

**Planning Commission  
Public Hearing  
July 23, 2013**

The meeting was called to order by Chairman Dennis Thomas and the secretary called the roll.

Present: Michael Blache, Ren Clark, Simmie Fairley, Nixon Adams, Dennis Thomas, Rebecca Bush, Scott Quillin

Absent: None

Also present: Louissette Kidd, Planning Director and Council Member Rick Danielson

Mr. Adams announced that written notice of decisions regarding zoning variances will be filed in the Board's office the following day of this meeting at which time applicable appeal time will begin to run.

The only planning case discussed was R13-05-01 Trace Units LLC requests a resubdivision of lot 47-C-1 into lots 47-C-1A, 47-C-1B, 47-C-1C, 47-C-1D, and 47-C-1E, square 47, Woodrow Street, zoned TC. The corresponding zoning case was also discussed in conjunction. The zoning case discussed was V13-05-11 M. L. Waller requests a variance to Sections 7.5.18.3, Town Center Site Development Regulations/ 7.5.10.3, B-3 Site Development Regulations, Lots 47-C-1A, 47-C-1B, 47-C-1C, 47-C-1D and 47-C-1E, and Section 8.2.1.3.1, Townhouse Lot and Area Regulations for lots 47-C-1B, 47-C-1C and 47-C-1D, square 47, zoned TC

Ms. Kidd presented the resubdivision and variance request at 2080 Woodrow Street in square 47 for Trace Units LLC and the applicant was Mike Waller. The variance request was to Section 7.5.18.3, Town Center Site Development Regulations, the B-3 Site Development Regulations and the Townhouse Lot Regulations. Mr. Waller represented Trace Units, LLC and was requesting the resubdivision of lots 47-C-1 in square 47 into five townhome lots, being lots 47-C-1A, 47-C-1B, 47-C-1C, 47-C-1D, and 47-C-1E. The resubdivision plat was prepared by John Cummings and Associates dated February 26<sup>th</sup> with a revised copy dated June 3, 2013. Mr. Waller was continuing the development of the townhomes across from the Trailhead extending from the corner of Woodrow and Lafitte Streets. From the site plan, the request was to continue the build out of the property outlining the corner of Woodrow and Lafitte Streets. There was a service alley through the back of the property, which was part of the concept reviewed through the development of the Town Center properties. There was another single family unit to the rear of the property that was a separate lot. The alley would extend through to Girod Street at the full development of all of these properties to provide the services from the rear. The proposed resubdivision contained five sublots of which three would be used for townhome development.

Ms. Kidd stated Mr. Waller was one of the owners developing the Town Center. There was another parcel under separate ownership across Lafitte Street that had been developed. The CLURO under Section 7.5.18.3 Town Center Site Development Regulations stated: *Each development site in the Town Center District shall be subject to the site development regulations as outlined in the B-3 Zoning District, and B-3 Design Standards. For attached residential and mixed use development, there shall be a minimum of 3,000 square feet of gross lot area per dwelling unit. Where a conflict exists between the B-3 regulations and standards and the provisions of the Town Center Overlay District, the provisions of the TCOD and Visual Performance Standards shall supersede the B-3 regulations and standards.*

With the development of the Town Center Overlay District, which was ultimately adopted into the Town Center District, there were visual standards and design guidelines reviewed for the development for what the City wanted to see for

the Town Center. Mr. Waller had met with the Design Review Committee and from the architectural elevations they had approved the conceptual drawings. The CLURO also contained supplemental regulations for the development of townhome lots, with a minimum sub-lot frontage requirement of 25'.

The CLURO required the following criteria for townhome lots. It stated:

1. A townhouse development parcel shall consist of land suitable to be subdivided into a minimum of two (2) townhouse sublots capable of meeting the minimum requirements of the district.
2. Maximum Density - The minimum area of land per unit in a townhouse development shall be three thousand (3,000) square feet provided all other requirements of this Ordinance are met.
3. Minimum Square Feet Per Unit - The minimum living space within a townhouse unit shall be nine hundred (900) square feet per unit, excluding utility spaces, heating rooms, porches, garages or carports.
4. Minimum Sublot Width - The minimum width of a townhouse sublot shall be twenty-five (25) feet.

Following the standards outlined in Article 8, Townhome Sublots, the following variances were requested. For lot depth, each lot to the front was a depth of 105' and the one rear lot was 58'. There was a Servitude of Passage through the parcel that was a requirement of the Town Center District. The lot frontage on the three townhome sublots was: Lot C-1D was 25.67', Lot 47-C-1C (the middle one) was 21.33' and Lot C-1B was 21.42'. Lot 47-C-1A measured 64.81'. The one left over parcel from the Servitude of Passage measured 67' x 58'.

The variance request for lot frontage and depth was for the three townhome sublots and the lot to the rear. The square footage requirement was a minimum of 3,000 square feet and a variance was being requested to the square footage of the three townhome sublots. The square footage for Lot 47-C-1A was 6,856 square feet, which exceeded the 3,000 square foot requirement. Lot 47-C-1E was 3,942 square feet, which exceeded the minimum of 3,000 square feet of land area. In reviewing the variances requested from a design standpoint, Mr. Waller was continuing the design that had been started from the corner. The design was ideally what the City had intended and desired in the Town Center District. At the initial work session, there was a discussion about the density and number of units that would be allowed under the CLURO. The staff did not have the number of units and information at that time, but Ms. Kidd presented the information because she thought it was important to understand, especially in the Town Center District what the CLURO stated and where the City and developer were with this project. In all of the zoning districts, the regulation was a minimum of 3,000 square feet of land area per unit for allowable density. That had always been the regulation allowed under the CLURO and there had not been any deviations from that regulation.

Ms. Kidd referred back to the site plan and the existing development, and asked Mr. Waller to clarify that there were four residential units in the building. Mr. Waller asked if she was referring to the corner building and it was answered yes. Mr. Waller said there were four units on the second and third floors. Ms. Kidd said the corner building was a mixed use building with commercial uses on the first floor and four residential units above. In the rear, there was a single family dwelling. The center lot was 47-B-1 and that was developed with a single family residence with commercial uses on the first floor. In the rear, there were two units for a total of eight dwelling units on which the property was currently developed.

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With the proposed development, there were three proposed sublots for three additional residential units, and the two remaining lots could allow for eight units for a total of 11 units. There would be two available units left for the remaining parcels. Mr. Adams asked with two remaining units, if those units could be apartments or duplexes. Ms. Kidd said Mr. Waller would be allowed to have two additional dwelling units. It could be fee simple lots similar to those developed, or they could be two units in one building. Mr. Waller said it could be a fee simple duplex or a rental duplex.

Mr. Waller referred back to Lot 47-A-2 having 2,200 square feet of living area, and it was a townhome. It was exactly what he was proposing for these three sublots. But, that lot was only 20' wide. The lot was a bigger because of a 5' setback so the lot was 25' wide. Mr. Thomas asked which lot Mr. Waller was referring to. Mr. Quillin asked if that was the lot on Lafitte Street. Mr. Waller said with the remaining land, there would be two unsubdivided properties, and he could fit two additional units on the front lot and possibly three units on the rear property for a total of eight townhomes including the three units he was proposing. Mr. Adams said the proposal did not meet the 3,000 square feet per unit requirement. Mr. Waller said there would be 3,351 square feet on each of the three units as designed. Ms. Kidd said she was referring to the land area of 3,000 square feet. She said she would break the numbers down again and refer back to that.

