

**Zoning Commission
Zoning Board of Adjustment
Special Public Hearing
September 10, 2013**

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

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

Absent: None

Also present were: Council Member Rick Danielson and City Attorney Edward Deano

Case V13-05-11 to Sections 7.5.18.3, Town Center Site Development Regulations/Section 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 and case R13-05-11 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, zone TC regarding information submitted by the City Planner.

Mr. Adams stated the meeting was being held by the Mandeville Zoning Commission also acting as the Board of Appeals to discuss the appeals process and to which decisions by whom can be appealed by whom. The board had submitted the question to the City Attorney, Edward Deano, and some of the board members may have spoken with him. Mr. Deano stated he had written a letter to the board dealing with the case at hand. He had outlined the facts as understood by law and would answer any questions and expand on it as requested.

Ms. Bush said the appeal decision was cited under CLURO Section 11.5.4, which cited the appeals of the Planning Commission decision. She understood it was a Zoning Board decision. Mr. Deano said there was a Planning Commission and a Zoning Board feature to it. The state law gave the power of a Board of Adjustment and another special Mandeville law stated that when the Zoning Board was sitting as such, they had the authority of a Board of Adjustment. The appeal of the action of the Zoning Board would be treated as an appeal to the Board of Adjustments, which called for an appeal to a state board. Ms. Bush asked if the board would have been sitting as a Board of Adjustments at the same time they were sitting as the Zoning Board. Mr. Deano said the board was sitting as the Zoning Board with the authority of the Board of Adjustments. Mr. Adams said when acting on the variance. Ms. Bush asked if there was a need for notification that they were sitting as a Board of Adjustments. Mr. Deano stated that he did not think so; the state law stated the Zoning Board had the powers granted as the Board of Adjustment. Mr. Clark asked the difference between the Zoning Commission and the Zoning Board. Mr. Deano said he found it to be used interchangeably. Mr. Clark said but the law was what was specific. Mr. Adams said as Mr. Deano had stated in his letter, the CLURO was confusing and was not in compliance with state law when saying the Board of Appeals can hear commissions; it can only hear administrative decisions. Mr. Deano said it appeared that the language in the CLURO was lifted out of the state law dealing with appeals from Planning and Zoning which said commissions in it. They lifted the language and included the commissions in the appeal process, which was not provided for in state law.

Mr. Clark asked how many hats did the board wear. Mr. Deano asked if Mr. Clark meant the Planning Commission or the Zoning Board. Mr. Clark asked how many hats do the members of this board wear. Mr. Deano said when seated as the Zoning Board, the board could wear two hats. Mr. Clark asked if the Zoning Board and the Board of Adjustments was the same animal. Mr. Adams said there were

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three hats, and Mr. Blache was in agreement. Mr. Clark said under the Planning Commission that the board had the capacity to assist the City with planning questions, and Mr. Deano was in agreement. Mr. Clark said as the Zoning Commission that was to assist the City in the development of zoning areas. The board was responsible for the zoning map. Mr. Adams said the Planning Commission was more than that and Mr. Clark said he was shortening that. Mr. Clark said there was the other hat that was the Zoning Board, which was exactly the same thing as the Board of Adjustments. Mr. Adams said the membership was the same as the Board of Adjustments. Mr. Clark asked they were not the same duties.

Mr. Deano said the law outlined the authority of the Planning Commission. It outlined the authority of the Zoning Board and then it said the members were the same. Mr. Clark said they were members of the Zoning Board which was distinct from the Zoning Commission and they were also acting in the capacity. Mr. Deano said the words were used interchangeably, the Zoning Board and the Zoning Commission as far as he found. Mr. Blache said as he understood what he had read was there were Planning Commissioners, Zoning Commissioners and Board of Adjustment Commissioners which were the distinctions he read in the state law to the best of his understanding. Mr. Deano said Mr. Clark was touching on an issue that was not in front of the board, but was relevant as a member of the board. You were a member of the Planning Commission and had the authority of the members of the Planning Commission. The law said the same members of the Planning Commission were also the Zoning Commission or the Zoning Board. Then the law said when seated as the Zoning Board, the board had the authority of the Board of Adjustments. That was different than saying that all three hats were the same. Mr. Blache asked if that was under the CLURO. Mr. Deano stated that was the state law. Mr. Clark asked that Mandeville was the only jurisdiction in the state so constructed. Mr. Deano said that he had seen. Mr. Adams said the Louisiana APA was trying to change it in St. John Parish.

Mr. Deano said the distinctions Mr. Clark was stating went more to the issue of dual office holding than it did to authority with boards. Mr. Clark said his other question was that the Zoning Board, which was the Board of Adjustments as well. Mr. Deano said we did not have a Board of Adjustments. We have a Zoning Board that has the authority of the Board of Adjustments. Mr. Clark said that the board could only deal with administrative issues and Mr. Deano was in agreement. Mr. Clark asked Mr. Deano to explain that. Mr. Deano said that gets to the heart of this issue. Boards of Adjustment had authority under state law to hear appeals from administrative officials, Ms. Kidd, the Building Inspector, etc. Mr. Adams said the Community Appearance Commission and Mr. Deano were in agreement for those types of municipal officials. That appeal from the Board of Adjustment went to the state court. The Board of Adjustments did not have the authority to hear appeals from the Zoning Board or the Planning Commission. Mr. Clark said that was his question. Mr. Clark asked when acting as the Zoning Board or the Planning Commission and grant or deny a variance, that can't be heard by the Board of Adjustments. Mr. Deano affirmed the statement and stated it would go to state court. Mr. Adams said in every other jurisdiction in the state there was a separate Board of Adjustments with different members, and the only cases that went to them would be Administrative decisions and Mr. Deano stated yes. Mr. Adams said nothing from commissions went to them and Mr. Deano was in agreement. Ms. Bush said the municipality did not have to have a Board of Adjustments. Mr. Deano said no, you do not have to have a Board of Adjustments. Mr. Adams said you did not have to have a Planning Commission or a Zoning Board.

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Mr. Blache said under Subsection C-2A, it stated an appeal to the Board of Adjustment may be taken by any person aggrieved by any officer, department or bureau of the municipality of a decision by an administrative officer. Mr. Deano stated the appeal may be taken by and Mr. Blache stated the Board of Adjustments. Mr. Deano stated no, the appeals to the Board of Adjustment may be taken by any person aggrieved or any officer, department or bureau of a municipality affected by any decision of an administrative officer. It would allow for an instance of a board to appeal a decision of administrative officer. What this was talking about was that the appeals to the Board of Adjustments may be taken by any person aggrieved by any officer, department, board or bureau of a municipality affected by any decision of the administrative officer.

So, if the board felt there had been a wrongfully decided decision by the administrative officer then the board can appeal, anyone can appeal. Mr. Clark said if OMHA, the Historic Association, was denied something by Ms. Kidd beyond the board's normal deal, then they could take Ms. Kidd's denial of whatever they wanted to do to the Zoning Board because it was an administratively initiated action of an administrator against some other group. Mr. Deano was in agreement. So if OMHA felt aggrieved, they as a person, group, board or commission was aggrieved could come to the board to ask for an appeal. Mr. Adams said they would be asking for a variance in advance and an appeal would be after. Mr. Adams said over the time that he had been on the board there were only 4 or 5 actual appeals that had come before the board. Several were appeals from the Community Appearance Commission when they were active and a couple of appeals of permit denial. Other than that, the board had been dealing with variances to the site development criteria.

