

**Zoning Commission
Public Hearing
January 27, 2015**

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

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

Absent: Dennis Thomas

Also present: Louissette Kidd, Planning Director, Council Members Rick Danielson, Carla Buchholz, David Ellis, Ernest Burguières, and Clay Madden; and Mayor Donald Villere

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. Mr. Adams also announced there would be a public comment time on any subject at the end of the meeting that was not related to items on the agenda.

The first case discussed was V15-01-02 Daniel Gast, Gast Construction LLC, requests a variance to Section 7.5.4.3, R-3 Site Development Regulations, lot 56, square 39, 620 Ramon Street, zoned R-3

Ms. Kidd presented that the property was located in the R-3 district and the applicant desired to construct a single family residence and reduce the minimum side yard setback. The lot measured 30' x 120'. The R-3 site development regulations required a combined side yard setback of 20' with 10' each side, and the applicant was requesting a reduction to 5' on the north side. All other site development criteria was met. It was confirmed that there was a single family residence to the north side of the property.

Mr. Quillin moved to approve the request based on the previous comments at the work session and suggestions about the patio, seconded by Ms. Bush and was unanimously approved.

There were two corresponding cases that were discussed in conjunction. They were Z15-01-02 McGuire Real Estate Group, LLC requests a zoning permit for Section 6.4.64, Restaurants – Sit Down with Lounge for the Frapart Hotel to be used as a restaurant, 2119 Lakeshore Drive, zoned B-3, and V15-01-03 McGuire Real Estate Group, LLC requests a zoning permit for Section 6.4.70, Tavern – Bar or Lounge for the Sophie Wright and Hadden Cottages to be used as a tavern, 2119 Lakeshore Drive, zoned B-3

Mr. Adams announced that there would not be any discussion on the property located to the rear of the property. Mr. Adams said there was discussion at the last meeting regarding the location of the kitchen and the danger to that, the dumpster location and the deck.

Ms. Kidd said Mr. McGuire had a presentation of the revisions made since the work session of all the issues that were brought up by the public and the Planning Commission in addition to those issues outlined in the case summary. One note was that the original zoning permit request was for a sit down restaurant in the former Hadden Cottage which had been amended to Tavern/Bar/Lounge. A restaurant with lounge in the former Rest-A-While structure, and in the Sophie B. Wright cottage as a Tavern/Bar/Lounge was proposed. That provided consistency in the parking calculations. The parking ratio was 1:150 on all three uses where the restaurant ratio was 1:200. They were all connected by the boardwalk. There was a revised case summary outlined in red indicating the revised submittal. The

revised sheets reflected the date of January 19, 2015. Mr. McGuire's presentation was given time to load.

Council Member Burguieres suggested moving onto the Crosby Development request for the Sanctuary subdivision. Mr. Clark moved to recess the meeting to the work session, seconded by Ms. Bush and was unanimously approved. Mr. Adams called the board back into session of the public hearing.

Mr. McGuire made a comment of clarification at the last meeting that Mr. Penzato inferred that they had built a new porch that was encroaching onto the neighbor's property and showed pictures of the steel. Mr. McGuire pointed out that it was the original footprint of the original porch dating back to the early 1900's. A google view from 2011 showed that the porch was already there. He did not want anyone to have the impression that he was trying to sneak anything through. The new porch had the same exact dimensions of previous one, and it was rebuilt so it would not fall down. Mr. Adams asked if Mr. McGuire was addressing both zoning permits at the same time and it was answered that it would be one discussion.

Mr. McGuire said the first slide was all of the modifications from the reviews of the case summary and updates of the plans. It included the Hadden Cottage, mechanical, and actual building heights. They calculated the exact deck area for a worst case parking scenario. From an exterior standpoint, they calculated the full area under the slab of the Rest A While property so once again it could be used for the worst case for parking. They relocated subsurface drain and took care of some drainage problems. On the landscape side, the residential buffer to the west would be a fence planted. They changed the Sophie B. Wright parking, removed the six parallel spaces in front of Rest A While that they had previously proposed so that will all remain green. They removed any parking request at or near the Barley Oak on that side. They updated the parking to show a connection to the adjacent commercial and future connection to the back part of the property, whenever they got to that point. There would be limestone or aggregate for the surface. They reduced the driveway 5' to remove it from the setback. They relocated the dumpster away from the neighbor toward the middle of the parking lot. They removed access and paving from the original dumpster location so approximately 20' from the fence line would be green and nothing would be built.

He then looked at things that could be done as good neighbors that were not specifically called out. They moved the kitchen an additional 10' to give 20' from the property line and the area would be green. They would sprinker the entire interior of the building and exterior side on the porches and fire proof all interior walls of the Frapart Hotel and the addition. He was interested in not just meeting the minimum requirement from a Fire Marshall standpoint, but would like to meet with the Mandeville Fire Chief on what was coming forward but had not reached a regulatory standpoint yet that they would have an opportunity to do now. He was extremely interested on what he could with that. The other thing to do was with the porch on the west side that faced the neighbor; they would restrict full access to that of no patron or personnel to use that porch. It must be there for historical reasons, but it will be there with no access. Another thing they were looking at was the front porches and the neighbor's porch to the west was putting a screening on the porch level, like some type of shutter or similar to give privacy for the neighbors. All of the windows on the west side will be shuttered closed for privacy. There would be a privacy fence on the west side with alternating boards for all good sides, landscape on the west side and they were open to suggestions by the neighbor. The interior bar would be moved to the east side away from the neighbors with no music or speakers on the outside porch or under the building on the west side so there would not be any music blaring on anyone's porch. They would soundproof all of the walls

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to contain some noise. On a recent business trip to Philadelphia in a neighbor with a population dense with restaurants, he could not smell anything. They use a Molitron smell and odor abatement system, and he had contacted manufacturer. It was cost effective for them, especially if it met the claim. It seemed to meet the claims of 95% odor reduction and 50% smoke particle reduction in talking to the restaurant owners. He was looking to install that to help with any smell concerns with the kitchen. They would face the kitchen exhaust to the east which was as far away from the neighbors as he could go. There were dumpster odor control products to be utilized.

