

**Zoning Commission
Work Session
June 24, 2014**

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

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

Absent: None

Also present: Louise K Kidd, Planning Director; Chris Brown, Building Inspector; Mayor Donald Villere; and Council Members Ernest Burguieres and Rick Danielson

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

The first case discussed was V14-07-09 Tim and Annette Smith request a variance to Section 5.2.3, Grading Supplement, lot 45A, square 48, 614 Marigny Avenue, zoned R-1

Ms. Kidd presented a variance request for the construction of a new residence and a cabana to the rear. The request was for a portion of the cabana containing the bathroom. The regulations state where the crown of the street is below elevation plus eleven (+11) feet, the top of the finished floor of the living area of all habitable dwelling units shall be not less than elevation plus twelve (12) feet or current applicable FEMA requirements. The flood zone of the property was AE11, elevation 9' and the City's required freeboard of 2' was 11'. FEMA required bfe plus 2'. By following FEMA's regulation, in this case would elevated 3' and requesting variance of 1'. There have been several variances granted similar to this. Mr. Adams said it did not affect the City's flood rating.

Chris Brown, Building Inspector, provided a history that this one provision was missed with the new flood maps in 2012. Prior to the new flood maps there was no bfe less than plus 12'. This regulation applied to all flood zones to be 1' above the crown of the street, but no less than 12'. When the new maps were adopted, now the lowest bfe was 9'. With the freeboard requirement, even the area was an elevation of 10' or 11', there was no harm. If there was an elevation at elevation 9', in Old Mandeville around Livingston Street and to the north, the provisions were required to be 3' above the bfe which was more stringent where everywhere else was 2'. This did not get changed because it was not included in the flood hazard prevention ordinance but was included in the in grading supplement.

Mr. Adams said in previous discussions, there were concerns about the Our Lady of the Lake school buildings having water washing into the building. Ms. Kidd said Our Lady of the Lake had requested a variance to the plus 2' regulation. The current request was plus 3' because of the minimum 12'.

Mr. Adams asked Mr. Brown if he was assured was no drainage problems with this lot. Mr. Clark asked what was the elevation of the finished floor of the main house and Mr. Brown answered 12'. Mr. Clark said that was too much. Mr. Brown said the house complied with the regulations. Ms. Kidd said the reason for the request was because of the bathroom in the cabana. From a drainage standpoint, the contractor could add the flooring system if necessary to comply. If the variance was granted, the elevation would remain at the slab level. To comply would not affect any other site criteria.

Mr. Quillin said throughout the City was 12'. Mr. Brown said the most prevalent elevation was 10' with a 2' freeboard requirement. The applicant complied with the 12' requirement for the house. The only reason they needed to comply with the cabana was because of the bathroom. Mr. Quillin said effectively the City required 12' regardless and Mr. Brown said that was the minimum. Mr. Brown said the FEMA regulations state only below the bfe was vehicle parking, limited parking and access to the building. A bath or kitchen was habitable space. Mr. Brown said CRS was the biggest reason for the 2' freeboard except for this one area. Mr. Clark said many parts of Mandeville were at 11' and the Grading Supplement was confusing. Mr. Brown said the Grading Supplement was completely amended in 2008. Mr. Thomas asked about the variance and there was one granted for accessory structures. Mr. Brown said most recently there was the Lamarque Street bathroom for 2' of freeboard and the plus 12'. Mr. Quillin said there were handicap issues. Mr. Brown said around Livingston Street and some fingers up to Villere Street was elevation 9'. Mr. Thomas asked that it would not affect the CRS rating and Mr. Brown said it would not make a difference since the points were for the 2' freeboard, which was met.

