

**THE FOLLOWING MINUTES WERE ADOPTED AT THE SEPTEMBER 8, 2016 MEETING OF
THE MANDEVILLE CITY COUNCIL MANDEVILLE CITY COUNCIL
MINUTES FOR THE SPECIAL MEETING OF AUGUST 31, 2016**

The special meeting of the Mandeville City Council was called to order by Chairman Madden at 6:00 p.m.

PRESENT: Clay Madden, David Ellis, John Keller, Lauré Sica, Mike Pulaski

ALSO: Louisette Kidd, Mayor, Chief Sticker, Jessica Roberts, David Cressy, Sonny Shields, and Victor Franckiewicz

1. Discussion of Ordinance No. 15-17

Ordinance No. 15-17, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANDEVILLE WITH RESPECT TO ARPENT LOTS 14, 15, 16, 17, 18, 20, 21, A PORTION OF ARPENT LOT 19, (NOT INCLUDING THE SUBDIVIDED LOTS DESIGNATED AS LOTS 1-14, INCLUSIVE, FORMING THE SOUTHWEST CORNER OF KLEBER STREET AND MONROE STREET), PARCELS A AND B, AND A PORTION OF KLEBER STREET, LOCATED IN SECTIONS 46 & 47-T8S-R11E, CITY OF MANDEVILLE, ST. TAMMANY PARISH, LOUISIANA, MORE PARTICULARLY DESCRIBED ON THE PLAT AND SURVEY PREPARED BY KELLY J. MCHUGH & ASSOCIATES, INC., CIVIL ENGINEERS & LAND SURVEYORS, DATED 12/03/13, REVISED THROUGH JUNE 30, 2015, DWG. NO. 13-136-BS, CONTAINING 76.648 ACRES (THE "PRESTRESSED CONCRETE SITE"); AMENDING THE OFFICIAL ZONING MAP AND COMPREHENSIVE LAND USE REGULATION ORDINANCE (CLURO) OF THE CITY TO CLASSIFY THE FORMER PRESTRESSED CONCRETE SITE AS A PLANNED COMBINED USE DISTRICT ("PCUD"); APPROVING THE SITE PLAN, MASTER PLAN AND GUIDING PRINCIPLES PREPARED BY ARCHITECTS SOUTHWEST, INC., DATED JUNE 25, 2015, ENTITLED "PORT MARIGNY TND" (COLLECTIVELY THE "MASTER PLAN"); REQUIRING THAT THE MASTER PLAN AND ITS PROVISIONS, TOGETHER WITH THE RESTRICTIVE COVENANTS, BE COVENANTS RUNNING WITH THE LAND; APPROVING THE DEVELOPMENT OF THE PCUD IN ACCORDANCE WITH THE MASTER PLAN AND ACCOMPANYING SUBMITTALS; REVOKING CERTAIN CONSTRUCTION, DRAINAGE AND SEWERAGE SERVITUDE(S) AND GRANTING A SERVITUDE OF PASSAGE AND FOR UTILITIES; GRANTING VARIANCES AS NEEDED TO GIVE FULL EFFECT TO THE MASTER PLAN; ESTABLISHING PROCEDURES FOR ADMINISTERING THE MASTER PLAN; AND PROVIDING FOR OTHER MATTERS IN CONNECTION THEREWITH. (Offered by Mike Pulaski, Council District II).

Mr. Madden announced this meeting will discuss the ordinance and the developmental agreement. The developmental agreement puts forth the force of the ordinance. This meeting is for the council and constituents to ask questions. Mr. Cressy suggested using the 5/12/16 memo which maps out the P&Z recommendations; it would be a good guide. Mr. Madden suggested for the council members to start putting together a list of findings for council to review and ultimately vote on, similar to the process they used for the budget.