One of the biggest concerns was parking. They worst cased all of the calculations. The regulations state it was the higher of the two, interior or exterior. Looking at the numbers, they used 100% of the gross footprint in the calculations. The exterior side had 6,672 square feet, which included all of the square footage under the Rest A While, the porches and so forth but not all of that can be patron area but he left no doubt on the parking requirement because that was a concern of the Old Town. Using the 1:150 ratio there was 44.48 spaces and rounded up to 45. They lost a few spaces moving the dumpster. Now there would be 30 on-site spaces, having 45 spaces required. Instead of asking for waivers and not using the allowable 600', they used 300' out, excluded the Barley Oak and no parking in the front, and used the original calculation of reasonable parking which was 19 for a total of 49 spaces which was more than required. They used the worst case possible and used the distance allowed under the B-3 district by right.

In conclusion, they were focusing on what can be done to minimize the adverse impacts to the neighbors. He had discussed this with his wife and came up with a list that was not an all-inclusive list and would listen to reasonable suggestions for implementation. They wanted to work with community in mitigating any of the adverse impacts.

Mr. Adams asked about the deck area and connecting the lot next door to the Barley Oak. Mr. Quillin said it was shown on the drawings. Mr. McGuire said the deck area that they envisioned for patron area was the front porch of the Rest A While, the walk path through the decks and the square footage of the underside of that area was approximately 1,700 square feet. It was confirmed that the decks were elevated, and Mr. Adams asked what was under the decks. Mr. McGuire said it would probably be some type of aggregate under the buildings. Their calculations included the decks as impervious space. Mr. Adams asked that it was a maintainable area, and it was answered yes. Mr. McGuire said aggregate did not want it to look bad, even from the street.

Mr. Blache said the air condition units were located on the west side of the property. He asked to consider moving them eastward. He had a large unit at his business that made noise and this was shown as three units. Mr. Piazza said it could be moved and Mr. McGuire was in agreement. Mr. Quillin suggested adding on the rear some type of sound abatement as a secondary consideration. Mr. Blache would rather see it moved. Mr. Quillin said wherever located to have noise abatement. Mr. McGuire was in agreement.

Mr. Adams asked by moving the building there would be designed and maintained buffer space. Mr. McGuire said there would be no handout space, no trash cans, no slabs, and no personnel. The only thing that may remain there might be the old brick showers converted into a garden. Mr. Adams said this would be subject to the business hours and noise like all other businesses in the area. Mr. Adams asked if there was anything learned from the Barley Oak to bring forward to this case. Ms. Kidd said she would like to re-emphasize the amendments to the plan.

Ms. Kidd stated that the original plan had parking on the north side of Lakeshore Drive, and the 19 spaces now being counted were at the foot of Carroll Street and parallel on Lakeshore Drive. The spaces primarily used for the Barley Oak and across the street were not counted. The previous dumpster location was on the west side and now it was located in the center of the parking lot. Mr. Blache asked to limit the times that it would be emptied. He thought 7 a.m. was unreasonable. Ms. Kidd said practically speaking the ordinance allowed 7 a.m. - 7 p.m. for construction. There had been other situations with other businesses and it did not work. The best thing would be to locate the dumpster as far away as possible and it would not present a problem. Mr. Clark asked what about the eastern extreme. Mr. Blache said at 6:45 a.m. he heard the neighboring dumpster and it was bothersome. Mr. McGuire said he would negotiate a later time, if possible. Mr. Piazza said it could be moved to the furthest point from the kitchen, and Mr. McGuire agreed to move it.

Ms. Kidd said the existing building with the existing porches for Rest A While was 1,704 square feet; the front porch was 656 square feet, for a total of 2,360 square feet. The Sophie B. Wright cottage was 920 square feet with a porch of 144 square feet. The Hadden Cottage was 744 square feet plus the porch of 302 square feet. They were proposing to use 1,500 square feet of slab area below Rest A While. The total square footage together were 3,388 square feet of the interior space, exterior area, porch and slab area was 2,602 square feet for the total existing square footage of the buildings was 5,990 square feet. They were proposing a kitchen of 1,400 square feet, additional bathrooms of 700 square feet for a total interior expansion of 2,100 square feet. The highlighted areas were patron areas for the decks. Mr. Adams said every possible space of patron area was served by the 45 required spaces. Mr. Quillin said not patron area, but all available area. Ms. Kidd said parking was calculated interior versus exterior areas. The exterior was greater for the 45 spaces. The total area of buildings and porches was 4,490 square feet plus 1,500 square feet under the Rest A While for a total of 5,990 square feet. The total proposed new area of kitchen and patron area was 3,104 square feet total project square feet of usable and patron area of the deck was 9,000 square feet.

As mentioned, with the previous site plan there were questions about the width of the driveway which was now 20'. If it was greater than that the board would have to say it was necessary to service the site. This allowed a 5' buffer on the east side, relocated the subsurface drainage from the buffer to within the driveway, provided access to the adjacent parking at the Barley Oak and for any future phases to the rear.

Mr. Quillin asked about delivery vehicles. Ms. Kidd said there was no loading space on the previous plan but now indicated space to back up into. The biggest question was the dumpster backup which was now relocated.

