

**Planning Commission
Public Hearing
October 22, 2019**

The meeting was called to order by Chairwoman Rebecca Bush and the secretary called the roll.

Present: Nixon Adams, Ren Clark, Simmie Fairley, Jeff Lahasky, and Rebecca Bush

Absent: Bill Sones and Brian Rhinehart

Also Present: Louissette Scott, Director, Planning Department; and Cara Bartholomew, Planner

Adoption of the minutes of the May 14, 2019 meeting were deferred until the next meeting.

The first case discussed was P19-10-08 Recommendation to the City Council regarding Ordinance 19-26 MANDEVILLE REVOKING THE DEDICATION OF THAT PORTION OF MONROE STREET BETWEEN LAMARQUE AND FOY STREETS IN ACCORDANCE WITH THE LEGAL DESCRIPTION AND SURVEY PREPARED BY JOHN G. CUMMINGS AND ASSOCIATES DATED JULY 2, 2019; DECLARING THAT PORTION OF STREET AS SURPLUS AND NO LONGER NEEDED FOR CITY USE; DISPOSING THAT PORTION OF STREET AT PRIVATE SALE; AUTHORIZING THE MAYOR TO EXECUTE ALL NECESSARY DOCUMENTS; AND PROVIDING FOR OTHER MATERS IN CONNECTION THEREWITH

Ms. Scott presented the applicant purchased the house at 437 Lamarque Street on March 29, 2019, which was located in Square 15, Lot 8 and zoned R-1 single family residential. The property dimensions were 63.95' frontage on Lamarque Street with a depth of 202.50', as shown on the survey prepared by John G. Cummings and Associates dated July 2, 2019.

This corner lot was located at the intersection of Lamarque and Monroe Streets on the southeast side. Monroe Street was dedicated but unimproved with a Right of Way (R.O.W.) measuring 53.3' in width. It was adjacent to the north side property line of Lot 8. The property continued east toward the unimproved but dedicated Foy Street Right of Way and Little Bayou Castine.

The applicant was requesting that Monroe Street be revoked from Lamarque Street eastward, a distance of 202.5', (equal to depth of applicant's lot). There was a historic structure on the south and a live oak tree to the rear of the property. The applicant was proposing to renovate the structure and construct an addition to the house. The existing drainage ditch was culverted at the front of Monroe Street and opened to a ditch on the north side of the right of way.

A survey was prepared by Randall Brown & Associates. The Public Works Department needed access to the drainage ditch and 15' from the top of bank to the ditch. There was 24.5' remaining of the right of way that was not encumbered by a servitude. There was a live oak tree located in the right of way.

Vaughan Sollberger, architect for the applicant, had presented an idea of the existing house, addition and the wrap around. The proposed garage would be constructed in the right of way. The canopy of the live oak was not surveyed at the time of the schematic. Additionally, there were properties to the east having frontage on the adjacent street that was improved. It was asked if those properties would have their access revoked. The question was answered that there would be access from the opposite streets for the improved properties.

Mr. Adams said the issue before the commission was street planning in the city. Monroe Street would not be used as a roadway but it might have other usage like drainage.

Mr. Clark said the City needed all of the open space that could be gotten. Use was in the eye of the beholder and this open space for infiltration and critters to roam had a value.

Mr. Lahasky asked if the right of way was adjacent to private land and it was answered yes. There may be wetlands, but there was no wetland determination available. Mr. Lahasky asked if it was a developed street on the school side. Ms. Scott said part of the street was improved, but it served more as a drive for the school.

Heather Stokes said it was a wet area of the bayou behind their property. The water was 225' away from their property. Mr. Lahasky was concerned with an owner wanting to subdivide the area into lots and be denied with no access.

Ms. Stokes, applicant, said they had been maintaining the land as had the previous owners. The ditch had full grown trees in it. She understood maintenance and access was required. Their request was to acquire half of the right of way and a distance not deeper than their lot to use as parking. The only alternative was to elevate the house and addition which would ruin the streetscape.

Jeff Lyons, 515 Lamarque Street, said he lived in this area for 20 years. The area where the tree was located had been cleared. He had walked behind his property and there was a natural ridge and to the north the property sloped in. The vacant lot to the north flowed through it. He had not filled in any land, and his live oak tree and dipped down naturally. The sides naturally drained from the west to the swampy area. Water did rise from the swamp with the rain.

Ms. Stokes said the area on the right of way up to the oak tree was high with concrete and other items thrown back there. Approximately 200'-225' away the property sloped down with their lot was still being higher. At the last hurricane they checked the area and there was a small area of the back right corner that held any water.

