

PARISH OF ASCENSION
OFFICE OF PLANNING AND DEVELOPMENT
PLANNING DEPARTMENT



Planning Commission Appeals Board
December 14, 2016 – 4:00 PM
Courthouse East, 2nd Floor, Council Meeting Room
Gonzales, Louisiana

AGENDA

- 1. Call to Order**
- 2. Roll Call of Members**
- 3. Pledge of Allegiance**
- 4. Appeal**
 - A) Camellia Cove**
PRELIMINARY PLAT
America Homeland, LLC
(Council District 3)
 - B) Oakbourne Subdivision**
PRELIMINARY PLAT
Berthelot Holdings, LLC
(Council District 8)
- 5. Adjourn**

MAJOR SUBDIVISION PRELIMINARY PLAT-APPEAL

A) Camellia Cove

This is an appeal of the denial of the Preliminary Subdivision Plat at the October 12, 2016 meeting of the Ascension Parish Planning Commission. The original project description is included below.

The subject property is located on the west side of Boudreaux Road approximately 1,100 feet south of Cornerview Road (LA Hwy. 429) in Council District 3 and zoned Medium Intensity (RM). The application is on behalf of America Homeland, LLC by Quality Engineering & Surveying, LLC.

The property is approximately 12.2 acres and the applicant is proposing a major subdivision containing 36 single family residential lots. Lots range from 50 – 60 feet wide with a minimum size of 6,250 square feet. The subdivision will include 1.5 acres of designated park space.

STAFF REVIEW COMMENTS

Staff review comments from the original meeting are included in the meeting packet.

ENGINEER REVIEW COMMENTS

Engineer review comments from the original meeting are included in the meeting packet.

STAFF RECOMMENDATIONS

Staff recommendations from the original meeting are included in the meeting packet.

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APPEAL OF DECISION APPLICATION

All Questions must be answered

Appeal of Decision by (check one)

Planning Commission Zoning Commission Board of Adjustments

Appellant / Applicant Information

Name: America Homeland, LLC

Phone: 225-769-0858

Address: C/O David M. Cohn, The Cohn Law Firm

Fax: 225-769-1016

10754 Linkwood Ct.

City: Baton Rouge

State: LA

Zip: 70810

Cell Phone: 939-0672

Project / Item Name: Camellia Cove Subdivision; DPZ #16-_____ (Major Subdivision Preliminary Plat)

Project / Item Location: West side of Boudreaux Road, approximately 1,100' south of Comerview Rd (LA Hwy 429), Council Dist. 3; Zoned Medium Intensity (RM). This is a 36 lot subdivision that met all Parish Code requirements with no waiver requests.

Date of Decision for which appeal is being filed: October 12, 2016

State the specific action you are appealing:

The denial of the preliminary plat by the Planning Commission.

State the reasons why the decision should or should not have been made:

The Planning Commission should have approved the preliminary plat for the subdivision for reasons that include, without limitation:

1. The Project met all criteria mandated by the Parish of Ascension for approval of a Preliminary Plat, including those related to traffic and drainage.
2. The Planning Staff and the engineering review agency, CSRS indicated the Project met all criteria mandated by the Parish of Ascension for approval of a Preliminary Plat, including those related to traffic and drainage.
3. The Commission's cause to deny the Preliminary Plat were not tied to substantial reasons associated with the health safety and general welfare of the public. Rather the Commissioners voting against the approval of the subdivision based their decisions on conjecture and supposition and not facts found within the evidence before them.
4. The decision of the Planning Commission was in effect legislating that is not within its scope of its authority. Furthermore, the action of the Planning Commission in denying the Preliminary Plat abandons the Commissioners basic administrative function and served to in effect impose a suspension of development in the Parish or areas of the Parish where they deemed the need for development is no longer appropriate. The Planning Commission had no legal or discretionary basis to deny the Preliminary Plat of the Project. In *Homeowner/Construction Consultant, LLC v Ascension Parish Planning & Zoning*