Mr. Clark asked if there was a metric for what constituted a small scale commercial use. Ms. Kidd said in the March amendments, the board looked at a maximum building footprint of 5,000 square feet and that was the guide. There were some questions that had come up in previous cases of what was the appropriate scale in the B-3 district. There was an analysis done on the businesses and structures in the B-3 district. The board had limited it somewhere between 3 and 5,000 square feet. The City Council approved the 5,000 square foot footprint. The board could approve a larger footprint by exception. Mr. Clark said the metric was 5,000 square feet and the plan had just delineated 9,000 square feet. Ms. Kidd said that was all three buildings. Mr. Clark said he was commenting on the scale. The purpose of the B-3 district stated continuing to combine residential uses with small scale commercial services and office establishments and secondly was

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relatively compatible with residential uses. He asked what was relatively compatibility. Ms. Kidd said the board had a memo from the City Attorney when asked about how much discretion there was in the process. Compatibility and adverse impact of any use on the adjacent property and based on the criteria outlined in the zoning permit would be mitigate any adverse impact and the minimum to mitigate that adverse impact. If identified as an adverse impact, it could be mitigated to accommodate the proposed use. Mr. Clark said the first order was to avoid any adverse impact and then fall back on mitigation. Mr. Clark said then, what was the adverse impact and could they be avoided. He could not think about a 20' distance between residential uses and activity which anyone in commerce would hope would be very brisk. It seemed to be a potential adverse impact of this project. In the process of formulating a number of findings, his concern of the board what was being proposed was another tavern so how many of the facilities would be serving alcohol. Ms. Kidd said a tavern in the Sophie B. Wright, a tavern in the Hadden Cottage, and Rest A While would be a sit down restaurant with a lounge. Mr. Clark said a lounge implied more alcohol being served. His concern was about ingress/egress on Lakeshore Drive which was becoming more and more heavily traveled without any control of traffic while people could be over served. Could this become a challenge to public safety, health, welfare? The impacts were potentially quite extreme because of the proximity of a large commercial kitchen, and he wondered should it be moved? There were issues beyond dotting I's and crossing T's. There was the issue of impact. It was a beautiful concept, but the problem was the close abutment of long established residential uses. The resolution in his findings would be that it certainly needed a closer look. He had concerns about public safety from rats in the dumpster, to the occlusion of sunlight to the abutting property, the ambient lighting and the lighting plan in the community that purported as a Dark Skies Community. There were unresolved questions from one perspective. His question was generally answered about metric.

Mr. Adams asked about the size of the buildings. Ms. Kidd stated that the Rest A While was 1,740 square feet. Mr. Adams was not sure what the 5,000 square feet referred to. There could be many different commercial buildings on a site. Ms. Kidd said it referred to a building footprint. Mr. Adams said there were three different businesses. Mr. Clark asked if the three businesses would be under a single management, and Mr. McGuire answered yes. Mr. Clark said there was no other facility this close to residential properties. The buffering proposed in relative and comparative terms did not appear to be a good mitigation of adverse circumstances. Mr. Adams said the primary building was there now and was to be expanded. Mr. Clark said he did not know the distance from Mr. Adams chair to the podium and they were speaking in inside voices and being heard. He said imagine a lot of people speaking in outside voices. Mr. Adams said the reason for a zoning permit process was to try to mitigate and cannot deny a use. Mr. Clark said it was not about a use. It was about compatibility of a use. Mr. Adams said the board could require a de stinker on the kitchen; move it over 20', and make it fireproof. He had not heard any changes like that turned down yet. Mr. Clark was making observations. It was a well-orchestrated plan from drawings and presentation. Some of the bases needed to be addressed. One of them was not to diminish the use on adjacent residential properties. Mr. Adams could not explain it any differently. It was the B-3 district, and the zoning permit process was to make as little impact as possible without denying the use. Mr. Clark agreed and Mr. Adams asked what he would suggest. Mr. Clark said to rethink the orientation of some of these things. He suggested moving all of the adverse effects to the extreme unoccupied area of the parcel. Mr. Adams said to move the kitchen over as far as possible. Mr. Clark said another thing to consider was the traffic on Lakeshore Drive. Why not go off Lafitte Street and have the delivery from on Lakeshore Drive. There was traffic and you would hope a large

amount of traffic. Mr. Adams said he would need a frontage on Lakeshore Drive or some type of access to the property on Lakeshore Drive. Mr. Clark asked if there was any other type of restaurant that had that type of access on Lakeshore Drive for their customers. Mr. Clark said Barley Oak was a tavern, Rip's, Donz which was a tavern, and Lake House. Mr. Clark said it was not about denying a use.

Ms. Bush said she thought Mr. Clark and Mr. Adams were both right. You could not tell someone they could not use or interrupt the use of the property but the board could accept the site plan as modified under the criteria outlined with the mandate the board was given. The board could say that the plan as presented did not meet the compatibility requirement. It was not denying the use, but saying the plan as presented did not meet the compatibility requirement. Mr. Clark said he was not questioning that. Ms. Bush said we were not questioning the use as it was designed and outlined in the CLURO. The things the board must watch out for were the uniform application of the standards and to construe the procedural laws in favor of the first circuit law and cases that the City Attorney cited in favor of the property owner. The board was not saying he could not use it in that way but do the modifications to the site plan as presented, solve the problem of compatibility. Mr. Clark was identifying what he as one member of the commission perceived as a problem in need of mitigation that in his opinion had not been solved by the amended plan. Mr. Quillin asked for suggestions on how to solve them. Mr. Clark said that was what architects, engineers and entrepreneurs do. Mr. Quillin said he had no argument from that. Mr. Clark said it was not up to the board to come up with solutions. Mr. Adams said it had to be the minimum possible. Mr. Blache was concerned with the open seating and with the dominant use being alcohol related there would be some issues and problems that the City would be hearing about for a long time. Individual units that did not present the same problem. With the open air deck people would whoop it up and watch the sunset and past the sunset. That was the idea. In reading with regard to the City Attorney's memo, they must find some common ground for both the property owners who have equal rights with not one outweighing the other since it was an allowable use. Ms. Bush said that was the purpose of zoning in the Louisiana constitution to balance the rights of different types of property owners. Mr. Blache said no one had more rights than the other. They were equal and the board must find a balance between both properties. This was a difficult one because of issues of scale, and use in conflict with a quiet residential setting.