Mr. Adams asked if the right of way was sold what would be the zoning district and would the applicant follow the fill regulations. Ms. Scott said the fill could only be placed under the roof shed of the house and they must follow the regulations in the Drainage Overlay District. Mr. Adams said the City may need the right of way for absorption but not as a street and the City could restrict the construction on the right of way.

Ms. Stokes said the requested had been privately maintained for 20 years. She said they would remove the concrete and create better drainage. Also, they could not build under the 72" live oak tree.

Buck Abbey, 1129 Villere Street, said he did not want to talk against the plans but about the swamp, Little Bayou Castain, behind the school and the end of the right of way. He pointed out how sacred the disappearing land was. The area he had walked when he was young was no more, it was filled with concrete. He said this community may have 75,000 citizens in the future. This street segment was a potential walkway into the swamp. There was another area on Foy Street which also had a right of way. Having two access points was good. At some point the citizens will see the swamp as a major place of interest for trees and bushes. His opinion was that it should stay in the public right of for pedestrian access.

Ernest Burguieres, 241 Wilkinson Street, said Anne O'Brien lived on Colbert Street and she had asked for a revocation without a swamp. It was a better policy to maintain all of the green space. He had no strong feelings either way, but he urged if there was a recommendation

and approval to preserve as much permeable ground as possible. He suggested using a limestone floor in the garage rather than concrete.

Dennis Thomas, 306 East Street, said at a public hearing about six weeks ago there was a discussion about raising the seawall. The City had \$17 Million of surplus money. He preferred the area to be a park or boardwalk for public use.

Ms. Stokes said she was only requesting to purchase half of the right of way and installing a fence if it was a public walkway. She said they would need a concrete garage floor, but she was receptive of a different type of driveway.

Mr. Lahasky said he thought a reasonable compromise would be to retain a drainage servitude, still have a swamp walkway to swamp and allow the construction of a garage.

Ms. Scott noted half of the right of way of 53' was 26.6'. The Public Works Department stated they would need to retain 24.5'. Mr. Clark was concerned about the garage encroaching into the right of way. Ms. Stokes said the garage would be 20' wide.

Mr. Lahasky moved to recommend approval to allow the purchase of 24' with the City retaining a servitude, and allowing the construction of a garage up to the point of the official City line needed. A friendly amendment was made that the driveway be constructed of a permeable material. The amendment was accepted and Mr. Adams seconded the motion. Ms. Scott said as she understood it, the petition was to revoke the entire right of way which could be amended by the City Council, obtain an appraisal and purchase the based on that price. Mr. Adams said the other half owner was the City.

Mr. Thomas asked about the two rear property owners. Ms. Scott said there was access on the other street. Ms. Stokes said people were driving through their existing property to get access to the swamp. Ms. Scott said there would be a loss of future vehicular access only from Monroe Street.

There was a further discussion that Monroe Street was grassy until you reached the oak tree because it had been maintained by the previous property owner. There was a suggestion that the City could install drainage and build over the ditch for a street, but no one wanted to lose the wetlands.

Mr. Thomas said if the commission denied access to rear of property they would be reducing property value and reducing the ability to resubdivide. If the City sold the green space it could create a legal issue with the other property owners and the commission would have to grant a variance for a carport. This would create a snowball effect and would be setting a precedent. Ms. Stokes said the wetland was beyond the area to be purchased, and she was hoping not to ask for a variance.

Jackie Gutierrez, 502 Lamarque Street, stated she had no objection to the request as long as the drainage servitude was retained. There was a 5.5' ditch, and she had walked to the area trying to get to the bayou but it was 200-300' behind their 202' property.

The vote failed 3-2 with Mr. Clark and Mr. Fairley voting against the motion. It was requested to include the discussion in the memo sent to the City Council. Ms. Scott clarified that the recommendation was to revoke 24.5' of land adjacent to the property owner with the condition that the driveway be a pervious material.

The next case discussed was P19-10-09 John and Kathryn Cressend request a waiver to the conditions regarding note #5 and 15 that there is no structure of any kind, including fences, within the 15' tree protection area and drainage on lots 3 through 20, of the approved subdivision plat of the Beau West Subdivision, Phase 1, prepared by Kelly J. McHugh and Associates, Inc. revised through May17, 2000, zoned R-1

Ms. Scott presented a waiver of the Beau West Subdivision, Phase 1, Restrictive Covenants notes No. 5 and No. 15. Covenant 5 which states:

"Construction of any nature, including fences, is prohibited in public streets, city drainage or utility servitudes, rights of way or easements". Covenant 15 states, "There is to be no structure of any kind, including fences, within the 15' tree protection area on lots 3 through 20". The drainage easement and tree protection area are co-located 15' from the rear property line.

