

PLANNING AND ZONING BOARD REGULAR MONTHLY MEETING TUESDAY, JANUARY 16, 2024, 6:00 P.M.

CITY OF ST. AUGUSTINE BEACH, 2200 A1A SOUTH, ST. AUGUSTINE BEACH, FL 32080

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

BOARD MEMBERS PRESENT: Vice Chairperson Chris Pranis, Hulsey Bray, Conner Dowling, Larry Einheuser, Victor Sarris, Senior Alternate Gary Smith.

BOARD MEMBERS ABSENT: Chairperson Kevin Kincaid, Hester Longstreet, Junior Alternate Rhys Slaughter.

STAFF PRESENT: Building Official Brian Law, City Attorney Jeremiah Blocker, Planner Jennifer Thompson, Recording Secretary Bonnie Miller.

IV. <u>APPROVAL OF MINUTES OF REGULAR PLANNING AND ZONING BOARD MEETING OF</u> <u>SEPTEMBER 19, 2023</u>

Motion: to approve the minutes of the Board's meeting of September 19, 2023. Moved by Victor Sarris, seconded by Larry Einheuser, passed 6-0 by unanimous voice-vote.

V. PUBLIC COMMENT

Eric Tausch, 55 Willow Drive, St. Augustine Beach, Florida, 32080: I think we had a great, fabulous fireworks display at the pier on New Year's Eve.

VI. <u>NEW BUSINESS</u>

A. Election of chairperson and vice-chairperson of the Board, per Section 11.02.02.H of the City's Land Development Regulations (LDRs), the election of officers consisting of a chairperson and vice-chairperson shall take place every year as the first order of business at the regularly scheduled meeting for the month of January

Chris Pranis: I will start this by nominating Kevin Kincaid for chairperson. I believe we have his approval to be re-elected as chairperson, correct?

Jennifer Thompson: Yes, his email stating his desire to remain as chairperson is included

in the Board members' packets.

Chris Pranis: Okay. For vice-chair, I would like to nominate Conner Dowling. Do we have any other nominations for the chair or vice-chair? Hearing none, may we have a voice-vote on the nominations for chair and vice-chair?

Motion: to re-elect Kevin Kincaid as chairperson for the next one-year term and elect Conner Dowling as vice-chairperson for the next one-year term. Moved by Chris Pranis, seconded by Victor Sarris, passed 6-0 by unanimous voice-vote.

Chris Pranis: For the record, this will be my final meeting. I am resigning from the Board, effective tomorrow. It's been a pleasure serving on this Board.

B. Tree Removal Application for removal of a 36-inch diameter-at-breast-height (DBH) oak tree in the proposed building footprint of a new single-family residence in a low density residential land use district on Lot 73, Anastasia Dunes Unit 3 Subdivision, at 371 Ocean Forest Drive, St. Augustine Beach, Florida, 32080, James N. Robshaw, Robshaw Custom Homes Inc., Agent for Ebling-Wasiewicz Family Trust, Applicant

Jennifer Thompson: This next item is a tree removal application for a proposed new single-family residence at 371 Ocean Forest Drive. The tree requested to be removed is a 36-inch DBH oak tree located within the footprint of the proposed new home.

Gary Smith: Question for the applicant, when you bought the property, did the real estate agent advise you of the City's regulations regarding trees?

James N. Robshaw, Robshaw Custom Homes Inc., 4 Contera Drive, St. Augustine, Florida, 32080, Agent for Ebling-Wasiewicz Family Trust, Applicant: 1 am the general contractor building this house for the property owners, who actually live out of state, so I do not know the answer to that question.

Gary Smith: Is there no way the foundation platform of the house can be moved further back to preserve this tree?

James Robshaw: The site plan shows that the house is built right up to the required front setback, and in the back yard, the pool deck is actually built right up to the rear setback. The house and pool have been designed to try to save two larger trees, a 48-inch DBH oak tree and a 50-inch DBH oak tree, to the right of the pool. In front of the house, there are three specimen trees that will be preserved. The only large tree that will have to be removed is the 36-inch DBH oak tree in the front building footprint of the house.

Gary Smith: So, my question is, do we pretty much approve any tree removal that falls under the condition of being located in the proposed house or other building footprint?

