

**Planning Commission  
Public Hearing  
July 10, 2018**

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

Present: Nixon Adams, Simmie Fairley, Ren Clark, Dennis Thomas, Bill Sones and Rebecca Bush

Absent: Michael Blache

Also Present: Louise Scott, Director, Planning Department; Paul Harrison, City Attorney; Mayor Donald Villere; and City Council Member Clay Madden

Mr. Clark moved to adopt the minutes of May 29, 2018, seconded by Mr. Thomas and was unanimously approved.

The first planning case discussed also had a corresponding zoning case and both cases were discussed in conjunction. The planning case discussed was P18-07-06 Recommendation to the City Council regarding Ordinance 18-20 to effect the annexation of certain immovable properties situated in Section 54, Township 7 South, Range 11 East, the Parish of St. Tammany, State Of Louisiana, containing approximately 12.98 Acres into the corporate limits of the City of Mandeville; designating and assigning the properties for purposes of zoning as B-2, Highway Business District and O/R, Office/Residential District and for other matters in connection therewith. The zoning case discussed was Z18-07-04 Recommendation to the City Council regarding Ordinance 18-20 to effect the annexation of certain immovable properties situated in Section 54, Township 7 South, Range 11 East, the Parish of St. Tammany, State Of Louisiana, containing approximately 12.98 Acres into the corporate limits of the City of Mandeville; designating and assigning the properties for purposes of zoning as B-2, Highway Business District and O/R, Office/Residential District and for other matters in connection therewith.

Ms. Scott presented there were 15 parcels to be annexed with Parcel 14 proposed to be zoned as O/R, Office Residential and the remaining 14 parcels proposed to be zoned B-2, Highway Business District. The verbiage of the ordinance read as follows:

“The City’s Growth Management Plan as defined under the Comprehensive Land Use Plan and the Agreement Amending the 1990 Sales Tax Enhancement Plan identified Priority 1 areas and infill areas as targets for annexation.” The ordinance stated that these were properties contiguous to the boundaries of the City and there were no registered voters residing on these properties. “The Comprehensive Land Use Plan adopted in 1989 and revised through January 2007, identified that it was the policy of the City to establish a more consistent overall boundary by encouraging infill annexation of areas with boundaries that abut the City.” The annexation complied with that objective. “This was a target area for annexation and was part of the objective of the City’s Growth Management Plan as defined in the Comprehensive Land Use Plan adopted 1989 and revised through January, 2007 and by agreement amending the 1990 Sales Tax Enhancement Plan to provide for Growth Management Revenue Sharing adopted by St. Tammany Parish and the City of Mandeville on April 1, 2003 and the City did desire to include into its corporate limits all properties along major corridors and gateways which because of their visibility defined the character of Mandeville for both residents and visitors alike and that the proposed annexation would alleviate any current gap in service provided by the City of Mandeville to the area including public utilities and police services. The Highway 22 and West Causeway Approach corridors have developed in areas characterized by commercial, office and residential uses.”

Michael Riess, Riess Lemieux Law Firm, represented JSB Mandeville, said his client owned 1.9 acres. In 1990-1991 the City of Mandeville and the Parish entered into an Annexation Agreement. About 27 years later, the City of Mandeville was trying to annex the



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1.95 acre property that his client bought in 2007. The property was purchased to develop a 55 unit apartment complex. In May, 2015 as part of St. Tammany Parish, their rules, regulations, and zoning laws governed the property as it did at this time. His client applied for a zoning application for the Turtle Creek property zoned A8, multi-family residential and pursuant to that zoning designation his client was trying to build 55 apartments. As a good developer, he met with the neighbors to discuss any objections. Some of the neighbors did object so he agreed to scale the project back to 44 units. A voluntary Restrictive Covenant was recorded limiting the development to 44 units with the deed of the property. JSB obtained a site work permit and installed silt fences as required by Stormwater Management Protection, removed all trees marked as not vital by the St. Tammany Parish Tree Survey, and removed the top 6" of vegetation. The low lying stagnant areas were mucked out several times to deal with the mosquitoes. The temporary pole was installed and energized, and a portable office building was set up. They had filed a building permit with St. Tammany Parish months ago and were getting stalled by the Parish.

Mr. Riess said if the property was annexed, his client's development dropped from 44 to 25 units. The question he would ask as a commissioner would be why in 2018 was Mandeville annexing these properties. His answer would be because a permit was to be issued by St. Tammany Parish and the City wanted to stop it. Mr. Clark said he did not know about that information. Mr. Adams said the commission would determine if the request was in keeping with the Comprehensive Plan and if it was the correct zoning. The property was located in the Priority 1A annexation/infill area.

Mr. Riess said the annexation was taking from his client the ability to use his property vis-a-vis St. Tammany Parish. Mr. Adams said the commission would make a recommendation to the City Council as they were not the legislative body. Mr. Riess asked the commission to defer the action to study the request. The reason the City was moving forward with this precipitous act was to prevent a building permit from being issued, and it would be a regulatory taking of his client's property.

Mr. Clark asked if the City knew there was a permit application. Ms. Richardson said the City was aware of the request because the owner needed a water and sewer connection. This was a similar situation to the Christian Brothers annexation process, and was located adjacent to the Christian Brothers property. Mr. Thomas verified that the only way the project could be provided a water connection was to annex into the City. Ms. Richardson said the City had discovered that Mr. Bowers had applied with the State to install a water tank and sewerage system that would be detrimental to the surrounding properties which was located within the City limits. Mr. Riess said the water tank and sewerage system was permitted by law, but they would like to hook into the City of Mandeville's system. Ms. Richardson said the City law compelled the property within 300' of the City to hook into the City system. Mr. Adams said the commission would make a recommendation to the City Council of compliance with the Comprehensive Plan. The City in its comprehensive planning process stated this area should be part of the City. As to the zoning there would not be a lot of difference.

Mr. Riess said the commission's decision should be whether the City could annex the property from St. Tammany Parish. Mr. Adams said it was not if the commission could recommend the annexation and zoning; it was in the plan. Ms. Richardson said the second map indicated the zoning, specifically this property to be zoned O/R (Office/Residential) to be most consistent with the Parish zoning. Mr. Riess said the fancy language was "most consistent" with the zoning. It was not consistent with the Parish zoning of 44 units versus 2018 City zoning allowing 25 units. Mr. Adams said the Comprehensive Plan contained a zoning map of the general areas of commercial or mixed use zoning. Ms. Scott said generally the proposed zoning was consistent with the Parish zoning and the City's Comprehensive Plan. Mr. Clark said it was



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a density issue. Mr. Adams said Mandeville Lakes was not annexed 20 years ago because of the density.

Mr. Riess asked how the zoning could be the same when St. Tammany Parish zoning permitted 55 units and he had a pending building permit. It would be a taking when the annexation occurred by the City of Mandeville. Mr. Riess said the most consistent zoning statement was incorrect. The applicable zoning of this 1.95 acres reducing the number of units from 44 to 25 was unconstitutional, and it was a taking. Mr. Adams said the commission understood a taking, but it was not their consideration. Mr. Riess said it was the commission's business because there would be a recommendation to the City Council. Mr. Adams said the recommendation was based on whether the request agreed with the Comprehensive Plan. The City Attorney was providing advice and Mr. Riess was stating something different. Mr. Riess suggested deferring action to the next meeting requesting position papers from the various parties.

