I. CALL TO ORDER

Chairperson Kevin Kincaid called the meeting to order at 6:00 p.m.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

BOARD MEMBERS PRESENT: Chairperson Kevin Kincaid, Vice-Chairperson Berta Odom, Larry Einheuser, Hester Longstreet, Dennis King, Steve Mitherz, Chris Pranis, Junior Alternate John Tisdall.

BOARD MEMBERS ABSENT: Senior Alternate Victor Sarris.

STAFF PRESENT: Building Official Brian Law, City Attorney Lex Taylor, Executive Assistant Bonnie Miller, Recording Secretary Lacey Pierotti, Crime Prevention Officer Ed Martinez.

IV. APPROVAL OF MINUTES OF PLANNING AND ZONING BOARD MEETING OF JUNE 16, 2020

Motion: to approve the minutes of the June 16, 2020 meeting. Moved by Ms. Odom, seconded by Mr. Mitherz, passed 7-0 by unanimous voice-vote.

V. PUBLIC COMMENT

There was no public comment pertaining to anything not related to an agenda item.

VI. NEW BUSINESS

A. Request to remove a 32-inch diameter-at-breast height (DBH) oak tree in the building footprint of proposed new construction of a single-family residence and a 30-inch DBH oak tree in the pool/pool deck footprint on Lot 47, Ridge at St. Augustine Beach, at 339 Ridgeway Road, Riverside Homes of North Florida Inc., Applicant

Mr. Law said the request to remove the two trees highlighted on the survey is for new single-family construction on Lot 47 in the Ridge, at 339 Ridgeway Road. Riverside Homes, the contractor for this project, has verified that these two trees are 30-inches DBH or larger, and both are clearly in the building footprint of the proposed house and pool area, and there’s no way to shift the house or pool around to save these trees. City Code is very specific that if a tree is located in an area where a structure or improvement may be placed in accordance with other development provisions in the Code, and retention of the tree is such that no reasonable economic use can be made of the property without removal of the tree, removal of the tree is completely authorized, and the property owner has every right to ask that the tree or trees be removed in order to develop his or her property.
Mr. Kincaid asked if there are any questions from the Board, or if anyone needs to hear from the applicant.

Ms. Longstreet said specifically in the Ridge, flexible setbacks are allowed to save trees, so she asked if the applicant has made any attempt to move the house to try to save these trees.

Mr. Law said a blanket variance was granted for flexible setbacks to save trees in the Ridge a few years ago, and this was such a good idea it was later adopted in the Land Development Regulations (LDRs) to apply to all single-family residential lots in the City. Unfortunately, however, there is no way to move the house to save the two trees requested for removal and still comply with the minimum 25-foot front and rear and 10-foot side setbacks.

Mr. Pranis asked if the pool could be moved around to avoid taking out the tree in the pool area.

Mr. Law said any which way the pool area could be moved, the tree would still be in the way of the pool deck and the root system would most likely be compromised by the excavators digging the hole for the pool. The tree would eventually uproot and cut through the pool and deck pavers and potentially breach the wall of the pool.

Motion: to approve the removals of a 32-inch DBH oak tree and a 30-inch DBH oak tree as requested for new construction of a single-family residence and pool on Lot 47, Ridge at St. Augustine Beach, at 339 Ridgeway Road. Moved by Ms. Odom, seconded by Mr. Mitherz, passed 7-0 by the Board by unanimous voice-vote.

B. Land Use Variance File Nos. VAR 2020-07 and VAR 2020-08, for reduction of minimum 25-foot front and rear yard setback requirements to 20 feet each and reduction of minimum 10-foot east side yard setback requirements to five feet each for proposed new construction of a two-story, single-family residence on each of Lots 15 and 16, Block 18, Chautauqua Beach Subdivision, in a medium density residential land use district at 130 4th Street and 129 5th Street, Eric R. Kenney, Applicant

Ms. Miller said these two variance applications were put on the agenda together as one item, as they both request the same thing, setback reductions for new construction of a single-family home on two adjacent lots, Lots 15 and 16, Block 18, Chautauqua Beach Subdivision, at 130 4th Street and 129 5th Street. These are two corner lots with 2nd Avenue adjacent to the west side of each lot. Both lots have a permanent drainage easement granted to the City of St. Augustine Beach for ingress, egress and public utilities over and across the most westerly 15 feet of each lot. These lots qualify as small-platted lots in the overlay district, because they were originally platted as 50-foot-by-93-foot lots, but the overlay district setbacks for small platted lots would not help in this case because of the 15-foot easement, which cannot be reduced, on the west sides of both lots. The applicant is therefore requesting a variance for each lot and asking for side setback reductions to five feet on the east sides of both lots, and 20-foot front and rear setbacks, which are the front and rear setbacks allowed for small-platted lots in the overlay district. With the 15-foot easement on the west side of both lots and a five-foot setback on the east side, the houses built on these lots will have a combined total of 20 feet for the side setbacks, which is more than the combined total of 15 feet, or 7.5 feet on each side, that is allowed for small-platted lots in the overlay district.

Mr. Mitherz asked for clarification on the small-platted and standard-platted lots in the overlay district, and what the difference is between these two types of lots. He also asked why the 7.5 feet of the vacated alley adjacent to the rear of each of these lots is not included as part of the total square footage of the lots. The LDRs define small-platted lots as having a maximum lot size of 4,650-square feet, so with the additional square footage of the vacated alley, the lots for which the variances are requested are 5,000-square feet, which to him make them standard-platted lots, defined per the LDRs as lots that are greater than 4,650 square feet, not small-platted lots.

Ms. Miller said the 7.5 feet of the vacated alley is not included because the small-platted lots are considered as the originally platted 50-foot-by-93-foot lots. It has been the City Commission’s interpretation that even if alleys behind such lots have been vacated, they still qualify as small-platted lots, as vacating an alley does not change the way the lot was originally platted. The 7.5-foot portion of the vacated alley is like the 15-foot permanent easement, as nothing can be built in the vacated portion of an alley, but it can be used for setback requirements.
Mr. Law said the current overlay district regulations were created a few years ago when the City hired the consulting firm with Lindsay Haga to revise the LDRs. The key thing to remember with the small-platted lots is that they were originally platted as 50-foot-by-93-foot lots, so any alley behind these lots, whether it’s been vacated or not, was not platted with the lot, but given to the adjacent properties owners if it was vacated based on the City no longer having any need for it. This came up and was discussed in great detail by the City Commission, which determined that the residential lots specified in the overlay district are the platted lots themselves. These lots for which the variance applications have been submitted are unique, however, due to the 15-foot permanent easement on the westerly side of each lot, so the reduced setbacks allowed in the overlay district for small-platted lots wouldn’t work. The applicant is requesting variances for reduction of the east side setback on both lots to five feet, so the lots will still have a combined total of 20 feet in side yard setbacks with the 15-foot easement on the west side and a five-foot setback on the east side. This combination of 20 feet total for side setbacks is the same as what is allowed per the LDRs for flexible setbacks to save trees on residential lots. Construction will still be subject to all the other regulations in the LDRs for medium density residential, including maximum lot coverage of 35 percent and maximum total impervious surface ratio (ISR) coverage of 50 percent.