Conner Dowling: Yes. It is my understanding that if a tree is 30 inches DBH or more, removing it requires the approval of this Board, even if the tree is in a proposed building

footprint. I think it is also true there is little this Board can do to sort of force someone's hand to change the footprint of a building to save a tree located in the footprint.

Brian Law: You are correct. The conditions for the removal of any tree that is 30 inches DBH or greater talk about the removal of a tree that is in the way of a structure. If a tree in the way of a structure is not allowed to be removed, the Board would be treading the line of denying the use of a property, especially when every effort has been made in this subdivision to allow flexible setbacks to save trees, along with the fact that two even larger trees than the one the applicants are asking to remove will be saved in the rear.

Conner Dowling: Is there any public comment on this item? There was none.

Motion: to approve the removal of a 36-inch DBH oak tree in the proposed building footprint of a new single-family residence at 371 Ocean Forest Drive, St. Augustine Beach, Florida, 32080. **Move**d by Victor Sarris, **secon**ded by Hulsey Bray, **passed 6-0** by unanimous voice-vote.

C. Land Use Variance File No. VAR 2024-01, for variances to exceed the maximum 18-foot width allowed for residential driveways in City rights-of-way, per Section 6.02.03.D of the City's LDRs, to allow an additional 12-foot-wide paver driveway, and to exceed the 40% maximum impervious surface ratio (ISR) coverage allowed in a low density residential land use district, per Section 6.01.02 of the City's LDRs, to allow 45.7% ISR coverage for the additional 12-foot-wide paver driveway, on Lot 27, Block E, Woodland Estates Unit B Subdivision, at 56 Willow Drive, St. Augustine Beach, Florida, 32080, James G. Whitehouse, Esquire, St. Johns Law Group, Agent for Karren J. Pitts, Applicant

Jennifer Thompson: This next item is regarding a home at 56 Willow Drive, requesting an increase in ISR from the 40% maximum allowed in a low density residential land use district to 45.7%. This is for an additional paver driveway on the side of the property.

James G. Whitehouse, Esquire, St. Johns Law Group, 104 Sea Grove Main Street, St. Augustine Beach, Florida, 32080, Agent for Karren J. Pitts, Applicant: I am here on behalf of the property owners of 56 Willow Drive. This is an application for variances to two separate areas of the City Code, one for a slight increase in the allowed ISR coverage, and the other to exceed the maximum driveway width allowed. The code was changed in 2018 to limit the width of residential driveways to a maximum of 18 feet. This particular property already has a driveway that is approximately 23 feet wide, and the property owners hired a contractor to install an additional driveway for a handicapped individual who resides in the house. On the overhead, I have photos to show of several properties with multiple driveway accesses on Willow Drive [EXHIBIT A], most of which predate the 2018 code change limiting the width of residential driveway accesses each, far exceeding the maximum 18-foot-width allowed. The property owners of 56 Willow Drive hired a contractor who unfortunately didn't converse with City staff prior to doing the work. A new driveway was put in on the north side of the lot, and a carport was built without a

permit. The homeowners have a handicap-accessible van used by the handicapped resident, who is in a wheelchair, but due to the incline of the lot, getting in and out of the van is very difficult for this individual. The carport has now been removed, because it didn't comply with the code, and when the property owners were contacted by City staff about it, they contacted me. They removed the carport because I told them if they didn't, this would be another variance they would have to ask for, and I advised them they had to be reasonable. A number of pavers installed for the carport were also removed, and the new driveway, which was originally 16 feet wide, was reduced to a width of only 12 feet. This new driveway is on a flatter area of the lot where the van can be parked to make getting in and out of the van easier for the handicapped resident. The original 23foot-wide driveway will also be reduced to a width of 21 feet, so with the removal of all of these pavers, the ISR will be reduced from approximately 55% to 45.7%. The additional 5.7% of ISR coverage allows the homeowners to have this small pad next to the house on this flat area on the north side of the lot to provide accessibility for their handicapped family member. Those are the two variances requested here, and as I said, there are many other multiple driveway accesses that exceed the maximum 18-foot driveway width on other lots in the surrounding neighborhood. I think the two variance requests are reasonable, based on the fact that the applicants need that handicap accessibility.

Chris Pranis: Does the existing 23-foot-wide driveway access a garage, or is it just a deadend driveway?