Ms. Kidd said the total development site had been phased in. It was known that Mr. Waller would come back with an additional development of some form, but no one knew how much would be commercial and how much would be residential. The total site consisting of the existing development and the proposed lot containing 39,936 square feet was divided by 3,000 square feet of land area would allow 13 units. Mr. Blache asked when unit was stated, it could either be townhome, single family dwelling or a multi-family dwelling. Ms. Kidd said a multi-family building could have three units in it. A dwelling unit had a definition of a single family premise where there was a kitchen where somebody can live. Mr. Adams said it could be a commercial use where the unit did not count against you. Ms. Kidd said Mr. Waller could have a commercial development that met the requirements of the pervious coverage as well as residential units. The CLURO contained criteria for the maximum number of dwelling units for land area requiring a minimum of 3,000 square feet of land area per unit in multi-family development. Mr. Blache asked that a dwelling unit would not be defined as a duplex. Ms. Kidd answered that that was correct. The building indicated four units, so there were four dwelling units. He also proposed commercial development, which did not count against the number of units. There would be four dwelling units in one building that may be condominiums or rental units. Mr. Waller could create a condominium regime where it would not be fee simple, meaning the sale of the land underneath the unit. A Condominium regime is another form of ownership where you own the air space, but you do not own the land under the building. As a concern in creating the sublots and any future lots, the project was getting close to the maximum number of units allowed on the total site. The plat, if Mr. Waller decided to sell part of it or develop it at a future date, with the variance granted on the minimum area and the lot front and depth would be allowing the construction of more units than what the code provided for from a dwelling unit standpoint. On the commercial side, development was based on the pervious coverage and the parking spaces that dictated the development on the site. The Town Center had provisions to allow for increased density. The increased density allowed for the counting of parking spaces on the street. The residential parking spaces must be provided off-street, but the commercial spaces could be provided half on-street and could provide for other spaces by paying into the Parking Mitigation Fund. There was a type of control point for

the commercial development. For all development within the City, the density governed the amount of units that could be developed on the site. Single family subdivisions required 10,800 square feet of land area per unit and there had been variances granted when the lot area was met and the frontage or depth may be deficient because of the shape of the land, but the square footage was the guiding point.

In order for Mr. Waller to meet the area requirements, the lot frontage could be increased to approximately 28'. It would reduce the size of Lot 47-C-1A to approximately 48'. That was about the same size as the lot as the existing single family residence. Ms. Kidd was presenting the numbers and wanted the board to be aware that even though Mr. Waller met the density requirements now, at the time of the total build out of the site, the large lots would have a density issue. He would either not meet the requirement or would be right on it. She wanted to make sure the board understood the project and its requirements.

Mr. Quillin asked if the board was looking at the lot 47C resubdivision request that they were looking at it individually versus what was developed on lot 47A, which was effectively complete. Ms. Kidd answered yes. Lot 47C had contained 18,037 square feet. Mr. Quillin asked if Mr. Waller sold the land as a separate lot, would the board review it as if it was in conjunction with what he has already developed. Mr. Adams said, he would have to mark the plat. Ms. Kidd said that was where the variances were considered. If the board was considering granting variances on the three sublots and if Mr. Waller sold the land, the new owner might think in consideration of the three lots having received variances he should expect the same treatment. That was the reasoning why this request should be treated as a single development site in granting variances. If Mr. Waller did not need the variances, then they would proceed and meet the requirement. But when variances were granted for the smaller lots allowing for a remaining larger lot, ultimately if the same variances were granted for additional units there could be a density issue in addition to the overall lot size. When the initial development was approved, there was not a need for a review of the density. What Mr. Waller proposed conceptually was exactly what the board was looking for in the Town Center District. Ms. Kidd suggested revisiting the Town Center Site Development criteria to better evaluate how the area would ultimately be built out. She suggested reviewing it soon to prevent unanticipated consequences. What Mr. Waller was proposing in the development from a design standpoint was fabulous. In other developments, the developer might not have the same ideals and with the additional density it might not end up in a good situation.

Mr. Adams said the board had traditionally and consistently in the Old Town area, especially with weird shaped lots, adjusted the length or depth within reason, but to his knowledge the board had never granted a variance for the amount of square footage on the lot. On some existing undersized lots, the board made some accommodations because of hardships, but he did not think the board had ever subdivided property into less than required by density under the code. Mr. Blache said what Mr. Adams was basically saying was the project was deficient in frontage as well as depth to meet the density. Ms. Kidd said that was correct. Mr. Blache reiterated to meet the density of the 3,000 square feet. Mr. Clark said there were 25%, 20%, 10%, shortfalls in the area. Mr. Blache asked Mr. Waller about the option of extending the property line for the three sublots for more land.

Ms. Kidd continued with her explanation that at the previous meeting there had been a memo from the Department of Public Works asking for a servitude for drainage and utilities. Mr. Waller's partner, Mark Pepe, met with David DeGeneres and resubmitted a site plan that indicated the servitudes. The utility servitudes

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were reflected on the plat, but the staff wanted to make sure all of the servitudes shown on the plan were reflected on the resubdivision plat. It was her understanding from the Department of Public Works that the rear lot had access to run the utilities coming from Woodrow Street. There was a memo from the Department of Public Works dated July 17<sup>th</sup> stating that they had reviewed the revised plan from the architect (Mark Pepe), accepted the plan and had no objections to the resubdivision. So, that part had been resolved.

Mr. Blache said it was his understanding in looking at lots 47-C-1A and 47-C-1E with the information that the total number of 3 units could be constructed on the whole area of Lot 47C and the proposed construction on the two lots would only leave availability of the construction of 2 units, one in the back and one in the front. Ms. Kidd answered that was correct. Mr. Blache said he wondered to facilitate the City's 3,000 square feet of density, if Mr. Waller could push the two lots over into 47-C-1A to meet the density requirements. Mr. Waller said he did not want to do that. He was not designing the project for the code book, but for the marketplace. This proposal was the same thing. He knew what the board wanted and he had built that. He had provided a copy of the elevations of the townhomes. Mr. Waller reiterated that he was not designing for the code book; he was designing for the marketplace. When he originally presented the project, he came before the board and told them the same thing. He had to have enough parking to meet the marketplace and when he figured that out, there was a 12' setback and he said he could only provide a 10' setback to leave enough footprint to design and build something that people were going to want to buy and/or rent. This proposal was exactly the same thing. He knew what the board wanted and he drew that elevation and would build what the board wanted. This proposal was three more units of the same. He stated he could not get more than eight units on this land now.