Mr. Clark said if someone asked for a subdivision of their property and they had to ask for special consideration, i.e. a variance, and there were hardships and a legitimate granting of the variance, that's one thing. If there was no hardship and the board said no, their appeal would not be to the Board of Adjustments but to the 22nd Judicial District Court and this was what the language meant. Mr. Deano said that was correct. Mr. Adams said it was also spelled out specifically in the Revised Statutes that the Planning Commission had the responsibility for the subdivision and resubdivision process and it was a legislative responsibility, and that went into the court. Mr. Clark said in the Parish there was a desire for an Industrial zoning and the board said no and those people appealed. Mr. Adams said the Zoning Board would vote on the case, but it wouldn't matter because the appeal was to the Parish Council. The Parish Council had rezoning authority. Mr. Deano said the zoning was an ordinance and the Zoning Board had the power to recommend the ordinance to the Council. Mr. Clark said the Zoning Board recommended it and the Parish Council did not take the recommendation. Mr. Adams said the appeal of that went to the 22nd Judicial District Court. Mr. Deano asked if that answered the question. Mr. Blache replied sort of. He was a little in the dark and wanted to take it further.

Mr. Blache said if an administrator or person in the administration made an error or omission at that time wouldn't someone have a right to make an appeal. That was information that was left out or was incorrect, which was submitted to this Commission. Because he did not see that addressed. Mr. Deano said if it was an administrative decision and Mr. Blache said it was not a decision, but an error. Mr. Deano said if an erroneous decision was made. Mr. Blache said he did not want to determine it was that; if it was incorrect information that was presented could the Board of Adjustment move forward. That's what he wanted to move forward with. Mr. Adams said some action had to be taken because it came to the board, there was

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a public hearing and anyone can give any information they want to and say the information was incorrect.

Mr. Clark said he thought what Mr. Blache was saying and Mr. Blache stated the board should not get to the portion of the case. Mr. Clark said for example: a lot was 84' and it was 94', that would be a material error in what was provided. If that case, administratively a material error was given to the board on which the board based its decision. Mr. Deano said the board rendered a decision based on information that may or may not have been correct. He felt that was an appeal given to the district court. Mr. Blache reiterated that Mr. Deano felt that was not a case to be heard by the Board of Adjustment. Mr. Thomas said under Section 2.2.8, Additional Powers and Duties of the Zoning Commission, it was stated to hear and decide appeals where it was alleged there was error in any order, requirement, decision, or determination made by an administrative official. Mr. Adams said if Ms. Kidd turned down a permit, it could come to the Zoning Board. Mr. Blache said it did not say turn down; it said error. Mr. Thomas said an error in any order. Mr. Deano said of an administrative official. Mr. Clark said if information was given to us. Mr. Deano said if the board had a problem with an administrative order, then the applicant could appeal it to the board. Mr. Blache said not the order itself but the board was just talking about errors in information. Mr. Deano said the point he was making was if the board rendered a decision and for whatever problem it might be, the appeal was to district court. Mr. Clark asked even if the decision was based on erroneous information that the board based their decision on. Messrs. Blache and Thomas said an error in any order or decision.

Mr. Adams said that was correct, but he wanted to talk about the process. Mr. Thomas said it was listed as additional powers of the board. Mr. Adams said the board was given a packet that had information and the case was brought before the board, and it was discussed at up to 4 meetings. The board would be aware of any error that had been made. Messrs. Thomas and Blache disagreed. Mr. Adams said the applicant was present. Mr. Thomas said he took that the information given was correct. Mr. Adams agreed, but without getting into a specific case. Mr. Thomas said he took what was given to him as correct. Mr. Adams agreed that he trusted the staff. It may be wrong, but people have the opportunity to tell the board that at a public meeting and it could be corrected. Mr. Thomas said at that opportunity the board believed in this case felt was not given; it was given at the 11th hour. Mr. Deano asked if Mr. Thomas was referring to Section 2.2.8(1), and Mr. Thomas affirmed. Mr. Deano stated it read to hear and decide appeals where it was alleged there is error in any order, requirement, decision, or determination made by an administrative official. So, it was the appeal of the order or decision of the administrator. It was not the appeal of the board. Mr. Thomas said, but an error was made and the board was thinking there was an error made to them. Mr. Deano said any appeal from a decision of the Zoning Board was based on some alleged error. It became circular if the board said they would hear appeals on their own decisions if it's alleged that we made a mistake.

Mr. Clark said the error in this was that the board was being given a set of drawings presented to the administrative person as basis for the request. Mr. Deano said the appeal should be of the decision of the administrative official that was appealed, not the decision of the board.

Mr. Adams said no administrative decision was involved. Mr. Deano said that was true. Mr. Adams said the only decision the staff made administratively was the issuance of a permit primarily and that was what was usually appealed. Mr. Clark said the permit was normally given because the person seeking the permit had

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brought good faith representation of dimension, etc. The staff was not in control of the information being given as one administrative example. So Ms. Kidd was giving the board information that other people have given her in every case that he was aware of. Mr. Blache said he was not completely sure that historical information that had been collected as well had been presented. Mr. Deano said if this had been appealed to the court as it was required to be and there was evidence of improper information that was given to the board that would be relevant in that court case. Mr. Blache said he thought it was relevant in this board getting improper information. The board needed to make sure they were getting correct information. Mr. Deano said that was a policy type of thing and a way the board did business. But, as far as, to hear an appeal of the board's own decision, that was not provided for in the law.

Mr. Adams said the board needed a decision diagram box that showed how things flowed, how it followed the system, and who goes where. Mr. Blache said he was going to be insistent at this point in time and we have said that we have meant to discuss procedural requirements, but actually this board had been convened by a majority vote and through due process to meet as a Board of Adjustments and Mr. Chairman I would like insist that we move forward with our meeting that we had already voted to move forward and allow Mr. Waller to present his case. Mr. Adams said that was not what he understood that we voted on. He wanted to find out what we were supposed to do and find out what the process was. Mr. Blache said I understand I have the motion before me and I know it was amended and maybe Ms. Spranley could read from the notes of what the motion was and voted on duly and it was a unanimous decision by the way. Mr. Blache said in all due respect Mr. Deano to your opinion, he believed as a board they had voted to move forward with this as it was. Mr. Adams said he did not believe the board voted to take an appeal on this. We were going to discuss the thing to find out what to do here. Mr. Blache said he would read his motion and the subsequent addition that Mr. Clark had done.

Rebecca Rohrbough, 2525 Lakeshore Drive, said she was not present for the particular project that had given rise to this, but as she listened to the board and what Mr. Deano had reported, a simple question came to mind. She asked if the board had heard a case, denied it and anyone on the board had reason to believe erroneous information was part of the decision process that might have otherwise changed it, was there not an option for an applicant to resubmit to the Zoning Board the case and expediently and not months from now but now and try again to present what he claims was the correct information. Ms. Bush said it could not be substantially similar. Mr. Adams said to him that was the option to be handled, but he did not want to delay somebody if it was a year. He thought it was a year on rezoning. He asked if he was right. Ms. Kidd said she thought it was a year on zoning and if there was something significantly different, they can resubmit. Mr. Adams said if it was significantly different, they can submit a case. They can resubmit a different case absolutely. Ms. Rohrbough said that was just what I wanted. He talked about that at the last meeting.

Ms. Spranley read Mr. Blache asked to hold meetings to be at the chairman's call, gave information about the revised statute, you asked for the Board of Adjustments to convene on September 3rd at 7 p.m. to hear an appeal of Mike Waller to determine if errors in information did occur and could have changed the outcome of the decision. There was lengthy discussion. The board decided to hold the meeting in three weeks. Mr. Clark asked for a letter of grievance and why to appeal before the Board of Adjustments. He asked Ms. Bush about court appeals and was the board acting in a quasi-judicial way. There was more discussion of notice of appeal, extenuating circumstances, what does the official appeal look like. Mr.