Mr. Kincaid said the flexible setbacks allowed to save trees require a total of 20 feet for combined side yard setbacks, and a minimum of 15 feet between adjacent structures. He asked if there will be a minimum of 15 feet between adjacent structures if the variances are granted to allow five-foot east side setbacks on these lots.

Mr. Law said the lots to the east of both of these lots qualify as small-platted lots in the overlay district, and the same applicant, Mr. Kenney, is applying for reduced overlay district side setbacks on these lots to 7.5 feet, so if these two variances are granted, there will be 12.5 feet between buildings. Reducing the east side yard setbacks of Lots 15 and 16 to five feet does not violate anything in the Florida Building Code regarding fire separation.

Mr. Kincaid said the minimum combined total for front and rear setbacks to save trees is 50 feet, but if the variances for Lots 15 and 16 are granted, there would be a combined total of 40 feet for front and rear setbacks. He sees the hardship with this, with the 15-foot permanent easement that limits what can be built on these lots.

Mr. King asked if the applicant will be limited to building only two-story homes on these lots, if the variances are granted.

Mr. Law said he’d say yes, as the supplemental information submitted with the variance applications show possible examples of two-story homes. If the applicant wanted to build a three-story home and the variance applications are approved for two-story homes, he’d say a three-story house wouldn’t comply with the approval order of this Board. He doesn’t want to get into the architectural details, because he doesn’t even know if they have the legal authority to do that, but the supporting documentation submitted with the variance applications definitely show two-story houses, so this can be made a condition for approving the variances.

Mr. Taylor said the Board has the authority to include this as a condition of approval, or not.

Eric Kenney, 6 Oceanside Drive, St. Augustine Beach, Florida, 32080, applicant, said he had two possible sets of plans designed for the homes he’d like to build on these lots, one of which is 30-feet-wide-by-56-feet-deep, and a second design which is 30-feet-wide-by-51-feet-deep. Both of these designs are well within the requested 20-foot front and rear setbacks, and the 30-foot widths fit on the 50-foot-wide lots with the 15-foot street side setbacks required on the west side with the permanent easement and five-foot setbacks on the east sides of the lots. He only wants to build two-story houses, so he’s fine with this as a condition for approval.

Mr. Kincaid suggested the Board table the motion and not vote on the variance applications for these two lots until the Board reviews the next agenda item, as what the applicant is requesting for the four lots adjacent to the east ties into what he’s requesting in these variance applications. He motioned to table the variance applications until the Board goes through the application for the next agenda item, and then the Board can address these applications all at the same time. Unless he’s missing something, it appears to him that they are all sort of
dependent upon each other, as they’re building almost an entire neighborhood here. If they haven’t discussed the second part of this yet, he’s a little confused as to where the Board wants to go with the first part.

Mr. Law said the next application is actually an overlay district application, not a variance, for the next four lots adjacent and to the east of the two lots for which the variances are requested. Reduced setbacks and regulations for the overlay district are allowed per City Code, subject to the Board’s review for compliance to the Code.

Mr. Taylor said as a point of procedural information, the Board can table the variance applications and move on to the next application on the agenda, but they do need to be voted on separately, as they are separate applications. All the Board has to do is table the variance applications, discuss the second application on the agenda, and then bring the first applications, which are the variances, off the table for a motion and vote.

Mr. Kincaid said that’s what he’d like to do. He asked for public comment.

Dan Jung, 10 Linda Mar Drive, St. Augustine Beach, Florida, 32080, said he reviewed the proposed house plans, thinks aesthetically, they’d look nice in this area. If the homes can be kept to a two-story level, and not three stories, he thinks most people will be pretty happy with them, but what’s built needs to be consistent, as he wouldn’t like to see a two-story house on one lot and a three-story house next door. He’s a licensed contractor in the construction industry for over 30 years, and he’d like to see the Board give the applicant a fair shake on this.

Mr. Kincaid said if there is no objection, the Board will table the applicant’s variance applications and bring this agenda item back up after they’ve heard the application for the next agenda item:

**C. Overlay District File No. OD 2020-01, for overlay district setbacks of minimum 20-foot front and rear yard setback requirements and minimum 7.5-foot side yard setback requirements for proposed new construction of a two-story, single-family residence on each of four lots, Lots 11, 12, 13, and 14, Block 18, Chautauqua Beach Subdivision, in a medium density residential land use district at 122 4th Street, 121 5th Street, 126 4th Street, and 125 5th Street, Eric R. Kenney, Applicant**

Ms. Miller said this is an overlay district application filed by the same applicant, Mr. Eric Kenney, who submitted the variance applications that were just tabled. This application is for Lots 11, 12, 13, and 14, Block 18, Chautauqua Beach Subdivision, addressed as 122 14th Street, 121 5th Street, 126 4th Street, and 125 5th Street, respectively, which are also small-platted lots per the overlay district regulations in Section 3.08.00 of the City’s LDRs. Unlike a variance, demonstration of a hardship is not required for overlay district reduced setbacks, as this section of the Code says overlay district applications shall be approved by this Board upon review and determination that the application complies with the regulations for overlay district development per Section 3.08.00. The applicant requests the reduced setbacks allowed for construction on the small-platted lots in the overlay district, which are a minimum of 20 feet for front and rear yard setbacks and a minimum of 7.5 feet for side yard setbacks.

Eric Kenney, 6 Oceanside Drive, St. Augustine Beach, Florida, 32080, applicant, said going back to the previous variance applications, if it wasn’t for the 15-foot easement on the westerly sides of these lots, he’d be including those two lots in this overlay district application. Because of the 15-foot easement, however, he’s requesting variances for the two most westerly lots, and on these other four lots, he’s applying for reduced overlay district setbacks for small-platted lots as allowed per City Code. He has different possible house plans along the same lines as those presented for the variance applications, and again, the plans are for two-story homes approximately 28.5 feet in height, 35-feet wide and ranging in depth from 48 feet to 56 feet, with square footage totals from 2128 square feet to 2501 square feet. These plans were specifically designed for the size of these lots with the overlay district setbacks of 20 feet front and rear and 7.5 on sides, subject to this Board’s review and approval.