Mrs. Sica had some questions regarding section 2 of the ordinance (pg. 6) Why were the conditional uses changed to special or permitted? Mr. Muller commented this was not his recommendation but suggested from the city's staff. Mrs. Sica stated the CLURO 7.5.15.2 stated "all uses permitted in the planned district are conditional uses and shall be subject to the procedural requirements for Conditional Use Permits and Planned District Zoning as provided in Article 4". This is an extra level of approval. It would first go to the P&Z and then the council. She does not see a reason for a change and would like this to remain conditional use as written in the CLURO because it could have some negative impact on surrounding areas. Mr. Ellis asked Mrs. Scott what was the reason for the change. Mrs. Scott one recommendation was to approve certain uses. The residential uses would be permitted but nonresidential would be go before P&Z (site plan, capacity uses). P&Z is more geared to deal with site plan issues. Mr. Keller asked what about the hotel listed as a special use, there was talk of further definition of the hotel and wants to know if there have been any changes. Mr. Muller stated no changes have been made because his conclusion was the hotel would be treated as a condition use based upon the city's concern. He only asks that when a hotel application occurs, it would be with limitation on the length of time for approval. Mrs. Sica is fine with the hotel as a conditional use but she is opposed to approve a 120 room hotel since there are no details as to height, size, etc. If they just approve a

hotel that is different from approving a 120 room hotel. Mr. Cressy stated they would still have to go through condition approval and that would cover height and other regulations. Mr. Muller agreed it would approve a hotel but would have to comply with the site plan. Mrs. Sica stated a safer route is to approve a hotel and not a specific size. Mr. Pulaski agreed and asked why it is necessary to approve 120 rooms and not just a hotel. Mr. Muller commented this was on a recommendation from Mr. Oubre. This is the size he felt would make the project economically feasible and compatible with a TND. A smaller number would attract someone to do the deal but the likely of a quality hotel is diminished when you start to put too many restrictions. You need to attract people with deep pockets and fits with their criteria and marketing.

Mr. Victor Franckiewicz wanted to address the criteria of the ordinance. The council has discretion in how much they approve now and how much will be approved in the future. You are basically creating a mini zoning ordinance for the project. In the developmental agreement you decide what to do now vs what you will reserve for future approvals. The tradeoff is the certainty for the developer and marketability. Mr. Pulaski asked about the special/committed uses, if the CLURO says all uses permitted in the planned district are and shall be subject to the procedural requirements...how are we able to change this. Mr. Franckiewicz stated as the legislative body you can choose the scale; it just makes more decisions for the council. The whole development is a conditional use, you can choose to change some and keep others for later. In the developmental agreement it approves all of the residential uses but reserves for special use consideration everything else, the council can upgrade to conditional use. Mr. Keller is concerned with the 120 rooms if the town can support this. We have not seen the marketing study but is there another number that would still make it marketable. Mr. Muller does not have the answer, but if you cut back the number you are not sure who would be interested and if it would be profitable. The 120 was to attract the deep pocket investor. Mr. Keller is just not sure if the 120 is the right number. Mr. Pulaski still does not know why the number needs to be in the project instead of just a hotel. Mr. Muller said the more certainty they have for a developer the better and this is the number Mr. Oubre thought would be profitable. Mrs. Sica does not feel marketability is the council's issue; they are concerned with health, safety and welfare for the community. She does not see the need to add the 120; just leave it as a hotel.

Mr. Madden marked the recommendation from Mr. Pulaski and Mrs. Sica as to leave the hotel listed but remove the approval of 120 rooms. Mr. Madden asked for all council members to email him a list of recommendations so he can create a master document.

Mr. Franckiewicz stated the need to discuss the ordinance before the developmental agreement. The ordinance creates a mini zoning ordinance and is reinforced by the developmental agreement. The ordinance has 13 major sections which he displayed on a power point; they consist of recitals and sections. The recitals are the findings which set forth the factual conclusions. the sections after enforce the recitals. There are seven sections (2, 3, 6, 8,9,10 and 11) which are the heart of the ordinance, the rest are more technical. He has asked Jessica Roberts to start to review section 2 which discusses the approval of certain uses. She compared this section to the CLURO and the master plan and has come up with some potential inconsistencies:

- 1- Residential single family detached: ordinance has 162, master plan has 155, ordinance has it a permitted use, CLURO is a conditional use
- 2- RI Lot size 10,800 sq. ft. but minim is R1X at 5,000sq ft. in CLURO but cottages houses in master plan are smaller in sq. footage
- 3- General density: hard time correlating ordinance and master plan because master plan are using residential acre and not clear what total number of acres are – this needs clarification.
- 4- Residential apartments: number of units match in ordinance and master plan, the uses are different. It is also unclear if the meet the lot size because there are no lot sizes given in the master plan
- 5- Mansion condos: there are 4 and there is an inconsistency between the sq. footage of the master plan and the CLURO minimum is 9,000 under CLURO in ordinance the small condos would be 8,400. Townhouses have similar inconsistencies in lot sizes 3,000 sq. ft. but master plan show 2,065
- 6- 422 units specified in ordinance but 416 in master plan which causes inconsistencies so hard to see if density would comply in each section.

Mrs. Scott stated the plans were revised based upon recommendation of the P&Z; she is not sure what plan they are looking at. Mr. Cressy also reminded the original ordinance has not been changed yet, but they have recommendations from the P&Z. Mr. Keller asked if they could receive a copy of all the discrepancies. Mr. Cressy suggested council get together with Mrs. Scot too make sure everyone is on the same page.

Ms. Roberts stated the CLURO section 7.5.15 sets the standard for lot sizes and they are not in compliance with for instance the lot size for single family homes, the master plan has them on 35ft lots.

Mr. Muller said the master plan is based on the new urbanism which is a different way of laying out lots. It talks in terms of units/acre not lot sizes, per CLURO 8.5.5. If no new urban principles are used then you can compare to the CLURO but this is in compliance with the TND. Mrs. Sica stated the 51 cottages are on lots 35-40ft wide and do not meet the TND regulations, she cannot find lots that are allowed to be that small in the CLURO. If you go to section 7.5.15 it states "unless specific regulation regarding lot area, lot area per unit or building area are set forth in Article 8 of these regulation, requirements for lot area, lot area per unit, and building area for any proposed use shall be based upon any applicable site development regulation of the following designated zoning districts. In Article 8 it says 8 per acre which is 5400 sq. ft.; R1X stated 5,000 sq. ft. and also states "under no circumstance will a lot size be smaller than 50sq ft." It is pretty clear a 35ft lot is not allowed in Mandeville under article 8 or zoned district regulations Mr. Muller stated there are many larger homes next to little cottage throughout the city, they are not supposed to be consistency between them, you need a sense of community. New urbanism is designed to give people a sense of place this is not a traditional neighborhood.

Mrs. Sica does not want to approve this small lot size for the 51 cottages Mr. Madden will add this to his list.

Mr. Madden wanted to ask Mr. Shields and Mr. Franckiewicz to look into the expropriation of property. He would like to see if it can be added into the ordinance that no expropriation will be allowed. Mr. Victor Franckiewicz stated this is a state statue, you can add this to the ordinance but it is not binding for a future council. You can put it in the developmental agreement for a fixed period of time but a future council can still make changes. Mr. Ellis thinks this is a good idea and shows that at least the council tried to prevent expropriations.

Mr. Madden inquired if the ordinance was approved and say 10 years from now something happens, how does the city protect itself. Is there a bond or letter of credit? Mr. Shields suggested a developmental bond or level of credit, without it the city has no protection. Mr. Keller asked if there has been a discussion regarding a developmental bond. Mr. Muller stated there has not been a discussion but provisions for a bond are not unheard of.

Mr. Madden would like to add a developmental bond or letter of credit to his list.

Mr. Keller stated during one of their meeting there were discussions if the language was clear enough to bring the project to a halt if the project exceeds the traffic maximums. Has this language been cleared up? Mr. Shields commented they are still working on this.

Mr. Ellis wants to explore the conditional use. The hotel needs to have the conditional use and wants to discuss what other points should be added to the list. He would like to see all commercial. Mrs. Sica commented the CLURO states all can come back to the council.