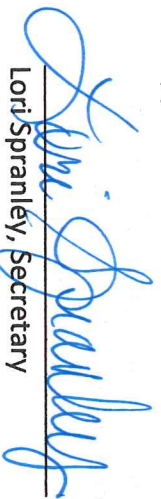
In March 2019, the applicants applied for and were granted a variance to encroach into the rear yard setback in order to build an outdoor kitchen. The Zoning Commission granted a variance of 15' from the 30' rear yard requirement for an area of 409 square feet. The Commission granted the variance based on the following findings:


1. A permit had been issued for a compliant accessory structure that is only 6" from the house but is allowed as an accessory structure within the rear yard setback.
2. This lot is adjacent to Parcel B Green Space, which is zoned Open Space. The property addition is approximately 30' from the southern property line that is shared with this Open Space.
3. The property adjacent to the rear, in the Beau Rivage Subdivision, is separated by a large drainage ditch, creating no adverse impact.

The tree protection was to provide additional buffer to the Beau Rivage residents. The question at the work session regarded tree removal and the applicant indicated that no trees were to be removed and he would plant additional trees. The commission had approved similar case in 2014 requiring additional trees to be planted.

Ms. Bush moved to approve the request with a planting plan to be approved by the staff, seconded by Mr. Fairley. Mr. Clark asked if the commission could waive a restriction on the subdivision plat. It was stated in 2014 the request was also a waiver. Mr. Cressend stated they would plant more than one tree. The motion was unanimously approved.

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


Lori Spranley, Secretary


Rebecca Bush, Chairwoman
Planning Commission

**Zoning Commission
Public Hearing
October 22, 2019**

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

Present: Nixon Adams, Ren Clark, Simmie Fairley, Rebecca Bush, and Jeff Lahasky

Absent: Bill Sones and Brian Rhinehart

Also Present: Louise Scott, Director, Planning Department; and Cara Bartholomew, Planner

The first case discussed was V19-10-36 Anita Serpas Steadman requests an exception to Section 7.5.1.3, R-1 Site Development Regulations, lot 64B, 1456 Montgomery Street, zoned R-1

Mr. Clark moved to table the case, seconded by Mr. Fairley and was unanimously approved.

The next case discussed was V19-10-37 William and Amy Steele request an exception to Section 7.5.3.3, R-2 Two Family Residential District Site Development Regulations, square 99, lot 99B, zoned R-2

Ms. Scott presented that the applicant recently purchased Lot 99B, Sq. 99 with the intent to construct a duplex. Lot 99B was subdivided in July 1985 as part of a resubdivision of a parcel of ground into 3 lots. Lot 99B measured 80.3' on Montgomery Street with a depth of 116' on west and 108' on east side and contained 9,000 square feet. The R-2 site development criteria required a minimum lot area of 9,000 square feet and a minimum lot area per unit of 5,000 square feet. A duplex was a permitted use by right in the R-2, Two-Family zoning district but the allowable density is 5,000 square feet per unit. The lot only contained 9,000 square feet, and 10,000 square feet was required for a duplex. Without the additional square footage, only a single family unit was allowed. Many of the houses in this block and the next block were single family residences. With the lots platted at 25', the ownership varied widely.

William and Amy Steele, applicants, presented pictures along Montgomery Street showing multiple duplexes in this area as well as on Dupre Street. The neighbor who sold them the property threw trash into his front yard. They showed this as a comparison that they wanted to increase the property value. Ms. Scott said all of the north side of Montgomery Street was single family residences.

Mr. Adams said it was zoned R-2 and the applicants stated they thought they could construct a duplex. They were caught in a site development regulation. Mr. Lahasky asked for the square footage of the adjacent lot with a duplex. Mr. Steele said the comparisons used for their appraisal indicated no lots larger than 10,000 square feet. Ms. Bush asked where the comparisons located. Mr. Steele same some comparisons were on Montgomery Street and other locations.

There had been a discussion at the work session of the possibility of revising the plans for smaller units. This could provide affordable housing for Mandeville. If the design was two stories, it could provide more area. The design must also meet the side loaded parking requirements. It was discussed that the request was not about design but density, and duplexes were not out of character for the area with the R-2 zoning. Mr. Clark expressed his frustration in the last meeting that the applicants were led to believe that they could do what could not be done. The only recourse was through a request to the commission. There was a further discussion that the realtor had called the City and it was confirmed that a duplex could be built on the property. Ms. Scott said it would depend on how the question was asked. If the question was if a duplex was allowed in R-2, the answer would be yes without any further

discussion. The staff tries to work through the process, but it does not always happen. Ms. Steele requested to be more careful in the future.

Ms. Bush shared the applicant's frustration, but the recourse was against the realtor. Mr. Adams said it sounded like the commission would like to find a way to make it work and it was toward the goal of more affordable housing in the Comprehensive Plan. The discussion was that the commission felt 10,000 square feet was approximate for a duplex so what could be built on 9,000 square feet. It was suggested that it be a smaller duplex. The number of rooms rather than square footage could make a difference. Ms. Steele said they were open to make it work with the City. Mr. Adams said it was important not to have more on street parking.