James Whitehouse: It does access a garage, but this driveway is on an incline, with no flat area on which to park to pick up or drop off the disabled individual residing there. Trees and landscaping would have to be taken out to achieve a flat surface. This is the reasoning behind the variances, as the additional driveway is on a flat area on the lot's north side.

Conner Dowling: I saw from driving by this property that both driveways are composed of pavers. Is the flat area adjacent to the house composed of the same paving materials as the original driveway, and are these permeable pavers?

James Whitehouse: The paving materials are all the same, but I do not think the property owners were savvy enough in the ways of the world to ask that permeable pavers be used. We talked with staff about pulling all the pavers out and replacing them with permeable pavers, but that would be a very huge expense to the property owners. If the ISR coverage was the only issue here, I would tell them that's what they need to do, as using permeable pavers might get the ISR coverage closer to or under the maximum 40% allowed. The ISR has already been reduced from 55% to 45.7% with the removal of the pavers in the carport area and by reducing the width of both the new driveway and the existing driveway. I initially thought the pavers were permeable, because that's what it said on the contract with the paver company, but apparently, that's not what happened when the pavers were installed. Again, this is no excuse, but I think this is part of the issue here.

Chris Pranis: If the original driveway was taken out and replaced with permeable pavers, would this enable the applicants to comply with the maximum 40% ISR coverage allowed?

James Whitehouse: I don't want to do the math right here, but if the Board denies the request to exceed the 40% ISR coverage, the property owners will have to figure out something, and rip out the 5.7% of coverage that is over the maximum. I thought it was reasonable to ask for the additional 5.7% coverage, given the circumstances of the property owners and the fact that a handicapped household member needs accessibility.

Victor Sarris: Just to be clear, the pavers that were used on the property are impervious, and that's why the current ISR coverage is at 45.7%, which is 5.7% over the 40% maximum.

James Whitehouse: Yes, all of the pavers installed on the property are impervious. I think in a perfect world, at least some permeable pavers would have been used, to get the ISR closer to the 40% maximum allowed. I don't know if the impact of using permeable pavers would have any difference, visually, for the two driveway accesses, but this would reduce the ISR coverage. If you want me to get a stormwater engineer to come and talk about what kind of impact the extra 5.7% of ISR coverage might have on stormwater and drainage, I guess I could do that, if that is what the majority of the Board wants.

Victor Sarris: What we're talking about is that the applicants would have to pull out approximately 500 square feet of ISR coverage to comply with the maximum 40% allowed.

Jennifer Thompson: An additional 15% of the total square footage of the lot size may be used for permeable pavers that have a 10% or greater permeability ratio.

Victor Sarris: How was this brought to your attention? Can you explain what happened?

James Whitehouse: The property owners hired a contractor to figure out how they could get a flat surface where the wheelchair-bound family member could get in and out of the house and access the handicap-accessible van, as there was no real way to do this on the existing driveway. They were able to achieve a flat area on the other side, on the north side, of the lot, but the new driveway was installed with a width larger than what was needed and also, a carport, which under the code is considered a structure, was installed without a permit. This is when code enforcement got involved, and then I got involved, as the owners came to me and asked if I could help with this, as they said they were not savvy enough to know what to do. We went back and forth in discussion with City staff over a period of several months, and the staff was very helpful, but the bottom line was the carport didn't comply with code. I advised the owners it would probably have to be removed, but maybe they could figure out a way to keep the new driveway on the flat area on the north side, for the handicap accessibility needed by their household member.

Victor Sarris: So, the property owners incurred the cost of removing a carport they paid for and built on their property?

James Whitehouse: Yes, sir.

Chris Pranis: What was the substance, or the base, on which the carport was built?

James Whitehouse: The carport was built on pavers that have since been removed.

Conner Dowling: Does anyone from the public wish to speak on this agenda item?