Ms. Longstreet asked if the 28.5-foot height of the proposed homes is dependent on the pitch of the roof, and if the applicant knows if any fill dirt will have to be added to any of the lots he’s proposing to build these houses on.
Mr. Kenney said these houses are already fully designed, and the lots are flat. He thinks Ms. Longstreet’s question is where the 28.5-foot height measurement starts, and on at least two of the lots, the elevation is such that about 1.5 feet to 2.5 feet of fill dirt will be required. It’s Mr. Law’s call as to at what elevation the height measurement begins, but he’s not asking to put 20 feet of dirt on the lots and then start measuring the height from there.

Mr. Law said similar to what was done to the development of the lots north of the Courtyard by Marriott, he will authorize one clearance permit to sculpt the elevation of the six lots Mr. Kenney is applying to develop, to maintain positive drainage. This is a very simple development, and he believes there is a series of catch basins adjacent to the two most westerly lots, so staff will be working with the Public Works Director, Mr. Tredik, on the drainage. To answer Ms. Longstreet’s questions, the single-family homes built on these lots will not breach the City’s 35-foot height maximum. Mr. Kenney will be paving part of the westerly portion of 4th Street in order to provide access to the lots, prior to energization, with the Public Works Department, as this portion of 4th Street was never paved. The County Fire Department will be involved with this as well, to ensure there is fire truck accessibility.

Mr. Kincaid said it’s his understanding that the Board is required to approve overlay district applications that clearly meet the regulations and requirements set forth in City Code, and if there is nothing contrary to the Code.

Mr. Law said yes, the Code is very clear that if an overlay district application complies with the intent of the overlay district regulations, the Board must approve it, unless it is deemed that there is nonconformance to the Code.

Mr. Kincaid said as far as he can tell, everything Mr. Kenney is asking to do on these lots is allowed per City Code for small-platted lots within the overlay district. He asked if the Board can approve this application with the condition that the homes built on these lots be limited to two stories, as they’ve proposed doing for the approval of the variance applications for reduced setbacks for the two lots with the 15-foot easement on their west sides.

Mr. Law said there are restrictions on three-story buildings in the beachside medium density overlay district, which is in the medium density residential land use district on the east side of A1A Beach Boulevard, but for small-platted lots on the west side of the Boulevard, there is no provision prohibiting three-story buildings. With variances, however, the Board is well within its rights to put any conditions the Board sees fit as part of the Board’s approval.

**Motion:** to approve Overlay District File No. OD 2020-01, for overlay district minimum setback requirements of 20 feet front and rear and 7.5 feet sides for proposed new construction of a single-family residence on each of four lots, Lots 11, 12, 13, and 14, Block 18, Chautauqua Beach Subdivision, in a medium density residential land use district at 122 4th Street, 121 5th Street, 126 4th Street, and 125 5th Street. Moved by Mr. Kincaid, seconded by Mr. Mitherz, passed 7-0 by unanimous voice-vote.

Mr. Kincaid said if there are no objections, he’ll now move to bring the tabled variance applications back up for discussion. The requested variances for 20-foot front and rear setbacks will put the houses built on these lots in line with the lots just approved for the same overlay district setbacks, and just a little closer to the houses on the east sides, as the variances request five-foot side setbacks on the east sides of Lots 15 and 16. For the record, the demonstrated hardship is the 15-foot permanent easement on the westerly side of both lots. The statement on the applications stating the applicant is asking for the previous setbacks allowed before the setbacks were changed can’t be the hardship, as this basically puts the Board in a bad position, because the Board can’t do anything about the current setbacks, this is something that needs to be brought back up to the City Commission. The 15-foot easement on the westerly sides of these lots actually qualifies as a hardship, however, because this permanent easement can’t be moved and nothing can be built within it, making it difficult for the owner to use his property.

Ms. Longstreet suggested the roof pitch remain the same as shown on the conceptual house plans submitted by the applicant as part of the variance applications.

**Motion:** to approve Land Use Variance File Nos. VAR 2020-07 and VAR 2020-08 as requested for reduction of front and rear minimum setbacks to 20 feet each and reduction of minimum east side setbacks to five feet each.
for proposed new construction of a two-story, single-family residence on each of Lots 15 and 16, Block 18, Chautauqua Beach Subdivision, in a medium density residential land use district at 130 4th Street and 129 5th Street, subject to the conditions that the new single-family residences be limited to two stories in height and the roof pitch for each shall be consistent with the conceptual house plans submitted as part of the applications. Moved by Ms. Odom, seconded by Mr. Einheuser, passed 6-1 by voice-vote, with Mr. Mitherz dissenting.

D. Overlay District File No. OD 2020-02, for overlay district setbacks of minimum 20-foot front and rear yard setback requirements and minimum 7.5-foot side yard setback requirements for proposed new construction of a two-story, single-family residence on Lot 1, Block 33, Chautauqua Beach Subdivision, at 202 A Street, Richard Mottola and Mark Nugent, Agents for Centerpoint Homes LLC, Applicant

Ms. Miller said this an overlay district application for a lot at 202 A Street adjacent to the City plaza on the corner of A Street and 2nd Avenue. This lot is also an originally platted 50-foot-by-93-foot lot, and the applicant is applying for reduced overlay district setbacks of 20 feet front and rear and 7.5 on each side to build a new two-story single-family residence in conformance to all overlay district regulations for small-platted lots per Section 3.08.00 of the City’s LDRs. The 15-foot-wide alley behind this lot has been vacated.

Mr. Law said height of the building at this point is not relevant as long as it complies with the height regulations per City Code, and the applicant is requesting the reduced overlay district setbacks of 20 feet front and rear and 7.5 feet on each side for small-platted lots. At this point, based on what was submitted, he sees nothing that is not in compliance with the overlay district regulations per Section 3.08.00 of the LDRs, but he advised everyone to keep in mind that this is a medium density residential property, so all new development will also have to comply with medium density regulations per the LDRs. The building permit application was submitted for the single-family home the applicant proposes to build on this lot without the contractor knowing it was not in compliance with the current setbacks, as this same contractor built a house across the street and a little further to the west on A Street prior to the setback changes that reverted the setbacks to a minimum of 25 feet and rear and 10 feet on the sides. The contractor was told to apply for overlay district setbacks for the design of the house to the previous minimum setbacks of 20 feet front and rear and 7.5 feet on sides, which is how they got here.