Ms. Bush asked when was this property included in the group. Ms. Richardson said it was an island of 15 properties with the City surrounding it. Ms. Bush asked when the City decided to annex the island. Ms. Richardson said the City had been working on the plan for several months. Mr. Adams said the area was part of the Comprehensive Plan for 25-30 years. Mr. Riess said the answer to the question of when the City decided to annex the property was now. Mr. Adams said the commission had been asking for annexations to be a priority in the Short Term Work Program for over 5 years. Mr. Riess said the annexation suddenly became a priority because his client was about to get a building permit under St. Tammany Parish rules versus the City of Mandeville rules. Ms. Richardson said the utility connection issue was brought up at the time of the Christian Brothers project that caused an issue every time someone wanted to build. Ms. Scott said there were problems with projects being reviewed through the Parish permitting process and at the end of the review having no water and sewer connections. The City had adopted an ordinance specifically addressing the requirement to annex the properties to be provided utilities services. Ms. Bush said Mr. Schmidt representing Christian Brothers did not object to the annexation. This was a property owner that was objecting. Ms. Richardson said there was a Cooperative Endeavor Agreement with Christian Brothers and the City wanted to stop the backwards process. There were issues on that project that were changed after the fact to be able to be annexed into the City. Ms. Bush asked what the commission's options were when an owner objected to the annexation. Ms. Scott said this was part of the planning process to annex the infill areas to have consistent boundaries throughout the City and there would be no gaps in service. There had been confusion because many property owners thought they were part of the City.

Mr. Riess said the ordinance was adopted around 1990-91 and now 28 years later the City of Mandeville decided to pursue this annexation because of his client's building permit. Mr. Adams said this was not the first annexation of property into the City limits. Mr. Clark said this annexation discussion had been ongoing for years. Mr. Adams said it had been the commission's number one priority in the Short Term Work Program. Mr. Clark said the commission was being asked if it was their recommendation to the legislative body that the annexation followed the Comprehensive Plan. If the commission said no, then the commission must change many aspects of the Comprehensive Plan. If a property owner objected to the annexation, they had every right to pursue the objection through the available measures. Ms. Richardson said Title 33 of the Louisiana Revised Statute stated that the City and Parish agreement specifically addressed that annexation between the two entities was allowed. Mr. Adams said the sales tax split was determined on that agreement. Ms. Richardson said it was entered into in 1990 and revised in 2003. This was not the first annexation under the agreement; it was ongoing.



Mr. Riess asked if there had been cases where there was an objection and a pending building permit. Mr. Adams said there had been a few instances of property owner objection to an annexation. But, the City had not been in a position to force the annexation at the time. Mr. Riess said the City requested the annexation to block his client's development. The project died if the property was annexed. At 25 units, it was not a commercially viable venture. Mr. Adams asked when the property was purchased and it was stated the purchase was in 2007. Mr. Adams said the property was part of the plan before that time. Mr. Riess agreed, but the Parish laws were applicable to his property so he could obtain a building permit. He had been issued a permit for site work. His client had paid to St. Tammany Parish \$42,599 in impact fees. Mr. Adams said his client had purchased the property knowing the restrictions.

Mr. Riess asked to defer the action to study this issue. Mr. Adams asked what the commission would need to study. Mr. Riess said Ms. Richardson was incorrect; he did not have to tie into the City of Mandeville's water system. He had received a letter from the State of Louisiana, Secretary of the Dept. of Health, stating he did not have to tie in. Ms. Richardson said she had a revised statute that stated the client did have to tie in. Mr. Clark asked with the Parish's stated no net runoff, how had Mr. Riess' client performed site work on the land, deforest it, and removed 6" of ground. He asked where was the offsetting water storage on the site. Mr. Riess said that was part of the permitting process being reviewed in St. Tammany Parish. Mr. Clark asked if offsetting drainage had been placed and Mr. Riess answered yes. Mr. Clark asked to verify that the site was retaining the water and Mr. Riess answered yes. Mr. Clark said the commission was only recommending that the annexation was following the Comprehensive Plan and suggested that Mr. Riess' arguments were better given to the City Council which was the legislative body. Mr. Riess agreed and would be in attendance at their July 26<sup>th</sup> meeting. However, he was trying to slow the process down. Mr. Clark said since 2007 the owner could have built the 55 units, and he asked why the units were not built 5 years ago. Mr. Riess said if he had applied for a building permit in 2008, the City would have done the same thing. Mr. Clark disagreed. Mr. Adams said that was speculation. Mr. Riess said it was happening now because there was a pending building permit. His client did not have the financing or market studies in 2007 and he was ready to build now.

Mr. Thomas asked if the permit was issued before the annexation was approved, what would be the next step. Ms. Richardson said it would be the same problem as Christian Brothers and the City could compel the owner to hook into City water. Mr. Riess said it would be a taking. Ms. Bush said Subsection C of 33:172 discussed the requirement of consent of the property owner. Ms. Richardson said there was an agreement with the Parish. Mr. Riess asked again to defer the vote.

John Bowers, developer and owner, said he was a self-made man living in the Sanctuary Subdivision. He had bought the property in 2007, but did not develop it because the economy crashed in 2007. At this time, the City was beginning to struggle with several large box stores vacating their property. In his case, he had provided high quality work and had kept his word. The entire discussion was about density. He could have been permitted to construct more units than proposed. He listened to four people who had objections, of which one complaint was the color of the bricks. The other three owners were concerned about drainage and he agreed at this cost to fix the drainage problems in this island. He stated that all of the property by this island was annexed was not true. If the commission took the time to make an educational decision, it would be seen that they were being cornered in with other small parcels. He had spoken to three other property owners who did not want to be annexed. Mr. Bowers had met with Mayor Villere and the Director of Planning, and was told that the biggest issue was his requirement to hook into City water. He had a letter from the State of Louisiana, Dept. of Health, allowing for their own water and sewer. He was asking for a simple request to defer the action.



Mr. Adams said the properties were part of the annexation plan. Mr. Bowers asked why were these properties and not others in the plan designated for annexation at this time. Mr. Adams said this annexation included almost all of the triangle properties. Mr. Bowers said since there were several other unannexed properties, why not complete the annexation in an orderly fashion. He asked if there was a study that this was the highest and best use of annexation. There were 40 residents putting family members in these units. He had agreed that all first floor units would be aging restricted. People were present at the meeting wanting to have their aging families live in these first floor apartments. He had agreed to this request of Parish Councilwoman Maureen O'Brien. He had agreed to fix the existing drainage problems. He asked the commission to defer action for 30 days to review the maps. He felt he was being reasonable and had clarified why he had not started the project. He believed this annexation was moving forward because of his development.

Jessica Lacy, 553 Evergreen Drive, said she wanted to relocate her retired parents from Oklahoma to be a support for her children and watch them grow up. The age restriction helped make the unit affordable. Ms. Richardson said the recommended zoning would allow the construction of an apartment complex, but there would be a lesser amount of units. Ms. Bush asked about two large complexes on Highway 22. Mandeville Lakes was not surrounded by the City, and Chapel Creek was not contiguous to the City. Ms. Scott stated this was an island surrounded by the City. The City was continuing to see development in this area and there was a problem with coordination between the City and Parish.

Ms. Bush said she needed to hear the lack intent for a taking and there was no intent to target anyone. Mr. Adams provided history that the issue started with the election of 1984 when a few candidates noted when driving west to east that they moved in and out of the City limits 36 times. There was a need to stop annexing cash registers and consolidate the City without several islands. Since that time, the City was successful in annexation except for a few large neighborhoods with infrastructure problems. The Fontainebleau Subdivision was annexed on a special agreement. Ms. Scott said the City continued to move forward on annexations. Ms. Richardson said this area was becoming an issue with development as shown in the Christian Brothers case of not annexing prior to development. Christian Brothers adjusted their development to be compliant. St. Tammany Parish was aware of the problem because they could not provide utilities. She argued under Louisiana Revised Statute 33:4004 that the City had the right to compel Mr. Bowers to connect to City utilities. The purpose was not having sewer treatment systems in the middle of the City. That was one of the main reasons for the annexation of this property. This would be an issue for all of the surrounding properties.

