitions were not the same
- Did not want to add more to the Code but wanted to clean up Codes that were inconsistent
- Thought it could fit somewhere in the HP district
- Felt unclear about the criteria for the change
- Seemed to be a request for a particular property
- If zoning were changed, it should have a public good beyond one project
- No guarantee it would be only locals
- Location was zoned to be a tavern and could be open until 2:00 a.m.
- More conditions could be added since it would be a Use-by-Exception; however, a tavern was allowed and did not need approval
- Neighborhood had struggled with having a bar in the area
- Unsure if there was an advantage of having a not-for-profit club opening in HP-3
- Unsure as the club could have more conditions and a tavern would not which was allowed in HP-3

Mr. Davis asked what stopped someone with having a private club that was for profit. He said zoning would not change as it would be a Use-by-Exception but would have to be for-profit and could be treated as a non-profit.

Ms. Lopez said the Code defined it as "other than maintained for profit".

Board discussed:

- Felt a not-for-profit would have a tax advantage
- Questioned if it might be easier for a not-for-profit to obtain a liquor license than being for-profit

- Questioned if the location would still have to pay taxes

Ms. Lopez explained it depended on who owned the building. She said if the property were owned by anyone other than the not-for-profit, they would.

Mr. Misterly asked Mr. Hilburn to explain the reason for having the not-for-profit over a bar in the location.

Mr. Hilburn replied the reason was privacy. He said for a public establishment it was harder to restrict the entry. He said as a non-profit, Mr. Stevens was not looking to be a bar owner but instead, having a place for local people just like him. He said he was unsure regarding the liquor license, but in other clubs like this, it would restrict who could buy alcohol.

Mr. Davis said he wanted to know the answer regarding the liquor license. He said the Board needed to know to avoid future issues if this were to be allowed.

Mr. Pappas said it was a creative way to have another type of business in the area but wanted to know more regarding the details.

Ms. Lopez searched the Department of Business and Profession Regulations (DBPR) site and said it was 11(c) licenses which was for lodges and other clubs for consumption on premises, and the permeant license fee was \$400.00. She said she was not an expert but thought that was a smaller fee than having a corporate bar.

Mr. Hilburn said he was unsure. He said he understood the concerns and reiterated this was not promising them anything but simply moving it forward to be heard by the City Commission. He noted they were cautiously optimistic with the neighbors. He encouraged the Board that if they felt there was any positivity by adding a not-for-profit it should move onto the next step.

Board discussion:

- Not opposed to moving it forward to the City Commission
- Felt there would be more public response than at PZB
- Did not have strong opposition or support
- Thought it was odd to have a not-for-profit in one HP district and not in the other
- Had not been an issue with it being allowed as in exception in the HP-2 district
- Not opposed to exploring it further as there was no commitment
- Asked if there were any true not-for-profit clubs in the HP-2 district and if not, perhaps the City Commission could eliminate it from the Code

Ms. Lopez noted that was not up for discussion currently and it would be a little more difficult than that because it would remove property rights

Mr. DePreter said his concern was the loophole in not paying property taxes. He said if it were a club and it was a Use by Exception the Board was not able to stipulate the club could not own the building. He said there were a lot of non-profits in town and he did not want to increase that burden.

Mr. Blow agreed. He noted it was a substantial amount of money and if a bar could be a non-profit, they would not have to pay real estate taxes.

Mr. Misterly asked if they were able to have a not-for-profit bar versus a profit bar to understand why this would be a benefit.

Ms. Lopez advised if the Board was unable to recommend this to the City Commission then perhaps all the questions brought up could be clarified by Mr. Hilburn and Mr. Stevens could explain at another meeting in the future.

Mr. Misterly said the “ask” was optimistic, but ultimately it was a property in downtown St. Augustine and money had to come into play somewhere. He said he did not understand the benefit or how it made sense.

Mr. Hilburn noted property taxes would be paid as they would not own the building. He said the membership would not be ten dollars and money would have to be made. He said at the next layer, the Board could add conditions. He said it was not a bad idea to have a non-profit in the area but if there were things about the non-profit that the Board did not like it could be determined at the next step when the Use-by-Exception was discussed. He said the Board should have options and they were asking to keep the options open.

Ms. Lopez said there was nothing stopping them from moving forward and the Board could ask for a different definition which could have more qualifiers for a private club. She said this would be a way for Staff to work on the Boards concerns thoroughly.

Mr. Misterly asked if they were allowed to designate someone on the Board to review and work out the issues before the entire Board reviewed it again.

Ms. Lopez replied in the affirmative.

There was Board consensus for the item to be brought back to the Board after further review by City staff and Mr. Blow.

b. Planning and Zoning Board discussion related to potential code amendments pertaining to Historic Preservation and the issue of partial demolition.

Ms. Skinner provided a brief overview regarding the topic and said the draft had the amended language which defined partial demolition and, Julie Courtney, Historic Preservation Officer, was available to answer any questions.