Mr. Adams did not think the board would vote tonight and consider the presentation. Mr. Clark said he found the conceptual drainage plan impressionistic, and would like to see drainage considerations that made a priority that no water was shed into presently occupied residential properties, and Mr. Quillin reiterated into any other property. Mr. Clark said he wanted to see what was the reality of the terrain, what happened when you bring fill in and what were the terrain changes and the affects. Mr. Quillin said moving two units to a new location will change the terrain. Mr. Adams said it was reviewed by an engineer. Mr. Adams asked the speakers to limit their comments to 3 minutes. Mr. Blache asked for any other suggestions to be brought forward.

Isabella Del Rio, 222 Lafitte Street, was excited about the project. She believed the project would encourage growth in Old Mandeville and bring people together. She had created a video showing her vision of future that was shown.

Amy Crane, 303 Lamarque Street, had sent a letter and she reiterated that the B-3 zoning requirements took into consideration the historic nature of the community, the appropriate scale was important, the 5,000 square foot requirement was being exceeded; the project was going beyond the original use of the building.

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She was concerned about the size of the project, and how it would look from the street view. The video was wonderful but it did not show how it extended with the decks and all of the buildings being moved and added together. As a dog walker along the lakefront, she was concerned about additional number of bar patrons walking, driving, and competing for parking spaces off site. The lakefront parking was a premium on weekends and evenings.

David Persons, 132 Carroll Street, wanted to address the issue of discretion. His research showed that the building had been there a long time. A lady donated the property to the Kings Daughters in 1905, and sold them the east half in 1906 with the stipulations that it would remain a home for the disadvantaged youths. When the Fosters purchased their home that was what they bought next too. The use was supposed to be used like that forever. The board's discretion was not a use of right. That was important. It was all laid out in Our Lady of the Lake case. That was a zoning permit case mainly on parking and traffic. The board in their letter of October 14, 2011, laid out 17 reasons to deny the permit. Churches were allowed in the B-3 district. The board in a brave effort to stand up for the citizens found the purpose of the zoning permit procedures was to provide for the review and evaluation of site development, design, etc. The board went on to say it was the Zoning Commission's responsibility under the zoning permit provisions in the CLURO of the broader guidelines of the B-3 Area Plan to assess the impact of such requested modifications based on health, safety, welfare, economic development, etc. as well as compatibility. That was what they were asking the board to look at. He pointed out that the board was being asked to consider two permits although it was presented as one. Some people had suggested those opposing the development were against bars and restaurants. They were not the case, and with him personally. As the board found in the Our Lady of the Lake case, even though a church was a permitted use, the board exercised their discretion that the project was not compatible with the City and protected the citizens. The citizens were asking not being opposed to the zoning permit Z15-01-03 for the cottages. The neighbors were not happy and will experience noise. They were opposed to case Z15-01-02 for the restaurant. Mr. McGuire had made many changes, worked with the neighbors and he liked that but the one thing he could not change was that the west end of Frapart Hotel was closer to the Foster's house than where he was standing to Mr. Adams seat. The board's duty included protecting the community in terms of fire safety. The kitchen was moved 10', but with an east wind in a fire it would catch the Foster's house on fire. His point was the board's discretion. Whatever the board decided would be affirmed. The board must weigh the rights of each side and come to what was fair. The first question was whether the board should grant the permit for this use and the proposed site plan. The board could find that the use was ok, but it was unfortunate that the building was too close to approve the site plan. The board would not be denying it on the use, but on the site plan. It was reasonable to deny the restaurant permit on the grounds of safety and fire hazard, and it would be affirmed on appeal if challenged in court. Mr. Blache asked Mr. Persons what he thought the building should be used for. He suggested a boutique hotel which would be a less intense. Essentially that was what it was for used for in the last 100 years and it was used by the underprivileged for free. There was no kitchen and no alcohol was the difference. The neighbors were trying to be reasonable on the cottage buildings on the east side of the property and that would be the law office's problem. Mr. Blache said it could be a residential property next door. Mr. Persons agreed and there was construction behind the Barley Oak that would be residential. The neighbors felt it was important to come forward and let everyone know they were not against everything proposed. They were focused on what Mr. McGuire was trying to do with the Frapart Hotel. They appreciated moving the kitchen 10'. If there was an east wind and this was raised with trees as a buffer, then where would the fire go? It would catch the trees on fire and that was what

happened with the Lake House. If the board found that the fire danger was too extreme then go back to the drawing board and do not make it a restaurant/lounge. There were many uses on the Table of Permitted Uses that were permitted by right. Mr. Blache said the kitchen was his main concern. Mr. Persons said the kitchen was the main fire hazard concern. There was also the noise from conversations, but mainly the fire hazard.