Mr. Waller said when he first began the project, the City wanted a 20' wide setback, but the property line was determined by the center line party wall. He realized he could not sell a unit for the cost without a carport, so he widened the units to 22' to get a standard garage in the back of the townhomes. Mr. Adams said if the board was in agreement, he would still have to get to the limit of the density since the board had never violated the density requirement before to his knowledge, and Mr. Waller showed on the plat how many remaining units could be built on the whole site. Mr. Waller asked if the whole purpose of the rules was to keep down the density. Was there any consideration for parking? He said all he heard was the concern for parking. Now by the zoning, he could line up the units and build some nice low rent housing that would meet the code perfectly, but the board would hate it. It would not be in keeping with the whole purpose of the Town, an old fashioned small Town Center park which is what we started out with. The easiest way for Mr. Waller to make a living was to just take the code book, cut it all up and build something. He lived in Mandeville and wanted to build what the board wanted for Mandeville and that was what this whole purpose was about. He had to meet the market. He had designed an 18,000 square foot mixed use building to be built on the site four or five years ago when he felt the City and developers were really going to build a Town Center. There was no way the bank would lend money for that plan today. He had five times the amount of parking to make that building work because it contained two penthouses and one small residential unit in the whole building. The first floor was retail; and the second floor was office space. The board had no problem with that design. He would still like to build that. That building would be best for Mandeville to have that more urban look. But the bank won't lend the money. Mr. Waller was not sure the bank would lend the money for the proposed project. What he could do with the remaining land was to build one more small building on the very end, which would leave about 39' to build another unit similar to the one he was living in. The three townhomes would have the same floor plan,

but the elevation would not look identical. He was designing a street scape not just a floor plan, but he must design what people will want to buy and live in. So, we were right back to that same thing again. He was working a lot harder because if he did not design or build something that people would want, he was not going to make it.

Mr. Adams said in the overall development site there could only be 13 residential units. Mr. Waller said if he had eight units, he could construct eight more. It was not all residential and was located in a Town Center District. The first floor would contain up to 600-900 square feet of retail/office space. But getting back to the marketplace and the lenders, the mortgage market would not lend any money if it was commercial. With the Town Center zoning having small retail and offices on the first floor, it met those criteria. That meant that anyone could buy a unit, rent the first floor to help pay their house note or use it for their home office. The end unit would have 12' ceilings. The next two units would have the same floor plan, but would have 10' ceilings on the second and third floors with a brick veneer and setback of 16". They would look completely different. The development was creating a Streetscape for a Town Center facing onto a park or a town square. He was trying to improve the neighborhood by designing for the whole streetscape.

Mr. Adams said there was also the next block between Lafitte and Carroll Streets. That development could say the market needed 20'lots. Mr. Waller said exactly. Mr. Adams said that was probably twice the density that was allowed by code. Mr. Waller said there was development that had been built. The only reason it was there was because he had developed, designed and built it. So the whole quality of construction and architecture was there for precedent. If someone wanted to build Paper Mache' garbage, the board could just say no because they had already approved the concept on both corners. Mr. Waller lived there and thought the quality of architecture should be upheld. He said if he had built some nice Paper Mache' stuff that met the code, the board could not stop it and the next guy coming behind could do the same. Now the board could control the quality of the architecture, because it was in place. It was solid, it was masonry, and the party walls went to the roof. There was 16" between the units. These units were going to be expensive, but there was only a few of them. Not too many people were going to be able to afford them. That's going to create a Town Center and in the long run that's what we really want. It's not about making money. If he wanted to make money, he would build tract subdivisions. So, we're all hung up in these rules and if the development violated the rules, the board had to decide what they really wanted.

Mr. Adams said Mr. Waller must look at what the board did. As everybody had said the board really wanted and loved the product, and really wanted to see the project built, but the board cannot violate a rule that was being followed. Mr. Waller asked what the purpose of the rule was. Mr. Adams said it was a density rule because somebody thought the number of living units and the number of residential people you put in an area should not get overcrowded. Mr. Waller asked the board if they wanted something in writing that he would only build five more units on that property. He was willing to do that. Mr. Adams said he was talking about the property that was unsubdivided. Mr. Waller said he meant the whole thing, the two lots that were left. He said it affected him since he lived there. He did not want to devalue any property. He did not want anybody to build trash, and if somebody proposed to build some trash he would be standing up doing what he thought was right by saying he did this, and the board made me do this.

Mr. Adams said again he did not know how the fractions turn out on the property, but it seemed to him that the property to the south would only be able to

construct a couple of living units. Ms. Kidd said he would have two units. Mr. Adams said he understood that, but one building would be residential. Ms. Kidd said one could be residential, and Mr. Waller could construct commercial units as long as he met the site development criteria. Mr. Adams asked how the numbers came out exactly. How many square feet was it divided by 3,000? Mr. Clark said 25 and 25% under two of them and 10% on another. Mr. Adams said that wasn't what he meant. He asked what was the total area of the whole development site. Ms. Kidd said this lot was 18,037 square feet, which would allow five units. Mr. Adams said it would be divided by 3,000. Ms. Kidd said no, he could get six there. She said we thought he had three on the front building. Mr. Waller had 8 units on the area already developed, so that would allow five units left for the total site. Mr. Adams asked what determined three units versus four units on the big building on the end, the kitchens? Mr. Waller said there were four separate townhomes. Ms. Kidd said it was determined by the number of dwelling units. Mr. Waller said there were 1,600 square foot townhomes on the second floor; four separate residential units and three commercial units on the first floor. Mr. Adams said Mr. Waller could convert that one into a 3,200 square foot unit if anyone wanted a unit similar to his house. What he was saying was Mr. Waller had something over 38,000 square feet? Ms. Kidd said there was 39,936 square feet for the entire site. Mr. Adams said that would be divided by 3,000. Ms. Kidd said that would equal 13 units. Mr. Adams said Mr. Waller had something over 13. Mr. Quillin said yes, barely.

Mr. Waller asked to repeat what was been done with the numbers. Ms. Kidd said the total site allowed for 13 dwelling units. Mr. Waller asked what total site, my whole site? Ms. Kidd said all of the property, what was existing and the vacant land. Mr. Adams asked about pervious and impervious coverage. Mr. Waller said it allowed for that because there was a rule. That was what variances were for. He also said and to go back, what was the goal for the Town Center? He asked if the City wanted a Town Center or to decide everything by the rule book. Mr. Adams said the whole subject of variances was much too complicated for this meeting. The most absolute strictest interpretation of a variance was typically under the way it was used back in 1927 when the model zoning ordinance was developed and people did not know if what they were doing was legal or not because the Euclid decision had come down. The variance process was a safety valve because they did not know what would happen with the takings law in the future. Almost nobody used variances the same way it was intended back then, which was when there was an unbuildable lot because there was a mountain in the middle of it or a spring running through it. Lately, people use it to mainly allow things that made some type of sense in some communities and it was used in different ways over time that had become traditions or standards. What he was saying was the board adopted the density requirement and stuck with that with everything the board had done. Mr. Waller said he had an argument for that. Mr. Adams said he was not trying to argue. Mr. Waller asked what about 629 Lafitte Street. There was 2,200 square feet in that house. It was a townhome just like these proposed three units except it was only two stories. The lot was probably right at 25' because there was a 5' setback on the south side, but the unit was only 20' wide with a courtyard in the back. Mr. Adams asked how deep was the property. Mr. Waller said 85'. Mr. Adams said he thought the point was at the beginning of the project that there was one big lot and had fit into the density requirement because there was space that nobody knew how it would be developed. Mr. Waller said he did not know either. He had to work for the marketplace.