Rick Mottola, 307 Orchis Road, St. Augustine, Florida, 32086, agent for applicant, said the width of the house proposed on this lot is 34 feet, which is wider than the current minimum 10-foot side setbacks allow, so this is why they’ve applied for this overlay district application for reduced setbacks.

Mr. Mitherz said from the site plan submitted with the overlay district application, it looks like there are some trees that will be removed in the driveway of the proposed new home. Her asked if this will be a gravel driveway.

Mr. Mottola said it will actually be a paver driveway, and the trees that will be removed are mostly cabbage palms and non-protected trees.

Mr. Kincaid asked for public comment.

Denny Dean, 205 A Street, St. Augustine Beach, Florida, 32080, said he was a little confused about this application, because it seemed like it was for a variance, but as he understands now, it’s an overlay district application, which does not require a hardship. He lives across the street from the lot at 202 A Street, and built his house 30 years ago, in 1990, so he’s very familiar with A Street, which has a lot of traffic. Pushing houses closer to the street creates a lot of problems, he’s seen a dog on a leash get run over because cars were going 40 miles per hour on it, and it also allows houses to be that much closer to the houses across the street. Also, most of the houses built on A Street were built with a 25-foot front setback, and he thinks it’s important to keep the street line consistent.

Michel Cloward, 204 A Street, Unit A, St. Augustine Beach, Florida, 32080, said she and her husband have a four-year-old and a one-year-old, so sleep in their house is very important, and she has a huge concern with what’s about to be built next door. She’s grown to love the lot next door, as there are so many birds and wildlife there,
and having this vacant lot next door has been very peaceful for her family. She’s very sorry to see it will no longer be a vacant lot, as she’ll be sad to see all the trees go. With the request to build the new home with a 7.5-foot side setback, her bedroom window will be less than 20 feet away from this new house. She lives across the street from Mr. Dean, who just spoke, and shares the same concerns about danger from traffic that won’t slow down.

Mr. Kincaid said he wants to remind everyone that because this is an overlay district application, the Board doesn’t have the ability to say no if it meets all of the requirements for the overlay district per the LDRs, so the decision-making process he thinks some people are looking for may not be available as an option for the Board.

Mr. Law said Section 3.08.00.B.2 of the LDRs states, “The Comprehensive Planning and Zoning Board of the City shall be responsible for reviewing all applications. The Board shall be required to approve any and all applications that clearly meet the requirements set forth in this section.”

Ms. Cloward asked if the rules changed after the houses that are already on A Street were built.

Mr. Law said several years ago, the setbacks were a minimum of 25 feet front and rear and 10 feet on the sides, but in 2013, the setbacks were reduced to a minimum of 20 feet front and rear and 7.5 feet on the sides. In 2018, the City Commission voted to return the setbacks to the original minimum 25 feet front and rear and 10 feet on the sides. The overlay district was adopted as part of the draft code of revisions to the LDRs, which the City spent serious resources to have done. Part of the problem with the 50-foot-by-93-foot lots is that if you follow the minimum 25-foot front and rear and 10-foot side setback requirements, buildings are basically limited to only 28 percent lot coverage. The Code allows a maximum of 35 percent lot coverage for residential buildings, so there was a discord in the Code, but in lieu of changing the Code for a blanket statement, lots platted before the adoption of the Code were incorporated in the overlay district which made them eligible for reduced setbacks per application, review and approval from this Board that the application meets the overlay district regulations.

Brian Del Rey, 203 1st Street, St. Augustine Beach, Florida, 32080, said he also thought this was a variance. His reason for being here tonight is because he hopes if this lot is developed, it will be done to present standards. He presumes the pushback for the setbacks to go back to what they were originally was because people were getting fed up with the “McMansions” that were going up and disrupting neighborhoods and the nature around them. This lot is a beautiful lot, so he hopes what’s built on it will be in line with all the other homes on A Street.

Cynthia Pennington, 203 A Street, St. Augustine Beach, Florida, 32080, said she thinks everyone was under the impression they were coming here tonight for a variance for 20-foot front and rear and 7.5-foot side setbacks, but as explained, this is an overlay district application, which is exempt from the conversation. She asked what the point was in putting a sign up on the lot when the application will be approved, regardless of what the public has to say about it. The request for a 20-foot front setback will put the house 20 feet back from the sidewalk, not the street, as there are sidewalks on the north side of A Street. This is what concerns her, because she thinks putting the house that much closer to the sidewalk in front of it is going to cause problems. She can see where this might fit on a different street, where there’s not a ton of traffic going up and down as there is on A Street nowadays.

Chris Pennington, 203 A Street, St. Augustine Beach, Florida, 32080, said he and his wife have lived here for 20 years, and like how the politics are run here in the City, you just make a decision, and it’s done. He has a concern with the drainage, as they have a terrible drainage problem in this area, and it’s been a problem for years. Also, as his wife said, moving the house forward will put it that much closer to the sidewalk in front of it, so he advised City staff to approach the County to see if they will widen this sidewalk, and the Police Department needs to work on slowing traffic down on A Street. All the houses on A Street are uniform, as Mr. Dean said. No one else in the neighborhood has gotten a variance for reduced setbacks between properties, and it should stay this way.

Mr. Mottola said to address concerns about moving the house closer to the sidewalk in front, which is something he tends to agree with, there’s plenty of room to move the house back, as it is not too incredibly long. He doesn’t have a problem with moving it back five feet, so it has a 25-foot front setback that matches the other houses.
Sally Nichols, 115 15th Street, St. Augustine Beach, Florida, 32080, said she owns the property next door at 204 A Street, and having a house built 7.5 feet away from her property line is hard on the people who live there. She asked how this can be handled so her tenants can live in peace while this house is being built so close to them.

Mr. Kincaid said this Board only has the ability to regulate per the rules and regulations in the LDRs, and if an applicant is not proposing an exception or anything outside of these rules and regulations, and if the application meets all the requirements in the LDRs, the Board is required to approve an overlay district application.

Ms. Nichols asked if what Mr. Kincaid is saying is that looking to the future, changing the law or the code is the only way to change this.

Mr. Kincaid said he'd imagine there is always this option, yes.

David Kfoury, 339 Arricola Avenue, St. Augustine, Florida, 32080, said he's actually the next applicant up on the agenda, and thinks what they have here is a fundamental misunderstanding across the board with the misinterpretation of the rules. The way this should be is that if someone wants to build on a 50-foot-by-93-foot lot located within the overlay district, they should just have to submit an application to the Building Department for review and approval or denial at this level, without having to incur the cost of an application fee, making 14 copies of the application, plans, and other submittal documents, and having to appear before this Board. This would save the applicant time and money, save the time of the people who came to this meeting to speak, because their efforts are futile, and if they really have an issue, their only alternative is to petition the City Commission to try to get things changed. The way overlay district applications are currently handled is obsolete, in his opinion.