Michael Gurtler, 121/129 Carroll Street, lived in a 121 year old pre-Civil War house with hand turned beams and was unreplacable architecture. That was why he was so concerned about a fire. If all of the others caught fire, they would be next. Fire was a well-known risk and there was science that exists of the danger of commercial kitchens. First responders do not always respond, especially during storms. He provided slides of houses that were not accessible after Hurricane Katrina so they burned to the ground or the water line. He showed pictures of his yard during Hurricane Isaac showing how high the water was. He also showed pictures of surrounding properties that was inaccessible because of high water and down trees. The fire department could not drive through the water. Mr. Quillin asked if there was protection in his house against fire. He said he had alarms, was elevated, and connected to a central station monitoring and that was the best he could do. Mr. Clark asked if he had fire suppression, and he answered no. He asked Mr. Gurtler since he was an engineer, what was the survivability and persistence of expansive decking in a storm. Mr. Gurtler said it would all be projectiles, would float, and will become flying debris. Mr. Clark said he believed decking cannot be storm proofed. Mr. Gurtler said enough storms can tear up any decking. Hurricane Karina had four tornadoes in an eleven block space of Lakeshore Drive.

Russ Penzato, Lakeshore Drive resident, presented a video shot on Lakeshore Drive on the Sunday before the meeting showing the parking. It was packed. The parking and traffic would be increased because it was an intense project. The parking bays proposed to be used were filled. There was packed parking and it was only a nice weekend. He thought the board was underestimating the density and the traffic. The neighbors were concerned about drinking and hurting someone. On the lakefront, the bulk of people did not live in Old Mandeville. Mr. McGuire said he thought it was great that people came to enjoy the lakefront. Mr. Penzato's point was putting businesses, the people could not come enjoy the lakefront. Mr. Penzato referenced Mr. Persons saying that the neighbors had no problem with a boutique hotel and the remainder of the property being bars. They were trying to be good neighbors. They thought that would help with the density. With the hotel, the neighbors felt it would be looking for a better way. The study in 2006 suggested one of the uses on the lakefront was boutique hotels, not bars. Mr. Adams said he thought it was a great use, but it was not what the owner wanted to do. Mr. Penzato asked to notice that the neighbors were trying to compromise. Mr. Adams said it was not about compromise; it was a matter of law. He said it was not about compromise and Mr. Penzato felt that it should be. Mr. Adams said that was not what the law said. Mr. Penzato said we need to compromise. Mr. Penzato said if the board did not see hazards of safety in his next video then he did not know what to say. The parking at the Barley Oak was so cluttered you had to pull out to see onto Lakeshore Drive. Mr. Adams agreed that it was awful. Mr. Penzato suggested not making it worse. He felt the 1:150 ratio was not right. The reason he felt it was not right was because he spoke to the people at Nuvolari's and there were 20-30 employees on the weekend, and that restaurant was not to the scale of this. He asked where would 20-30 employees park. Mr. Adams said he agreed with Mr. Penzato about the Barley Oak and other places. There were certain parking ratios in the code. Mr. Penzato said he understood that, but the board had the ability to make changes. It was 50% of parking, and it was not fair to someone on Girod Street as a little business with no parking. They understood the 100, but the 50 and the high

density and lots of parking that he had land for should be considered. He asked wasn't it changed for a reason. Mr. Blache said it was to the point for large scale businesses. He understood the 100% for smaller properties being able to claim that 100%. But, when you have land and could contain the parking that should be considered.

Eric Jensen, 111 Carroll Street, said everyone had said what he wanted to say. He wanted the board to understand there were two sides, two sets of investments, and two property owners. As an owner of property on Carroll Street, it was easy to worry about the economic impact on the Fosters as well as the potential hazard, but this affected everyone. His house was a 150 year old wood framed house that could easily burn down. He thanked the board for their prudent thoughts on the project and he felt the board had discretion for compatibility considerations. He felt the Frapart Hotel was not compatible with a high intensity use next to residential properties. It was not compatible and not appropriate.

Adele and Mark Foster, 2135 Lakeshore Drive, read the Procedures for Site Plan Review, Title and Purpose:
The purpose of this procedure is to provide for review and evaluation of site development and design features of selected uses, and to afford a procedure for mitigation of potentially unfavorable effects on adjacent land uses.

And on Findings:

The City Planner or Zoning Board shall make the following findings before site plan approval:

1. *That the proposed use and site development, together with any modifications applicable thereto, will be compatible with existing conforming or permitted uses on adjacent sites or sites across from the proposed development site.*

Mr. Foster presented pictures from his porch and between the two properties. He presented pictures of the kitchen expansion location and how close it would be to his house. During flooding, he received debris and flotsam from Rest A While during high water and hurricanes. He outlined where the buildings would be located in relation to his house. This provided a perspective of the property. The trees to the front would be cut down. Ms. Kidd said the trees in the driveway would be removed. Mr. Foster showed the swale between the two properties and stated that Rest A While was the lowest lot in the area and their lot was the second lowest.

The area where their grandchildren play would not be in the sun with the additional structure. Mr. Foster talked about compatibility. He had walked the neighborhood and observed compatibility. There was a residence next to three B-3 businesses. Varsity Sports was contained in the original house, next to that was the Marvilla Bed and Breakfast and next to that was the Broken Egg Café contained in the original house. There was Etc. travel, and the Beach House contained everything in one building. He showed Mrs. Foster standing next to the fence and its relationship of size and scale to Rest A While. A picture was shown during one of the flooding events that indicated that Rest A While was always the first area to flood and then onto their property. He presented pictures of their journey in renovating their home.