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Thomas seconded the motion. The board could call a meeting at any time and decided to hold it on September 10th as the Zoning Board as the Zoning Board of Adjustments. Mr. Clark asked to add to the motion a detailed letter of what the board did wrong. Mr. Blache was just trying to get the information before the board and let them decide. Mr. Blache said basically pursuant to Louisiana RS 33:47:217 that the Board of Adjustments be convened on September 3rd and we amended that to the 10th. Ms. Spranley said because of advertising. Mr. Blache said there was a friendly amendment as well to allow a brief of sorts by Mr. Waller to be submitted. At that time, the board had voted unanimously to allow for the convening of the Board of Adjustments. Ms. Spranley said regarding information that was submitted. Mr. Clark said of the information submitted. The board was looking for the errors of fact that made the board do what they did. Mr. Blache said we had agreed that we would convene this Board of Adjustments to determine if the information submitted by the Planning Director to the Zoning Board for consideration of the case did occur, could it have changed the outcome or could have changed the outcome of the commission's decision to deny the variance and the board voted unanimously on it. Mr. Chairman, he asked to proceed with that meeting that we have agreed to do.

Mr. Adams said first of all that was not his understanding. There was a whole lot of discussion after the thing came up and I thought the board would discuss what we could do because we talked about what we had to do to advertise it and what could be here. He did not know what was advertised. Mr. Deano said that was what he would like to know. Mr. Adams said the public needed to know you are appealing a case so they can come. Mr. Blache said it was his understanding that was the question. He had also put that in his motion as well to say in accordance with a ll advertising requirements. Ms. Spranley said it also said at the end Mr. Blache allowed the meeting of the Board of Adjustments subject to Mr. Deano weighing in on the process. Mr. Blache said he did not say subject to. Mr. Blache amended the motion for a public hearing to discuss the appeals process convened for the Board of Adjustment to hear the case that was appealed and this would be allowing for advertisement. Mr. Adams said that was what he understood. Mr. Blache said it was never his motion to say subject to. Ms. Spranley stated it was at the end of a lengthy discussion. He felt there was a misunderstanding because he never makes it subject to Mr. Deano's opinion. Mr. Clark said he thought that was part of the discussion and the amendment was what his thinking was what was being presented was that there was a problem of facts that because we did not have the right facts that the board's decision was colored. Mr. Blache said potentially. Mr. Clark said there were two parts to it. One was to see what the omissions or commissions of facts were and if those facts they were justified. And two, subsequent to the City Attorney's input on exactly what the board was supposed to be doing if we found the facts were there. Then would the board just send it on to the 22nd Judicial Court, would the board hear it themselves.

Mr. Blache said he never made the statement subject to an opinion of Mr. Deano because we had discussed putting this off until we had a decision from Mr. Deano. He requested to move forward with his motion and it was the board's discussion on whether he could move forward on his motion. He thought it was Mr. Fairley who called the question or someone called the question and the board moved forward to put it on the agenda. Ms. Spranley stated as a point of order, the public hearing was to discuss the merits of whether the Zoning Board would hear the case of Mr. Waller on the merits of the case in writing and in person. Mr. Deano asked what was advertised. Ms. Spranley said regarding the information submitted by the City Planner, noted the two cases, and stated regarding information submitted by the City Planner. Mr. Deano said the two points he made was not that you could not do it, the board would have to amend the notice with unanimous

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consent to open the meeting to hear this appeal and secondly under what authority was the board hearing the appeal. It could not be done under the motion of one of the members. Mr. Blache said with all due respect, that was your opinion; however, he did not agree with it. Mr. Blache preferred to move forward, if possible.

Mr. Adams said he would not talk about the case, but the board knew what they thought about the case and the project. The board would need to do it correctly. In his opinion, the way to do it if there were errors in the submittal, correct them and expedite a new case. Mr. Blache reiterated that Mr. Adams was suggesting submitting a new case. Messrs. Adams and Clark said with corrected information. Mr. Clark said that was what he thought was being discussed at this meeting. Mr. Adams said if it was a different case, yes, if it was the same case he can't. Mr. Adams said submit it with the right information. Mr. Clark said he thought it was to be determined if there was or was not bad information. Mr. Thomas felt from his perspective, there appeared to be bad information. Mr. Adams said include it in a new package. Mr. Blache asked Mr. Deano if that was a correct action to allow for a new submission. Mr. Deano could tell them that answer the following Tuesday. Mr. Blache moved to allow Mr. Waller to resubmit a package. Mr. Adams said he was in agreement, but he was not sure the board could take action at this meeting. Mr. Thomas said the board convened the meeting for two things, to get an opinion from Mr. Deano of which Mr. Blache did not agree with. Mr. Adams said the submittal must have different information. Mr. Blache said basically it would be the same information assuming Mr. Waller could address that for the board. Mr. Adams said the material facts of what was wrong. Mr. Blache said procedural information that was omitted. Mr. Adams asked if it was something misrepresented in the CLURIO. Mr. Blache said no, he would not characterize it as that. Mr. Thomas asked if we want to discuss it here. Mr. Adams said he did not feel comfortable discussing anything about the specific case. Mr. Thomas said that was the question, with legal counsel present he needed to advise the board. Mr. Thomas said the board was going in a different direction. Mr. Adams said he did not see any reason that would prevent someone from filing a new case as long as it was somehow different.

Mr. Clark said that was not what was brought up. What was brought up was that the board was given wrong information, too little information, or the information given was inaccurate. His question to Mr. Deano was the Board of Adjustments to act like an Appeal Court? Mr. Deano said the board could not act on any adjustments of their own decision. Mr. Clark said it was not about the decision, but about the information. That was the whole issue brought up. Mr. Deano asked what was the action sought to be taken, did the board properly advertise to take that action, and did the board have the authority to take that action. Mr. Clark asked what was advertised. Ms. Spranley stated regarding the information submitted by the planner because the board thought there was an error. Mr. Deano said there was no mention of an appeal to be heard and the board did not have the authority to take an appeal. Someone may appeal that back to the board. Mr. Adams said he thought the board did not have to give anyone permission except to all agree to expedite the request if there was some material fact that was not known to the board. The planning staff was to help the board and the applicant. It was the applicant's responsibility to provide the board the information. It was the applicant's responsibility to know the law. Mr. Blache asked what if the staff got information at one meeting and it conflicted at the next meeting, how would that be handled? Mr. Adams asked that the board did not catch it. Mr. Adams asked what that type of information was being referenced. Mr. Blache said that was the reason for the meeting, to get to the bottom of it, let the information be heard by the board, and correct the mistakes. It could be to determine if there was a mistake.

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Mr. Clark said he was not prepared to say the board had made a mistake until he knew what kind of mistake the board made. Mr. Blache agreed with Mr. Clark and that was why he felt it was imperative to move forward as a group and listen to the information. Mr. Clark said it was to be submitted in writing and we were to examine that submittal and say whether it was correct or not. If the board decided it was correct, then what would the board do. Mr. Blache said as the Board of Adjustments, the board could allow the submittal of a new case. Mr. Adams said that was in the CLURO that people could submit a new case if it was different somehow. Mr. Blache felt that was one of the shortcomings of the CLURO, and this was unique situation. How the CLURO would handle an appeal in this situation was not talked about. Mr. Clark said the CLURO stated to go to the 22nd Judicial Court and it was very clear. Mr. Deano asked to be as clear as possible. The two cases were not properly before the board, there was no authority to hear them, and they were not properly advertised. Mr. Blache asked to hear the advertisement again. Ms. Spranley stated case V13-05-11 to Sections 7.5.18.3, Town Center Site Development Regulations/Section 7.5.10.3, B-3 Site Development Regulations, Lots 47-C-1A, 47-C-1 B, 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 and case R13-05-11 Trace Urnits, 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 regarding information submitted by the City Planner. Mr. Blache asked who wrote the advertisement. Mr. Deano said he did not. Ms. Spranley said she had conferred with Mr. Deano as to how it should be written. Mr. Blache asked if it was properly advertised.