Mr. Law said as some of the Board members may recall, he did try to eliminate the overlay districts and install reduced setbacks for 50-foot-by-93-foot lots, but this was met with some resistance, so the City Commission ended up not taking action on it. Every effort was made to revise the current regulations to eliminate the overlay districts, but this did not get any traction, so the Commission was concerned about eliminating them.

Mr. Mitherz thanked the applicant for volunteering to put the house back to the 25-foot front setback line. He thinks this was a very nice thing to do and it may help with some of the neighbors' concerns.

Ms. Longstreet said she thinks this is kind of necessary to maintain the uniform look of the properties. If all of the other properties on A Street have conformed to the normal setbacks, and one property is allowed to have a 20-foot front setback, it's going to look completely off. This street is dangerous, as everybody goes ridiculously over the speed limit and the speed ramps aren't slowing traffic down. She didn't even realize the overlay district actually extended as far as 2nd Avenue, but in any case, she thinks the front setback should be no less than 25 feet.

Mr. Kincaid said he doesn't think the Board can put any conditions on this, they need to either approve it or deny it. Without a reason to deny it, the Board is required to approve it.

Ms. Longstreet said she thinks the Board can put conditions on the approval, because aesthetically, the setbacks are not the norm, and what the applicant proposes to build does not go with everything else on the entire street.

Mr. Kincaid said the LDRs say if an application meets the rules and regulations for development in the overlay district, the Board has to approve it. The rules do not say anything about matching the other neighboring houses.

Ms. Longstreet asked if this application will go to the City Commission.

Mr. Law said no, this is a one-stop-shop-and-drop. If the application complies with the overlay district regulations, the Board is required by the LDRs to approve it. The applicant has voluntarily and verbally said he'd be more than happy to move the house back, but to the best of his understanding, and the City Attorney can back him up on this or tell him he's wrong, the Board has no authority to grant any specific conditions. If this were a variance or
conditional use application, yes, the Board could dictate the terms, but this is purely an overlay district application which the Board is charged with reviewing for conformance to the overlay district regulations per the LDRs.

Ms. Odom asked if it would be acceptable if the wording in the motion included the statement made by the applicant that he agreed to move the house back so that it would have a 25-foot front setback.

Mr. Law said he’ll ask the City Attorney to weigh in on this, but he’d say no, because you can only enforce what the Code is. Staff has had nothing but good dealings with this builder, and he expects he’ll honor his word.

Mr. Taylor said he would not advise the Board to do this, as he thinks it would be opening it up to legal issues.

**Motion:** to approve Overlay District File No. OD 2020-02, for overlay district minimum setback requirements of 20 feet front and rear and 7.5 feet sides for proposed new construction of a single-family residence on Lot 1, Block 33, Chautauqua Beach Subdivision, at 202 A Street. **Moved** by Mr. Kincaid, **seconded** by Ms. Odom, **passed 6-1** by voice-vote with Ms. Longstreet dissenting.

E. Overlay District File No. OD 2020-03, for overlay district setbacks of minimum 20-foot front and rear yard setback requirements and minimum 7.5-foot side yard setback requirements for proposed new construction of a two-story, single-family residence on Lot 13, Block 49, Coquina Gables Subdivision, at 314 B Street, David Kfoury, Agent for 904 Ventures LLC, Applicant

Ms. Miller said this application is also an overlay district application for a small-platted lot, Lot 13, Block 49, Chautauqua Beach Subdivision, at 314 B Street. The applicant is asking to build a two-story house with reduced overlay district setbacks of 20 feet front and rear and 7.5 feet on the sides.

Mr. Mitherz asked what the height of the proposed two-story residence will be.

David Kfoury, 339 Arricola Avenue, St. Augustine, Florida, 32080, agent for 904 Ventures LLC, applicant, said the height of the proposed single-family residence is 20 feet.

Mr. Kincaid asked if this overlay district application meets all of the overlay district requirements per the LDRs.

Mr. Law said yes, as far as he understands. He’d like to bring to the Board’s attention that Mr. Kfoury has designed a house that is actually a little bit narrower than what the overlay district setbacks allow. The overhangs don’t seem to be an issue and neither is the overall total height. As Mr. Kfoury stated, this proposed two-story house is in no jeopardy of breaching, or even coming close, to the 35-foot-maximum building height allowed in the City.

Mr. Kfoury said essentially, he’s asking for a vote from the Board for something that has to be approved if it meets the overlay district regulations per City Code. The house he proposes to build is an 1,800-square-foot house, like many other houses of similar size 904 Ventures LLC has built many within the City limits, at 401 B Street, 403 B Street, 405 B Street, 400 C Street and 402 C Street, to name a few. None of these home exceed 1,800 square feet, and anytime his company builds west of A1A Beach Boulevard, they always try to maintain the integrity of the neighborhoods, save as many trees as possible and not build any three-story homes or homes that go up over 20 feet in height. Much like the other houses they’ve built on the west side of the Boulevard, this home will fit right in, and the lot has already been cleared, as there was previously a one-story home on it that straddled this lot and the corner lot next door to the west, addressed as 316 B Street, which has since been sold.

Mr. Kincaid asked for public comment. There was none.

**Motion:** to approve Overlay District File No. OD 2020-03, for overlay district minimum setback requirements of 20 feet front and rear and 7.5 feet sides for proposed new construction of a single-family residence on Lot 13, Block 49, Coquina Gables Subdivision, at 314 B Street. **Moved** by Ms. Odom, **seconded** by Mr. Pranis, **passed 7-0** by unanimous voice-vote.
F. Mixed Use File No. MU 2020-02, for post-permit modifications for parking reconfiguration and 1,117-square-foot ground floor wood deck and retention wall additions to Oceans Thirteen, a two-story mixed use building consisting of two commercial units on the first floor and two residential units on the second floor as approved per Mixed Use Order File No. MU 2017-01, in a commercial land use district in the mixed use district on Lots 62, 63, and 64, Atlantic Beach Subdivision, at 12 13th Street, Richard Thomas Marsh, Agent for Sunsatation Real Estate LLC, Applicant

Mr. Law said the Board members were given copies of memorandums from the City's Public Works Director, Bill Tredik, which staff did not receive until 4:40 p.m. today, regarding Mr. Tredik's comments on the parking reconfiguration and his request for some landscaping, which will be discussed later on. The application is for post-permit modifications to a mixed use development approved by the Planning and Zoning Board in November 2017 for a mixed use building with two businesses on the first floor and two residential units on the second floor. There were some design issues with this property which included lowering the pitch of the roof to get it into compliance with the maximum building height, for which signed and sealed letters were provided to the City by surveyors and architects to verify the height of the building. During construction, staff noticed while driving by the rather large deck included as part of the post-permit modifications. This deck was not on the original plans submitted with the mixed use application approved by this Board in November 2017. The Board was also given copies of what was originally approved and plans for the post-permit modifications consisting of the deck, retaining wall and a revised parking plan, which was reviewed by St. Johns County Fire Department, which had no significant concerns with it.