Ms. Foster said the speed of fire was not discussed. Fifty years ago her childhood house burned. It happened so fast. Unlike a southern storm, in the winter there was little water pressure to fight a fire. The wind changed and set the adjacent house on fire. They were scared of a fire hazard. There were four sleeping spaces

on the east side of their property. She did not want the trees that were offered and she was concerned a fire would spread to them through the trees. Because she was the old slave quarter, under her tin roof was the original wood shakes. It was a scary thought. What was not mentioned, the kitchen was moved 10' but changed in size from 1,200 to 1,400 square feet. She thought of the B-3 district as small houses being put back into commerce. Something you would not mind having as a neighbor. She felt this crossed the line and did not see this project as something in the B-3 area, but as a commercial project. Mark Ragusa mentioned to her that an adjacent dumpster was emptied at 4:30 a.m. three to four times a week. She felt it was not compatible and unprecedented to having something this scale in Old Mandeville.

Charles Goodwin, Lakeshore Drive resident, said he went through financial projections and the numbers did not work. In reviewing the website, some of the phrases ignore the part of planning. He heard a lot about zoning, but not much about planning, looking into the impact in the future down the road. Some of the things on the website said conceptual development, and in harmony with the general purpose and intent of the goals. What were the goals? It further stated for the safety and the welfare of the citizens, to promote that. It looked like the biggest part of the board's job was the part that was being ignored the most. Was this compatible with what? It might be zoned like Disney World, but was it good for that and he submitted it was not.

Boyd McPhail, 2075 Lakeshore Drive, presented an excerpt from the old Lakefront Phoenix newspaper. There was a fire that occurred next to the Penzato's. Mr. Penzatos' house was rebuilt, and had a wide yard because there was another house that was not rebuilt and Ms. Gayle bought it and included it in her yard. In 2002, Alex Patout's Restaurant (now the Lake House) had a fire. There were 65 firefighters that responded and all of the fire trucks were on Lakeshore Drive. They were told to evacuate the condo building. The fire units stayed on the property for the entire day. They kept one fire truck totally focused on the oak tree between the condos and the restaurant to keep it watered so the fire would not spread. Larger limbs were burned. Fortunately, the wind was out of the north and if it had been a southerly there would have been a larger fire. There was a backdraft and the front doors of the building blew out. It was quite an experience to sit on the seawall hoping the fire department kept it from spreading. There was a buffer and there was some condo damage requiring pressure washing because of smut. There was also fire damage to the roof from cinders. There was a buffer of an entire vacant lot of about 75' in width. If they were as close as the Foster's home to this proposed restaurant, there would have been great damage and probably destroyed. They knew the board had been an interpretation and great discretion for the welfare and safety of the surrounding neighbors. Based on that, he believed it should be denied.

Steven Howden, Colbert Street resident, reiterated with a 1,400 square foot kitchen, restaurant and tavern, it could easily occupy 15 parking spaces for the employees so it seemed that the parking was inadequate. All of the parking in front of the Bartley Oak should be revised or eliminated. It was scary riding his bike in this area and he was surprised there had not been an accident. If the parking was modified, it would be worse. It was not a realistic sized business with the available parking.

Leonard Rohrbough, 2525 Lakeshore Drive, said Mr. McGuire had made some nice overtures of amenities and concessions. They do not also offer a penalty if was not carried out. Odor eaters and smoke eaters were proposed in the kitchen, but what happens if they break down and what would be the enforcement for repair of the equipment on a timely basis. Would he close the kitchen, and who would

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enforce it? He implored the board to somehow if the motion was made to require implementation before occupancy and what would be the penalty if the equipment was not maintained. While he was looking for boxes since he was elevating, he went to Saia's and dumpster was filled with gung and was smelly. If the dumpster was not cleaned on a weekly basis from a restaurant, it would stink. How to make sure that did not permeate the neighborhood.

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

There was no one present that wanted to make public comment.

Videotaping of meetings

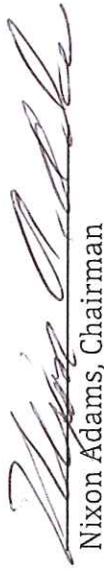
The board decided to defer this discussion until the next meeting. Mr. Burguieres said Covington taped their City Council, Planning and Zoning Board and Historic District meetings.

Mr. Quillin moved to defer discussion until the next meeting, seconded by Mr. Blache and was unanimously approved.

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

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


Lori Spranley, Secretary


Nixon Adams, Chairman

Planning Commission
Public Hearing
January 27, 2015

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

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

Absent: Dennis Thomas

Also present: Louisette Kidd, Planning Director, Council Members Rick Danielson, Carla Buchholz, David Ellis, Ernest Burguieres, and Clay Madden; and Mayor Donald Villere

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

Videotaping of meetings

The board decided to defer this discussion until the next meeting. Mr. Burguieres said Covington taped their City Council, Planning and Zoning Board and Historic District meetings.

Mr. Quillin moved to defer discussion until the next meeting, seconded by Mr. Blache and was unanimously approved.

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



Lori Spranley, Secretary



Nixon Adams, Zoning Chairman

**Planning Commission
Work Session
January 27, 2015**

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

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

Absent: Dennis Thomas

Also present: Louissette Kidd, Planning Director, Council Members Rick Danielson, Carla Buchholz, David Ellis, Ernest Burguieres, and Clay Madden; and Mayor Donald Villere

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.

Mr. Adams presented that the board had approved the conceptual subdivision approval. The case discussed was S15-02-01 Crosby Development Company, LLC requests preliminary subdivision approval for the Sanctuary Subdivision, Phase 4B, zoned R-1.

Alex Flores, GEC, was representing Mr. Crosby at this meeting. There was a comment to update the drainage impact study and was willing to do the analysis. The board decided that they did need Ms. Kidd for discussion of this case.