Mr. Adams said if Mr. Waller developed one of the buildings as commercial, he could obviously construct two units on one of the remaining lots. If some of the other units to the west were converted to commercial, he could construct additional residential units. Mr. Waller said if he had come before the board with that idea, the

board would have required this many parking places. Ms. Kidd said that was true. Mr. Waller said that meant the project would not have happened and we were right back to deciding what the board wanted. Mr. Adams said maybe the Town Center zoning needed to be tweaked, but he was talking about what the custom had been in the past, what the board had been consistently doing. In Old Mandeville there were goofy lots that may be 53' across and 250' deep. The density was what the board had always held their hat on. Ms. Kidd said the one thing the Town Center site development regulations stated differently from using the B-3 site development criteria was that the B-3 zoning required 5,500 square feet of gross land area per unit. Mr. Adams said the Town Center density was less. Ms. Kidd said it was a lot less, but the one thing that was explicit in the site development of the Town Center was for attached residential there shall be a minimum of 3,000 square feet of gross land area per dwelling unit. That requirement was consistent throughout every site development criteria in every zoning district which dealt with multi-family. That was the consistent thread running through all of this and she thought the board had been consistent in adhering to that.

Mr. Thomas said he saw it that there were 8 developed units and according to the square footage there could be a total of 13 units. He asked Mr. Waller if he agreed with that. Mr. Waller asked Mr. Thomas to repeat his statement. Mr. Thomas said Mr. Waller had had 8 units on the property right now and according to the CLURO there could be a total of 13 units with the square footage of the property. Mr. Waller asked that Mr. Thomas was talking about what he had? Mr. Thomas said existing, right now, there were 4 already built, one in the back and two apartments for a total of 8, right? Mr. Adams said yes, that was the way it was counted. Mr. Waller said there are eight residential units. Mr. Thomas said according to the site, Mr. Waller was allowed to have 13 units with the square footage, which would be an allowance of five more units. The proposal was to develop three units leaving two pieces undeveloped. So, all the board was asking was to increase the three lot frontages to 28.4'. Mr. Waller said he could not build those units and sell them if he had to downsize the quality of the whole unit. Mr. Adams asked if Mr. Waller would agree leaving the sizes to contain language on the plat stating there could only be two other units for the overall density requirement. Mr. Thomas suggested increasing the lot size of one to 25.67' and the other two to 28'. Ms. Kidd said everyone that had developed townhomes in the City complied with the requirement. Mr. Waller said the other developments were not located in the Town Center. Ms. Kidd said she understood that. Mr. Waller asked to compare the other townhomes to what he was building. The board had to decide what kind of quality was wanted in the Town Center. He said the board must decide if they wanted him to go along with their concept of the Town Center because he had been building high density townhomes for 40 years and was an expert at that. If the lots were wider, the whole cost would increase and not work. Mr. Adams said, let me say this again. Mr. Waller said he would just wait. He continued that he had a better idea, he would just sell the property and the board could just deal with the next guy. He said that was probably what he would do because it had been like this from the beginning.

Mr. Adams said the board was treating the project, at Ms. Kidd's suggestion and he agreed it was right, as one development site. Mr. Waller disagreed with the consideration since the first building was developed 50/50 with a partner, the other building was developed with a different partner who he bought it back from him. He reiterated that he was proposing to construct the same project as existing. Mr. Adams asked how many square feet was this parcel, and it was answered 18,037 square feet. Mr. Adams said dividing that by 3,000 there could be six units, which would allow for the construction of the proposed three units and a total of three units on the other two proposed lots. Mr. Waller referred back to the first building drawn containing 18,000 square feet of commercial and three residential units.

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That would require 42 parking spaces. He said the board must decide what they wanted, and what the board wanted the market to do. What did the board want for the Town Center? If the board suggested retail, it would refer back to parking again. With eight units there would be 16 parking spaces off the street in garages. They would not be taking up any places on the street.

Ms. Kidd suggested the board revisit the site development criteria in the Town Center and Mr. Waller could wait for the approval after the board had evaluated the criteria.

Mr. Clark said listening to Mr. Waller; the concern was precedence which was a slippery slope. Ms. Kidd was in agreement. Mr. Clark said there was the issue of a variance, and Mr. Adams pointed out the only reason in the final analysis to discuss a variance was in the face of demonstrable hardship and finance cannot be a demonstrable hardship. Mr. Adams agreed that finance was not a hardship. A variance was considered if the request was in the best interest of the City, in keeping with the plan, preventing harm to anyone else or any other consideration. Mr. Clark asked how this plan could move forward and encapsulate it so that it did not represent a precedent. Mr. Adams said that was the issue. There was  $\frac{3}{4}$  of the Town Center District left to be resubdivided and built out.

Mr. Blache asked if Lot 47-C-1A was to be designated for only commercial use at this time and a variance granted would that satisfy the density requirement. Ms. Kidd said the property was zoned Town Center, which allowed for multiple uses so there was no mechanism to restrict the land use without amending the use or rezoning it to a Planned District where flexibility could be established. Mr. Blache asked if that was something Michael Lauer could review and Ms. Kidd said yes and in fact the City had asked to include some of those issues in the scope of work. There were other projects in discussion that would suggest reviewing the regulations. The B-3 criteria did not meet all of the criteria to address the development in the Town Center. She thought conceptually what Mr. Waller was proposing was exactly what everyone envisioned. Mr. Blache was in agreement.

Ms. Kidd said however, there were zoning regulations, density requirements, and the allowable number of units per square feet of land. Even though the project was located in the Town Center zoning district, there were multiple zoning districts and someone could make the same argument. Mr. Waller said he wanted to build a nicer unit and get more money. Not that he could get more money for it, but it would be better received in the market. Ms. Kidd said of course the City wanted better development, but did Mr. Waller get a better advantage over everyone else in the City because we allowed more density to be granted here and to build a better, higher end unit which was wonderful. But, what about the folks on West Approach that might want to build a townhome development who would have loved to have these sized lots and this amount of square footage, and gotten a better development. Mr. Adams said more density was allowed in the Town Center district. Mr. Clark asked how to create a variance and Ms. Kidd answered that she did not think a variance was the mechanism. The density issues were commercially related because the City did not require off street parking. The off street parking was required for the residential units. The Town Center was similar to the B-3 district by allowing to count half of the on-street parking and pay a mitigation fee of \$1,200 per space. As we had discussed in the B-3 district, the mitigation fee should be reviewed. For the commercial development in the Town Center District, instead of applying the parking requirements for the individual units being proposed, it was viewed as a shopping center district which would require less parking. There could be a restaurant and have the 1:250 ratio apply rather than the 1:150 requirements because that was where the additional density came from. The City developed the

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Park and Ride which provided about 50 spaces in that area. There were some criteria built in to allow for more commercial development and the residential development would hold to the 3,000 square feet of land area per unit. Also, revisions to the Town Center district could take awhile.