Mr. Mitherz asked if all of the parking spaces for the mixed use building will be on 14th Lane.

Mr. Law said the revised parking plan has eight parking spaces and a handicap space on the north side adjacent to 14th Lane, and four parking spaces on the south side, off 13th Street. Public Works Director Bill Tredik is asking for a five-foot landscape buffer to be installed along the south and east sides of the northern parking lot.

Mr. Mitherz asked if the four parking spaces on the south side of the building are on the Oceans Thirteen property, or on the right-of-way.

Mr. Law said the four parking spaces on the south side adjacent to 13th Street are partially on the Oceans Thirteen property and partially on the City-owned right-of-way of 13th Street, which is why Mr. Tredik is involved in this. During the initial design phase approved by the Planning and Zoning Board in 2017, he believes there was a lot of discussion about the closeness of the Oceans Thirteen building to the duplex behind it. Architect Dave Mancino designed the Oceans Thirteen building for extensive fire-rating in compliance with the Florida Building Code. There also was an issue with the staircase on the north side of the building encroaching into the original parking site on the north side adjacent to 14th Lane, basically rendering it unworkable, so while the zoning review was approved by the Planning and Zoning Board, it was left to the Building Department to make the building and the parking work, which is part of the reason this application for post-permit modifications was required. Another reason is the front doors on the west side of the building facing the Boulevard swing out, which could be potentially dangerous for a wheelchair to transit across the handicap ramp from the one handicap parking space, and also navigate the columns coming down from the second-story in front of the building.

Ms. Longstreet asked why the front doors cannot swing in, instead of out. She also asked about the retaining wall, which wasn’t part of the original approval of this building.

Mr. King asked if he is correct in saying that this deck is already built.

Mr. Law said traditionally, commercial doors swing out to provide better egress for getting out of the building. The retaining wall is part of the post-permit modifications, as a new structurally-engineered retaining wall will be put into place pending the Board’s approval of this application. The deck was built without a permit, and a stop work order was posted on the deck about a month ago. The contractor was notified to cease and desist any further work on the deck. The interior work has been allowed to continue as it does not affect the deck.
Tom Marsh, 22 Soto Street, St. Augustine, Florida, 32086, agent for applicant and contractor for Oceans Thirteen, said basically what is requested are post-permit modifications to provide handicap access to the commercial entrances of the building. During the construction of this building, it was found to be a particular challenge to try to get to the elevation of the entrances, given the short amount of real estate of the site, so after consultation with Mr. Tredik, who provided some good ideas as to how they could accommodate a ramp for handicap access, the handicap parking space has been relocated from the original location on the south side of the building to the north side, to allow enough horizontal distance to accommodate a ramp to get to the finished floor elevation of the building. The original application provided means of a five-foot-wide concrete access to the commercial spaces but by and large did not provide adequate detail on how to get there and get around the columns in front of the building facing the Boulevard from what was the original handicap parking space on the south side.

Mr. Mitherz asked why the handicap parking is proposed partially on the right-of-way of 14th Lane, and not totally on the Ocean’s Thirteen property.

Mr. Marsh said the original location of the handicap space on the south side of the building was partially on the right-of-way of 13th Street, but the post-permit parking modifications include moving the handicap space to the north side of the property site, adjacent to 14th Lane, where the handicap space and eight standard-size parking spaces are located entirely on the Oceans Thirteen property site. There are four additional standard-size parking spaces on the south side of the Oceans Thirteen building, and these are partially on the 13th Street right-of-way.

Mr. Pranis asked if the relocation of the handicap space and the transition to the ramp basically came about because the first floor level of the building is too high to actually have the slope on the south side of the building.

Mr. Marsh said the finished floor elevation of the new Oceans Thirteen building under construction is identical to the duplex building directly behind it to the east, but it wasn’t until the new building was up that they realized it was kind of difficult to get handicap access from that close proximity between the building and the actual space available. As Mr. Law indicated, for handicap access you’ve got to have a lot of lawn to get that rise out of the ramp, so they found there’s a lot more space where the handicap space has been relocated on the north side to allow them to get to that elevation to match the existing duplex to the east and behind the new building.

Mr. King asked why the deck appears to be so much larger than what would be required for accessibility.

Mr. Marsh said the application for post-permit modifications requests eight feet for the deck width to the west carried around the corner to eleven feet on the north side to allow them to get the ramp and deck in that space.

Mr. King asked if the corners could be cut so handicap access could still follow the contour of the deck access.

Mr. Marsh said he doesn’t see why not. In other words, what Mr. King is asking is if the deck could potentially be dog-eared. As this really isn’t his call, he’d like to ask one of the owners who is here for his input on this.

Doug Carr, 111 Marshside Drive, St. Augustine, Florida, 32080, said he’s one of the owners of Oceans Thirteen. He met with Mr. Tredik and Mr. Marsh after being out of town for 10 days and finding that the deck had been erected by a secondary contractor. He shut the work down immediately and shaved the deck back, so as intrusive as it is now, it was much more so before. He’d agree to cut the corners of the deck off to allow the access point where you get to the stop sign at 14th Street and A1A Beach Boulevard, to be able to see traffic coming and going along the Boulevard, which can be an extremely busy road, so clear vision of pedestrians, bicyclists and vehicular traffic is important. Utilizing the north side of the site for most of the parking makes sense as this allows the handicap space and ramp to be more easily accessible. The deck is the only way to make the site handicap accessible. The handicap parking space is 30-feet-long-by-20-feet-wide, with total access on all sides.

Ms. Longstreet asked if the handicap parking space is on the alley side on the north side of the property adjacent to 14th Lane, is this much deck then needed on the south side of the Oceans Thirteen property?
Mr. Marsh said what you don’t see if you go to this property site now is that there will be a set of stairs on the south side leading to the second floor of the building. That staircase extends four feet off the building, and that deck coming around the south side of the building at eight feet will go around that staircase and not end at the staircase, so there won’t be an edge at the bottom of the staircase, but the deck will be there to allow adequate passage for people coming up and down the staircase. The originally approved plans for this building always had two separate residential units upstairs, and right now, there’s only a temporary set of construction stairs on the north side. There will be a permanent staircase on the north side and a permanent staircase on the south side of the building, and both of these staircases will be four feet wide, so their proposal with the deck at eight feet at the Boulevard side is to come around using that same eight feet and go past that staircase with four feet of width.