Kenny Kendrick, C F Breeze Construction, said they had looked at many ways to fit the parking. The setbacks were 15' setback and 20' from the front property line. The plans indicated the house was 80' wide and the garages were 20' wide in the front. This provided up to six outside parking spaces and two spaces inside of the garage. There would be no parking in the street. Mr. Adams asked how could the plans be revised for side parking because parking in front of the building was not allowed. Ms. Scott said the conceptual plan must be redesigned and it could be discussed with the staff.

The issue before the commission was allowing a duplex with the required parking. Mr. and Mrs. Steele said they would like to have at least three bedrooms on the owner occupied side of the duplex. Mr. Lahasky suggested the construction of 3 bedroom/2 bath on one side and 2 bedroom/1 bath on the other side. Ms. Steele said the presented plan met the setback but they could make the design smaller. Mr. Lahasky said one of the concerns he was hearing was the size of the house and the aesthetic from street did not fit the streetscape and it felt larger. The parking could not be on the street and not in the front of the building. Ms. Scott said the front setback would be green with a driveway access through the front yard and parking spaces behind the front facade of the house. Mr. Adams asked if the owners could meet with the Design Review Commission.

Ms. Scott said the purpose of the R-2 zoning district was:

The purpose of the R-2 Two-Family Residential District is to provide an area for moderate density single-family residential uses and duplex uses with one structure on one lot while maintaining a single-family neighborhood character.

So the point of the parking was location. When there were parking lots it was getting away from the single family character of the neighborhood. Mr. Clark said these were two young people who bought the land and were wrongly advised as to what could be done. The commission was asking to make it work within the City rules and they were in agreement. The owners were asking for an exception and the commission was asking to fit as close as possible to the rules. Mr. Lahasky said the commission could not talk about monetary issues but he advised them to look at the leasing comparisons because their plan was gorgeous but not a cheap structure.

Grace Kuminom, directly across the street, said she felt they were overbuilding for the size of the lot. The duplex would be too big, there would be too much traffic, and too many visitors. In New Orleans, it was illegal to park across from a driveway. Mr. Clark said there had been a discussion and agreement for one side of the duplex to be smaller to meet the regulations as closely as possible. Mr. Adams said it was to have the parking off of the street and resemble the character of the neighborhood. Ms. Kuminom said she had no problem with the revision but she was concerned since the owners were out of the country part of the year and the neighbors would have to put up with the tenants. Mr. Steele said no street parking

could be a restriction in the lease with penalties. Ms. Scott said the site plan should be adequate for tenant parking and visitors.

Dianna Drake, adjacent neighbor, had lived on the street since 2001. She had no objection to a single family residence and she agreed there were duplexes in the area. The 700 block of Montgomery Street was a beautiful pristine footprint of green space backing to the Trace. There was one duplex on the street and it was constructed 30 years ago. Her opposition was that the structure must not destroy the integrity and footprint of the block. The design would be somewhat of a risk for the applicant in the area. She would be in support if the parking was taken of, there was a reduction of the house size with trees on the property, and it fit the ambience of the block. She was heartfelt on not disturbing what was there since there was so little left with greenspace and a proper yard area for a healthier lifestyle.

Ms. Scott said in the R-2 zoning district there was no greenbelt, but there was a minimum number of required trees which was probably four trees. With the submittal there was not much left on the lot.

Gail Serla, 781 Montgomery Street, said the integrity of the neighborhood would go down since no one knew what kind of people would be in the neighborhood. There was already increased traffic from the restaurant on Rapatel Street. There would be even more traffic with this development. Looking at the plan, she did not know how they would configure the parking. There would be problems with the across neighbor with cars pulling out of the driveway. Increase the population in that area would decrease the value of the property. Mr. Clark suggested Ms. Serla speaking to the City Council about purchasing properties as green space.

Mr. Steele said they would be adding 2-3 more people. Mr. Adams said the site criteria was not the discussion. Mr. Clark said the zoning was R-2 so the property could be built as a duplex. The trees were disappearing. People did have a right to purchase the land with the zoning district and within the rules of the CLURO to build the size they want. They needed to get the footprint consistent with the community.

Mr. Clark moved to approve the exception based on the submission of a revised plan meeting the intent as described in the meeting discussion for space, footprint, parking, tree protection, design review, and comply with the rules to the greatest extent possible, seconded by Mr. Fairley. Subject to a good faith effort being reviewed by the Planning Director and the Design Review Commission. The motion was unanimously approved.

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


Lori Spranley, Secretary


Nixon Adams, Chairman
Zoning Commission