Ms. Bush verified there was a signed Parish document. Ms. Scott said there as an Annexation Growth Plan entered into between the City and the Parish which included the Annexation Growth Map. The Sales Tax Agreement also contained a consent for the City to move forward on annexation. The Growth Management Plan was adopted in 1990 and revised in 2003. Ms. Scott said the plan identified the infill and target areas for annexation and was included in the Comprehensive Plan.

Mr. Adams said the plan was further divided into Priority Areas with specific allocations of sales taxes. Mandeville was receiving the sales tax whether the property was developed in the City or the Parish. Mr. Clark said it was a health, safety and welfare issue related to the continuity of the use of sewer systems. He asked if the commission deferred the case, would that be binding on the City Council. Ms. Scott said if the owner wanted to work out the issues, they could discuss it with the City Council. Mr. Adams said the City Council forwarded the ordinance to the commission to review in regard to the Comprehensive Plan. The plan established this as a Priority 1 area and the general uses in that area. Mr. Clark said the continuity and contiguity was closing some of the last holes in the City per the design of the



plan. The health, welfare and safety were that the City did not want separately run sewerage systems. Mr. Adams said law enforcement was also an issue.

Ms. Lacy said she wanted to have her parents live in the area and the complex was age restricted. The developer and his attorney had clearly stated if the annexation was approved, they could not build the apartments. Mr. Adams personally agreed there was a need for more small apartments and higher density, but that was not part of the Comprehensive Plan. Another issue was if the infrastructure on Highway 22 could support the use.

Ms. Bush asked Ms. Lacy what was her understanding of being age restricted. Mr. Bower said he agreed that all of the units on the first floor would be built aging restricted which was defined in the building code meaning the bath was built for wheelchairs and the counter tops were accessible. He also agreed to hold the first floor units until the complex was built out. Mr. Thomas asked if it was rent controlled. Mr. Bowers said he agreed to keep those units at the same price as a regular apartment.

David Serarra, 1924 Claiborne Street, Apt. B, asked what was the City's exposure to Mr. Bowers' argument that this was a taking. Ms. Richardson said the City Council would have to address that question. Mr. Clark said the commission could not consider economics, but he thought planning had an economic driver. He did not know what benefit there would be in slowing down the process because the end game was the same. There would be density issues in Mandeville and the only choice was not to be annexed.

Mr. Adams asked what other information could be obtained to make the recommendation. Ms. Bush said she wanted citations from the plan applicable to the decision as far as establishing the priority. With the latest Short Term Work Program, the priorities were listed as Pelican Park, Fontainebleau State Park and the Nature Center. She assumed this annexation was not listed because it was already in progress. She needed support within the Comprehensive Plan to show this was an issue and why the difference in time between 2003 and 2018.

Mayor Donald Villere said it was partly due to Hurricane Katrina having all of the processes off track. In 2010, the administration reviewed annexations and where to pursue the infill properties. Last year, the administration requested an additional Planner for the sole purpose of moving forward on annexations to pursue the infill areas as well as the other side of Highway 190 around Kmart. The effort had been ongoing for some time. The City Council had passed an ordinance requiring properties to annex into the City to be provided City water and sewer. The ordinance resurged the idea of pursuing infill properties and annexation. The 2018-2019 budget included the request for another Planner. Annexations were not directed toward one property, but the infill area. Mr. Clark said the proponent said he did not want our sewer and water. Mr. Bowers said when he met with Mayor Villere; he offered to pay for the City utilities. Mayor Villere said the City Council had adopted an ordinance requiring annexation to obtain utilities. He urged the commission to forward a recommendation to the City Council as part of the Comprehensive Plan. Ms. Bush said she wanted to know about the intent and that it was not about a taking. Mr. Clark said he understood the intent was that the triangle area be included in the City limits.

Ms. Scott said the goals and policies under Growth Coordination, goal 1, was to establish high-quality, sustainable development patterns and to maintain a high quality of life in Mandeville. Policy 1.7 stated to continue to refine the City/Parish annexation agreement to coordinate development standards and review with the Parish in the City's annexation areas. There were other goals and policies that spoke to the boundaries. Ms. Bush said her concern related to the timing. Ms. Scott said the City was moving forward with annexations and it was



part of the established plan for years. It was a benefit of the City to move forward. Ms. Richardson said the commission could make a recommendation to the City Council with points for their consideration. Ms. Bush asked if she was allowed to consider the takings argument. Mr. Thomas said the commission was not taking anything, only making a recommendation.

Mr. Adams moved to recommend to the City Council adoption of Ordinance 18-20 for the annexation as a key part of the Annexation Growth Plan and Comprehensive Plan, the properties would be zoned as shown on the attached map, advise the Council of the questions related to takings, provisions of utilities, timing of the process and initiation of the case were raised and should be considered in their deliberations, seconded by Mr. Fairley.

Nic Guillot, 110 Cardinal Lane, said his fiancée's family was aging and would not be able to maintain their household. A year ago they heard of the project with the aging restriction on the bottom floor and they thought it was great with the need for more affordable housing. In listening to the discussion, he wondered why this parcel was chosen. There were other areas of annexed land of higher value. Mr. Adams said it was part of a 30 plus year old effort to annex the triangle property. Mr. Guillot asked the commission, as representatives of the property owners, shouldn't they know which area was strategic. Mr. Adams said the infill area was identified as the most important areas of annexation and was part of the Comprehensive Plan which was a strategic study. Mr. Guillot said as a resident, he thought there was merit to delay the recommendation and think about it. Mr. Adams agreed with the use, but the economics was a business decision. Mr. Guillot recommended more factual study of why the annexation was moving forward now since it seemed convenient. His degree was Construction Management so he knew the project had to make economic sense. The commission's recommendation would determine if the apartments were built or not. He pointed out that if approved, the developer would go to court. Mr. Adams said that possibility was included in his motion. Mr. Guillot again asked for a delay in the recommendation for future consideration. Mr. Clark asked what a delay would accomplish.

Ms. Richardson asked Ms. Bush what additional information was needed to move forward. Ms. Bush asked if the City Council could consider the ordinance at the end of the month. Mr. Adams said he thought the commission should move the ordinance to the decision making body. Mr. Clark said this was geographic, and the City was looking for continuity in the shape of the town. It was related to that rather than economics. Mr. Guillot said as a taxpayer, he wanted his tax dollars to mean something. The commission should evaluate the entire annexation plan.

Mr. Fairley called the question. Mr. Clark asked Ms. Bush if the motion addressed her concerns. Ms. Bush said the commission was requested to make a recommendation on the annexation. Mr. Clark said the recommendation was if the annexation was part of the Comprehensive Plan and the commission was encouraging the City Council to review all of the issues related to this. The motion was unanimously approved.

The next case discussed was P18-06-08 Adoption of the 2018-2019 Short Term Work Program in Resolution 18-01.

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

The next discussed was P18-07-07 Recommendation to the City Council regarding Ordinance 18-19, an ordinance amending the CLURO Section 7.7, Table of Permitted Uses by Zoning District and providing for other matters in connection therewith



Ms. Scott presented that the City Council introduced Ordinance 18-19 at their meeting on June 14, 2018 to amend the Table of Permitted Uses by Zoning District under CLURO Section 6.4.42, Lodging – Bed and Breakfast Residence to amend it from “S” Special Use Permit required to “\_” not permitted.