Ms. Kidd presented a subdivision request for Phase 4B of the Sanctuary Subdivision for preliminary subdivision approval. The property contained 13.66 acres in accordance with the plat prepared by GEC dated December 22, 2014. The property was rezoned to R-1, Single Family Residential, under Ordinance 14-48, adopted December, 2014. Phase 4B proposed 23 lots, lots 400-422, an extension of Oleander Court from Purple Martin Lane to Pintail Trace. The tentative subdivision plat was approved on December 9, 2014. Phase 4B consisted of 1.4 acres of green space, 2.29 of right-of-way, and 9.96 acres of home space. The R-1 minimum lot width was 90'x120' and the proposed lots range from 101'-128' frontage and 121'-185' in depth. The front yard setback of 30' exceeded the 25' requirement. The 30' side yard setback exceeded the 20' requirement. The 16,500 square feet of lot sizes exceeded the minimum requirement. The preliminary subdivision approval was the design and infrastructure phase of the development. Comments from Principal Engineering for drainage dated January 9, 2015 including the preference of the American Darling Fire Hydrants, and as per the CLURO, the developer is either required to detain runoff to cut the post development peak flow to pre-development levels, or produce an engineering analysis demonstrating that the drainage way downstream of the development is adequate to handle the increased flow. Principal Engineering will be looking for this at application for the building permit.

Principal Engineering had also received the drainage report and has made the following comments as of January 26, 2015: The drainage model of the Sanctuary completed under the 2006 Drainage Impact Study lacks the proposed development This area was purchased after the early plan was submitted in the early phases); the professional of record should issue an addendum to the Impact Study to certify that the proposed development will not adversely impact the Sanctuary subdivision drainage system, and per CLURO 13.3.3.2 (3)(c), that "the existing downstream drainage is adequate to handle the anticipated flow resulting from the proposed development of the property" interpreted to mean the

drainageways downstream of the Sanctuary. The Crosby's and their engineers have copies of the comments.

Mr. Adams said in the original subdivision phases there were cul-de-sacs, and he asked if there were any of those issues with this phase of the subdivision. Ms. Kidd said there were no cul-de-sacs and this phase was a street extension of Olander Court. This was a portion of the overall property purchased at a later date that was originally proposed as garden home and smaller lots.

Alex Flores, GEC, said they had received the comments and will address all of the questions and provide an addendum. They were already working to provide it before the next meeting. Ms. Bush and Mr. Quilin were happy that the phase would be less dense.

The next case discussed was P15-02-01 Recommendation to the City Council regarding Ordinance 15-01, to enact a twelve month moratorium on adding outside fill to the foundation or base of a structure in the Old Mandeville Historic District of the City of Mandeville and to provide for related matters

Ms. Kidd presented Ordinance 15-01 for a 12 month moratorium on any outside fill. As the board knew, on Thursday night there would be a CLURO meeting with the Critical and Sensitive Committee members regarding fill and the intricacies going with it. Council Member Burguieres was the ordinance's author. Mr. Clark asked what did outside fill mean. Ms. Kidd said allowed fill to the foundation or base of the structure within the Historic District.

Council Member Burguieres, 241 Wilkinson Street, said one of the inspirations was a Mississippi ordinance adopted after Hurricane Katrina because of flooding in low area. They had the ordinance for almost 10 years and they had not granted any variances. He did not have the ordinance with him, but it defined dirt as and fill placed on property. He felt that could use as a starting point and then tweak it. He had been inundated with complaints about the red fill every time a new house was built. He felt the CLURO process was moving slowly and houses were continuing to be built. After attending several Critical and Sensitive Committee meeting, the only proponent was the house builder. Citizens, especially those living in older houses, had no slab underneath the house except piers. It had not washed away or settled. On the south shore, many concrete base houses cracked. A pier house was a better idea and getting rid of fill was the first step toward being compatible with the wet area where we live.

Mr. Blache asked piers requiring to be chain walled and Ms. Kidd answered yes and there were certain building code regulations. Ms. Kidd said if the intention was to model the Mississippi, define fill, and look at elements of that ordinance, we could continue to massage the ordinance. As written from the regulatory standpoint, it would be 12 month moratorium on any outside fill to the foundation or base of the structure. It was important to define what it meant. At this time, there were fill limitations on driveways. The existing ordinances were complex and this was simple and to mesh the two administratively we would need to know what that meant. Mr. Burguieres said it would be to preserve the status quo. He said how it was now, don't mess it up anymore. Many people believed that the fill messed it up for everybody else. Mr. Adams said since the board was not voting on the ordinance, it did not hurt to listen on Thursday night. Ms. Kidd said there were details that needed to be addressed. Mr. Burguieres said the driveway disturbed the nature flow of water. Ms. Kidd asked about fill for a flower plant. Mr. Burguieres said it happened behind Ms. Poitevent's house and the City told her to remove the fill. Ms. Kidd said it was more complicated than that because part of the fill was tree

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bark and other materials. That was part of the problem; we still have with defining fill.

Mr. Clark said he agreed with Ms. Kidd that one of the flaws was a lack of specifics and an over complexity. When Mr. Burguieres said outside fill to the foundation, he envisioned foundation on fill without additional fill from the foundation outward. The simplicity of it would be not to bring any trucks with fill in it to Mandeville. Mr. Burguieres nothing from outside of the lot comes onto the lot. Mr. Clark said even for someone who was a fill fanatic, it was disappointing to hear because he thought it was another loophole in the process. He encouraged simplicity and specificity.