Mr. Clark said it was his understanding that the project was live up and work down. He asked if there was commercial on the bottom floor. Mr. Waller answered that was correct. Mr. Clark said since it was a hybrid and not clearly residential there was an argument for someone to build skinny little townhomes. He suggested encapsulating the project in such a way that allowed for the mixed use of a hybrid construction and there may be a way to tell Galactic Homes it was not allowed when they want to build 5' cubbyholes for people to sleep in. You could say that the problem here was we did something different. Mr. Quillin said except that the entire B-3 district was a mixed use. Mr. Blache said it sounded like the board should craft a new ordinance for the Town Center. Ms. Kidd said if there were mixed used buildings, there might be the density requirements to allow for additional residential density. Mr. Blache said the board was not authorized to allow that right now. Ms. Kidd agreed the board could not allow that at this time.

Mr. Waller said he was the first one to be involved in the Town Center zoning and it all stopped because there was a question about a 12' access servitude and a servitude for drainage. He assumed that we would require a 12' access servitude across the back of all the lots that fronted on the Town Center zoning. He got that and that was what he started with. The servitude was on all the plans and on all the surveys. But it was not written anywhere in the zoning codes. That was his mistake. The servitude was included and then there was a question about drainage. At that time, he and Denny Perschall owned half the block. Mr. Perschall was in the millwork business and he knew what Mr. Waller could do. Several years' later right before the economy went down, he and Mr. Pepe bought the land back from Mr. Perschall. The CLURO clearly stated that for land in excess of one acre, an engineer must design the drainage plan. Lynn Mitchell designed the drainage plan. He suggested draining the water half the block to Lafitte Street and when the other half of the block was developed the drainage would be toward Girod Street. He was told he needed an engineer, but there was no CLURO requirement. So, we hired an engineer and paid him \$1,500 to \$2,000 to design the plan. Then he spent several thousand dollars installing a catch basin and a pipe to dump into the City's 30" pipe that they were going to put out on the street. Ms. Kidd and Mr. Cressy came to Mr. Waller saying there was a grant to close the open ditch with a 30" pipe if he would give the City a 3' servitude. Mr. Waller asked who wouldn't do that. The engineer designed for the 30" drain pipe to drain the water for half the block into their pipe. That was what stopped the vote at the last meeting. As it turned out, there never was a drainage plan and Mr. Waller had to pay his engineer \$700 to find his file from 2004 to review it because the young engineer that worked for him didn't work for him anymore. So the engineer wrote a letter ascertaining what he had already done. So, this had cost \$1,000 and held up the project for two months. Mr. Adams said the drainage had nothing to do with the board and the City can request servitudes and Mr. Waller was in agreement. Mr. Adams said the board had said from the beginning and at every meeting that they loved the project and was the design they we wanted to see. But, the board said and he thought it was re-enforced at meeting two when the project got held up, that the board did not have all of the computations on this property as to how many units there were, what was the density, the board did not have the updated plat, and Ms. Kidd was getting the numbers. He stated this meeting was the first time the board had actually seen the total numbers in regard to units and square footage. Mr. Waller was in agreement. He said we were going back and throwing out everything we did from the beginning and get down to the rules and find some kind of rule to fit. He asked if the board

wanted him to help design the Town Center because he was not trying to make a living, he was trying to get by and do something that affected his neighborhood.

Mr. Adams said this was not when the board developed the rules. The board would develop the rules and change the CLURO. The board did not change the rules case by case in a meeting. The board did have a right to grant variances in certain cases and the board was saying that over the years they had not granted variances like this. Mr. Waller said the City had not had a Town Center and he asked what was the goal of the Town Center. First, he assumed it was to drive out the industrial and light construction uses, and make a park creating a small town square and he loved that idea. Mr. Waller stated he was a New Urbanist, and had been doing this for 40 years. Mandeville was old urbanism. You would not have to do much to Old Mandeville except renovate here and there. So, he was back to the same thing. You have to ask yourself what you want. Did the board want what he had constructed? If not, stick to the rules and then the board can stick the next year to the rules also.

Mr. Quillin asked Mr. Waller what was the significance of keeping the lot sizes at 25 2/3' and 21 1/3'. Mr. Waller said he had designed the units for the market. Then he placed the property lines down the center party wall. He had redrawn the project twice. The first time they were narrower. He realized nobody would pay his price per unit that did not have a garage. He did not look at the property line. It did not mean anything. He knew he could fit eight units. He wanted larger units, but the market would not allow that. He lived next door in a property that was worth over a million dollars. He would not build trash next to him, but make sure the units maintained their quality and value. If he built this project, the board could point to what was already built and use that as a precedent.

Mr. Quillin said that did not answer his question. He asked again what was the significance about not going to 28'. Mr. Waller said it made the whole unit wider. Mr. Quillin agreed that it did. Mr. Waller said by extending 7' more feet on each unit, he would not be able to sell them with the kind of quality he built. Mr. Quillin said he did not understand how. Mr. Waller said he had been carrying the lot for four years since the economy crashed, at \$1,200 a month for four years, and it had not stopped yet. He needed to make a decision, to either go with the project or if that did not work then to put up a sign on the property, sell it, pay the bank and quit. So, he was back to the same thing; the board must decide what they want. He asked if the board wanted him to build the project or somebody else to because the board wanted to adhere to the rule book. That variance was all about what the board wanted. Mr. Adams said the variance was not about what the board wanted. Ideally, the board would have received a plan in place that they wanted initially and the code would have been written to produce that plan over time. There was a disconnect on some parts of it. The board could not unilaterally change the code. The board was not a legislative body. Mandeville was the only city in the state where the Planning and Zoning Commission in association with a subdivision could issue a variance. That ability made the process work better. There were limits to what the board could do and Mr. Waller was aware of that when he started his development. Mr. Adams asked Mr. Waller if he had seen the code that there was 3,000 square foot per unit. Mr. Waller said no, he had not seen the code. When he appeared before the board from day one he did not pay attention to any of the rules. He had designed the project on what the board wanted and for the market. He had come back and said he could not give the City a 12' setback on the front, but presented an alternative of what he could do in the marketplace, in the economy, and it had worked. Now, he was back to the same question again, did the board want to go stick by the rules or approve a variance to continue the project. He could not redesign the units again. He could not drive the cost of the units up so it just would not work. If the economy had stayed good, he had hoped to build one small

and one big building with the one on the end first and fill in the one in the middle. That was what Mr. Waller would rather have. He was not some greedy developer.

Darrell Owen, 530 Coffee Street, said he had been listening to the discussion go around and around and from his understanding there was 18,000 square feet of land available for development. By the code, only five more units could be constructed. Mr. Adams said it could be six units. Mr. Owen said you divide by 3,000 square feet. The board had stated there could only be a total of 13 units, so that left five units. So, with the 18,000 square feet the developer could not do anything else with it. He did not understand why the lot should be 20' when what would Mr. Waller be doing with the rest of the property. It could not be developed so why not use it and make the lots bigger. Mr. Adams said the large lot on the end could possibly be developed by someone that might want a larger business or house. Mr. Waller's personal residence was on a bigger lot.