At the work session, public comment was received from bed and breakfast operators, Ray Baas representing several homeowner associations and other residents of the community. There was a lengthy discussion about areas called subdivisions outside of Old Mandeville where the use may not be appropriate. Some of the newer subdivisions had covenants that protected them against this use. Some of the older subdivisions and Old Mandeville did not have covenants. It was discussed that the Historic District was a more common area for this use with the old historic homes. Mr. Baas supported the Historic District with it being walkable. One of the bed and breakfast operators stated while they were located in the R-1 zoning district, the property was close to the lake and the Trace with people using the amenities of Old Mandeville which was the most popular. The proposed revisions addressed the use being allowed in the Historic District, changed the title, revisions on the dates of the CLURO, and eliminated the Planning Commission working with a consultant. Information from the public input was included. The Table of Permitted Use amendment would have triple asterisks by the zoning districts as notated for Supplemental Uses in Article 8. The use would still require a Special Use Permit, but the asterisk indicated where the use would be allowed. It would be restated in Article 8 as a cross reference. The intention was to allow the existing bed and breakfast residences to be a non-conforming use with added appropriate language.

Mr. Thomas said the R-1 zoning district was single family residential. If someone purchased a house in Old Mandeville but was located in the Historic District, they had the same expectations as homeowners in New Golden Shores Subdivision. The only difference was Old Mandeville’s lots were smaller and the houses were closer together. People paid a premium to be in Old Mandeville and close to the lake. They were being asked to make a sacrifice to allow a bed and breakfast residence in their neighborhood. He stated he lived in Old Mandeville in a historic house. The CLURO did not permit the commission to grant a variance for financial considerations so why was this being considered in a residential neighborhood for solely a financial consideration. Mr. Brupbacher had said he would not have opened his bed and breakfast residence if he could not make money.

Ms. Scott said the use was allowed in the CLURO in 1993. She had included the information from the public input. Mr. Adams said he thought the ordinance was a reaction from the subdivisions not having kept up their covenants. He thought bed and breakfast residences were a great use and there was no difference in one R-1 area or another. The use was typically found in historic areas. There were no Mandeville hotels so people were looking for a place to stay. Ms. Richardson said the amendments were based on the comments from the last meeting. Mr. Thomas said the perception was that people did not want the use in a single family neighborhood.

Council Member Clay Madden, 224 Live Oak Street, said he could not believe this language was part of the CLURO. There were expectations when purchasing property in Mandeville. If someone purchased a house on Lafitte Street there were expectations of a bed and breakfast. If you purchased a house on Albert Street, you would have a different expectation. Mr. Thomas said Lafitte Street was zoned B-3. Mr. Madden said he would not be averse to restricting the use to the B-3 zoning district. Mr. Adams asked about other commercial enterprises such as music lessons, air condition service, and veterinary advisory services. Mr. Madden said he had a consulting business but there was no one coming to his house. Mr. Thomas said the businesses were usually conducted during the week and not on the weekends or at night.



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Mr. Clark said the real problem was short term rentals. Mr. Madden said the ordinance was not a knee jerk reaction. Mr. Adams said there could be a monthly lease on anyone's house that could be cancelled at any time. Mr. Thomas noted that Air BnB was listed as renting couches. Mr. Clark said he did not see a threat of bed and breakfast residences in Old Mandeville. Short term rental was a problem and it was destroying neighborhoods. Mr. Madden said there was a house on the lakefront listed on Air BnB and Ms. Scott stated the owner had committed to removing the advertisement from the websites.

Mr. Clark moved to approve a recommendation of adoption of the ordinance, seconded by Ms. Bush. There was a discussion whether it was a recommendation to the original introduction, revisions to allow it in the Historic District, or something else. Mr. Clark and Ms. Bush withdrew the motion.

Mr. Thomas moved to recommend adoption of the ordinance as introduced. There was no second to the motion.


Mr. Adams moved to recommend the denial of the ordinance and allow the existing language to remain, seconded Mr. Fairley. Mr. Madden clarified that the commission's position was to allow the use in any R-1 zoning district. Mr. Thomas said to allow the existing language to remain was ridiculous. Ms. Bush said there were ways to deal with the use through the subdivision covenants. Mr. Adams said the use would not be absurd in the Sanctuary or Fontainebleau Subdivisions, but those subdivisions had strong covenants. Mr. Madden said he was representing all of the citizens. Mr. Thomas said the Historic District included R-1 zoning. Mr. Madden said it was better defined in the Historic District. Mr. Thomas said the Historic District was a large area. Mr. Sones said he did not see the hazards, and asked if the use as more prone to sexual predators. Mr. Madden said yes, and Mr. Adams disagreed.

The motion passed 5-1 with Mr. Thomas voting against the motion. It was agreed that the conversation needed more study. Mr. Clark said Mandeville was built on bed and breakfast facilities and had survived. Mr. Fairley said he would not like bed and breakfast residences to be removed. Ms. Bush said there were provisions that could be dealt with.

Ms. Scott stated Vet Naturally had updated the plan to include the parking bank as requested.

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

  
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Lori Spranley, Secretary

  
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Rebecca Bush, Chairwoman  
Planning Commission



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

Present: Nixon Adams, Simmie Fairley, Ren Clark, Dennis Thomas, Bill Sones and Rebecca Bush

Absent: Michael Blache

Also Present: Louisette Scott, Director, Planning Department; Paul Harrison, City Attorney; Mayor Donald Villere; and City Council Member Clay Madden

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

The first zoning case discussed also had a corresponding planning case and both cases were discussed in conjunction. The planning case discussed was P18-07-06 Recommendation to the City Council regarding Ordinance 18-20 to effect the annexation of certain immovable properties situated in Section 54, Township 7 South, Range 11 East, the Parish of St. Tammany, State Of Louisiana, containing approximately 12.98 Acres into the corporate limits of the City of Mandeville; designating and assigning the properties for purposes of zoning as B-2, Highway Business District and O/R, Office/Residential District and for other matters in connection therewith. The zoning case discussed was Z18-07-04 Recommendation to the City Council regarding Ordinance 18-20 to effect the annexation of certain immovable properties situated in Section 54, Township 7 South, Range 11 East, the Parish of St. Tammany, State Of Louisiana, containing approximately 12.98 Acres into the corporate limits of the City of Mandeville; designating and assigning the properties for purposes of zoning as B-2, Highway Business District and O/R, Office/Residential District and for other matters in connection therewith.

Ms. Scott presented there were 15 parcels to be annexed with Parcel 14 proposed to be zoned as O/R, Office Residential and the remaining 14 parcels proposed to be zoned B-2, Highway Business District. The verbiage of the ordinance read as follows:

"The City's Growth Management Plan as defined under the Comprehensive Land Use Plan and the Agreement Amending the 1990 Sales Tax Enhancement Plan identified Priority 1 areas and infill areas as targets for annexation." The ordinance stated that these were properties contiguous to the boundaries of the City and there were no registered voters residing on these properties. "The Comprehensive Land Use Plan adopted in 1989 and revised through January 2007, identified that it was the policy of the City to establish a more consistent overall boundary by encouraging infill annexation of areas with boundaries that about the City." The annexation complied with that objective. "This was a target area for annexation and was part of the objective of the City's Growth Management Plan as defined in the Comprehensive Land Use Plan adopted 1989 and revised through January, 2007 and by agreement amending the 1990 Sales Tax Enhancement Plan to provide for Growth Management Revenue Sharing adopted by St. Tammany Parish and the City of Mandeville on April 1, 2003 and the City did desire to include into its corporate limits all properties along major corridors and gateways which because of their visibility defined the character of Mandeville for both residents and visitors alike and that the proposed annexation would alleviate any current gap in service provided by the City of Mandeville to the area including public utilities and police services. The Highway 22 and West Causeway Approach corridors have developed in areas characterized by commercial, office and residential uses."