Mr. Misterly said the City did a great job addressing a lot of his concerns and felt this was better for homeowners. He said the City clarified the intent that historic homes should be built back with visual aesthetics only and should be similar to what was. He said the main concern was to have the homes keep the visual historic character. He noted he was pleased with several items that had been added.

Mr. Blow felt Mr. Misterly made a tremendous effort to help protect the property rights of homeowners.

Mr. DePreter asked if this did not apply to every house, only the designated homes. He asked if this helped streamline the partial demolition as there would no longer be the need for fifty- year review on every house as these were designated.

Ms. Skinner said they sent out over 1,600 letters to regulated structures that were considered contributing in the National Register Historic District. She said it was now clearly defined. She said the criteria outlined five critical elements and were clearly defined for staff to review or at HARB.

Mr. Davis questioned page 8, section 10.

Ms. Lopez said they created a definition for “regulated structure” which was different than a historic structure and noted the definition for a regulated structure.

Mr. Davis said his confusion was where it stated, “in the event that HARB desires not to issue a demolition or partial demolition permit for a structure that it finds could meet the criteria for a historic landmark, the HARB shall initiate proceeding for designation of the structure as a historic landmark”. He said that provided HARB the ability to start the process when the homeowner needed to make repairs or tear down the house.

Ms. Lopez explained those were for Local Landmarks. She said the Wisteria House across from City Hall was a Local Landmark,

and it met the elevated level of criteria that deemed it a Local Landmark. She said the intent was if it truly met the criteria, it could be a Local Landmark, which was the same as a National Landmark but at the local level and the same criteria was used.

Mr. Davis said it continued to say "no property shall be designated as a historic landmark without first providing the owner of the proposed historic landmark with notice and an opportunity to be heard in the same manner as that provided for a rezoning". He asked if that meant the application would come before the PZB.

Mr. Lopez replied no, it would only be heard at HARB. She said this was the way HARB designated local landmarks.

Mr. Davis stated if the owner disagreed, was the homeowner able to be heard by a different Board or did, they have to return to the same Board twice.

Ms. Lopez said it would be heard through an appeal.

Mr. Davis felt another Board needed to review it besides HARB.

Ms. Skinner noted this would open the option for tax credits.

Ms. Courtney said the Local Landmark designation for the Wisteria House was owner initiated to obtain an Ad Valorem Tax exemption. She said HARB had not pursued Local Landmarks actively as there were only five as of now.

Mr. Davis said was just trying to be cautious and wanted to safeguard the public to have the option to appeal to a higher Board.

Ms. Lopez noted as of now, HARB would make the decision and the appeal would be heard by the City Commission.

Mr. Davis said he did not want a government Board take away private property rights.

Ms. Lopez asked if the concern addressed for the first decision to be by HARB and then appealed at no charge to City Commission.

Mr. Davis replied in the affirmative.

Mr. Blow stated the fee for the appeal was minimal compared to the fees to obtain attorneys and experts for the appeal. He said if a HARB Board in the future deemed a home a local landmark and the City lost the appeal; the City should have to reimburse the applicants expenses.

Ms. Lopez stated she could include that when speaking to the City Commission but thought that could become pricy for the City.

Mr. Misterly asked if a home had been remodeled prior to this ordinance and after this were to pass, what era would be used for the placement.

Ms. Lopez noted the memo under new concepts item (c). She said the home would be evaluated in the era of the house and would be on a case-by-case basis.

Public comment was opened.

Melinda Rakoncay said there were many historic homes that needed to be saved regardless of how the owner felt. She was concerned with item ten on page 8, regarding total demolition, and understood the designation to save the home would need permission from the owner.

Ms. Courtney advised there was new State legislation effective July 1, 2022, and that was referred as House Bill 423, which significantly impacted the review of demolition for buildings that were in flood plains and below the flood level.

Ms. Lopez said this meant if the home qualified for complete demolition under the statute then the City was not allowed to designate it a local landmark, replacement review of the replacement structure. She

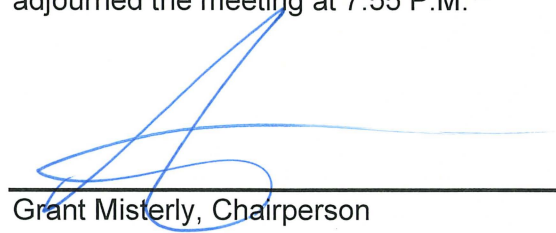
provided an example of what that would consist of.

Public comment was closed.

There was Board consensus to send the Ordinance to City Commission with the concerns mentioned by the Board.

9. Adjournment

Having no further business, Mr. Misterly adjourned the meeting at 7:55 P.M.¹⁰



Grant Misterly, Chairperson

¹⁰ Transcribed by Elyse Wiemann