Mr. Thomas said by granting the variance, it would set the precedent throughout the entire town, and with  $\frac{3}{4}$  of the Town Center to be developed, it would legally set the precedent for the other properties. Then the City could possibly have smaller and smaller lots. The board would prefer not to set a precedent. Mr. Waller's property had the space where it could be worked out. The board was trying to work out some type of happy medium. He liked the project and thought it looked great.

Mr. Owen said from what he was hearing, there was more space then needed for the remaining number of units allowed. Mr. Thomas said yes, but Mr. Waller could sell the other lot. In theory, Mr. Waller could sell the large lot and the new owner could seek a variance. If someone purchased the lot and the board granted the variance for the other three lots, the new buyer could want to build multiple units and it would be a domino effect. Mr. Adams said Mr. Waller could wait until the code changed. Mr. Thomas said that was the concern. Every time and every precedent set was the main reason for the discussion. Mr. Waller was a great guy, and the board liked him. The board liked his development, and was trying to work it out. Mr. Owen stated it was just his observation. Mr. Thomas said the board appreciated it.

Mr. Adams said the board needed to get something done with the case at the meeting. He asked the board if they wanted more information about the case. He did not see what else there was to learn. He told Mr. Waller that the bottom line was the lots were for marketing purposes because he did not think the market was ready to buy a 28' lot instead of 20'. Mr. Waller said there was no market. There had not been a market for four years. Mr. Adams said theoretically that was the reason to build on a 23' lot because he thought he could sell it. Mr. Waller said he did not know. He was trying to meet the market. He knew the cost to build the units now and he was trying to build the same quality. That was what he had done his entire life.

Mr. Adams asked what the project would have been worth five years ago. Mr. Waller said five years ago the whole corner building was rented out at \$18-20 per square foot. He had sold the first two units for cash. The last unit sold for \$360,000 cash for 1,600 square feet because of the quality. Then the game in the whole United States changed and shut down the market, and he had been carrying the property. It had been eating up everything with the cost. So what he would have to do if the project was not approved, would be to sell the whole thing because if the market did not come back, but he thought it was finally going to come back. Mr. Waller had someone interested in buying one of these units, but it was too small. There was a thin market of people with the money. He had to get to that market that

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can afford these units, for people like him that do not want a yard, those that do not want anything. The people who want to be able to walk to the lake and enjoy it. Hopefully, we'll have a park out there in front of the project instead of a junkyard like it was now.

Mr. Adams said talking about variances, that was one thing the board was specifically prohibited from doing, granting a variance for financial reasons of the applicant. Mr. Waller said you can't do that? Mr. Quillin said the board could not grant financial relief. Mr. Adams said marketing was what Mr. Waller was talking about. He gave Mr. Waller two choices. There was a plan on the table and the board could vote on that if that was what Mr. Waller wanted to do. It sounded like the board was trying to work out some way to get something done. He asked the board if anyone wanted to suggest something and discuss what can be done. He also asked if someone want to call the question and vote on it as presented.

Mr. Quillin called the question. He moved to deny case V13-05-11 based on the lack of minimum square footage and density. Mr. Adams asked if there was a second to that motion. Ms. Bush seconded the motion under code Section 4.3.3.4. She stated she did not think the board had the authority to grant a variance in this instance. She was looking at the language of that section under number 1, Authority. She did not think it was a convenience issue because she thought the project was wonderful, but she did not think the board was protecting the surrounding property and she did not think it met that provision of the CLURO.

Mr. Clark said he would like to find a way to seal it off and to find a way to make this case that was special enough that it did not open the precedent door. If that could not be done then there was one person who wanted to do one thing that was consistent with the rules and regulations. The board would have no choice, in his opinion, when someone said this was what he wanted and you have to change your rules. If the board could find a way that made sense to seal this off and encapsulate it so that the board can help Mr. Waller without jeopardizing the rules.

Mr. Blache said he did not see it as the board would be helping Mr. Waller out. He thought the board liked the idea, what he had built already, and he certainly did not want to see that go away. He did not want to see properties constructed that did not fit that quality. Mr. Adams said the Comprehensive Plan was the board's bible and the codes of what the City Council made of it through the CLURO. One of the main criteria in the Comprehensive Plan was to get the Town Center built out and be a viable place. He would like to work something out. But, the consideration would be going in the face of years and years of precedent, and he was not sure the board could do that. It might create all kinds of problems. Mr. Quillin said the board did not currently have any additional rules to lean on in order to be able to support the request. He told Mr. Waller that he loved the designs. He just wished he could make the units wider to meet the minimum requirement. Mr. Waller asked why the board did not tell him that when he first presented the project.

Mr. Adams said the board did not know there was a density problem. Mr. Waller said the board still had the same rules. Mr. Adams said the board did not have the calculations. Mr. Waller said he was the first fool to come along and the board saw all that money. Mr. Adams said the board asked about the problem at the first meeting. They asked how many units was Mr. Waller talking about and how many square feet. He had asked that question himself. He did not think there was going to be a problem.

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Mr. Waller said 629 Laftte Street had 2,200 square feet, but the lot was 5' wider to meet code so it was ok. That was the problem he had with all of the rules. Mr. Adams said his concern was the number of units for the whole project.

Mr. Blache said the project did not meet the code. Even if the frontage was met, there was still a deficiency in the depth. The board was asking to allow a variance for Mr. Waller to at least meet the 3,000 square foot criteria. Two out of three deficiencies was what the board always used as a rule of thumb since he had been on the board.

Mr. Adams said he would go further than that. If Mr. Waller met the density on the whole project, he would not care what the size of the individual lots were. Mr. Adams said there was a motion and a second on the floor. Before the board voted on that motion, he asked if there is any possibility the project could be worked out. Mr. Adams asked Mr. Waller since he had been listening to the discussion, did he have any alternative to this at all?

Mr. Thomas said making the building wider would increase the cost, but he suggested making it a little less narrow with the same square footage. Mr. Quillin asked if Mr. Thomas was suggesting less depth, and the answer was yes. Mr. Waller asked how that could be done, did he mean more square than triangle. Mr. Quillin said it could be done by not going as deep into the lot making it more of a square than a rectangle. If the lots were widened taking some of the 1A lots to make the units 28' or whatever. Mr. Waller said the units measured 3,021 square feet of living area. Mr. Quillin said the issue was not the living area. Mr. Waller said that counted the size of the garage. Mr. Waller said when a unit was designed to be wider, the cost would be \$800,000 so he could go back to doing the row track way. He could modify the walls to be wood and cheap construction and it would work. That was probably what he would have to do. Mr. Quillin asked how could Mr. Waller keep the same square footage and change the size. Mr. Waller asked the square footage of the lot. Mr. Quillin said to have 3,000 square feet of land for the units. Mr. Waller said he could not make the unit bigger. Mr. Quillin said he would not have to. Mr. Waller said there must be a minimum of bedroom size, bathroom size, and all of those things add up and every little inch counts. He had redesigned the project twice. He wanted to put quality and detail on the front, and he had to count every square inch in a townhome development. It was not just some townhome in some subdivision; it was high density and a lot of work. Mr. Adams said a 20' wide by 30' long house had the same number of square footage to sell on the market as if it were 30' wide by 20' long. Mr. Waller said it was about being two 21' lots and adding 8'. Mr. Quillin and Mr. Thomas said it would be a 7' addition. Mr. Waller said taking 8' times the depth of the units and tell me what that's going to be. Mr. Quillin said the depth of the unit did not have to remain the same. Mr. Waller said his point was that the depth had to stay the same. They units were all tied together and he had the units as tight as they could or he would be back to doing tract stuff.