Eric Tausch, 55 Willow Drive, St. Augustine Beach, Florida, 32080: I live directly across the street from the property we're talking about at 56 Willow Drive. I've brought some photos **[EXHIBIT B]** I'd like to share with everyone. The first is a photo from last October, showing my house and the house across the street, with the new driveway installed, and the street to the north of both of our properties completely underwater. I didn't take this photo for this particular case regarding the new driveway, my intent was to send it to the City to ask that the stormwater drain in the street be unclogged, but it shows why the regulations limiting the width of driveways were changed. In areas where there is a lot of concrete, this is exactly what happens when we don't have pervious surfaces. The second photo shows the submerged driveway of the home directly to the north of the property we are discussing at 56 Willow Drive. This excess water was not from a hurricane, but from a heavy rain. I am used to some other areas of St. Augustine Beach that flood during heavy rains, but on this particular day, nothing else flooded, just our street. I've lived here for three years, and in that time, never once have I seen a handicapaccessible van or any vehicle with handicap plates at the home across the street at 56 Willow Drive. If the Board leans toward approving this based on that, I would request that the claim regarding the need for accessibility be investigated further. Finally, this is a neighborhood where when we move here, we have a choice, for the price range, to get a brand new, beautiful house with a solar-powered saltwater pool where you never have to fix a thing, but then you live in a neighborhood that has concrete all over the place and no trees. In the past three years, I've watched oaks being taken out of the front yard of the house across the street, and a new driveway put in, so now I look at two driveways and a house, where there used to be oak trees. This was done just a year or so ago. I didn't buy a 1965 house and use all my free time fixing it up so the whole place could be razed and turned into a concrete jungle. I think most of my neighbors would agree. I ask this Board to think about us and all the other neighbors, and to put some thought into why the regulations limiting the width of residential driveways were changed.

Britt Edwards, 20 Lake Shore Drive, St. Augustine Beach, Florida, 32080: I live around the corner, and moved here a year ago from a different part of St. Augustine, to avoid flooding and to make sure my home is safe, so I was concerned and surprised at the amount of flooding going on in our neighborhood. Please keep in mind the environmental impacts when you get requests like this. This is an issue, as people are moving to find better places to live so they aren't affected by flooding and all of those negative environmental impacts.

Jeanine Maleno, 58 Willow Drive, St. Augustine Beach, Florida, 32080: I live next door to 56 Willow Drive, and since we moved here two years ago, we've seen a pattern of noncompliance next door. We personally haven't reported anything, but we've lived with a few things I don't think are in compliance, such as a fence and a new driveway which really encroaches on our property. It was very sad to see the trees that were removed a couple of years ago. They said the trees were diseased, but isn't a permit required to remove trees? I'm just over it with people not complying with the rules and regulations.

Robert Allen, 58 Willow Drive, St. Augustine Beach, Florida, 32080: 1 also live next door to 56 Willow Drive. It was pointed out that there are other homes in the neighborhood with multiple driveways. How many more are we going to have? I don't want to live in a concrete jungle. Since the additional driveway at 56 Willow Drive was put in, my lot has washed out right next to the driveway on the north side, and this driveway is beginning to sink in the middle as well. Our oak tree is within two feet of that driveway and the huge iron gate, which doesn't enclose anything, put in by the neighbors next door. I've had an arborist out who said there is something wrong with our oak tree, and that it is highly possible that putting in that gate and digging down to make a concrete pad has damaged this tree. These neighbors have never come over and talked to me about what they plan to do or anything, it's been kind of a free-for-all, as they just build anything they want, and it's been very uncomfortable living next door with all that unsightly stuff going on. We haven't reported anything or made any complaints, we've just rolled with everything, as we are trying to get along with our neighbors and we don't want to turn them in. Now, since there is a meeting about it, I'll mention what's been going on. We live with a nine-foot-high fence that has all the supporting members and the unfinished side facing our property. As far as I know, the unfinished side of a fence should always face in, and the finished side should face out, toward the adjoining neighbor's property. I've spent thousands of dollars trying to hide this fence and gate, which is always open, and I'm just asking that my neighbors show a little courtesy and respect to me.

Jeanine Maleno, 58 Willow Drive, St. Augustine Beach, Florida, 32080: I forgot, I have one more thing to say.

Jeremiah Blocker: Mr. Chair, excuse me, our rules only allow for one public comment period per person.

Jeanine Maleno: I am so sorry. I just wanted to say that in the period of time we've lived next door, we've never seen a handicap-accessible van or a wheelchair next door.