Mr. Pulaski is trying to understand the relationship between the commercial space and the residences and hotel rooms. How much of the retail is dependent upon the amount of residences and hotel rooms. How much can it be scaled back in order to support the retail. Mr. Muller said the first thing is to have a mass to produce the activity to the center and then to the commercial. The best approach is to do the residential first because that drives the commercial activity. The market study supports the numbers listed. Mr. Pulaski said in the study there must be a range for a point of viability and non-viability, is this the purpose of the market study. Mr. Muller commented the market study was done to assure quality investors for the project. A lower scale increases the risk of marginal investors and therefore will put the project in jeopardy. Mr. Pulaski's concern is the density as it relates to traffic. At some point there has to be a level. Mr. Muller has not seen the market study so how does he know what he is advocating is correct. Mr. Muller is confident in his designers for marketability and profitability. The quality of the investor is based upon what certainty he is given to assure a profitable project. To scale down is a risk for a more marginable investor and therefore puts the project in jeopardy. It is not a matter of min/max it is about a quality

project. Mrs. Sica feels it is not the council's job to provide marketability; it is health, safety, welfare, size and compatibility. Mr. Muller disagrees based upon the assumption if it is not marketable it will fail.

Mr. Burguieres has two points: first, you must go to the source of the market study and it is being used to persuade. His second point is regarding the uses and the CLURO. If the council does nothing it is all conditional uses and goes to P&Z and then the council. You should not discuss the hotel now; let it come back to the council when it comes for application. The citizens are counting on you to protect them and this is by the means of the CLURO so don't give up the conditional use; it will never come back to you.

Mr. Ray Baas has a background in urban planning and land use. He is representing the Mandeville Civic Association: Golden Shores, Hermitage & Magnolia Ridge. They are pro development but request at least a 40% reduction in density. They are not opposed to the mixed use but are opposed to the scope and size. New Urbanism is not needed in Mandeville.

Mrs. Janet Fabre-Smith commented this development can be positive. It is unrealistic to have the whole plan done at one time, it all happens in phases. She encourages a yes or no on the concept soon.

Ms. Cynthia Thompson is with the St Tammany West Board of Directors. She read a statement from the Chamber dated 7/14/16 and asked to call a vote promptly on the proposed ordinance. This has taken over a year. The first vote is for a conceptual plan only; following each phase will be approved by the P&Z or the council. This will have a positive impact on all. From a 147 person survey 68% support the development and believe it is important to the Northshore as a whole.

Mr. Brian Rhinehart stated permitting vs. conditional uses is very important. The council has been asking hard questions and he feels this should come back to the council not just the P&Z. If they had not questioned the first traffic study, there would not have been a remediation with regards to traffic. Just because the study says a city can support a project does not mean we want it.

Judge Pat Rosenow wanted to clarify Hermitage Association agrees with 90% of what Mr. Baas stated previously. This project first started saying that it was not going to change Mandeville. Now that density is not going down, we hear about new urbanism which Mandeville never had. This is about maximizing profit and not necessarily in the best interest of the health safety and welfare of Mandeville.

Mr. Madden wanted to comment on Ms. Thompson and Mr. Rhinehart statements. The council received ordinance this about 3 months ago, P&Z had it for about 9 months. At one point the council submitted questions prior to their receipt of the project and were told we had to wait until it came to the Council. Mr. Cressy disagrees with this statement. This is the reason why the council is now asking their questions.

Mrs. Sica wanted to discuss the Open Space. CLURO 8.5.2.3, open space and natural areas states "at least 20% of the gross area of the TND shall be designated and perpetually maintained as open space and at least 75% must be used for common open space (does not include water)." In the master plan the common open space has 15.85 acres and included is 6 acres of water which needs to be taken out and also she is not sure if civic space is included in the common open space? She is not sure if the civic calculation is being used twice. And also the CLURO states it is to be meaningful open space, not including green belt areas. Mrs. Scott will look at these questions. Her concern is that they are counting water as open space and that is not in the definition so they would be short 4 acres. Mr. Muller commented with the new park, they are now in excess. Mr. Muller is not sure what plan the council is looking at; there was a later plan which added a park. Mrs. Sica stated only if you count the water. Mr. Muller will research; it would be best answered by Mr. Oubre. Mr. Madden commented the remainder of the meetings will have several questions. Mr. Muller stated their experts are out of town so if they can have questions prior, he can try and get an answer or have the person attend.