Mr. Adams summarized that there was a regularly scheduled meeting and the board could recess and come back to the discussion after the meeting. The applicant could submit new case and hopefully would have new information that clarified the information. If the Planning Department did not send the application to the board, then there was an appeal, and he felt that was the process. Mr. Blache said if the applicant resubmitted and paid his fees, and Mr. Adams said he could ask to waive the fees. Mr. Blache said if the applicant submitted the application and the Planning Director did not accept it, then Mr. Adams said it would be an appeal as an administrative decision. Mr. Clark said there was a precedent for that done. Mr. Blache said this was similar to the case with Our Lady of the Lake's application. Mr. Clark asked if the submittal needed to be substantially different. Mr. Blache clarified that if Ms. Kidd did not accept the application then the appeal was to the Board of Adjustments. Mr. Deano said yes. He would need to research it to be sure, but he felt that was correct. Mr. Clark said if the first application had been accepted and dealt with by the board, could the applicant then submit the same application again. Ms. Bush said under the CLURO, it could not be the same application. Mr. Clark said there must be significant differences that had to be over a threshold before being accepted. Ms. Bush said or wait one year. Mr. Adams said it could be a clarification that was misunderstood the first time. Ms. Bush said in reading Section 4.3.3.15, it was substantially the same plan or site. She thought it would be hard to get over that threshold. Mr. Blache said if the Planning Director refused the application, there could be an appeal to the Board of Adjustments. Mr. Deano answered that he thought that was correct. Mr. Adams said at that point the board would discuss what Mr. Blache wanted to discuss. Mr. Blache said the board was back to square one because the board would be discussing strictly if nothing had changed and not what information had been excluded or was incorrect. Mr. Deano said that was clear that it should be decided by a court.

Mr. Adams said for the applicant to have a case before the board that was the route. Mr. Clark said he could not cross swords with the attorney. He did not feel the board could do anything but accept the City Attorney's opinion. Mr. Thomas

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accepted Mr. Deano's opinion, but he felt it was unusual that a motion was made to have the hearing on a basis and it was advertised as something different. This went back to a lot of unusual things in this case. Mr. Clark said Mr. Blache wanted to convene the Board of Adjustments because of insufficient information. He said if there was improper or incorrect information then the board wanted to find out what that was and Mr. Thomas said it was advertised for neither. Mr. Thomas said if this was the route to show there was an error made then the board needed to correct it and or if not then so be it. Mr. Adams said to correct the process for the future. Mr. Adams reiterated that it was the City Attorney's opinion that the board could not do anything tonight, and the correct process was to reapply. Mr. Thomas said there were no requirements to get before the board. That decision could be appealed. Mr. Thomas said what he was hearing was the process, but it will not meet any of the requirements to get before the board. Mr. Adams said it may be denied, but that decision can be appealed. Mr. Blache said that did not help the applicant because the board would only hear the changes.

Mr. Blache asked how to help the community if there was not any way to get good clean information. He did not know how to get there. Mr. Blache said common sense should dictate this and the board was not allowing for the board's own errors to be corrected. Mr. Clark and Mr. Adams did not feel there was an error. Mr. Adams felt that was new information and requested to present the new information.

Mr. Waller said it was to cover up the errors. Mr. Clark said it was being said that the board met, made a decision and was unaware there was a background failure or conspiracy. Mr. Thomas said he made a decision on something. Mr. Waller said the board made the right decision on the information given. Mr. Clark said he took the facts to be properly delivered through the process. Mr. Adams said it was possible there were bad facts, but the applicant must show the facts. Mr. Thomas said information was included in the information provided.

Mr. Blache moved to recess meeting, seconded by Ms. Bush and was unanimously approved.

The special public hearing was reconvened.

Mr. Adams said the board would finish the discussion. Mr. Blache reiterated that the request was not properly advertised, the board cannot move forward. Ms. Kidd said Ms. Spranley was asked to take the motion because it was the understanding that the board could not hear an appeal of the decision of the Zoning Board because the appeal was to the 22nd Judicial Court. The understanding out of the last meeting was for Mr. Waller to have an opportunity to present what he felt like was erroneous information, but not hear the appeal. Mr. Clark had requested a written statement from Mr. Waller of exactly what the errors were. Ms. Spranley was asked to pick that up and she did not know what Mr. Deano read. Ms. Kidd said she felt that was what Ms. Spranley tried to do on the advertisement was based on what that information was, basically there was an error or something. She thought it was never to reopen the case. The information was picked up out the minute what the statement was that the board would hear something. It was not an appeal of the case, but something else. We asked Mr. Deano for his opinion, which the board received.

Mr. Blache said the purpose was to convene the Board of Adjustments to see if there were errors that would have affected the outcome of the decision. Ms. Kidd felt that was what was advertised. Mr. Blache said if that was the case, he felt the board could move forward. Ms. Bush moved to hear Mr. Waller's statements,

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seconded by Mr. Blache seconded. Ms. Bush called the question and was unanimously approved.

Mr. Waller said the board denied his appeal and he did not blame the board. The board was told if they approved the plan, it would set a precedent all based on a 3,000 square foot minimum lot size. He was guilty because he was not aware of the rules. He had not bothered to read any of it. What was discussed at the public hearing was information that should have been discussed at the work session and it never was. At the work session, there was a telling statement that there had been similar variances issues on lots 47 A and B dealing with lot sizes. After the denial, he researched and read the CLURO on what he did wrong. He always said he wanted to do the same thing he had previously been doing. At the work session, everyone was in agreement to liking the project.

The four lots were resubdivided in the first part of process, two were less than 3,000 square feet and this happened in 2005 and 2006. There was already a precedent set in the Town Center. It was that uncomplicated. That was not mentioned. At the public hearing, the board spent 1 ½ hour justifying the denial. If the board had known that, he would not have been denied. He was doing exactly the same thing he said before. He did not maximize anything. He could not get more than eight units on that lot and maybe three units on the rear lot. It would have to be rental property. He knew he could get five units in the front. He wanted to do something affordable without affecting the quality and it left enough land to construct another building on the end with gap in middle to do a big building. It came to develop the Town Center, and it had been about nine years since he started that, to make a more interesting streetscape because it was the major block behind the Trailhead. It was important to him. He did not propose anything different and there were already two variances for the exact same thing. 629 Lafitte Street was 20' wide and it worked. He knew it would cost more money so these units had to be grander since they front on the street. He realized he could not sell these units with a carport, so he widened the lot for an 18' garage door and two cars by making it 22'. Just adding 6-7' on a townhome would not work. It would change the whole mix dramatically. This would throw out a year's worth of design work and start over. Mr. Quillin said Mr. Waller had done that once. Mr. Waller said he just moved it to wall 2'. If he designed it larger than that, the living room was too big. If it was that easy, he would do that. The unit would cost \$600,000.

Mr. Adams said when Mr. Waller first started with the project, the board looked at the property as a unified development even in separate ownership but it a together project. The board looked at the maximum density on the whole project, which was what he had. He said Mr. Waller knew what was the maximum lot number that he could have. Mr. Waller said he never approached it that way. Mr. Adams said that was how it was consistently approached and the number was 13. Mr. Waller asked why he was denied. He said it was because the board would set a precedent. He got it in writing. Mr. Adams said he seemed reluctant to make any changes to accommodate the board's concerns. Mr. Waller said he was reluctant because he had spent a year designing a townhome and the board was saying he could just change it to be 8' wider. It was a big deal and this should have come up at the work session, and if it had we would have worked it out. Mr. Adams said that was the concerns of some of the board members, and not all members. There were some members that were only concerned about the total density on the lot. That left two big lots on left for a maximum of two or three units for a total of 13. There were people making suggestions to accommodate you and you would not listen; you dismissed them.