615 East Worthey Street

Gonzales, Louisiana 70737

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Commission, 32 F. Supp. 2d. 398 (Middle District of Louisiana), the Court held that the approval of a subdivision plat is an administrative act and not a legislative function. In *Zachary Housing Partners, LLC v City of Zachary*, 2013 WL 11258687, writ denied 131 So. 2d. 864 (LA 2014), the First Circuit Court of Appeal said that (a) zoning regulations and procedures must be uniformly applied and strictly construed in favor of the use proposed by the landowner and (b) where the landowner, without seeking variances or special consideration, complies with the Parish statutes, ordinances and regulations, provides the landowner a use by right and (c) the denial of the site plan and resubdivision application of the developer was a violation of due process and such denial was arbitrary and capricious. The Attorney General of this State has issued an opinion (the "Opinion") consistent with the foregoing conclusions, but inconsistent as well.¹ The Opinion indicates that R.S. 33:101.1 recites that the action of the planning commission is a function involving legislative discretion. However, the *Homeowner/Construction Consultant, LLC* case that is mentioned above clearly reveals that the federal courts of the United States Fifth Circuit Court of Appeal have said this revised statute provision does not proscribe a legislative function but rather the action of a planning commission is instead an administrative function.² Under the Supremacy Clause of the United States Constitution, the federal law and its court decisions take priority over a state's law and its court decisions. In addition, the Opinion does not speak to the scrutiny to be applied if Federal Court in a case where the Planning Commission denies an application seeking approval of a subdivision where all statutory and regulatory requirements have been met. In the instant case, we have a Preliminary Plat that is denied without the articulation by the Commissioners as to a definite compelling public purpose. Even the Opinion recites that the decision of the Commissioners is subject to "strict scrutiny" by the Courts. In *State v. Webb*, 2013-1681 (La. 5/7/14), 144 So. 3d 971, 978, the Louisiana Supreme Court gives some definition of strict scrutiny when it said: "For a law to survive strict scrutiny, "the government bears the burden of proving the constitutionality ... by showing (1) that the [law] serves a compelling governmental interest, and (2) that the [law] is narrowly tailored to serve that compelling interest." *Draughter*, 13-0914 at 8, 130 So.3d at 862, quoting *In re Warner*, 05-1303, p. 37 (La.4/17/09), 21 So.3d 218, 246." In the case at hand, the Planning Commission denied the Project, when it met all criteria met by the Parish. The comments of the Staff recommended approval as the Project "meets all guidelines". The September 2, 2016 letter from CSRS to the Commission indicated no issues with the Project that would preclude approval. Shawn Sherrow of CSRS and Deric Murphy of Quality Engineering indicated to the Commissioners this small subdivision of only 36 lots required only a Level I traffic study per Parish Code. Sherrow further explained that the impact on intersections becomes so diluted for this small a subdivision that there is no need to study the impact on the intersections. As for drainage, both Murphy and Sherrow advised the Commissioners that the drainage study was appropriate based upon Parish Code

¹ See Attorney General Opinion 16-0011 dated May 10, 2016 to Mr. O'Neil Parenton, Parish Attorney. An Attorney General opinion is simply a statement made by an attorney as to that attorney's opinion of the law. It is not conclusive and courts are not bound to it.

² See *Homeowner/Construction Consultant, LLC v Ascension Parish Planning & Zoning Commission*, 32 F. Supp. 2d. 398 (Middle District of Louisiana), footnote 35. Further note that this case also indicated when the commissioners acted in connection with the approval or denial of a preliminary plat, the U.S. Fifth Circuit has not accorded the Commissioners absolute legislative immunity.

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requirements. Murphy further advised the Commissioners that drainage after the subdivision will be improved when compared to before the study. The Commissioners who voted against this development did so without considering the evidence before them and their compliance with the very set of development codes they are duty bound to uphold. Where the act to be taken by the Planning Commission was administrative in nature, it had no cause to deny the acceptance of the Preliminary Plat based upon criteria that would be legislative in nature. Further, the Commissioners are in direct danger of losing the immunity. In summary, the denial of the preliminary plat for the Project and the application of the Appellant by the Planning Commission was wrong and arbitrary and capricious under the standards of the above mentioned cases and should therefore be overturned resulting in the preliminary plat approval for the Project.

Cite the specific outcome you are requesting under the appeal:

Reverse the decision of the Planning Commission and approve the preliminary plat for the Project.