James Whitehouse: The City has been out to his clients' property a number of times, so clearly, other than the things we are here for tonight, all the other things that have been talked about are within the code at this point. The applicants have made statements in their application about the accessibility needed for their family member, so I can only go by what they said in regard to this need. As for the flooding in the street, I think you heard something to the effect that there was a clogged drain, which probably had something to do with this, and not necessarily with what his clients have done on their property. I think a lot of driveways in this neighborhood are concrete, including the two circular concrete driveways right across the street at 57 Willow Drive. I'd like to point out that the paver driveways on my clients' property at 56 Willow Drive, although they are not considered to be permeable, are more permeable than all the concrete that runs right off into the street. I think all of these things are factors in my clients' request to the Board to exceed the allowable ISR coverage by 5.7% for the additional driveway for handicap accessibility.

Hulsey Bray: Does anyone in the home have a Florida Department of Transportationissued handicap pass or placard? James Whitehouse: I can't answer that question, because I don't know the answer to it.

Hulsey Bray: Well, you are asking for handicap accessibility, and if the answer to my questions is yes, I imagine you would most likely have brought proof of this with you.

James Whitehouse: Are you saying I should have brought the handicap pass or plate with me to show it to you?

Hulsey Bray: No, but you should have proved the need for handicap accessibility, as the additional driveway is for a handicap-accessible vehicle and a disabled individual.

Larry Einheuser: I have a question as to why the applicants aren't here with you to answer the Board's questions.

James Whitehouse: They aren't here because I represent them, and I can answer the questions the Board has for them, other than the question about the handicap placard.

Larry Einheuser: The Board has questions that you can't answer, which is why we would love to have the property owners here, to answer the questions you cannot answer.

James Whitehouse: They are elderly and sickly, which is why they are not here today, and why they hired me to represent them. If the majority of the Board wants to continue this variance application so I can get those answers for you, I can do that. The answer to the question regarding the handicap placard is probably going to be yes, but I don't want to say that, because I am an attorney, and I can only tell you what I know, and I am not 100% sure, so I would rather get that answer from the property owners themselves.

Chris Pranis: Our objective here is to protect the integrity of the code, right? That's why we volunteer our time. In my opinion, ISR is really critical in the City, and we have to be cognizant of that.

Conner Dowling: I agree. I think if we were seeing this case come as an initial request for an additional driveway, based on the size of the lots and the condition of the houses in this neighborhood, which I live directly adjacent to and am very familiar with, I personally wouldn't have an issue with the additional driveway as long the applicants stayed within the allowable ISR. However, they're not doing this, but asking to exceed it.

Larry Einheuser: I just think there should be more investigation into this.

Chris Pranis: Don't forget, we are going to set a precedent on this ISR issue.

Gary Smith: I agree with Chris, we need to see that compliance with the codes that are in place is met. If this application needs to be continued to comply, we should do that.

Victor Sarris: We certainly need to be respectful of the people who spoke and brought photos, as they have some legitimate concerns, and if this indeed involves a disabled

person, we have to have compassion for this person too. I say we explore verifying that this involves a disabled person, for the concerns of the community, and also explore the applicants' need for the additional driveway and what it would cost them to remove the existing impervious pavers and replace them with pervious ones. Also, it would be helpful if one of the residents could be here, to help work things out with everyone involved.

James Whitehouse: Maybe now that I feel comfortable that a majority of the Board is okay with having the second driveway access as long as the ISR coverage is brought into compliance, and there is proof of the resident's disability, we could continue this to the next meeting. From my understanding, the residents are very elderly and sickly, and all of them are in and out of the hospital, which is one of the reasons they hired me to represent them. However, I will see what I can do about getting one of them to come here, if this is continued to the next meeting and the Board thinks this will work better.

Jeremiah Blocker: Mr. Chair, there would need to be a motion to continue this, to allow Mr. Whitehouse to get the answers to the questions that have been asked, as staff can't go out and verify disability. So, to give Mr. Whitehouse the chance to talk to his clients and come back, this application can be continued to a later hearing date and time.

Motion: to continue the application for Land Use Variance File No. VAR 2024-01 to next month's regularly scheduled monthly meeting on Tuesday, February 20, 2024, at 6:00 p.m. at City Hall. **Moved** by Hulsey Bray, **seconded** by Larry Einheuser, **passed 6-0** by unanimous voice-vote.

D. First reading of Ordinance No. 24-XX, amending Section 3.02.05.F of the City's LDRs, pertaining to parking regulations for special events for business/promotional/sales permits on privately-owned property in commercial land use districts

Jennifer Thompson: If everyone can remember back to the Board's last meeting in September, we discussed parking requirements for special events. The current code requires a business to have a minimum of 25 onsite parking spaces for a special event, basically eliminating smaller businesses from having special events. The Board proposed revising this to state businesses must have 50% of all onsite parking spaces and 100% of all onsite accessible parking spaces available for parking by the public for a special event.