Michael Riess, Riess Lemieux Law Firm, represented JSB Mandeville, said his client owned 1.9 acres. In 1990-1991 the City of Mandeville and the Parish entered into an



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Annexation Agreement. About 27 years later, the City of Mandeville was trying to annex the 1.95 acre property that his client bought in 2007. The property was purchased to develop a 55 unit apartment complex. In May, 2015 as part of St. Tammany Parish, their rules, regulations, and zoning laws governed the property as it did at this time. His client applied for a zoning application for the Turtle Creek property zoned A8, multi-family residential and pursuant to that zoning designation his client was trying to build 55 apartments. As a good developer, he met with the neighbors to discuss any objections. Some of the neighbors did object so he agreed to scale the project back to 44 units. A voluntary Restrictive Covenant was recorded limiting the development to 44 units with the deed of the property. JSB obtained a site work permit and installed silt fences as required by Stormwater Management Protection, removed all trees marked as not vital by the St. Tammany Parish Tree Survey, and removed the top 6" of vegetation. The low lying stagnant areas were mucked out several times to deal with the mosquitoes. The temporary pole was installed and energized, and a portable office building was set up. They had filed a building permit with St. Tammany Parish months ago and were getting stalled by the Parish.

Mr. Riess said if the property was annexed, his client's development dropped from 44 to 25 units. The question he would ask as a commissioner would be why in 2018 Mandeville was annexing these properties. His answer would be because a permit was to be issued by St. Tammany Parish and the City wanted to stop it. Mr. Clark said he did not know about that information. Mr. Adams said the commission would determine if the request was in keeping with the Comprehensive Plan and if it was the correct zoning. The property was located in the Priority 1A annexation/infill area.

Mr. Riess said the annexation was taking from his client the ability to use his property vis-a-vie St. Tammany Parish. Mr. Adams said the commission would make a recommendation to the City Council as they were not the legislative body. Mr. Riess asked the commission to defer the action to study the request. The reason the City was moving forward with this precipitous act was to prevent a building permit from being issued, and it would be a regulatory taking of his client's property.

Mr. Clark asked if the City knew there was a permit application. Ms. Richardson said the City was aware of the request because the owner needed a water and sewer connection. This was a similar situation to the Christian Brothers annexation process, and was located adjacent to the Christian Brothers property. Mr. Thomas verified that the only way the project could be provided a water connection was to annex into the City. Ms. Richardson said the City had discovered that Mr. Bowers had applied with the State to install a water tank and sewerage system that would be detrimental to the surrounding properties which was located within the City limits. Mr. Riess said the water tank and sewerage system was permitted by law, but they would like to hook into the City of Mandeville's system. Ms. Richardson said the City law compelled the property within 300' of the City to hook into the City system. Mr. Adams said the commission would make a recommendation to the City Council of compliance with the Comprehensive Plan. The City in its comprehensive planning process stated this area should be part of the City. As to the zoning there would not be a lot of difference.

Mr. Riess said the commission's decision should be whether the City could annex the property from St. Tammany Parish. Mr. Adams said it was not if the commission could recommend the annexation and zoning; it was in the plan. Ms. Richardson said the second map indicated the zoning, specifically this property to be zoned O/R (Office/Residential) to be most consistent with the Parish zoning. Mr. Riess said the fancy language was "most consistent" with the zoning. It was not consistent with the Parish zoning of 44 units versus 2018 City zoning allowing 25 units. Mr. Adams said the Comprehensive Plan contained a zoning map of the general areas of commercial or mixed use zoning. Ms. Scott said generally the proposed zoning



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was consistent with the Parish zoning and the City's Comprehensive Plan. Mr. Clark said it was a density issue. Mr. Adams said Mandeville Lakes was not annexed 20 years ago because of the density.

Mr. Riess asked how the zoning could be the same when St. Tammany Parish zoning permitted 55 units and he had a pending building permit. It would be a taking when the annexation occurred by the City of Mandeville. Mr. Riess said the most consistent zoning statement was incorrect. The applicable zoning of this 1.95 acres reducing the number of units from 44 to 25 was unconstitutional, and it was a taking. Mr. Adams said the commission understood a taking, but it was not their consideration. Mr. Riess said it was the commissions business because there would be a recommendation to the City Council. Mr. Adams said the recommendation was based on whether the request agreed with the Comprehensive Plan. The City Attorney was providing advice and Mr. Riess was stating something different. Mr. Riess suggested deferring action to the next meeting requesting position papers from the various parties.

Ms. Bush asked when was this property included in the group. Ms. Richardson said it was an island of 15 properties with the City surrounding it. Ms. Bush asked when the City decided to annex the island. Ms. Richardson said the City had been working on the plan for several months. Mr. Adams said the area was part of the Comprehensive Plan for 25-30 years. Mr. Riess said the answer to the question of when the City decided to annex the property was now. Mr. Adams said the commission had been asking for annexations to be a priority in the Short Term Work Program for over 5 years. Mr. Riess said the annexation suddenly became a priority because his client was about to get a building permit under St. Tammany Parish rules versus the City of Mandeville rules. Ms. Richardson said the utility connection issue was brought up at the time of the Christian Brothers project that caused an issue every time someone wanted to build. Ms. Scott said there were problems with projects being reviewed through the Parish permitting process and at the end of the review having no water and sewer connections. The City had adopted an ordinance specifically addressing the requirement to annex the properties to be provided utilities services. Ms. Bush said Mr. Schmidt representing Christian Brothers did not object to the annexation. This was a property owner that was objecting. Ms. Richardson said there was a Cooperative Endeavor Agreement with Christian Brothers and the City wanted to stop the backwards process. There were issues on that project that were changed after the fact to be able to be annexed into the City. Ms. Bush asked what the commission's options were when an owner objected to the annexation. Ms. Scott said this was part of the planning process to annex the infill areas to have consistent boundaries throughout the City and there would be no gaps in service. There had been confusion because many property owners thought they were part of the City.

Mr. Riess said the ordinance was adopted around 1990-91 and now 28 years later the City of Mandeville decided to pursue this annexation because of his client's building permit. Mr. Adams said this was not the first annexation of property into the City limits. Mr. Clark said this annexation discussion had been ongoing for years. Mr. Adams said it had been the commission's number one priority in the Short Term Work Program. Mr. Clark said the commission was being asked if it was their recommendation to the legislative body that the annexation followed the Comprehensive Plan. If the commission said no, then the commission must change many aspects of the Comprehensive Plan. If a property owner objected to the annexation, they had every right to pursue the objection through the available measures. Ms. Richardson said Title 33 of the Louisiana Revised Statute stated that the City and Parish agreement specifically addressed that annexation between the two entities was allowed. Mr. Adams said the sales tax split was determined on that agreement. Ms. Richardson said it was entered into in 1990 and revised in 2003. This was not the first annexation under the agreement; it was ongoing.



Mr. Riess asked if there had been cases where there was an objection and a pending building permit. Mr. Adams said there had been a few instances of property owner objection to an annexation. But, the City had not been in a position to force the annexation at the time. Mr. Riess said the City requested the annexation to block his client's development. The project died if the property was annexed. At 25 units, it was not a commercially viable venture. Mr. Adams asked when the property was purchased and it was stated the purchase was in 2007. Mr. Adams said the property was part of the plan before that time. Mr. Riess agreed, but the Parish laws were applicable to his property so he could obtain a building permit. He had been issued a permit for site work. His client had paid to St. Tammany Parish \$42,599 in impact fees. Mr. Adams said his client had purchased the property knowing the restrictions.