State how you are an affected individual entitled to file this appeal:

Appellant is the applicant to approve the preliminary plat for the Project. The Appellant, without preliminary plat approval cannot fulfill its intended use of the land as a residential subdivision.

Did you speak at the public hearing when this item was considered: yes [x] no []

Deric Murphy of Quality Engineering spoke at the Planning Commission hearing on behalf of the Appellant.

Did you submit written comments prior to the action on the item being appealed? yes [x] no []

Will you be speaking on your own behalf? yes [] no [x]

If 'no' who will represent you? David M. Cohn, Attorney at Law (address/phone noted above) will speak on behalf of the Appellant.

What is the nature of the information to be presented regarding this appeal?

Exhibits on information to be presented will include, but not be limited to:

1. Documentation presented to the Planning Commission as prepared by the planning staff.
2. Documentation submitted to the Planning Staff by Quality Engineering on behalf of the Appellant, including traffic and drainage plans.

MAJOR SUBDIVISION PRELIMINARY PLAT

A) Camellia Cove

The subject property is located on the west side of Boudreaux Road approximately 1,100 feet south of Cornerview Road (LA Hwy. 429) in Council District 3 and zoned Medium Intensity (RM). The application is on behalf of America Homeland, LLC by Quality Engineering & Surveying, LLC.

The property is approximately 12.2 acres and the applicant is proposing a major subdivision containing 36 single family residential lots. Lots range from 50 – 60 feet wide with a minimum size of 6,250 square feet. The subdivision will include 1.5 acres of designated park space.

STAFF REVIEW COMMENTS

All elements of the subdivision as per ordinance have been provided and addressed on the plat along with the required notes, labels, setbacks and servitudes as per Paragraph 17-406 of the Subdivision Regulations.

The record inundation has been updated (10.35') and is below the current Base Flood Elevation (12.0') for the property. The entire site lies within the 'AE' Flood Zone and all homes will be constructed in compliance with current elevation requirements. The developer is proposing a sewer treatment plant that will eventually be donated to the parish. All other comments have been addressed by the consultant.

ENGINEER REVIEW COMMENTS

Preliminary Plat:

The Preliminary Plat has been reviewed by the Engineer Review Agent (ERA)
Comments are attached.

Drainage impact study:

The drainage impact study has been reviewed by the Engineer Review Agent (ERA)
Comments are attached.

Traffic impact study:

The traffic impact study has been reviewed by the Engineer Review Agent (ERA)
Comments are attached.

STAFF RECOMMENDATIONS

The proposed plat meets all guidelines for a major subdivision per current ordinance and should the commission concur with staff's analysis, staff recommends approval.



CSRS, INC.
6767 Perkins Road, Suite 200
Baton Rouge, Louisiana 70808
Phone. (225) 769-0546
Fax. (225) 767-0060

September 2, 2016

Mr. Jerome Fournier
Ascension Parish Planning Commission
P.O. Box 1659
Gonzales, La 70707

RE: **Camellia Cove
Preliminary Plat Review**

Mr. Fournier:

As the Engineering Review Agency for the Ascension Parish Planning Commission, we have reviewed the Preliminary Plat, Drainage Impact Study, and Traffic Impact Study submitted for the above referenced development for compliance with the Ascension Parish Subdivision Regulations and the Ascension Parish Development Code. Shown below are the comments made to the Consulting Engineer for the project as a result of our review of their submittals, as well as a description of their correction or response made to our comments (**shown in bold print**).

Preliminary Plat Comments:

1. Depict all proposed rear-yard swales and servitudes per Section 17-4044H. **This has been updated on the plat.**
2. Show any existing drainage servitudes for the bayou. **This has been updated on the plat.**
3. Show proposed drainage servitudes for the bayou in accordance with Section 17-4045E. **This has been updated on the plat.**
4. Depict the proposed pond outfall location. **This has been updated on the plat.**
5. Note statement: "This project is subject to development and traffic impact fees in accordance with Ascension Parish ordinances." **This has been updated on the plat.**
6. Depict the proposed driveway connection to Boudreaux Road. **This has been updated on the plat.**
7. Show any pre-existing drives. **This has been updated on the plat.**
8. Depict the location of the entrance to Bayou View Estates Subdivision on Boudreaux Road. **This has been updated on the plat.**
9. Label Smith Bayou and show flow direction arrows. **This has been updated on the plat.**
10. The school districts listed on the plat are outside the property's zoning and should be corrected. **This has been corrected on the plat.**
11. The 25' drainage servitude for the bayou that lies within the property bounds should be labeled as proposed. **This has been updated on the plat.**