Mr. Adams said it seemed that there must be a geotechnical report and if it said to be stable there must be a certain amount of fill material you put in that amount of density. Mr. Burguieres said he had learned that is no longer allowable to build pier construction as was done 1900. They may have been mud, dirt and bricks down under the pier. It is allowable to dig a hole and chain wall with nothing else around it so there was permeable material for water to pass through. Mr. Clark said at or on grade but not the party pad. Mr. Burguieres said there are many houses built on ant piles. The City had dictated how water flowed. Gravity said water flowed high to low which was north to south and the City wanted drainage east to west. Some worked well and some worked bad depending on how you interfered with it. That was part of the bigger picture that he wished the City would look at. Mr. Adams had asked for a City master plan with all of the drainage going to the lake. Mr. Burguieres said all lots north south streets must have a plan to drain to the street which was not in accordance with the contour. Mr. Adams said the house must be above bottom of the ditch they should drain and he knew it did not always happen that way.

Ms. Kidd said the intent was that all foundations be at grade. If someone needed a certain soil for foundation, they could muck it to natural grade. Mr. Burguieres said both were needed. Mr. DiFranco had said that 55% of the water soaked into the ground and 45% was carried out in the ditches. So 50% of the water had to go somewhere with 3-4' of barrier below the ground impeded the flow and you want it to flow freely so it can get away as soon as possible. Mr. Clark said the executive committee said all of our soils were clay. He believed 60 years of soil science. It was called KSAC and soils had high or low conductivity. Red soil did not have any KSAC, but our native soils do. We were replacing our native soil at an alarming rate with red clay. Mr. Burguieres would like Mr. Wagner back to help with a drainage plan. The last plan only showed culverts.

Mr. Quillin said the way the ordinance was worded would want the mostly simplistic theory. Why were we limiting it to the foundation? He suggested just do not put dirt.

Leonard Rohrbough, 2525 Lakeshore Drive, said there were two lots within blocks of his house that were filled 20 years ago. They were not onerous but they were 1 to 2' high and had never been built on. He asked if there was a legal basis to include any lots containing outside fill be removed before a building permit was issued. Mr. Quillin said it was hard time without specific evidence.

Phyllis Bromhurst, 127 Marigny Avenue, said on the July 4th weekend of 2014 semi-trucks load with fill drove down to the lot on Lamarque and Foy Streets and dumped the whole day. There was a permit issued. She asked if there was a permit to fill was it unlimited. Then the concrete trucks started. The lot behind her houses from Lakeshore Drive to Claiborne Street was sold to two owners. She was

concerned about flooding. She had 15 drains on her property surrounding her. She was concerned about the concrete on the rear lot. Hers was the only house on the block without a concrete pad under her house. It was porous with five drains under her house because her neighbors drain onto her. She felt that everyone who built needed a drainage plan with not just swales but physical drains. Ms. Kidd said the City required drainage plans that the City Engineer. Ms. Bromhurst said it was just sloped the mud to the street and onto her or someone else's property. She had 15 drains on her property of which seven were installed in the last year. Mr. Adams said there were rear yard flooding problems in New Golden Shores and many people installed drains that have worked well.

Mr. Adams urged everyone to attend Thursday night's meeting with the committee reports for discussion. Ms. Kidd said there was a summary memo. Mr. Adams said Dana Brown would be in attendance.

Mr. Blache asked Mr. Burguieres if the moratorium needed special legal jargon. Ms. Kidd said if there was a submitted permit application in process there was a vested right clause. Mr. Blache said with previous moratoriums had spooked people.

Ms. Kidd asked for direction on any ordinance amendments. Ms. Kidd said the biggest difference was 2' of fill under the roof shed. If there was an attached garage or accessory 2' of fill was allowed under that. The argument at the time was to get cars out of harm's way. Now it was being discussed in general if that amount of fill was appropriate or eliminates it and build at grade. Most people were concreting for use and parking as an unfinished area. Now they are able to concrete with 2' of fill. If the amendments were at grade, they could still concrete. This was on the table for consideration in the CLURO amendments. The discussion was pier versus chain wall construction in the Historic District. Some communities require a frontage like we do. Front facades could require open pier construction. Beyond that area could be chain walled. There were many different variables. Many people like the slab foundations and you see more slab foundations north of Monroe because the ground was higher. The City was seeing people want the slab construction with chain walls and backfilling. Mr. Adams said it was aesthetic as well as drainage. Ms. Kidd said what impact the 2' of fill had on overall drainage on site to the street, was it a bigger picture impact of flooding inundation, and how displacement was there. The Technical Committee had many views and comments. Mr. Lauer was challenged to capture one recommendation since there were many different opinions.

Mr. Burguieres said nothing would stop 12" of limestone under the house or bricks to allow parking and walking under the structure. Mr. Quillin said limestone was still fill the way it was worded. Mr. Burguieres asked to stop the fill to look at different options.

Rebecca Rohrbough, 2525 Lakeshore Drive, said they were elevating their house and was getting educated. The technical component of foundation design was not being addressed. Their house weighed 100,000 lbs. When the lifts were placed they could measure the weight. This factored into the foundation design, the engineer wanted a post tension slab but it impossible and went back to steel and concrete support. They were looking at the finished project. The drawing had concrete under the front porch but they wanted to lay nice brick that was being removed. The engineer would not sign off on that plan to consider the front columns holding up the roof. The house would not have the strength with rising water if the brick area started cropping off the foundation. The contractor's

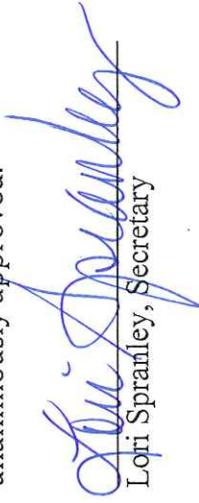
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response was they must follow the ICC code with an engineer signing off on the plans.



There was no one present that wanted to make public comment.

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


Lori Spranley, Secretary


Nixon Adams, Zoning Chairman



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