Mr. Riess asked to defer the action to study this issue. Mr. Adams asked what the commission would need to study. Mr. Riess said Ms. Richardson was incorrect; he did not have to tie into the City of Mandeville's water system. He had received a letter from the State of Louisiana, Secretary of the Dept. of Health, stating he did not have to tie in. Ms. Richardson said she had a revised statute that stated the client did have to tie in. Mr. Clark asked with the Parish's stated no net runoff, how had Mr. Riess' client performed site work on the land, deforest it, and removed 6" of ground. He asked where was the offsetting water storage on the site. Mr. Riess said that was part of the permitting process being reviewed in St. Tammany Parish. Mr. Clark asked if offsetting drainage had been placed and Mr. Riess answered yes. Mr. Clark asked to verify that the site was retaining the water and Mr. Riess answered yes. Mr. Clark said the commission was only recommending that the annexation was following the Comprehensive Plan and suggested that Mr. Riess' arguments were better given to the City Council which was the legislative body. Mr. Riess agreed and would be in attendance at their July 26<sup>th</sup> meeting. However, he was trying to slow the process down. Mr. Clark said since 2007 the owner could have built the 55 units, and he asked why the units were not built 5 years ago. Mr. Riess said if he had applied for a building permit in 2008, the City would have done the same thing. Mr. Clark disagreed. Mr. Adams said that was speculation. Mr. Riess said it was happening now because there was a pending building permit. His client did not have the financing or market studies in 2007 and he was ready to build now.

Mr. Thomas asked if the permit was issued before the annexation was approved, what would be the next step. Ms. Richardson said it would be the same problem as Christian Brothers and the City could compel the owner to hook into City water. Mr. Riess said it would be a taking. Ms. Bush said Subsection C of 33:172 discussed the requirement of consent of the property owner. Ms. Richardson said there was an agreement with the Parish. Mr. Riess asked again to defer the vote.

John Bowers, developer and owner, said he was a self-made man living in the Sanctuary Subdivision. He had bought the property in 2007, but did not develop it because the economy crashed in 2007. At this time, the City was beginning to struggle with several large box stores vacating their property. In his case, he had provided high quality work and had kept his word. The entire discussion was about density. He could have been permitted to construct more units than proposed. He listened to four people who had objections, of which one complaint was the color of the bricks. The other three owners were concerned about drainage and he agreed at this cost to fix the drainage problems in this island. He stated that all of the property by this island was annexed was not true. If the commission took the time to make an educational decision, it would be seen that they were being cornered in with other small parcels. He had spoken to three other property owners who did not want to be annexed. Mr. Bowers had met with Mayor Villere and the Director of Planning, and was told that the biggest issue was his requirement to hook into City water. He had a letter from the State of Louisiana, Dept. of Health, allowing for their own water and sewer. He was asking for a simple request to defer the action.



Mr. Adams said the properties were part of the annexation plan. Mr. Bowers asked why these properties and not others in the plan were designated for annexation at this time. Mr. Adams said this annexation included almost all of the triangle properties. Mr. Bowers said since there were several other unannexed properties, why not complete the annexation in an orderly fashion. He asked if there was a study that this was the highest and best use of annexation. There were 40 residents putting family members in these units. He had agreed that all first floor units would be aging restricted. People were present at the meeting wanting to have their aging families live in these first floor apartments. He had agreed to this request of Parish Councilwoman Maureen O'Brien. He had agreed to fix the existing drainage problems. He asked the commission to defer action for 30 days to review the maps. He felt he was being reasonable and had clarified why he had not started the project. He believed this annexation was moving forward because of his development.

Jessica Lacy, 553 Evergreen Drive, said she wanted to relocate her retired parents from Oklahoma to be a support for her children and watch them grow up. The age restriction helped make the unit affordable. Ms. Richardson said the recommended zoning would allow the construction of an apartment complex, but there would be a lesser amount of units. Ms. Bush asked about two large complexes on Highway 22. Mandeville Lakes was not surrounded by the City, and Chapel Creek was not contiguous to the City. Ms. Scott stated this was an island surrounded by the City. The City was continuing to see development in this area and there was a problem with coordination between the City and Parish.

Ms. Bush said she needed to hear the lack intent for a taking and there was no intent to target anyone. Mr. Adams provided history that the issue started with the election of 1984 when a few candidates noted when driving west to east that they moved in and out of the City limits 36 times. There was a need to stop annexing cash registers and consolidate the City without several islands. Since that time, the City was successful in annexation except for a few large neighborhoods with infrastructure problems. The Fontainebleau Subdivision was annexed on a special agreement. Ms. Scott said the City continued to move forward on annexations. Ms. Richardson said this area was becoming an issue with development as shown in the Christian Brothers case of not annexing prior to development. Christian Brothers adjusted their development to be compliant. St. Tammany Parish was aware of the problem because they could not provide utilities. She argued under Louisiana Revised Statute 33:4004 that the City had the right to compel Mr. Bowers to connect to City utilities. The purpose was not having sewer treatment systems in the middle of the City. That was one of the main reasons for the annexation of this property. This would be an issue for all of the surrounding properties.

Ms. Bush verified there was a signed Parish document. Ms. Scott said there as an Annexation Growth Plan entered into between the City and the Parish which included the Annexation Growth Map. The Sales Tax Agreement also contained a consent for the City to move forward on annexation. The Growth Management Plan was adopted in 1990 and revised in 2003. Ms. Scott said the plan identified the infill and target areas for annexation and was included in the Comprehensive Plan.

Mr. Adams said the plan was further divided into Priority Areas with specific allocations of sales taxes. Mandeville was receiving the sales tax whether the property was developed in the City or the Parish. Mr. Clark said it was a health, safety and welfare issue related to the continuity of the use of sewer systems. He asked if the commission deferred the case, would that be binding on the City Council. Ms. Scott said if the owner wanted to work out the issues, they could discuss it with the City Council. Mr. Adams said the City Council forwarded the ordinance to the commission to review in regard to the Comprehensive Plan. The plan established this as a Priority 1 area and the general uses in that area. Mr. Clark said the continuity and contiguity was closing some of the last holes in the City per the design of the



plan. The health, welfare and safety were that the City did not want separately run sewerage systems. Mr. Adams said law enforcement was also an issue.

Ms. Lacy said she wanted to have her parents live in the area and the complex was age restricted. The developer and his attorney had clearly stated if the annexation was approved, they could not build the apartments. Mr. Adams personally agreed there was a need for more small apartments and higher density, but that was not part of the Comprehensive Plan. Another issue was if the infrastructure on Highway 22 could support the use.

Ms. Bush asked Ms. Lacy what was her understanding of being age restricted. Mr. Bower said he agreed that all of the units on the first floor would be built aging restricted which was defined in the building code meaning the bath was built for wheelchairs and the counter tops were accessible. He also agreed to hold the first floor units until the complex was built out. Mr. Thomas asked if it was rent controlled. Mr. Bowers said he agreed to keep those units at the same price as a regular apartment.

David Serarra, 1924 Claiborne Street, Apt. B, asked what was the City's exposure to Mr. Bowers' argument that this was a taking. Ms. Richardson said the City Council would have to address that question. Mr. Clark said the commission could not consider economics, but he thought planning had an economic driver. He did not know what benefit there would be in slowing down the process because the end game was the same. There would be density issues in Mandeville and the only choice was not to be annexed.