Barry Brupbacher, 1925 Livingston Street, around the corner from the subject property. It was important to note that the survey, building plan and drainage plan for the house under construction did not show the back portion of the lot which was within the lot itself. There was an approved drainage plan based on a different survey than what was being constructed on. From that, the drainage plan only covered the site that did not extend behind him. There was no drainage plan for this extra land would be flowing to the front of the property. From his perspective, that was a problem. He spend considerable money to get the drainage from the rear of his lot to the front of the property. The third page was email correspondence where he asked for the standards for residential drainage and the area behind him was in the lot related to the site and it was not being considered for drainage. David Mr. DeGeneres, Public Works Director, forwarded the email to Cliff Siverd who stated there were no minimum standards for slopes for drainage to the front of the property. This was an engineering problem. He worked mostly in an engineering company and basically the slope to the front of the property was 2/10th of 1%. It was positive drainage. Discussions in his company said there should be a 1% slope. He was happy for the variance, but Mr. Brupbacher wanted someone to assure him that the area behind his house would not drain on him.

Mr. Clark said his understanding in agricultural drainage; 2/10ths was not enough to move water. The question would be would it infiltrate or widen into his yard. Mr. Brupbacher would like it addressed before the final occupancy of the house. Mr. Adams said this was specifically something to be reviewed under the Critical and Sensitive study. This was the problem on infill lots. Mr. Blache asked Mr. Brown about this being in compliance with fill. Mr. Brown said the contractor cut back a lot of the fill after the slab was poured. Mr. Clark asked Mr. Brupbacher if he would suggest a certification ought to involve. Mr. Brupbacher said he had no statement, but he just wanted the drainage not be in his yard. Ms. Kidd said the applicants were present and it was her understanding that the rear portion of their lot was part of Mr. Brupbacher's lot before he bought it. The property was resubdivided several times and the sale was based on an earlier version.

Mr. Smith said the lot was referred to as lot 45A and the reality was Kelly McHugh's survey when they applied for the permit was that lot 45A did not exist and was actually lot 45B and they owned 266' and not the 176'. The sale was corrected with the recordation of an Act of Correction. By that time, they had designed the house back 90' and there was nothing on the additional land and no plan to build on it. The cabana was more than 30' from the area. There was no

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intent to place any fill or drain on any other property. Ms. Kidd said the regulations would not allow the fill. Mr. Adams asked if the constructed area was pushing water to the rear. Ms. Kidd said if the land was not draining to the side and front, then the Public Works Department could walk it and make sure the drainage plan was functioning as required. Mr. Blache asked about the French drain locations in relation to the back line.

Gibb Farrish, 1931 Livingston Street, shared the side lot line with his rear lot line. He said drainage was an issue. He did not know if there was a problem now. He did not think he had a drainage problem now. If there was fill to the rear yard there would be a problem. Mr. Brupbacher said his rear yard was very wet and he did not know if it was problematic previous or not. He had a general concern of no real drainage plan for how that portion of the lot would drain. Ms. Kidd said Das Scheulerhaus had subsurface drainage to run from the rear parking to the front of the lot. Mr. Brown said it was hard piped. Mr. Adams asked who would certify the drainage. Ms. Kidd said the Public Works Department. Mr. Adams said when the project complete would water flow onto neighbors. Mr. Brown said there were two processes; the residential design submitted a certification that it was built to the plan. The Department of Public Works would verify that. For the commercial process, as built drainage plan was required at the end of construction that the City Engineer reviewed. There were as built elevations of the parking lots, catch basins and piping for new construction.

Mr. Brown said the variance had no impact on the drainage. The cabana would be at a lower elevation with less fill. The variance request at 11' or 12' would not have an impact on the drainage on the site. Ms. Kidd said that work was complete at this point. Mr. Adams requested someone look at the plan. Ms. Kidd said if there were questions of the slope or if the back portion was trapping water a request would be sent to the Public Works Department to review it.

Mr. Thomas asked Mr. Brown for a list of variances granted to and if there were problems at those locations. Mr. Brown said the only problem would be the city only had 1 ½ of years of experience and the only problem we would have seen was if flooding had occurred above 11', which we have not had. Mayor Villere said it was for the height of the structure and not drainage. Mr. Clark said one cubic yard of fill displaces 200 gallons of water. He suggested looking at the surrounding and find where it will pool. So when there was mound building we must consider that in construction. That was why houses were built on piers so the water would flow under it. Ms. Kidd said the types of construction would be considered in the CLURO amendments. Mr. Adams said the board would address the issue of detail in drainage plan on any lot.