12. Add a note stating: "Lots 1 – 7 and Lot 28 shall not have direct access connection to Boudreaux Road." **This has been updated on the plat.**
13. Google Earth suggests there may be an existing drive on the north-eastern corner of the property connecting to Boudreaux Rd. This should be depicted on the plat if it still exists. **There is no existing drive on the north-eastern corner of the property.**
14. Pumping sanitary sewer (aka "cascading") to an offsite private treatment plant is not allowed. Show proposed location of treatment plant. Please make the necessary changes to your preliminary plat to show a treatment plant or pumping to an Ascension Parish owned treatment plant. **Consultant has revised to show a proposed treatment plant.**

Staff Comments

1. Include adjacent property owner's addresses on plat. **This has been updated on the plat.**
2. Show location of proposed pump station or STP should cascading prove impossible. **This has been updated on the plat.**
3. Include inundation of 10.1' as discussed in pre-application meeting. **This has been updated on the plat.**
4. Lots 11, 12, 29 and 32 do not meet minimum square foot sizes according to the ordinance. Please revise or request a variance on the lot sizes. **The layout has been revised to accommodate the required lot sizes.**
5. Per drainage ordinance 17-505A4, the lowest gutter elevation of all proposed public and private roadways cannot be lower than record inundation. The Planning Department should be contacted to determine if the August 2016 flood established a new record inundation for this site. **Consultant responded, "We will be sure to get with the parish during the construction plan phase and determine the minimum road elevation."**

Drainage Impact Study Comments:

1. Because there are areas on this site below BFE, provide preliminary estimates for how much flood plain volume this site provides, how much storage is taken away from the proposed fill, how much additional storage will be generated, and note the proposed method for storage creation. **Consultant has provided.**
2. Provide a cross-section showing the grading of Smith Bayou and both sides of the proposed pond to better understand the intent of the pond design relative to the existing bayou. **Consultant has provided.**
3. Per section 17-4044H, rear yard swales are required for all lots unless a natural ridge exists. The post developed drainage map suggests a ridge lies exactly on the southern property line and thus allows zero water to enter the site from the south. Provide the information (e.g. ditches, topography, etc.) available to make this determination. **Consultant has provided.**
4. Depict existing contours on the proposed drainage layout. **Consultant has provided.**
5. The models for Reach 1: Smith Bayou give average flow depths, but do not provide an elevation to correlate this with. Knowing this information is imperative because it could impact the design depths for the entirety of the site. Therefore, all existing and proposed input values of the HydroCAD models should be provided. **Consultant has provided.**
6. Provide HydroCAD model files electronically so we may complete this review. **Consultant has provided.**

7. State whether the proposed pond is to be dry or wet in the description section. **Consultant has provided.**

Traffic Impact Study Comments:

1. The traffic study only accounts for 34 lots, whereas the plat includes 36 total lots. The traffic study should be revised to reflect this increase. **Consultant provided updated study.**

Drainage Impact Study Summary:

Consulting Engineer:	Deric J. Murphy, P.E., L.S.I., Quality Engineering & Surveying, LLC
Date of Study:	July 2016
Size of Development:	12.2 acres
Existing Land Use:	Heavily Wooded
Receiving Basin:	Smith Bayou
FEMA Flood Zone:	AE
100-year Flood Elevation:	12.0 ft
Record Inundation:	10.1 ft (Prior to Aug. 2016 Flood)
Offsite Drainage Area:	Large- 5,664 acres upstream
Fill Mitigation:	Fill mitigation is being addressed with the proposed pond.
Storm Water Mitigation:	Detention pond proposed

The Drainage Impact Study substantially conforms to the requirements of the Drainage Impact Study Policy included in the Subdivision Regulations. The Engineering Review Agency has performed a review of the input parameters and results of the submitted drainage calculations for compliance with the Subdivision Regulations and generally accepted practices for storm water hydrologic design. The Engineering Review Agency has not performed a detailed numerical check of the analysis submitted. Upon approval of the preliminary plat, the applicant can proceed with final drainage design in accordance with the concepts submitted in the impact study.