Mr. Pranis asked why, with the relocation of the handicap parking spot and eight parking spaces to the north side of the property site, there are four additional parking spaces now on the south side of the building.

Mr. Marsh said the goal was to not lose any parking spaces, as the mixed use approval for this development was specific to a certain number of parking spaces. The net number of parking spaces for the reconfigured parking plan is identical to the number of parking spaces originally approved for this mixed use building.

Mr. Kincaid asked Mr. Law if he has any issues with any of the proposed post-permit modifications.

Mr. Law said he has no objections to the parking reconfiguration on the south side. Handicap accessibility is one of their biggest concerns, and as for dog-earring the deck, five feet is the standard handicap width, because this is the minimum for turning space for a wheelchair to spin. One thing he hasn’t asked is if there is going to be a secondary set of stairs to get up to the deck area on the south end.

Mr. Marsh said yes.

Ms. Odom said aesthetically, the building will look better if the deck on both sides looks the same.

Mr. Law said definitely, he’d say the angles should be made to be the same on each side, but he is requesting a five-foot minimum for handicap accessibility. He has no objections to the deck, as he knows the applicant and the contractor have worked excessively with Mr. Tredik on the site plan for the deck and the reconfigured parking. If the post-permit modifications are approved by the Board, he’d recommend the approval be subject to Mr. Tredik’s comments in his staff memo dated today, July 21, 2020, to install a five-foot landscape buffer south of the north parking lot along 14th Lane, and he suggested this landscape buffer be comprised of Florida-friendly plants.

Ms. Longstreet said she thinks the applicants need to go before the City’s Beautification Advisory Committee (now renamed SEPAC, Sustainability and Environmental Planning Advisory Committee) for that.

Mr. Law said only landscape plans along the Boulevard are reviewed by SEPAC, as this committee does not have the authority to review landscaping plans along side streets. However, if SEPAC wants to make recommendations for the landscaping, it is well within the Board’s purview to subject approval to that specific condition.

Mr. Kincaid asked for public comment.

Sonia Kulyk, 114 13th Street, St. Augustine Beach, Florida, 32080, said she lives a block to the west of the Oceans Thirteen property, and she and a couple of her neighbors have been following this project since 2017. Basically, it just looked like there was way too big of a building on way too small a lot, which is probably why the applicant is here asking for more concessions for the parking and deck. The bottom line is that the building is just too big for this piece of land. She went to all the meetings concerning this project and remembers specifically the parking issue, because it didn’t seem adequate for the duplex that was already there and the additional new building with commercial units on the first floor and residential units above. It just didn’t seem like the numbers were going to work. She specifically remembers, after a lot of wrangling, that the handicap parking space was allowed on the 13th Street side of the property, basically on the right-of-way. The way this got permitted was that this property
is actually three combined lots, with the duplex directly to the east of the new mixed use building, and she remembers hearing that these two buildings would not be separated, as they are almost touching each other. There is a zero setback at the rear wall of the new mixed use building, and now the duplex is up for sale by itself. Considering the whole thing was calculated as one unit or parcel, to get all the square footage, parking, and setbacks to work, she’s just not sure how the duplex can be sold by itself. She has no horse in this race or stake in the property, she’s just a citizen who has watched this site go from a vacant lot to what’s there now, and in all honesty, she’s seen this sort of thing happen all over the beach. This particular building caught her eye because it’s just right there off the Boulevard. She knows it’s up to the Board to approve or deny the current application for the parking and the deck, but she wanted to state her case as to what’s been done here from her perspective.

Mr. Kincaid said the Board did have some discussion at its meeting last month about the separation of the two properties, the duplex and the new mixed use building, all of which have been built on this one parcel. The Board was given the understanding that the properties were combined and advised at the time by the City Attorney and the Building Official that any sale of any part of the property was outside of the Board’s purview.

Mr. Law said it is also outside the Building Department’s authority to intervene in a private property sale. There’s nothing in the previously approved mixed use order saying the property can’t be sold, and even if there was, he believes that could be challenged in a legal scenario. If the Board had issued an order saying the property could not be sold, and someone chose to try to sell it in 10 years, he believes the City could quite possibly be guilty of a government taking of property. He’s sure the applicant and owner are more than capable of explaining what’s going on with this property, as the Building Department does not have any purview in private property sales.

Michael Longstreet, 11 13th Street, St. Augustine Beach, Florida, 32080, said he’s a former St. Augustine Beach City Commissioner and also has extensive experience as a land surveyor. He’s surprised this project was ever approved in the first place, and if this was all because of a loophole in the City’s building codes, that loophole really needs to be closed. He’s concerned about the project causing future flooding issues on 13th Street, and the handicap accessibility and retaining wall and deck, built without a permit, should have all been part of the original plans and application approved years ago. He doesn’t know how these properties could be broken up and sold separately when the rooflines overlap, the parking for the mixed use building is on the right-of-way, and the drainage for the commercial part of the mixed use building is on the duplex’s property. If this is an example of a builder trying to completely get around the City’s Building Department, he asked the Board to please take a stand for the City and do what can be done to not approve this, with the exception of the handicap accessibility modifications.

Ms. Odom asked the City Attorney if she can ask the owners to clarify the question about the sale of the property.

Mr. Taylor said yes, definitely.

Mr. Carr said they’re not selling the property, the intent is to sell the interior space of the duplex as condominiums. He’s been a realtor for 30 years and has done this several times. They’ve been put in a situation where they just simply can’t carry the entire project, and they have the ability, by law, to do this. They’ve completed 99 percent of the mandates required by State law to convert the duplex into condominiums and will be getting an application in through their attorney very shortly. This does not mean they’re selling out the project, and they’d never try to enclose the duplex and sell it off separately, because the three lots the duplex and the mixed use building are on are one property, and nothing was approved separately. They recently spent an extraordinary amount of money renovating the entire exterior of the duplex, including all the fences, landscaping, sprinkler systems, parking spaces, and the drainage system. It is not that they did not plan for the handicap accessibility and drainage, the modifications are simply the result of the way things are laid out in the City and the way things are evolving.