Mr. Adams asked what other information could be obtained to make the recommendation. Ms. Bush said she wanted citations from the plan applicable to the decision as far as establishing the priority. With the latest Short Term Work Program, the priorities were listed as Pelican Park, Fontainebleau State Park and the Nature Center. She assumed this annexation was not listed because it was already in progress. She needed support within the Comprehensive Plan to show this was an issue and why the difference in time between 2003 and 2018.

Mayor Donald Villere said it was partly due to Hurricane Katrina having all of the processes off track. In 2010, the administration reviewed annexations and where to pursue the infill properties. Last year, the administration requested an additional Planner for the sole purpose of moving forward on annexations to pursue the infill areas as well as the other side of Highway 190 around Kmart. The effort had been ongoing for some time. The City Council had passed an ordinance requiring properties to annex into the City to be provided City water and sewer. The ordinance resurged the idea of pursuing infill properties and annexation. The 2018-2019 budget included the request for another Planner. Annexations were not directed toward one property, but the infill area. Mr. Clark said the proponent said he did not want our sewer and water. Mr. Bowers said when he met with Mayor Villere; he offered to pay for the City utilities. Mayor Villere said the City Council had adopted an ordinance requiring annexation to obtain utilities. He urged the commission to forward a recommendation to the City Council as part of the Comprehensive Plan. Ms. Bush said she wanted to know about the intent and that it was not about a taking. Mr. Clark said he understood the intent was that the triangle area be included in the City limits.

Ms. Scott said the goals and policies under Growth Coordination, goal 1, was to establish high-quality, sustainable development patterns and to maintain a high quality of life in Mandeville. Policy 1.7 stated to continue to refine the City/Parish annexation agreement to coordinate development standards and review with the Parish in the City's annexation areas. There were other goals and policies that spoke to the boundaries. Ms. Bush said her concern related to the timing. Ms. Scott said the City was moving forward with annexations and it was



part of the established plan for years. It was a benefit of the City to move forward. Ms. Richardson said the commission could make a recommendation to the City Council with points for their consideration. Ms. Bush asked if she was allowed to consider the takings argument. Mr. Thomas said the commission was not taking anything, only making a recommendation.

Mr. Adams moved to recommend to the City Council adoption of Ordinance 18-20 for the annexation as a key part of the Annexation Growth Plan and Comprehensive Plan, the properties would be zoned as shown on the attached map, advise the Council of the questions related to takings, provisions of utilities, timing of the process and initiation of the case were raised and should be considered in their deliberations, seconded by Mr. Fairley.

Nic Guillot, 110 Cardinal Lane, said his fiancée's family was aging and would not be able to maintain their household. A year ago they heard of the project with the aging restriction on the bottom floor and they thought it was great with the need for more affordable housing. In listening to the discussion, he wondered why this parcel was chosen. There were other areas of annexed land of higher value. Mr. Adams said it was part of a 30 plus year old effort to annex the triangle property. Mr. Guillot asked the commission, as representatives of the property owners, shouldn't they know which area was strategic. Mr. Adams said the infill area was identified as the most important areas of annexation and was part of the Comprehensive Plan which was a strategic study. Mr. Guillot said as a resident, he thought there was merit to delay the recommendation and think about it. Mr. Adams agreed with the use, but the economics was a business decision. Mr. Guillot recommended more factual study of why the annexation was moving forward now since it seemed convenient. His degree was Construction Management so he knew the project had to make economic sense. The commission's recommendation would determine if the apartments were built or not. He pointed out that if approved, the developer would go to court. Mr. Adams said that possibility was included in his motion. Mr. Guillot again asked for a delay in the recommendation for future consideration. Mr. Clark asked what a delay would accomplish.

Ms. Richardson asked Ms. Bush what additional information was needed to move forward. Ms. Bush asked if the City Council could consider the ordinance at the end of the month. Mr. Adams said he thought the commission should move the ordinance to the decision making body. Mr. Clark said this was geographic, and the City was looking for continuity in the shape of the town. It was related to that rather than economics. Mr. Guillot said as a taxpayer, he wanted his tax dollars to mean something. The commission should evaluate the entire annexation plan.

Mr. Fairley called the question. Mr. Clark asked Ms. Bush if the motion addressed her concerns. Ms. Bush said the commission was requested to make a recommendation on the annexation. Mr. Clark said the recommendation was if the annexation was part of the Comprehensive Plan and the commission was encouraging the City Council to review all of the issues related to this. The motion was unanimously approved.

The next case discussed was V18-07-14 St. Tammany Parish School Board requests a variance to Section 7.5.6.3, Institutional District Site Development Regulations, more specifically (4), maximum height of structures, and Article 9, Parking and Landscaping, more specifically 9.1.4, Minimum Off-Street Parking Requirements by Use, Section 6.3.20, Public and Private Secondary or other Educational Facilities, 1 Skipper Drive, zoned I.

Ms. Scott presented that the St. Tammany Parish School Board was proposing the new construction of a new classroom and expansion of other existing buildings at Mandeville High School, identified as Area 4 on the MHS Classroom Building drawing by Holly & Smith Architects dated June 6, 2018.



The construction included a new three (3) story classroom building containing 49,841 square feet, a two (2) story addition to the locker room of 5,990 square feet and renovation of existing lock rooms containing 2,135 square feet. The proposed new three (3) story classroom building was adjacent to the existing auditorium, gymnasium and commons.

The three story classroom building would provide 38 classrooms replacing 28 modular classrooms and 4 small classrooms from a large portable building which were the oldest modulares and portables on the site. In order to reduce the building footprint area, a 3 story classroom building was proposed. The variance request was for an additional +3'-6" to the majority of the building and +8' average at the stair towers.

The project was reviewed by the Design Consultants and general comments were provided stating there was no adverse impact on adjacent residential uses. It was located to the rear of the property away from the residences.

With the completed build out of this project, the parking deficit variance would be reduced to 33 spaces. During construction, the deficiency would be 242 spaces.

Mr. Thomas asked how many portables would remain. Bruce Bundy, Principal, stated there would be 22 modulares. Cameron Tipton, Construction Supervisor, stated they would be 10 portables located on the north side of the back property line by the Weldon Park Subdivision. There would be 32 portables removed.

Mr. Adams asked if there was a Landscape Plan. Ms. Scott said the previous plans were reviewed and the plants were growing. Ms. Bush asked with the new parking lot next to the field, were there traffic concerns in that direction. Mr. Bundy said there was enough parking for anyone with a license. The most traffic would be when school was letting in and out, but it was not a heavily traveled road. It was mostly used by the Sanctuary Subdivision homeowners. Ms. Bush was concerned about the construction vehicles in the Sanctuary Subdivision using the rear entrance. Mr. Bundy said their delivery people were asked not to come at peak times. The construction would begin in the second quarter of 2019.

Mr. Fairley moved to approve the request for the height variance for a 3 story classroom building, seconded Mr. Thomas. Mr. Clark asked for a friendly motion that the approval be an exception instead of a variance because of the unique use and character of the site. Messrs. Fairley and Thomas accepted the amendment and the motion were unanimously approved.