Traffic Impact Study Summary:

Consulting Engineer:	Nick Ferlito, P.E., PTOE, Neel-Schafer, Inc.
Date of Study:	August 2016
Number of Proposed Lots:	36
Peak Hour A.M. Trips:	25
Peak Hour P.M. Trips:	42
Study Threshold Level:	1
Conclusion:	No improvements are required.
Sight Distance Evaluation:	Sight distance was evaluated at the current condition and concluded that sight distance will cause no traffic operational problems for this proposed development.

The following intersections were studied with the following conclusions:

Boudreaux Road at Bayou View Avenue & Proposed Entrance: All approaches are anticipated to operate at a LOS of B or better during AM and PM peak periods. Additionally, turn lane warrants analyses performed at this intersection indicated that turn lanes are not warranted.

The following items should be considered by the Planning Commission in their analysis of the case:

- **No comments.**

If you have any questions or comments, please do not hesitate to contact me at (225) 769-0546.

Sincerely,

Engineer Review Agency for the Ascension Parish Planning Commission

A handwritten signature in black ink that reads "Shaun Sherrow". The signature is written in a cursive, flowing style.

Shaun Sherrow, P.E.

CC: Deric J. Murphy, P.E., L.S.I., Quality Engineering & Surveying, LLC



September 27, 2016

Mr. Jerome Fournier
Ascension Parish Planning Commission
P.O. Box 1659
Gonzales, La 70707

RE: **Camellia Cove**
Preliminary Plat Submittal
QES W.O. # 16-045

Dear Mr. Fournier:

As you are aware, we asked the Planning Commission to defer the Preliminary Plat for Camellia Cove from on the September 14th meeting to the October 12th meeting. We originally submitted the Preliminary Plat package on July 20th in order to meet the planning deadline. Since that time, we have worked diligently to address any questions, concern, or revisions that the parish had requested from us. Prior to the September 14th meeting, all of the outstanding items had been addressed and as noted under Staff Recommendations, "The proposed plat meets all guidelines for a major subdivision and staff recommends approval."

However, due to the weather events of August and the pursuant flooding that occurred we wanted to take time to evaluate how they affected the area immediate to this development. The Preliminary Plat package was submitted with the understanding that the Base Flood Elevation for this area is 12.0'. We investigated the peak water level for this property and determined it to be 10.35', or 1.65' below the Base Flood Elevation.

Therefore, no additional changes are currently needed at this time and we ask that the previously submitted Preliminary Plat, Traffic Impact Study and Drainage Impact Study submittals that received your recommendation for approval stand as submitted. However, if you should have any questions or comments concerning this matter, please do not hesitate to contact me.

Sincerely,
QUALITY ENGINEERING & SURVEYING, LLC

Joe Labbé, PLA

Joe Labbé, PLA
Landscape Architect | Planner



Public hearing was closed.

Commission Action: Moved by Mr. Morrie Bishop, seconded by Mr. Aaron Chaisson and unanimously adopted, to approve this family partition contingent on removal of the barn.

IX. Public Hearing to Approve or Deny the Following Subdivision Preliminary Plats:



A) Camellia Cove

The subject property is located on the west side of Boudreaux Road approximately 1,100 feet south of Cornerview Road (LA Hwy. 429) in Council District 3 and zoned Medium Intensity (RM). The application is on behalf of America Homeland, LLC by Quality Engineering & Surveying, LLC.

The property is approximately 12.2 acres and the applicant is proposing a major subdivision containing 36 single family residential lots. Lots range from 50 – 60 feet wide with a minimum size of 6,250 square feet. The subdivision will include 1.5 acres of designated park space.

STAFF REVIEW COMMENTS

All elements of the subdivision as per ordinance have been provided and addressed on the plat along with the required notes, labels, setbacks and servitudes as per Paragraph 17-406 of the Subdivision Regulations.

The record inundation has been updated (10.35') and is below the current Base Flood Elevation (12.0') for the property. The entire site lies within the 'AE' Flood Zone and all homes will be constructed in compliance with current elevation requirements. The developer is proposing a sewer treatment plant that will eventually be donated to the parish. All other comments have been addressed by the consultant.