Hulsey Bray: This is what we all talked about, so that businesses in strip malls with shared parking and those that don't have 25 parking spaces per business can hold a special event.

Jeremiah Blocker: This ordinance read by title states, "Ordinance No. 24-___, an ordinance of the City of St. Augustine Beach, Florida, relating to Land Development Regulations and review; amending the Land Development Regulations of the City of St. Augustine Beach, Article III, Section 3.02.05 for special events; and providing an effective date."

Motion: to approve and pass on first reading Ordinance No. 24-XX, amending Section 3.02.05.F of the City's LDRs, pertaining to parking regulations for special events for business/promotional/sales permits on privately-owned property in commercial land use

districts, as drafted. Moved by Conner Dowling, seconded by Chris Pranis, passed 6-0 by unanimous voice-vote.

E. Rescheduling of the Board's March 19, 2024 regular monthly meeting from the third Tuesday in March to the fourth Tuesday, which is Tuesday, March 26, 2024, due to scheduling conflicts in the City Hall Meeting Room, which will be used for voting for the presidential preference primary election from March 9, 2024 to March 20, 2024

Jennifer Thompson: This item is to reschedule the Board's March meeting, which would normally be held on March 19, the third Tuesday of the month. However, early voting will be taking place in the meeting room on this date, so staff proposes this meeting be rescheduled to the fourth Tuesday in March, which would be March 26, 2024.

Motion: to reschedule the Board's regular monthly meeting in March to Tuesday, March 26, 2024, at 6:00 p.m. at City Hall. Moved by Gary Smith, seconded by Hulsey Bray, passed 6-0 by unanimous voice-vote.

VII. OLD BUSINESS

There was no old business.

VIII. BOARD COMMENT

Chris Pranis: Do we have an update on Publix?

Brian Law: The civil plans have been approved by the St. Johns County Fire Marshal and should be routed to us at some point. When approval is also given from the St. Johns County Utility Department, a phased modification of the existing parking lot will begin. I don't have information as to when the demolition of the existing Publix will take place, as the architectural and engineering plans for the project have not been submitted yet.