Mr. Fairley said the depth part was what he did not understand that Mr. Waller could not change. Mr. Waller said he could not change that because you have to be able to get in the garage and back out. By changing the front, everything was affected. There was an elevator in these units and there were three floors that would be affected. Each floor plan must stand on its own, and function on its own. When you change one thing, something else was going to be too small. This was probably one of the tightest townhomes that he had ever developed.

Mr. Blache said the board's argument was their decisions have an affect on other things and they have to stand by it as well unless there were rule changes and it did not look like there was a way to do that at this point in time. Mr. Thomas said

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the board could not make that rule change at this meeting. Mr. Blache suggested thinking about the issue and possibly tabling the case for the evening. Mr. Adams said there was a motion and a second to move forward on the case. Mr. Blache asked if the board must deal with the motion. Mr. Adams said yes, the board must deal with the motion and if Mr. Waller wanted to come back to the board with a different plan, the board could waive the fee rather than keeping it on the agenda. Ms. Kidd said the board could not waive the fees. Mr. Adams said it was allowed in the CLURO. Ms. Kidd said the City Council could pass an ordinance to do something. Mr. Blache said the board was at an impasse at this point of time since there must be a vote or the board could extend the case a little further hoping to come up with another idea.

Mr. Waller asked to explain the zoning process. The board was making rules for the Town Center zoning. There were not any rules when he started the project and he made the rules when he constructed the first units. The other thing was that he had been here this long through the hurricanes, recession and other stuff. This was what he did for a living. No one had asked him about how you do zoning. There should have been a code written for the 12' access. There was a code for the concrete drive because one day the garbage trucks were coming off Lafitte and would drive through all the way to Girod Street on a private servitude. He asked what would happen if regular concrete was used and then the trucks starting breaking the concrete up. There should be a code requiring 6" highway mesh standards like he built. But, that would never come up.

Mr. Adams said Mr. Waller was present and part of the process when the code was written. He had been here since the beginning of the Town Center district. Mr. Waller said he came in with the first project and the board told him to have 12' servitude. He asked why there wasn't a lighting code. No one asked him about any of that. He was giving free advice.

Ms. Kidd said there as an adopted set of visual guidelines for the Town Center district and the Design Review Committee administered that. The Design Review Committee had developed the guidelines for the Town Center district dealing with the architectural elements of that district.

Mr. Adams summarized that there was no need to table the case because that was usually if the board was waiting for more information or a new plan. If there was nothing forthcoming, there was no reason to table the case

Mr. Waller said he would give you a reason to move forward. He had already paid \$475 in fees and if the board voted it down and he wanted to continue with this project he would back and do it again. Mr. Adams asked if the board tabled the case, what was the next step. Mr. Waller said he would ask something to the code. With the Town Center, the board would have the same thing come up on the rest of the four blocks. Mr. Adams said it was possible. Mr. Waller said he was not just arguing, he lived there and wanted to stay here. He wanted to make sure everyone else did what he had already done. He wanted to make sure there was the same level of construction quality. It was not just design quality, but construction quality and he said that should be written into the code.

Mr. Adams said he did not know how long the case could be tabled. He did not want to have the case sitting on the agenda every week. Ms. Kidd said she thought there was some limit and she could check the code, unless there was additional information. At some time the board would have to take an action. Mr. Blache said it was important enough and there was enough interest in the Town Center and what would happen there and he did not know if there was some finding

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that did not allow the board to allow a continuation. Ms. Kidd said the board had a certain amount of time to take some action. Otherwise the board could request a moratorium to not allow any development until the board established standards. The moratorium would be for as long as the study process and public hearings to revise the standards. But to table a case until the board adopted new standards might not be allowed.

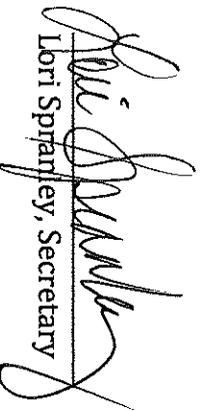
Mr. Waller said he would not want you to table the case unless the board addressed the serious problem in the Town Center zoning.

Mr. Quillin said the board would like to do that, but he did not think there was time between what the board could legally do and what the board would have to do in order to change the laws. Mr. Waller asked what you would have to do. Ms. Kidd said if the board moved forward to amend the Town Center criteria and if Mr. Waller's submittal met the criteria without any variances then he could be approved as an administrative resubdivision and not appear before the board. But, because there were variances requested and albeit there were some things in the Town Center district that need to be addressed, the request went beyond the code. The Town Center still addressed density specifically. If there were some criteria that was flexible within the site development criteria outlined in the Town Center, then the board would have leeway. The code spoke about the design elements that refer to the visual guidelines and there was some flexibility there. But those were to deal with the architectural elements of the design, which was wonderful.

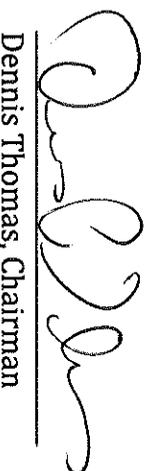
Mr. Adams said the whole structure of the code was based on numbers and if the board would change the code, he asked what number would be used for density and frontage, and other issues. It sounded like the board was discussing some form based code, which was a complete change from what was done before. Ms. Kidd said that may not change the density issues. Mr. Waller asked why it was so difficult discussing the Town Center. He said Mandeville needed a form based code to have a Town Center in the way he understood it was to be developed. Mr. Adams said he did not disagree about the form based code, but he had been told that it was difficult to fit in with the way Mandeville did business. Ms. Kidd said for the Town Center, the City could work through the form based issues being discussed. But, that was not where the board was operating from at this time. Mr. Clark said the board was discussing the use. There may be something in the peculiarity of this form of project which was not exactly residential so it was something that could be looked at. But, at this meeting there were rules and there was a request for a variance. Mr. Adams said there had been discussions about a form based code as the answer to many of the concerns in Old Mandeville so there would be construction of ridiculously looking residences with the traditional looking houses. At this time, a house can be built in a residential neighborhood at 35' in height with a flat roof painted orange and there was nothing the City could do about it but issue a permit. The only thing that settled any issues would be some sort of form based code. Mr. Fairley called question. Mr. Adams stated a vote in favor was to deny the request as stated. The vote was taken and was unanimously in favor to deny the request.

The adoption of the minutes was deferred until the next meeting.