ENGINEER REVIEW COMMENTS

Preliminary Plat:

The Preliminary Plat has been reviewed by the Engineer Review Agent (ERA) Comments are attached.

Drainage impact study:

The drainage impact study has been reviewed by the Engineer Review Agent (ERA) Comments are attached.

Traffic impact study:

The traffic impact study has been reviewed by the Engineer Review Agent (ERA) Comments are attached.

STAFF RECOMMENDATIONS

The proposed plat meets all guidelines for a major subdivision per current ordinance and should the commission concur with staff's analysis, staff recommends approval.

Mr. Deric Murphy with Quality Engineering & Surveying, LLC representing America Homeland, LLC presented this preliminary subdivision plat.

Public hearing was opened.

The following spoke:

1 – Jeff Pettit – against development (drainage/flooding concerns)

Public hearing was closed.

Commission Action: Moved by Mr. Morrie Bishop, seconded by Mr. Anthony Christy, to approve this preliminary subdivision plat as presented by the following roll call vote:

YEAS: **Morrie Bishop** – Thinks it meets all of the statutory requirements and sees no reason to deny it. Says they mitigated all the water issues and it has a positive traffic study. He feels the engineers that conducted these studies are well qualified to conduct them and they've come to an engineering conclusion and he abides by their conclusion since he's not an engineer.

Anthony Christy – Because of the studies that have been done and he trusts the staff has done their due diligence in making all the efforts to cover all the issues. He thinks going forward will alleviate a lot of the problems with the impact fees that are collected.

NAYS: **Edward Dudley** – Because of wetlands and the flooding we've had. Also because the traffic impact study didn't include the nearby intersections.

Aaron Chaisson – Based on how the proposed subdivision affects the health, safety and welfare of the community. He has an issue with all the traffic impact studies being done by the same firm and traffic continues to be a huge impact on our communities. Also has a problem with the traffic impact study not including the surrounding intersections and there is a school nearby. He feels the health, safety and welfare of the Parish is adversely impacted by this subdivision.

Douglas Foster – Parroting everything exactly as Mr. Chaisson has said. He expressed he is also moved by what Mr. Pettit spoke about since he lives in and is familiar with the area. Mr. Foster said he also spends a lot of time in the area and sees how Boudreaux Road floods and is familiar with the traffic in the area and it's clear to be a safety concern. Mr. Foster stated he has concerns with both the Traffic Impact Study and the Drainage Impact Study. Feels the timing of this proposal is inopportune, coming right after the flood.

ABSENT: **Julio Dumas**

The Chairman did not vote.

2 YEAS, 3 NAYS, 1 ABSENT and the motion FAILED.

echoes all the sentiments that Mr. Foster stated earlier in the meeting on this preliminary plat.

Douglas Foster – based on the health, safety and welfare of the community also echoing what Mr. Chaisson has stated. Obviously traffic and drainage are the issues with traffic being the most primary concern simply because of safety in that particular area, especially where the intersection of Highway 73 and Highway 74 meets.

NAYS: Morrie Bishop – it meets all statutory requirements and the engineers, as well as the Parish staff, have stated it meets all statutory requirements

ABSENT: Julio Dumas

The Chairman did not vote.

4 Yeas, 1 Nay, 1 Absent and the motion CARRIED.

- * X. At this time a motion was made by Mr. Aaron Chaisson, seconded by Mr. Douglas Foster and unanimously adopted, to approved to amend the agenda to reopen Camellia Cove for the purpose of making a formal motion to deny this subdivision.

Commission Action: Moved by Mr. Aaron Chaisson, seconded by Mr. Douglas Foster, to deny this preliminary subdivision plat. Motion was adopted by the following roll call vote:

YEAS: Edward Dudley – Because of wetlands and the flooding we've had. Also because the traffic impact study didn't include the nearby intersections.