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Mr. Waller asked if Mr. Adams had ever designed or built anything. Mr. Adams said no. Mr. Waller said he was not stupid in what he was doing. The real test was that he could get five units on the street to meet the code. Mr. Adams said that would only leave one unit on the rear. Mr. Waller said there were previous variances and why weren't those variances brought up. He did not know either. He had two lots with less than 3,000 square feet. The precedent was set in 2005 and 2006 and he was denied on that basis. At the work session, everyone loved the project. Then we came to a vote meeting and it came up that there may be a drainage problem. He knew there was no drainage problem. That took a month and a half because he had to get the engineer to find the plans in his warehouse from nine years ago, review the work, and he reiterated that the project would drain half of the block and the catch basin and pipe was sized to handle that.

Mr. Adams said what was the board to do if they were told the applicant needed a servitude. Mr. Waller said if he was a board member and heard what he heard, he would have voted it down too. We were setting a precedent. He really did not understand it, but understood the principle. When he found out the precedent was already set, he was back to the same thing. He did not propose anything that was not already done; it was the same thing. There was a section in the rules that anything in the Town Center and B-3 district was superseded by the Town Center provisions. There were two things - a variance was already granted and the Town Center rule. To his dismay if he had read the rules and kept up, he would have known that. He did not know that because he trusted everyone. It should have been done administratively. It was no different than before. He brought the plan and the money, and here was the process. He had been cooperating from the beginning. He had watched the board for an hour before this meeting doing everything they could not to have this come out. Mr. Adams said it was about process. Mr. Waller said process was more important than developing the Town Center by someone who had invested a lot of borrowed money. Mr. Adams said there was two different issues. Mr. Waller said it was not two different issues. He lived in Mandeville, was a taxpayer and was trying to improve Mandeville and did not want to leave. He was being told that the process was he could go to court for a year. Mr. Adams said he was told the process.

Mr. Waller said he wrote a letter and everyone received it that there were already variances and the board knew that before coming into the meeting. The board still brought in the attorney and spent an hour to keep that from coming out to the public. Mr. Adams said Mr. Waller was making accusation of intent. Mr. Adams asked Mr. Waller if he was saying the board deliberately voted against him to kill the case. He asked to get that on the record. Mr. Waller said the board was given incorrect information and had no choice but to vote against the project the way he presented it. That was exactly what he was saying. There were two variances granted in 2005 and 2006 and not everyone knew that. After he started digging it up, he wrote a letter to the Chairman of the Planning Commission after he read the rules about the Board of Adjustments. He got a letter stating he had to go to court. He was then told he could not talk to any of the members of the Zoning Board because of pending legislation. Mr. Adams said that was true. Mr. Waller said he never threatened to sue anyone. He just wanted an appeal. There was an appeal process. Mr. Adams said he could not have exparte communications with the board members.

Mr. Waller asked about the appeal under Section 4.2.4. He could come before the board for \$25. The board could just pick and choose what they wanted to hear. Mr. Adams said as previously discussed, the only decision the board could hear was administrative appeals. Any appeals of the board's decision went to the 22nd

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Judicial Court. Mr. Waller said he did not see that anywhere in the CLURIO. Mr. Adams said there was a letter from Mr. Deano explaining that. Mr. Adams said Mr. Waller still had an option to come before the board. Mr. Waller said he would have to redesign the units, and eat a whole year's work, which he knew was something that would not work. Mr. Waller said the bottom line was that the board voted to deny the project because it would set a precedent and the precedent was already set. At the work session, it was stated that there were similar variances granted on lots 47A and 47B dealing with lot sizes and that was the only mention brought up about it until the voting meeting. Then there was no mention of it whatsoever. Mr. Adams said there were seven varied reasons for voting against the project. Mr. Waller said he thought the board should vote again. Mr. Adams said the board could not do that at this meeting. Mr. Clark asked Mr. Waller correct y that he said he would have voted against it because of the way it was presented. Mr. Quillin confirmed that was what Mr. Waller said. Mr. Waller said he would have voted against it if the information was presented to him because of a precedent being set. He felt that made logical sense. Mr. Clark said he was all about precedent as he was reading the minutes. Mr. Waller said if he had only been presented with the information received and you had no choice but to do that. The board was told that they were setting a precedent and everything Mr. Waller had been doing was out the window. The board was not told there were already two variances. Mr. Clark said speaking as one member of the board, his decision process about precedents was not only about creating one but compounding one. He wanted to key on Mr. Waller's statement that the information the board was supplied and the presentation of this information he would have voted it down as he said, and it was voted down. He was looking for the wrong, the what was withheld, the somewhat bad information that was given. Where was the bad information, not the omission of information? Mr. Waller said that was the same thing. The board was told they would set a precedent. The board had already set a precedent in 2005 and 2006. Mr. Clark said from his perspective, he had a problem compounding a precedent if it was a precedent not useful to the town. Mr. Walker asked why it was not brought up at the work session. Mr. Clark said he agreed with Mr. Blache's request for the discussion because if bad, manipulated, or incomplete information was given, he wanted to know. He was looking for the bad information. Mr. Waller said clearly in the minutes, the variances were granted in the past. Because they were granted once did not mean they would be granted in the future. Mr. Waller said granted he would have voted against it for other reasons. Mr. Clark said that was a ridiculous accusation. Mr. Waller said he was on the record. Mr. Clark agreed that Mr. Waller was on the record accusing him of ulterior motives to shut down the project. Mr. Waller said he watched the board for an hour try to keep this information from coming out. Ms. Bush asked to have the previous variances read to the board since she was not on the board. Mr. Waller said when he sent the letter, he sent two copies of the survey. He said he assumed the board got the letter. He had received a response to the letter from Ms. Kidd, but not from Mr. Thomas.

Mr. Adams said neither one of the chairmen or members of the commission were supposed to communicate with Mr. Waller. Mr. Waller asked why it was. Mr. Adams said it was exparte communication because not all of the parties that may have an interest may be present to hear all about it. Mr. Waller said the goal was that the board wanted to enforce the rules, but at the expense of other things. What was really important were the rules. What we were talking about for variances is what it was down to. Mr. Adams said he did not understand it. Mr. Waller came to four meetings and got positive feedback about the nature and overall stuff and went through it and provided reasons. Mr. Waller said the board was happy with it. It was in writing. The board loved it. He asked why it was not brought up at the work session. According to the minutes, there were things that were contradictory