Mr. Quillin moved to adjourn the meeting, seconded by Mr. Clark and was unanimously approved.



Lori Spranley, Secretary



Dennis Thomas, Chairman

**Zoning Board  
Work Session  
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The meeting was called to order by Chairman Nixon Adams and the secretary called the roll.

Present: Michael Blache, Ren Clark, Simmie Fairley, Nixon Adams, Dennis Thomas, Rebecca Bush, Scott Quillin

Absent: None

Also present: Louissette Kidd, Planning Director and Council Member Rick Danielson

Mr. Adams announced that any additional information determined to be needed by the Commission in order to make a decision regarding a case shall be required to be submitted to the Planning Department by the end of business on the Friday following the meeting at which the additional information was requested or the case will automatically be tabled at the next meeting.

The only case discussed was V13-07-12 George Mayronne/James Conner and Walter Madero request a variance to Section 7.5.1.3, R-1 Site Development Regulations, a portion of land in square 38, 546 Adair Street, zoned R-1

Ms. Kidd presented a variance request to the R-1 Site Development regulations to allow a reduction of 2.5' on the frontage of each of the two lots to be created from the proposed separation of the parcel of land which would consist of 87.50' frontage on each lot. Mr. Mayronne had been the owner of the vacant parcel of ground since 1962. The property measured 175' on Livingston Street and 156.25' on Adair Street. The property was under contract for purchase and the purchaser proposed to resubdivide the property into two lots of which each lot would contain 13,671 square feet.

The CLURO had been amended to allow for the separation of lots of record if they met 85% of the lot frontage if the property met the lot depth and square footage. This was a different situation. This was not platted like the other squares with 60' lots, but was parceled out with a variety of lot sizes. Many of the properties to the east on Adair Street were zoned R-1X with a 75' frontage and a total of 8,000 square feet. Many lots to the north of this property were 30' lots and several lots were purchased together. There were various house types in the area.

Mr. Adams asked about the topography. Ms. Kidd said a couple of the letters had been received referencing a low area. This site was at a 9' elevation. Any property below 5' would require a Corps of Engineers letter. To the staff's knowledge, there were no wetlands. There were three letters of objection and one letter of support.

Mr. Adams said this was a textbook case of the frontage being short, but the width and overall square footage was in excess of the requirement. It was expected that adjacent vacant lots may submit the same request. With the contiguous lot law, the frontage could be reduced to 85% being 78.5'. Ms. Kidd reiterated that regulation was not applicable to this land.

Mr. Thomas asked what was the hardship. Ms. Kidd said there was a pending contract based on the variance approval. The hardship was in Old Mandeville, as often seen, that the parcels were not typically 90' x 120'. Mr. Thomas said this property was surrounded by lots meeting the 10,000 square feet. Mr. Adams said with the infill in Old Mandeville, the 90' x 120' measurement was a problem. The R-1X designation made some consistency in the neighborhood. Drainage was always a concern to the neighbors. By dividing a larger lot in half, there would be smaller

development because of the side yard setbacks. Ms. Kidd said drainage plans were required to be submitted with the building plans.

Sonny Gonzales, 547 Adair Street, said he owned three houses, and had lived in Mandeville since 1976. He was appearing before the board because several other neighbors were not aware of the variance request because of vacation. He summarized that he was 100% dissatisfied, and suggested the purchasers buy 6' to meet the regulations. He wrote the letter about the wetlands. At one time, Henry Buchholz wanted to purchase all of the property and was told there were wetland considerations. He thought the board was looking for opportunities to change the rules. Soon there would no longer be lots of this size. He thought that the board had some regrets properties that were granted variances. There was a rule, and he asked the board to stay with it. He suggested if a variance was granted, to make Adair Street the frontage. By allowing development, he was concerned about flood insurance. He repeated his request to the board to follow the rules. There was not much property left of this size, and he requested not allowing it to be divided. He was sorry subdivisions were approved and the cutting of the trees. There had been three policies changes in this area over the last 25 years. The other two owners that sent letters of objection had an issue with the request and would be attending the next meeting.

Mr. Quillin asked about a specific concern. Mr. Gonzales said if the property could not be resubdivided into the proper size, and then don't sell the property. Mr. Quillin asked if it mattered that each lot would be a larger square footage than required. Mr. Gonzales it was about the frontage. Mr. Adams said the square was not completely platted, but there were property rights. There were reasons for restrictions, but there was a need to have a public purpose. He asked what it served by not allowing the separation with more square footage. Mr. Gonzales said it was the rule. Mr. Adams said in 1940's the 90' x 120' lot size was the standard developed, but it did not fit in with Old Mandeville. The board tried to do what was in the best interest of the town. Mr. Gonzales said he did not want to see any more exceptions to the rules. Mr. Adams said if Mr. Gonzales was in agreement with his 12,724 square feet, then the proposed 13,000 square feet could also have been good. Mr. Gonzales bought that property under those terms. He could have resubdivided his property into smaller lots, but he did not do it.

Becky Deano, purchaser, said the point was they lived close to the lake and had had been looking for adjacent property for years, so the siblings could grow old together and help each other. They had tried to purchase the 6' from the adjacent property owner so they would not have to request a variance, but the owner did not want to sell. The valuation of the construction would be over half million dollar homes. The two houses would be their old age homes. They wanted to be located north of Monroe Street and away from the flooding. Each lot would consist of 30% over the required square footage and they felt a 2.5' per lot deficiency would be reasonable.

Mr. Adams asked if the property was previously subdivided as three lots of record, what would be the process. Ms. Kidd said there was an exception if two or more contiguous lots of record or parts thereof were in single ownership and all or part of the lots did not meet the requirements for lot width, area, or buildable area lying outside of the areas of periodic inundation as established herein, the lands involved shall be considered an undivided parcel for the purposes of this CLURO, except the lot area of each lot meets the minimum area and buildable area requirements of the zoning district in which it is located and the lot width is no less than 85% of the minimum lot width required in the zoning district in which it is located. This provision did not apply to resubdivisions, only under the contiguous

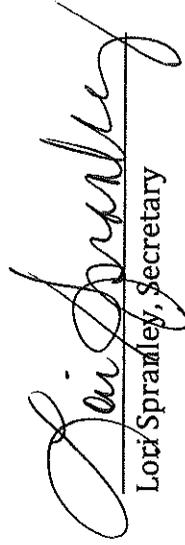
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lot law. Mr. Adams said if under the general regulations, could the resubdivision be handled administratively and the answer was as long as the lot depth and square footage requirement was met.

Walter Mader, 1315 Livingston Street, asked if the property was officially declared as wet and the question was answered no. He said he would walk the property and was wet once in a while. Mr. Adams said the provisions apply to property below 5' unless the Corps of Engineers had made a declaration. Mr. Mader said it was not wet on the day of the meeting.

Mr. Gonzales asked if there were different criteria than what applied to his property. Mr. Thomas said the discussion was about a hypothetical question. It had never been three lots so the discussion did not apply.

Mr. Quillin moved to adjourn the meeting, seconded by Mr. Clark and was unanimously approved.

  
Lori Spramley, Secretary

  
Nixon Adams, Chairman