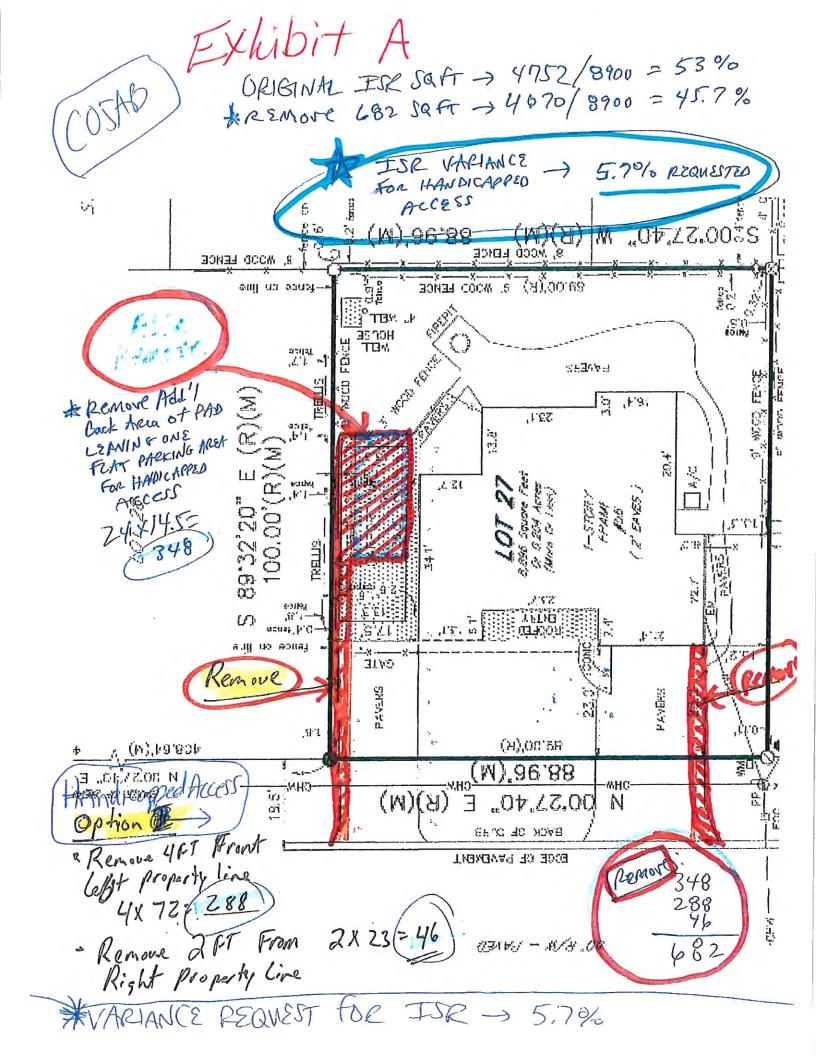
IX. ADJOURNMENT

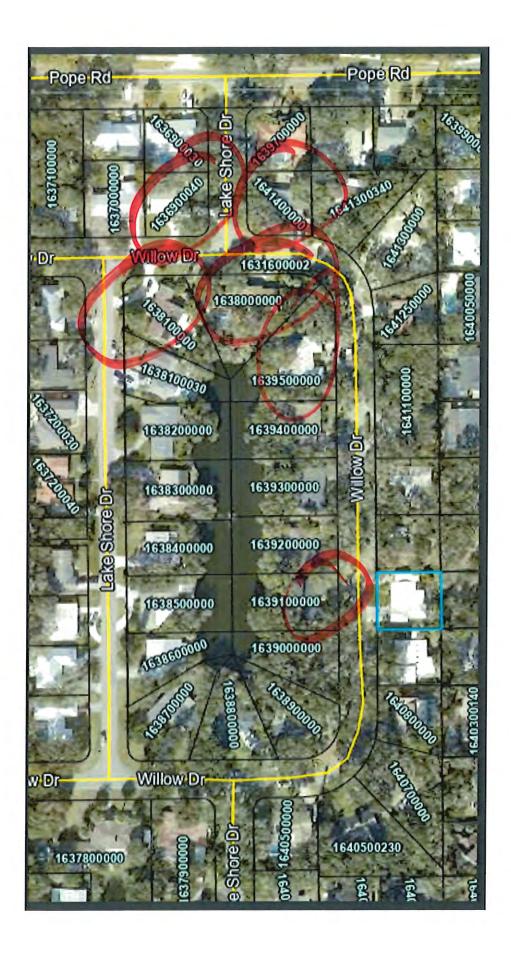
The meeting was adjourned at 6:59 p.m.