Allan Richmond, 103 13th Street, St. Augustine Beach, Florida, 32080, said he has concerns about the parking, because on weekends, there are no less than nine cars parked on that corner, four for the duplex and five for the vacation rental across the street, so he doesn’t know where four more cars are going to park, unless they’re Mini-
Coopers, they’re just not going to fit. As for the deck, he asked why the doors can’t be redesigned, as there are all kinds of bi-folding and sliding doors. An eight-foot-wide deck to accommodate handicap access is not needed.

Ms. Longstreet said she has a problem with the parking, because as the gentleman who lives on 13th Street said, 13th Street, and 14th Lane as well, is crazy, there are children riding bicycles and scooters up and down the street and if you’re not really careful, it’s hard to see them. Then there is the vacation rental across the street from the Oceans Thirteen property on 13th Street, and this rental has five bedrooms, and anywhere from 10 to 25 people in it at any given day. Even though there are “No Parking” signs posted on the street, cars are parked along there all the time, so she does not see how 13th Street can handle or hold any more cars or traffic.

Ms. Odom said the new mixed use building is required to have the minimum number of parking spaces per City Code and as approved by this Board when this project came before the Board and was approved in 2017.

Mr. Law said yes, the number of parking spaces as shown on the site plan when approval for this development was given by this Board in 2017 has to be maintained. He shares Ms. Longstreet’s concerns about public safety, but parking is also a requirement. Just for the record, he asked if the western side of the front of the deck will have a two-foot setback off the Oceans Thirteen property line. A minimum two-foot setback is required for decks per City Code, as the City reserves the right for a two-foot easement around lot lines for hardscaping. Staff has also recommended that the corners of the deck be dog-eared a minimum of five feet not to exceed six feet.

Mr. Marsh said yes, the deck right now extends eight feet off the face of the building wall.

Mr. Kincaid said his understanding is that they’re not taking any parking spaces away but leaving the same number of spaces as were approved during the original approval of this project in 2017. The parking has been reconfigured specifically for handicap access, and some of the spaces moved around from one side of the site to the other.

Mr. Mitherz said it is still a big issue for him that the parking spaces are not all on the Oceans Thirteen property.

Ms. Odom said right or wrong, the parking for the duplex has always gone over the property line and extended into the right-of-way. Ms. Longstreet makes a valid point for safety, as there is a lot of activity on the streets in this area east of A1A Beach Boulevard, but it will be the people parking at the Oceans Thirteen building who will have to pay attention to all the traffic and activity, not the owners or the developers.

**Motion:** to approve Mixed Use File No. MU 2020-02, for post-permit modifications for parking reconfiguration and ground floor wood deck and retention wall additions to Oceans Thirteen, a two-story mixed use building consisting of two commercial units on the first floor and two residential units on the second floor as approved per Mixed Use Order File No. MU 2017-01, in a commercial land use district in the mixed use district on Lots 62, 63, and 64, Atlantic Beach Subdivision, at 12 13th Street, subject to the following conditions: 1) The corners of the ground-floor wood deck addition shall be cut back to a minimum of five feet of useable space not to exceed a maximum of six feet; 2) The landscaping on the north side of the Oceans Thirteen property site shall be reviewed by the City’s Sustainability & Environmental Planning Advisory Committee (SE PAC) for SE PAC’s recommendations regarding the landscaping for the required five-foot landscape buffer; 3) Materials used for the retaining wall shall be consistent with materials used for the existing retaining wall; 4) The staff comments and recommendations from Public Works Director William Tredik in his memos dated July 21, 2020 to Building and Zoning Director Brian Law regarding the proposed post-permit modifications to Oceans Thirteen shall be adhered to and incorporated as part of the approval of these modifications, and these memos shall also be forwarded to SE PAC. **Moved** by Mr. Kincaid, **seconded** by Ms. Odom, **passed 5-2** by roll-call vote, with Mr. Kincaid, Ms. Odom, Mr. Einheuser, Mr. King, and Mr. Pranis assenting, and Ms. Longstreet and Mr. Mitherz dissenting.

**VII. OLD BUSINESS**

There was no old business.
VIII. BOARD COMMENT

Mr. Kincaid reminded everyone that the Board’s next meeting has been rescheduled to Tuesday, August 25, 2020, due to early voting for the primary election being held in this meeting room on the Board’s usual meeting date.

Mr. Mitherz said it’s his opinion that if the vacated portion of an alley is added onto the size of a small-platted lot, it is no longer a 50-foot-by-93-foot small platted lot, as an additional 7.5-feet is then added to the length of the lot, making it 50-feet-by-100.5 feet. This is just his own personal opinion, but he does not think this is fair or right.

Mr. Law said these lots still qualify as small-platted lots, because they were originally platted as 50-foot-by-93-foot lots. Whether an alley behind a lot has been vacated or not, the vacated portion of the alley is not part of that individually platted lot. This was discussed in 2018, and while the vacated square footage of an alley can be used for setbacks, lot coverage, and ISR coverage, nothing can be built in the square footage of a vacated alleyway. With any application that asks to build up to a vacated alley, the owner is asked to sign a statement acknowledging, for example, that even the footers of a pool or screen enclosure can’t encroach into the 7.5 feet of a vacated alley.

Ms. Longstreet said she thinks the overlay district needs to be addressed with the City Commission, as the Board heard a lot of public comment tonight from people who have valid concerns about their neighborhoods even though the Board has no choice to not approve an overlay district application if it meets the requirements in the LDRs. People are coming and pouring out their hearts about something the Board has no control over, so she doesn’t see the point in letting the public speak when the Board can’t do anything but rubberstamp an application.

Mr. Law said as for rubberstamping overlay district applications, he doesn’t agree with this. It is the Board’s responsibility to review the site plans submitted with an overlay district application for conformance to overlay district regulations per the LDRs. Staff may make recommendations and provide technical expertise, but the Board members are the ones challenged with reviewing the submittal documents for conformance to the Code.

Ms. Odom asked for an update on the Island Donuts building, and an estimated opening date.

Mr. Law said he is proud to say this building just passed a meter-can inspection and is in the process of being energized under limited power to allow the air-conditioning systems to be energized. Inside, the majority of the trim work is done, and the next phase is to energize the entire building so the hood systems can be balanced and installed. He’s not sure about an opening date, as construction on this site has already gone on for over a year.

IX. ADJOURNMENT

The meeting was adjourned at 8:32 p.m.

Kevin Kincaid, Chairperson

Lacey Pierotti, Recording Secretary

(THE MEETING HAS BEEN RECORDED IN ITS ENTIRETY. THE RECORDING WILL BE KEPT ON FILE FOR THE REQUIRED RETENTION PERIOD. COMPLETE AUDIO/VIDEO CAN BE OBTAINED BY CONTACTING THE CITY MANAGER’S OFFICE AT 904-471-2122.)