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between the work session and the public hearing. Mr. Adams explained as the board went through the case there were all kinds of discussion. There was talk about the servitude, something on the back lots, which he did not know if the board ever saw that or not. Mr. Waller said he stated he thought he could construct 8 units on the remaining land. He told the board why he did it at the work session. Mr. Adams said that was not what the board was going for. No one was going to go for that. Mr. Waller said he knew what the board was going for, that was made clear. Mr. Adams said he was not sure he understood. Mr. Quillin asked Mr. Waller what the board was going for. Mr. Waller said the board did not want to approve the project. Mr. Quillin disagreed. Mr. Waller said the board voted his project down. The board loved it. Mr. Quillin agreed that he did love the design. Mr. Waller agreed with him, but Mr. Quillin voted it down because they were told they would set a precedent. But, now the precedent was set in 2005 and 2006. Mr. Adams said Mr. Waller was saying it like it did not apply to everyone on the board. Mr. Waller said he was talking like it applied to all of the board. He asked if Mr. Quillin had known would he have voted the same way and Mr. Quillin answered no, not without additional information. Mr. Quillin said he would have voted it down because he had several concerns of density, the 3,000 square foot per lot allowed density but it was a discussion we had in the original meetings. Mr. Adams asked Mr. Waller how the board brought it to a vote, it ended rather abruptly with you. Mr. Waller said that was right. Mr. Adams said Mr. Waller was saying the board was just not going to approve it. You said to go ahead and vote and when you throw that in somebody's face when there were unanswered questions. Mr. Waller said that was right. He went to the work session and the board was happy with the project, then when we met two weeks later all of a sudden there was a question about drainage. He stated there was no drainage problem; it was taken care of nine years ago. He paid a lot of money to get the drainage problem solved. He agreed to do that. It took him a month and half to get it done and he paid the engineer to reiterate it, writing there was no drainage problem and never would be because it was designed to the City's specifications. So he thought all he had to do was walk in and have a vote. When he walked in we spent an hour and a half talking about things he had never heard of before. Talking about a 3,000 square foot density rule. He did not know about that. That was his fault, he trusted everybody. If he had been a lawyer he may have read the rules, he might have designed it differently. If he had read the rules, he would have asked if he could design it like this. He designed for the market. He would come and asked if he could do it, and if you tell me I cannot then I would redesign to fit the rules. He had to follow the rules. He was a rule follower. He was a capitalist; he wanted to follow the rules. He also expected everyone else to do the same. Mr. Adams asked if he did not look at density for the area before designing. Mr. Waller said this was the Town Center and this was the concept the whole Town Center was about. He had come to the board with the plan for a mixed use area and it worked. Mr. Adams asked if he did not know that he could only have the 3,000 square feet. Mr. Waller said he did not know. He did not bother to read it. He was in the Town Center. Mr. Quillin said Mr. Waller had stated he was a rule follower. Mr. Waller said that was right and the rules were not brought up at the work session. Mr. Quillin said he could not say yes or no. Mr. Adams said the board talked about the maximum number of lots in the whole project. In fact, the board was trying to accommodate Mr. Waller through the whole process by letting him have a couple of standard lots. The board trusted Mr. Waller knowing that the real control over the density was in the whole project. Mr. Clark said in the minutes everyone was trying, including himself, to find a way help within the limits of not opening it up for people anywhere to do that. He was looking for bad information, for somebody that tried to cook the books.

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Mr. Blache said that was not what he gathered from this, that information was not correct. What he was presented with, his vote was based on being afraid of setting a precedent on killing the B-3 and other areas where there would be cubbyholes on the west side of town. Not knowing any better and relying on Ms. Kidd's information, it was not responsible to do this. That was why his vote was a no.

Ms. Kidd said as clarification that the board was mixing up the difference between the total lot size area of 3,000 square feet where there were variances; granted on the original subdivision. But, what we started talking about, which she thought was why everyone unanimously voted against the project, was when tracking the density requirements and numbers of 3,000 square foot per unit so basically the lot sizes would be 3,000 square feet per unit but in this case because it was the Town center and you could do mixed used, Mr. Waller originally talked about doing a large part of this project as commercial. There was already commercial built in. The City did not know at the beginning of the project where they would build out commercial, residential, or what that was. It was said at the first work session and it was in the minutes, the staff did not know what the density was on the site and we would verify it. When Mr. Waller came back, the City had to get him to meet with the Public Works Department and he sent his partner and the City finally got the servitude because he would not have anything to do with it. So, they finally got that settled, forwarded that, ran the density numbers, and what you looked at, and the numbers were there, a total square footage of the site. He was proposing three sublots all less than the 3,000 square feet. If it was just the beginning of project, you could just change the lot sizes, but ultimately this was the build out of this project. The build out of this project would ultimately exceed the density requirements. That was what was discussed. Mr. Blache said he disagreed because the density requirements were told to be 39,000 square feet. Ms. Kidd said there were 13 units. He had two larger lots that he had left over that he said he wanted to further resubdivide. Mr. Blache said the board was under the impression that was not going to happen. Ms. Kidd said the board talked about it and went back and forth saying maybe the board would condition it. Ms. Kidd said Mr. Waller kept repeating that he was building for the market, this what I want to do, I want to subdivide it further and she thought the board took that off the table by denying it. The board said to create larger lots from what Mr. Waller was proposing. He would still have two lots larger than the 3,000 square feet and be limited to one unit on each of those two lots. That was how the board left it. It was not said that the board would set a precedent by creating three smaller lots. You would create a precedent by the potential where he stated he would come back and further resubdivide and would exceed the 13 units. That was what the discussion was. She did not try to present erroneous information. She was only trying to inform the board of a potential situation that could be created.

Mr. Blache said with the 3,000 square feet, had he known there were previous variances he might have reconsidered. Ms. Kidd said it was stated and shown on the plats with the square footage on the lots. Mr. Blache said to him knowing the 3,000 square feet and the Town Center stands alone. Ms. Kidd said not in this case. When you look at the CLURO, under the B-3, under the townhomes lots which was the special criteria found in Article 8 and in the Town Center of which all three districts that this project fell under, specifically state 3,000 square foot minimum of land area per unit. That was a minimum all the way through. They do not get with the lot sizes; they do not deal with all of that. If you want to vary shapes of lots and sizes in some cases, but it did not grant overall density. The question was would the board be granting overall density and the board had not done that. Mr. Blache said she was saying the potential of a precedent to be set in the future would

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be there. Ms. Kidd said Mr. Waller's intent was to resubdivide the other two lots. Mr. Blache said his argument was the potential for the board to increase density in that area exists. Ms. Kidd she only presented information based on that and the board made the decision. Mr. Blache said and he read the minutes that the board kept hearing setting a precedent. It had not been done before. He looked at it had been done. Ms. Kidd said not on the density. Mr. Adams agreed that it had not been done on the density and had not been done on a whole project. Mr. Blache said it would not be exceeding the density with the three units. Ms. Kidd said the motion could have been conditioned. Mr. Blache said we tried to, Mr. Clark tried to. Mr. Adams said that was what he was looking for. Ms. Kidd said the board made the decision. Mr. Blache said Mr. Clark asked two or three different times if that could be done and he was told no. Ms. Kidd said she did not say no. Mr. Blache said she told the board they could not do that. Mr. Clark said he remembered asking how the board could help Mr. Waller, who thought he was not trying to help him, what it would take and what the board needed to do, if it could be done, but he was waiting at this meeting to hear where the board screwed up, had bad information, and had made a bad decision. That was the meat of this meeting. Mr. Blache said Mr. Clark would not get the idea of what he just explained. He was saying that Mr. Clark would not come to the same conclusion as him. He concluded that the board was setting a dangerous precedent to allow less than 3,000 square feet density. He understood it but did not agree with it. If the two lots were still in existence, the board could say they would not vary from it because at that point you would exceed the density for that tract of land. Ms. Kidd said granting a variance to lot frontage, depth, and square footage was potentially causing a problem for density and was discussed at length at that meeting and the board made a decision. If you regret your decision, you may regret it but you made a decision based on factual information.

Mr. Adams said the meeting would end with everyone giving whatever information they had and then somebody takes whatever legal options were on it. Mr. Waller said go to court. Mr. Adams said he did not say go to court. Mr. Waller said he had three letters from Ms. Kidd saying go to court. Mr. Blache thanked the board for hearing it; he thought that was the proper thing to do. Whether they could make a decision, and he knew the board could not, but at least it was heard. The board needed to possibly address some issues in the CLURO when things like this did occur. There were livelihoods at stake and the whole downtown of the City that everyone said they wanted, but no one seemed to want to move it forward. It was ridiculous when you got down to the fact of why was it not happening. There was someone that wanted to do it and the board could not allow him to do it. Mr. Clark said he was not sure about that. Mr. Quillin also disagreed. Mr. Adams said the Town Center was an experimental district that everyone was learning as they went. The CLURO did need tweaking now and have this spelled out better because of the mix of commercial and residential. The board had learned more and should also look at the parking ratios. There was a consultant coming and asked if he could include this in the first phase of changes. There were two or three reasons why people voted the way they did.