Kevin Kincaid, Chairperson

Bonnie Miller, Recording Secretary

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

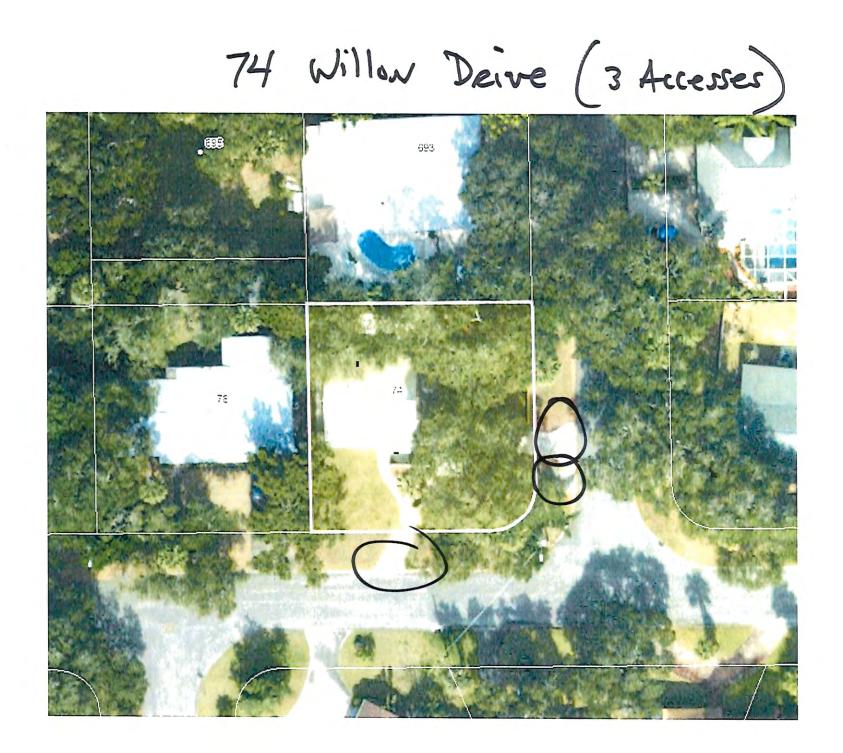












74 Willow Drive (3 Accesses)





67 Willow Dr. (3 accesser)



67 Willow Drive (3 accesses)





ACROSS the Freet



ACROSS the Street







Eric Christopher Tausch <eric.tausch@gmail.com>

Sun, Oct 15, 2023 at 9:48 AM

2

Flooding on Willow Drive

1 message

Eric Christopher Tausch <eric.tausch@gmail.com> To: public-works@cityofsab.org

Good morning,

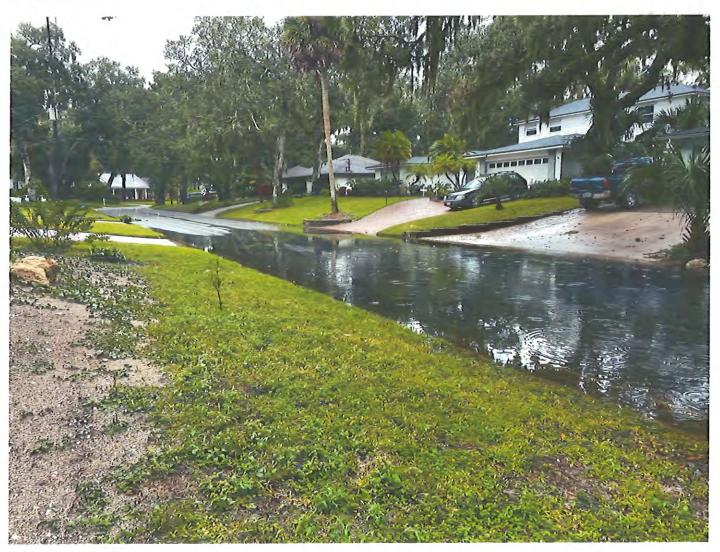
I'm writing to request an update on the drainage repair near our neighbors at 45 Willow Drive that appears to have not progressed much over the past months.

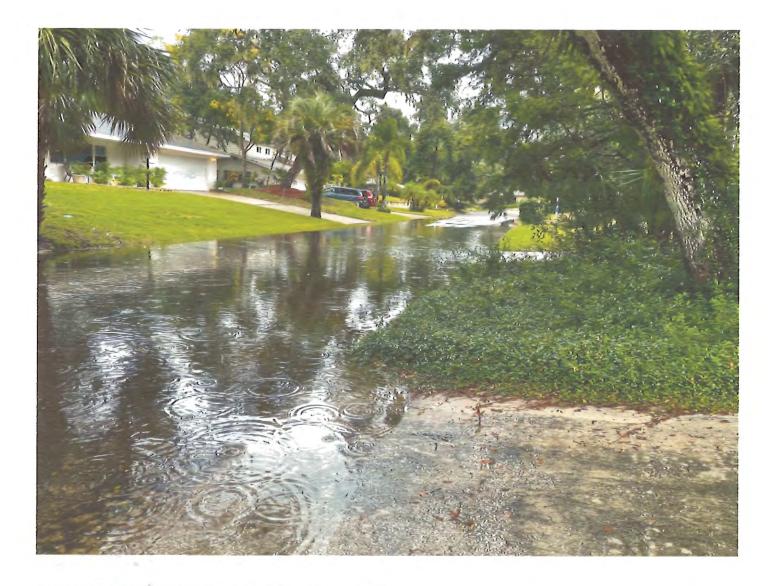
The request is due to high water experienced Friday in the lake that drains through the area in need of repair. It appears the lake was unable to drain properly, causing it not only to rise more than a foot over docks and into yards, but also flood out streets. After surveying other parts of the island, the issue was clearly localized.

I've attached a video and some pics to see what I'm referring to.

Thanks in advance for your response to this note and the drainage issue.

Eric Tausch 55 Willow Drive





☐ IMG_7724.MOV 6996K