Mrs. Sica had some questions about the ratification of Kleber. Mr. Cressy stated this was given up years ago and they are

doing the ratification because it was never entered into the public record. Mr. Pulaski wanted to confirm that the street had been revoked and if it was, why are we doing this again. Mr. Muller confirmed the revocation but it was not filed with the Parish so this ordinance would just make things clearer. Mrs. Sica would like a copy of the ordinance because this Kleber gives direct access to the lake. The TND aspect is circulation (8.5.2.5 #4) stated "traditional neighborhood development should maintain the existing street grid, where present, restore an disrupted street rid where feasible. Also stated streets should enhance the visibility of common open spaces." This goes directly to the state leased land. It seems to go against everything the TND is trying to promote. Mr. Muller will get this ordinance to Mrs. Sica. Mr. Pulaski asked if the 20' servitude (runs from Monroe St under the apt complex) is not revoked does that prevent this development. Mr. Muller stated if it was a sewerage line then it would accommodate Port Marigny. Mr. Cressy said they checked with Public Works and it is not useful. Mr. Pulaski stated if the configuration was changed it could go out to the lake. Mr. Muller stated the servitude does not go to the lake. Mr. Keller suggested Mr. Shields and Mr. Franckiewicz to review the revocation. If it was revoked it is a non-issue. Mrs. Sica feels it is an issue either way because it affects the street grid system.

Mrs. Sica has some questions about Parcels A and B. Mr. Muller commented Parcel A and B are owned by the Pittman's, the city had rights to use this for fill. The state did not own the property so the Pittman's agreed to use the piece of land for a pedestrian walkway. If there is a park with a cooperative endeavor agreement, the city could be held responsible. If they eliminate the lease and the Pittman's add a park, it would release the city of all liability and put it all on the developer. Mr. Cressy stated they are only asking for 1.7 acres which is land locked. Mrs. Sica commented they need to do more research; she does not want to give up the piece on the water especially if they want to do a bike path for connectivity.

Mr. Pulaski has a question about section 10. On pg. 13 it discusses the marina. It states' no permanent residential occupancy of boats or other permanent residential uses shall be established within areas designated for marina use." So that means no live a boards or boat hoses. Mr. Muller agreed with the language.

Mr. Madden asked the attorneys if they were going to submit any findings. Mrs. Sica stated there are a lot of things that do not match with the CLURO. Mr. Muller stated the master plan will support the CLURO. Mr. Franckiewicz commented there are some conflicts but their job is to clarify and inform the council so they are aware of what they are voting on.

Mr. Keller asked procedurally if they have to adopt all the amendments or one big revision. Mr. Franckiewicz will look at the logistics with the amount of changes. At some point they need to create a final amended ordinance so it is clear what you are voting on.

Mrs. Sica has questions on section 6, fill and grading. It was discussed this was a conceptual plan and it had to go back to P&Z. There is still a notation of a hardship. It was removed from the first part but is still included in section 6. Mrs. Sica stated any indication of a hardship is an automatic granting of a variance and she does not see where a hardship is warranted. Mr. Cressy stated it was changed in the revised ordinance and is indicated in his memo dated 5/12/16. Mr. Pulaski commented it is still in the memo in section 6. Mr. Cressy says it still talks about hardship but that does not mean a variance, you can take this out. Mr. Muller wanted to remind the council that this is not a clean piece of land and will take a lot of special consideration to get it ready to build.

Mr. Madden wanted to add to the list the removal of "hardship" in section 6.