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


Lori Spranley, Secretary

Nixon Adams, Chairman

**Planning Commission
Work Session
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The meeting was called to order by Chairman Dennis Thomas and the secretary called the roll.

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

Absent: None

Also present: Louise Kidd, Planning Director; Chris Brown, Building Inspector; Mayor Donald Villere; and Council Members Ernest Burguieres and Rick Danielson

The only case discussed was P14-07-05 Recommendation to the City Council regarding Ordinance 14-29 supplementing and amend the CLURO by adding provisions to the Flood Hazard Prevention Ordinance to regulate the placement of dumpsters, drains and grease traps in order to prevent damages caused by periodic flooding

Ms. Kidd presented the background for the ordinance. After Hurricane Isaac there were some situations where dumpsters had floated and by not being secured they could potentially cause property damage. There was a request to address the issue. The City was hoping not to go through the regulatory route and have the cooperation from the dumpster providers. The administration had met with the dumpster providers in June, 2013 outlining the problems and asked for input on how to handle the situation. It was learned that the providers were contracted with larger agencies 72 hours in advance of a storm and were not available to pick up the dumpsters. The City was looking at a 24 hour pick up. The City's old dump site received clearance to be used a temporary storage of dumpsters for a storm. The providers thought that was a good solution. Then Tropical Storm Karen became a strong threat to the area. Mr. Brown went through the procedures discussed and received no response from the providers and the dumpsters were not picked up. The next step then became to establish a regulation.

Mr. Brown prepared the ordinance after inspecting the dumpsters. The ordinance prohibited dumpsters greater than 6 yards, which were large construction dumpsters. Mr. Adams asked if this would only apply during hurricane system or all year round. Mr. Brown said it would become an enforcement issue if he had to continually keep track of the dumpsters. It was typical size for commercial business was 6 yards or less, and those would not be affected by the ordinance. The regulation would affect the large roll off dumpsters. There was a dumpster from Hurricane Isaac that floated across the street. With there now being more elevated building, the dumpster could hit the house piers and take a house down. Mayor Villere felt the dumpster should be removed. Mr. Blache asked if the City had considered a permit instead of a prohibition. Mr. Brown said in a later version of the ordinance a prohibition was proposed from the lakefront to Jefferson Street and from Jackson to Galvez Streets where the storm surge area most affected the area and where there had been issues. Ms. Kidd said that would be recommended.

Council Member Burguieres said he thought a dumpster should be permitted identifying the location, the responsible party, and whether it would be 6 and 12 yards. Ms. Kidd said the City Attorney wanted to discuss the permitting process. Mr. Brown asked to keep in mind that if the dumpster was permitted during certain time periods within those 72 hours it would not be removed. There were times when there was less than 72 hours storm notice. Ms. Kidd said the City did not have a way to get the dumpsters out. Mr. Blache suggested not issuing permits during the hurricane season. Mr. Brown said the permit may have been issued in January with continued construction. Mr. Blache suggested having the construction site remove

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the dumpster by June. Mr. Brown said was a great help to him to have dumpsters on site and it was less of an expense. Ms. Kidd said without a dumpster trash could blow off the site. Mr. Thomas suggested allowing less than 6 yard dumpsters during the hurricane season. Ms. Kidd said all of the board comments could be incorporated into the ordinance and she was working with the City Attorney.

Mr. Adams said holes in the dumpsters might work for small dumpsters. Mr. Blache asked about removal of the dumpster at the owner's expense. Mr. Brown said placing a lien on the property was a two week notice. Ms. Kidd said there was no City mechanism to remove the dumpsters and it took a special truck. That was why there was a reluctance to have regulations. But, the next step was a limitation. Mr. Blache suggested a bond of at least \$1,000. Mr. Brown said equipment was contracted out 72 hours before the landfall of a storm. Mr. Clark asked about some requirements for it to be secured. He suggested a wheel dumpster so a truck could be hitched to it. Mr. Quillin said the City needed manpower to do it. Mr. Brown said the Public Works Department had their own criteria for lockdown. Mr. Clark asked for a provision for battening it down. Mayor Villere said everyone was in agreement that dumpsters needed to be moved to prevent debris from being scattered damaging a structure.