Mr. Adams said the discussion ended abruptly and Mr. Blache agreed. Mr. Deano said there were several issues in the CLURO that were problems and one was mentioned as the appeal procedure. It was confusing and did not follow the state law. He wanted to make sure everyone was aware of it in the review. Unfortunately, it was not things that dealt with land planning and the little legal things that can trip people up. Mr. Clark asked Mr. Deano to discuss if the board was convened as a Board of Adjustments, and was it convened because of an actionable breach of something by administrative people. He did not see an administrative

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failure, or breach of ethics. Mr. Waller made his statement about he would have voted it down. There was a lot of discussion and he was Mr. Precedent. Mr. Deano said Mr. Clark's position was well substantiated under court decisions. The board was not constituted to hear an appeal. Mr. Deano said no action could be taken, but the CLURO section seemed to say Mr. Waller could do something and legally it could not be done. Court action was the right action.

Mr. Clark said he agreed with Mr. Blache because if the board had been misinformed or by a conspiracy misinformed, the board needed to see it but he did not see it. Mr. Blache said he saw in a case earlier this evening where mistakes were made and a man bought two lots. That happened. The board had an opportunity to see if it happened or not. The board had to look at it to say yea or nay, and he appreciated the board doing it. Mr. Clark said absolutely it was the thing to do. Mr. Adams felt some good came out of it.

Mr. Clark said in looking at the minutes, he said let's try to find a way to help Mr. Waller to encapsulate it to assure the hyper density did not get out. But Mr. Waller was asking for a variance based on doing it for the market and that was not the justification for a variance.

Mr. Waller said he did not ask for a variance. He said let's go back to the beginning. He went to Ms. Kidd and he said this should be administrative because he was not doing anything different than before and she said it was approved previously by a variance and this must be a variance. He went along with that and did not question anything. He went to the work session and everyone liked the project. He was ignorant not being a lawyer and he trusted everyone and the process. He was here like five months later and he could not do anything but go to court. He was told to go to court about three times. No explanation, go to court. But what about the \$25, here's your money back and go to court. He was now here about an hour or two finding all kinds of ways to make this from happening. But he never understood why. But he thought he really knew why. But he could not do anything about it. Mr. Clark said why. Mr. Waller said he could not do that because he was on the record. That was a personal opinion. We may end up in court who knows. Mr. Waller said he just wanted to finish what he started. All he heard was why we cannot do that. The board really did not want him to do this was what he was being told. Or, maybe wait a few months and talk to us about it later. So the message Mr. Waller got was we used to be happy with what you did but we are not happy anymore but go ahead and sue us. Mr. Adams asked Mr. Waller how many times did he hear the board say it was a project they wanted to see done. It was needed in the Old Town, and now he was accusing everyone of not wanting that. Mr. Waller said it was the board's actions. If you really want to see it done, we would not be talking about all of this.

Mr. Adams said Mr. Waller could possibly have some responsibility of not addressing the concerns of the board. Mr. Waller said he was always addressing the concerns of the board. Mr. Adams said he did not that night when the board was about to vote on it. Mr. Waller did not seem to address anything after the board talked about it. Mr. Waller said he walked into a meeting and never knew anything about the 3,000 square feet. It was never brought up at the work session at any time. The board started talking about making the lots wider. It was not easy to do. He was not prepared for any of that. He said shame on him. Mr. Adams said at the end of the first meeting, the board specifically said they needed to see how the overall density worked out and the board did not have the numbers and needed to be computed. Mr. Waller said the board did not say that. Mr. Waller said the board had not granted a variance like this ever before. Mr. Waller asked Mr. Adams if he

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started the CLURO and did not know about the 3,000 square feet. Mr. Adams said he knew about the 3,000 square feet. Mr. Waller said Mr. Adams had stated he did not think the board had ever had a variance like that. Mr. Adams said the board had certainly granted variances to site development criteria, but not density. The board talked about density for the whole project. Mr. Waller said the bottom line was the board did not want him to do the project. He could only do it if he threw out the plans and started over from scratch. That was what the board was telling him. Mr. Waller said at that last meeting, the board did not want him to do it. The board had spent an hour and a half coming up with all kinds of reasons why not to do this. All anyone had to do was sit him down in the beginning and tell him that before he started designing. He brought the designs in a year ago and ran it by the Design Review Committee at 20'. The lots were even smaller then. Ms. Kidd said it was architectural design and not site development criteria. Mr. Waller asked who's responsibility was that. Mr. Adams said Mr. Waller would find in the recording of the minutes that there were people not having problems with three lots of less than 25' at the time. There were people that said they were concerned about the overall density. He was concerned and there were others. Mr. Clark was concerned about the extent of the variance being requested. Mr. Adams said there were many different reasons. Mr. Waller said so the board decided they liked the project, but it must be wider and it would be terrible for Mandeville. Mr. Adams said Mr. Waller was guessing on people's motives, and said he should not do that.

Mr. Clark said for the record he found no improper manipulation of information or administrative failure. Mr. Quillin was in agreement as was Mr. Clark. Mr. Thomas told Mr. Waller he got his day in court and he had options and he must make a decision on what he wanted to do. He liked the project and hoped Mr. Waller would return with some other version.

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


Lori Spranley, Secretary


Dennis Thomas, Chairman

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

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

Absent:

Also present were: Council Member Rick Danielson and City Attorney Edward Deano

The first planning case discussed was P13-08-01 Craig Burkett requests a waiver to Section 13.2.4.3, Frontage On and Access to Improved Street Required, and Section 12.2, Application and Procedures for Approval of Public Improvements Only, square 41B, lots 55, 56 and 57, fronting on Short Street and across 818 Adair Street, zoned R-1 and the corresponding zoning case discussed was V13-08-17 Craig Burkett requests a variance to Section 7.5.1.3, R-1 Site Development Regulations, square 41B, lots 55, 56 and 57, zoned R-1.

Ms. Kidd presented a case that was discussed at the work session. The applicant owned two properties one fronting Adair Street and the three lots behind it facing Short Street, which was dedicated but unimproved. Mr. Burkett purchased the properties with the understanding that he could provide a Servitude of Passage to access the rear three lots. Upon review, the staff felt it was not a request that could be granted administratively. After the last meeting, the applicant met with the Department of Public Works who said the Short Street improvements was not listed on the street improvement program within five years. There were not enough property owners needing access to make it feasible to put up money in escrow for the improvements. Mr. Burkett would have to bear a burden to provide the full list of improvements. The Public Works Department did not want a driveway, but to be improved to City specifications. It would be cost prohibitive at this time. The City Attorney recommended that he had no objections to the rear house having an Adair Street access. He recommended creating a panhandle lot with access to the rear in case of a future sale. The R-1 site development criteria were advertised under the original advertisement for servitude of passage reducing the lot frontage. He did not have a resubdivision plat prepared, but the applicant wanted to provide an up-to-date and how to solve the issue. If board was favorable to the resubdivision, the board could vote pending or prepare a plat and return. The property was tied up in the Louisiana Recovery Program and needed to move forward.

Mr. Burkett was suggesting to increase both lots to 125' to comply with the depth requirement. A concern at the work session was a substantial magnolia tree on the north side of the property which no one wanted to be impacted? It was workable to do the panhandle lot on the south side of the property.

Mr. Adams asked what would be the frontage. Ms. Kidd said both lots would face Adair Street. It was discussed if a house was built on the rear lot facing Short Street for a future street opening there would be frontage. She suggested meeting with the Design Review Committee to work through the issues. Mr. Adams asked that the owner must be entitled to access the lot in some way. Ms. Kidd said the subdivision required all lots have frontage on improved streets. The lots were created in 1918 and the street was never improved. Mr. Blache asked how large would be the panhandle and it was answered 15'. It would reduce the lot frontage from 78' to a 63' frontage.