Mr. Pulaski has questions about the developmental agreement. On pg. 4 it has a table for authorized land uses, the numbers are different. Trip generation formula for an effective trip rate the numbers are different. Mr. Muller said the traffic impact analysis was made based on the number of units submitted (422). Mr. Pulaski asked why not change the numbers in the developmental agreement. Mr. Muller said because the traffic analysis has not changed. It only sets the maximum; if you decrease the density the number would be lower. Mr. Pulaski stated but this gives an incorrect number and for future phases this number is now incorrect. So how do you make the milestone limits correct.

Mr. Madden wanted to schedule two more Port Marigny meetings. They are going to be listed as discussion and adoption for Wednesday September 21st and Wednesday September 28th, all at 6:00pm. They will include the wording adoption so the council can vote on amendments to create a final ordinance.

Mr. Keller wanted to ask if we can get a copy of the marketing study and if here are conditions with it. Several people have asked questions and is there a way to obtain certain information without losing any confidentiality issues. Mr. Muller stated it must remain confidential, he does not mind sharing some information. Mr. Keller is concerned if it is disclosed to the council that becomes public record and we lose the confidentiality. Mr. Franckiewicz said if the information was shared it would have to be in a controlled environment. The market study is important because it will give the limits of whether or not it makes for a successful TND. They do not want this for specific business information. Mr. Keller is concerned because it is in no one's best interest if the project fails .If he thinks it will fail he is not going to vote on this. Mrs. Sica does not think they should consider the market study. Mr. Keller disagrees but if the project fails then they are left with a blighted property.

Mr. Madden wanted to let everyone know that they will list the next two meetings as discussion and possible adoption, but he wants to assure everyone there will not be a meeting and at 8:30 just vote. They will advertise the adoption and vote at the next meeting.

Col. Perry would like any copies of the revisions for transparency. The milestone limit concept with regards to traffic, section 4K, and states" if at any time the number of total AM new trips generated by land uses in PM development exceeds 407, as determined by scientific method the city may withhold the approval for further land uses. If it ever exceeds that number you have more than likely given all the approvals to complete the development, so it does not have any teeth.

Mr. Frank Cox discussed the marketing. Why is someone from Maine who does not know the demographics or lifestyle of the people here doing the study? Why not get someone close to the area for the marketing. This study could be considered bias.

Ms. Debbie Saxe commented this is all predetermined on presumptions which are a clear violation of the CLURO. There are many environmental concerns, how the site was cleaned up before and after the 150's. She believes if a plan is approved it somehow would become actually what the developers set out with from the start. Mr. David McDonald stated you need a good quality owner for the hotel. The developer needs the assurance with the criteria established for a successful project. He supports the project, thinks it is well planned and is within the planning guidelines.

Ms. Claudia Sullivan wanted to discuss the absence of an environmental study. This could be for two reasons: first, they don't want to pay for it and secondly, they do not want to see the results. The Nor-du-Lac shopping center was proposed to have these fabulous upscale restaurants and shops and look at what it is now- concrete blocks with little upscale establishments. The citizens do not want to see partial construction. FEMA does an environmental analysis which includes traffic, parking and scale. The city needs to assess all avenues to assure they are well informed.

Mr. Scott Accardo stated there is lots of confusion during the meeting. He does not see the need for a hotel in Mandeville. There was no talk of the widening of Lambert which was once a topic. He wants the council to focus on the citizens not making the developer rich.

Ms. Melissa Rumsey recently moved to the city and she is in favor of the development and is excited about the project.

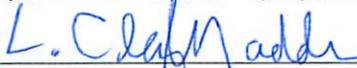
Mr. Madden reminded everyone of the regular council meeting Thursday at 6pm. The next Port Marigny meeting is September 21st and September 28th to discuss the ordinance, developmental agreement and possible adoption.

ADJOURNMENT:

Mr. Keller made a motion to adjourn the meeting; this was seconded by Mr. Ellis. The meeting adjourned at 8:45 p.m.



Kristine Scherer
Council Clerk



Clay Madden
Council Chairman