Mr. Adams asked why holes would not work in a 12 yard dumpster. He said the holes made sense, but on a normal basis it could nasty with trucks dropping goo.

Mr. Quillin asked about lashing it down. It was a pain, but there should be some type of attachment. Mr. Brown said an enclosed area was and a later ordinance version of an enclosed area was too vague and would need a definition. It was suggested to be a fenced dumpster enclosure using steel poles and cross members of 3" and filled with concrete and approved by the Permit Department. Not only would it prevent floatation, but it would be in a stout enclosure area. That requirement would apply to everyone within the geographic area. Mr. Brown had looked at other similar cities and found nothing in Municode. Mr. Clark asked if the City would be sued if a house was damaged. Mr. Brown did not know who would be responsible.

Mr. Adams said the big damage was from the construction dumpsters. Ms. Kidd said the instance that brought this to light was the Lake House dumpster almost hit Mark Ragusa's house and it was a small dumpster. There were a lot of dumpsters for restaurants in that area. Mr. Clark said if the dumpster had been secured there would not have been a problem.

Ms. Kidd said everyone was busy doing other things in preparation for any storm and a dumpster was not a consideration. Mr. Adams said there was a plan and it found not to work. Mr. Brown said the final provision of the ordinance that the Public Works Department had been requesting of restaurants or food service businesses if there was a dumpster enclosure that it must provide hot and cold water to hose down food products and a drain. In the storm surge area or in special flood hazard area, no cover and no unregulated water was allowed into the City sewer system. This would allow salt water in the treatment plant and then throw off the chemical process. He requested if the business was not using a drain that it must be covered with an approved cover. Mr. Quillin was concerned about FEMA flood regulations meeting the City ordinance because of plumbing. Mr. Brown said the City had it now and it did not fall under FEMA because it was not in an enclosed building and was not a habitable space. Mayor Villere said a grease trap was the same problem. It needed to be pumped out and secured. Mr. Quillin asked if a dumpster was defined in the ordinance. Mr. Blache asked if someone would put the cover back on. Mr. Brown said it would then provide a way for enforcement.

Mr. Adams asked if the Planning Advisory Service had provisions. Ms. Kidd said she would research it more. Mr. Quillin asked if there was a limitation to the size, would there be exceptions. His example was after a storm people want to bring in 30 yard dumpsters to gut their houses. Ms. Kidd said an exception could be added to the ordinance and could be handled in an Executive Order.

Mr. Quillin said during construction material was lying around the property which would float and a dumpster could also float unless it was secured. Mr. Blache was in agreement. Mr. Clark said there was a need for some type of restraint. It was also debris. Mr. Brown said with regular waterborne debris, the issue would be to identify whose it was that caused the problem. Mr. Clark said a restriction could be that materials on site must be secured from June until a decided point. The owner must show a contingency plan being located in a storm area. Dumpsters should not be the sole focus. Mr. Adams asked Mr. Brown if large dumpsters could be anchored down. Mr. Brown said from what he had been told in fast moving water was that floating the weight must be contained with a massive chain and anchorage to resist that force and load. A chain from Home Depot would not be strong enough. Mr. Blache and Mr. Quillin suggested chain augers that were used on mobile homes, screw in a dog chain and put it in with an impact. Mr. Adams said he was agreeable to an anchor and a fine. Mr. Thomas said it needed to be secured. Mr. Quillin suggested a cover to keep the debris inside. Mr. Brown said when a storm was coming there was little time to react. Mr. Quillin said the dumpster should be covered every day. Mr. Brown said realistically when a storm was coming it was too late to anchor the dumpster. Ms. Kidd said a cover would be a requirement.

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



Lori Spranley, Secretary

Dennis Thomas, Chairman