The next case discussed was V18-07-15 Jason Alberts requests a variance to Section 9.2.5.6, Landscape Maintenance and Replacement Provisions and Section 9.2.5.4, Landscape Requirements in Low Density Residential Districts, lot 24, square B, Golden Glen Subdivision, 193 Devon Drive, zoned R-1

Ms. Scott presented in May the applicant had submitted an application to remove 2 black gum trees that were dying and diseased. The permit was approved, but with the new regulations of minimum landscape requirements within the setbacks four 2" replacement trees were to be provided. Since these were required trees in the setback, the applicant must also be in compliance with the established minimum number of trees located in the setback. The lot was 15,645 square feet for a total requirement of 12 trees with a minimum of 3 trees in each setback to be either preserved or planted. A tree survey was provided indicating there were nine trees on the site with two requested to be removed. In the front yard setback there were six existing trees where three trees were required. On the west side setback there was one tree, three were required so there was a two tree deficiency. On the east side setback



There was a double trunk tree to be removed. The total replacement planting was 8 trees to be compliant.

This case was discussed at the work session, and the applicant had emailed the staff that he would provide two Class B trees on the rear property line. The variance request would be amended from 8 trees to 6 trees. Ms. Scott had spoken with the Landscape Inspector on whether the site could handle the additional tree planting. The applicant had stated his intent to construct an addition to the house so they did not want to plant in that area. The Landscape Inspector suggested planting a grouping of Sweet Bay Magnolias to satisfy the requirements. Other discussion was there was a good existing canopy, and red buds were understory trees that would allow front space for the kid's activities.

Mr. Adams asked if the owners were required to keep trees planting close to the house. Ms. Scott said the new regulations had minimum requirements. Sometimes the lots were treed and there were other ways to mitigate.

Jason Alberts, applicant, agreed this was the first time seeing the suggested plan. He did not want the yard to look over clustered. He had bought his house with future plans for the property. They would be installing paver stones in that area. The rear corner was a tree house location with a pad where one previously existed. He also intended to install a pad for a boat and future carport. The rear corner had a large tree growing through the fence line. There was a palm tree on the rear corner of the house. He said the neighbor's trees were growing over part of his roof. Ms. Scott said there was a proposal for two crepe myrtle trees. Mr. Adams asked about preserving the canopy. Ms. Scott said the plan showed the canopy of the existing trees.

Wally Gardner, 305 Garden Avenue, asked if someone wanted to cut down a pine tree but did not want to replant then the owner should let the tree fall on the house. Ms. Scott said there were tree preservation regulations, but if the tree presented a danger it could be removed but there were minimum planting requirements. Mr. Gardner said he was advised by Cliff Siverd to remove a tree to prevent house flooding on one corner and had lifted the ground. He had to agree to plant more trees or let his house flood. That was not acceptable for his government. Economics was not a consideration, but it was costly to remove the tree. Now he would have to spend thousands more to plant on a fully canopied lot.

Dave Brashier, neighbor across the street, said he lived in Golden Glen because of the trees. He said he had no idea what would be the proper number of trees, but it was worth it.

Ms. Scott said this was a new regulation and the City was feeling its way to the appropriate numbers. Mr. Adams said the intent was to preserve the tree canopy and the commission understood the homeowners wanted to use their property. Mr. Alberts said he felt the requirement should be replanting a tree with a tree. Ms. Scott said the cost of the of contributing to the mitigation fund was \$150 tree. Mr. Alberts said times 8 trees would be expensive. He asked who was the City to tell him about his trees. Mr. Adams said the tree protection ordinances were law since 1984. Mr. Alberts asked when the City would pay for damage that the trees cause. Mr. Adams said it was the City's responsibility to preserve the canopy of the tree.

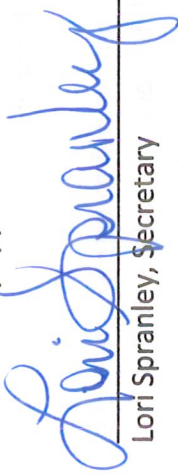
Mr. Thomas said eight trees were excessive, and he asked Mr. Alberts if he would plant four trees. At the last meeting, he did not realize Japanese Magnolia was considered a tree. Mr. Alberts asked not to be restricted to a required size so that he could plant the tree and have the cost of hiring someone to do the planting.




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Ms. Bush moved to approve the variance to require the planting of four trees, seconded by Mr. Thomas. Ms. Scott asked to include if agreeable the reduction in the minimum size. Ms. Bush modified her motion to include the size would be subject to the approval of the Landscape Inspector and the modification was agreed to by Mr. Thomas. The motion was unanimously approved.

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

  
Lori Spranley, Secretary

  
Nixon Adams, Chairman  
Zoning Commission



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

Present: Ren Clark, Nixon Adams, Simmie Fairley, Dennis Thomas, Bill Sones and Rebecca Bush

Absent: Michael Blache

Also Present: Louise Scott, Director, Planning Department; Paul Harrison, City Attorney; Mayor Donald Villere; and City Council Member Clay Madden

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

The only case discussed was V18-07-16 Matthew Saacks requests a variance to Section 7.5.1.3, R-1 Site Development Regulations and Section 8.1.1.4, Allowed Setback Encroachment, (4) Mechanical Equipment, lot 123, Woodstone Subdivision, 88 Woodstone Drive, zoned R-1

Ms. Scott presented Matthew Saacks, property owner, was requesting to install a whole house generator for backup purposes at his residence. The applicant was requesting a variance to allow the placement of this mechanical equipment in the side yard setback.

The applicant had stated on his application:

*I am requesting a variance of locating mechanical equipment in a side yard setback of my residential property to allow the installation of a whole house generator for backup power purposes. The side setback already has mechanical equipment in it, including two a/c units and pool filtering equipment. This location is also several feet from the natural gas meter and is the optimal place to install it. There is no other location on the property on which the generator could reasonably go. In addition, it will be screened from the street with existing plants that grow well above the unit's height.*

CLURO Section 8.1.1.4. ***Allowed Setbacks Encroachments*** states the following:

4. **Mechanical Equipment.** Except as authorized for the elevation of existing structures, heating, ventilation, air conditioning equipment or any other mechanical equipment shall not encroach into any required front or side setback.

CLURO Section 7.5.1.3. ***R-1 Site Development Regulations*** states the following:

5. Minimum Yard Setback Requirements

b. Interior side yard\*

vi. Frontage between 91' – 100'

16' each side

The house was constructed in 2001, when the side yard setbacks were 10'. A swimming pool and pool house to the rear of the property were constructed in 2009 with Accessory Building setback minimum of 3' for both side and rear. The generator measured 34" from the house to the edge, 53.5" from house to the generator, 5.5' from the generator to the property line. The existing side yard setback was 11'.

Willie Brown, Dixieland Electric Company, representing the owner, stated the generator was installed. The applicant had contracted for the installation of the whole house generator and when the electrician submitted an application for the electrical permit it was determined that the location was within the side yard setback and would not be allowed in the proposed location. The neighbor to the left had stated he had no problem.

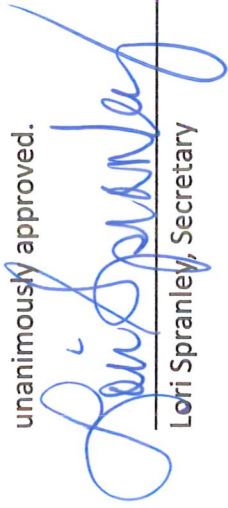


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Mr. Adams said his whole house generator came on when power was lost, but it did not make noise except once a week for 15 minutes when tested. He suggested a restriction of the weekly operation during daytime hours so it would not disturb the neighbors.

Ms. Scott said the staff was preparing language to address the mechanical equipment not being closer than 10' from the property line. Mr. Adams said the health and safety reason was noise. Ms. Bush said it sounded like a lawnmower. Mr. Brown said he had met Mr. LeBlanc at the site and was in agreement there was no other location. The other side of the property was the driveway.

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

  
Lori Spranley, Secretary

  
Nixon Adams, Chairman  
Planning Commission