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Mr. Adams said in the past, the board had discouraged panhandle lots; however, there were similar situations. Mr. Clark suggested selling Short Street to the land owners. Mr. Adams said there would still be access problems.

Mr. Clark asked how Mr. Burkett was lead to believe he could get access to the rear lots. Mr. Burkett had contacted the City because there was an old house and he would be allowed to remove it by approval of the Historic District Committee. There was over 18 months of contact and he was given a proposed address. Through the process with the Historic District Committee, Ms. Kidd said this must be reviewed. There were two houses on the lot at one time. Ms. Kidd said Mr. Burkett had received a Certificate of Appropriateness to allow the demolition. Mr. Burkett said there were two separate meters. It had lost the grandfathering, and he wanted to put the property back in commerce. Mr. Brown had suggested the servitude since it was a separate lot. Ms. Caraway confirmed the ability to create the servitude and Mr. Burkett purchased the lot.

Mr. Quillin said if the panhandle was created there would still be three rear lots. Ms. Kidd said the three rear lots would become one lot. Mr. Quillin asked if the square footage would be 63' x 125' or 150'. Mr. Blache asked about the minimum of the driveway for the panhandle. Ms. Kidd said setback of a total of 15' with a side yard minimum of 5' probably because of the magnolia tree. Mr. Blache asked if the driveway would be part of the side yard setback or could it be on the property line. Ms. Kidd said it was usually 3' for drainage. Mr. Blache asked if 15' would allow enough room for the driveway. Ms. Kidd said it would probably be a 10' driveway. Mr. Burkett said it was 15' for extra room for drainage. Ms. Kidd said a street was 20' average, and the car width was 8'. Mr. Burkett said the engineer would create the drainage plan. Mr. Adams asked about the lots above this property being in the same ownership. Ms. Kidd said it was noted as being in the same ownership. Ms. Kidd said the information showed that Laurent was the same owner, but she was not sure. Mr. Adams said the lot would come to the same problem in the future. Mr. Clark said they might need to make an agreement with the neighbor. Mr. Clark said it was the same way with some other streets.

Mr. Blache said the courts allow for entrance to your property. Mr. Burkett said the two lots were under separate ownership. Mr. Adams said the board should think about the other lots too. Mr. Burkett said the owner to the right of the property owned the property to the rear. Mr. Adams said the owner could sell the property because it was not applicable to the contiguous lot law.

Mr. Thomas said two city employees had told Mr. Burkett he could create the two lots. The City Attorney explained that someone could receive erroneous information and the City was not bound to grant it. No property owner on Short Street had access. Mr. Blache said the City did not usually approve flag lots, but asked what would be the harm. Mr. Thomas said this would be creating two non-conforming lots. Ms. Kidd said the front lot was already non-confirming in frontage. Mr. Adams said it was deficient also to the rear.

Mr. Adams said the Public Works Department was to figure something out. Mr. Blache said if there no near term plans for improvements that were a hardship to those properties sold many years ago. There must be a way to rectify it. Mr. Adams agreed, but suggested giving up Short Street since it only went to the middle of the block. Mr. Blache said the elderly neighbor was not in position to construct a street. Mr. Thomas said Mr. Burkett had a bargaining chip since he was told he could create a servitude. Mr. Quillin said it was about all utilities. Mr. Thomas said he make it a driveway. Mr. Burkett said the Public Works Department had said the taps must come from Adair Street. Mr. Thomas suggested creating a gravel driveway off

of Florida Street so there would be frontage and the ability to get utilities from Adair Street. Mr. Blache asked about a budget process.

Mr. Quillin said the only difficulty with a flag lot was the lot size for the eastern lot being 9,500 square feet instead of 10, 800 square feet. Mr. Adams : asked how much could be taken out of the lot for it be legal. Mr. Quillin said it could be decreased by 975 square feet, and make the driveway 5.1' wide which would not work. Mr. Adams suggested adjusting the width. Mr. Quillin said if it remained at 150', it would be 5' wide, if 125' there would be more of a problem.

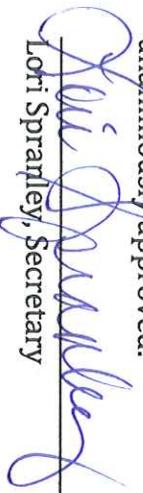
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Mr. Adams summarized that a flag lot was the best submission. Mr. Blache saw no other options. Mr. Clark said putting Short Street into commerce with a gravel drive was a suggestion, but the Public Work Department did not want that. Mr. Blache asked if Mr. Burkett had talked to Kendall Cousin. Mr. Burkett had spoken with him and they had discussed his proposal. He said he would not tell someone what to do with their property. Mr. Adams suggested leaving the Adair Street the same depth. Mr. Burkett said there was always the option when Short Street was developed to move the line. Mr. Thomas asked if he would have bought the three rear lots if he had not been told he could create a servitude. Mr. Burkett said no.

Mr. Adams said the board would review the plan at the next meeting. Mr. Burkett will have a surveyor show the house locations.

Mr. Quillin moved to table the case until the next meeting, seconded by Mr. Clark and was unanimously approved.

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


Lori Spranley, Secretary


Dennis Thomas, Chairman

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

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

Absent:

Also present were: Council Member Rick Danielson and City Attorney Edward Deano

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 appealable appeal time will begin to run.

The first zoning case discussed was V13-08-17 Craig Burkett requests a variance to Section 7.5.1.3, R-1 Site Development Regulations, square 41B, lots 55, 56 and 57, zoned R-1, and the corresponding planning case was P13-08-01 Craig Burkett requests a waiver to Section 13.2.4.3, Frontage On and Access to Improved Street Required, and Section 12.2, Application and Procedures for Approval of Public Improvements Only, square 41B, lots 55, 56 and 57, fronting on Short Street and across 818 Adair Street, zoned R-1

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Mr. Adams said the board would review the plan at the next meeting. Mr. Burkett will have a surveyor show the house locations.

Mr. Quillin moved to table the case until the next meeting, seconded by Mr. Clark and was unanimously approved.

The next case discussed was Z13-09-03 Alex Adkins/Brad Fuselier requests a zoning permit to Section 6.7.2. Combined Use – Residential/Commercial and Section 6.4.7, Animal Sales and Services (Limited), part of lots 1 and 20, square 20, 503 Girod Street, zoned B-3

Ms. Kidd presented a zoning permit request for Animal Sales and Service, Limited. The applicant was proposing a pet shop, which required a zoning permit. The property had previously been approved for a zoning permit to allow a combined use of commercial and residential. There was currently a residence on the second floor. The parking requirements did not change from the requirement of 17 existing spaces and the variance was granted for three spaces. There was a discussion about the driveway on Monroe Street, which would be closed and landscaped. The review of the landscaping was that they were in compliance with the number of trees and will cleanup the site.

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Mr. Fuselier said Ms. Gleason checked the site for compliance. Ms. Kidd said Girod Street was planted under the landscape plan and the City will look for replanting. Mr. Adams said the board reviewed the use for compatibility. Ms. Kidd said Wildlife and Fisheries governed the sale of animals. Mr. Thomas asked about the hours of operation. Mr. Fuselier said 11-7, Monday through Saturday.

Mr. Blache moved to grant the zoning permit, seconded by Mr. Thomas and was unanimously approved.

Mr. Blache moved to approve the minutes of October 13, 2012, seconded by Ms. Bush and was unanimously approved.

Mr. Quillin moved to approve the minutes of July 9 and March 12, 2012, seconded by Mr. Clark and was unanimously approved

The minutes of January 8 and 29, 2013 were deferred until the next meeting.

Mr. Fairley moved to defer the adoption until the next meeting, seconded by Ms. Bush and was unanimously approved.

Ms. Bush moved to adjourn the meeting, seconded by Mr. Blache and was unanimously approved.



Lori Spranley, Secretary



Nixon Adams, Chairman