Aaron Chaisson – Based on how the proposed subdivision affects the health, safety and welfare of the community. He has an issue with all the traffic impact studies being done by the same firm and traffic continues to be a huge impact on our communities. Also has a problem with the traffic impact study not including the surrounding intersections and there is a school nearby. He feels the health, safety and welfare of the Parish is adversely impacted by this subdivision. He says he travels all over the parish and didn't feel the necessity to deny this subdivision as he did with the previous subdivision as he was more enticed to be against it in the Dutchtown area because of the greater traffic

Douglas Foster – Parroting everything exactly as Mr. Chaisson has said. He expressed he is also moved by what Mr. Pettit spoke about since he lives in and is familiar with the area. Mr. Foster said he also spends a lot of time in the area and sees how Boudreaux Road floods and is familiar with the traffic in the area and it's clear to be a safety concern. Mr. Foster stated he has concerns with both the Traffic Impact Study and the Drainage Impact Study. Feels the timing of this proposal is inopportune, coming right after the flood.

NAYS: Morrie Bishop – Thinks it meets all of the statutory requirements and sees no reason to deny it. Says they mitigated all the water issues and it has a positive traffic study. He feels the engineers that conducted these studies are well qualified to conduct them and

they've come to an engineering conclusion and he abides by their conclusion since he's not an engineer.

Anthony Christy – Because of the studies that have been done and he trusts the staff has done their due diligence in making all the efforts to cover all the issues. He thinks going forward will alleviate a lot of the problems with the impact fees that are collected. He stated he travels both this area and Dutchtown area and doesn't feel the necessity to vote against this subdivision, whereas he was more enticed to do it in the Dutchtown area because of the traffic situation.

ABSENT: Julio Dumas

The Chairman did not vote.

(3) Yeas; (2) Nays; (1) Absent and motion CARRIED.

XI. Public Hearing to Approve or Deny the Following Subdivision Final Plats:

A) Hidden Farms

~~Centerline Engineering & Land Surveying, LLC
(Council District 7)~~

~~This item was pulled from the agenda prior to the meeting by the engineer.~~

B) Legacy Oaks – Second Filing

~~Quality Engineering & Surveying, LLC
(Council District 3)~~

~~This item was pulled from the agenda prior to the meeting by the engineer.~~

C) Maple Grove

The subject property is located at the end of Stevens Road off of LA Hwy 431 in Council District 6 and is zoned Medium Intensity (RM). The application is on behalf of Ascension Properties Inc. by Quality Engineering & Surveying, LLC.

The property is 45.0 acres and is a major subdivision containing 17 single family residential lots. All lots have a minimum width of 100 feet and a minimum size of 1 acre. The subdivision includes .5 acres of designated park space.

The applicant received variances to:

- 2. 17-5012.A.1 – prohibits open ditches along streets – with approval of Drainage Director, Director of Public works and the Director of Planning and Development.
- 3. 17-4034 – Street construction standards – all lots are a minimum of 100' wide, the street is private and includes a 4' improved shoulder, fill will be limited to the building pad only, all lots will use a community treatment plant and swales will be a maximum 4:1 slope.

Project Timeline:

- November 12, 2015 -Planning Commission approves the preliminary plat
- May 10, 2016- Construction plans approved.
- October 3, 2016 Final Inspection Performed

December 14, 2016

MAJOR SUBDIVISION PRELIMINARY PLAT-APPEAL

B) Oakbourne

This is an appeal of the denial of the Preliminary Subdivision Plat at the October 12, 2016 meeting of the Ascension Parish Planning Commission. The original project description is included below and the package material is attached.

The subject property is located on the north side of LA Hwy. 74 approximately 1,980 feet east of Bluff Road (LA Hwy. 928) in Council District 8 and zoned Medium Intensity (RM). The application is on behalf of Berthelot Holdings, LLC by McLin Taylor, Inc.

The property is approximately 19.9 acres and the applicant is proposing a private major subdivision containing 60 single family residential lots. Lots range from 65 – 75 feet wide with a minimum size of 9,122 square feet. The subdivision will include 1.8 acres of designated park space. The applicant is also asking for a waiver from the block length for the west side of Oakbourne Ave. (Section 17-4020.B) The applicant is also asking for a waiver for the side setback requirements for housing types 'D' and 'E' that would allow a reduction to 5'. (Section 17-4020.D.1.a)

STAFF REVIEW COMMENTS

Staff review comments from the original meeting are included in the meeting packet.

ENGINEER REVIEW COMMENTS

Engineer review comments from the original meeting are included in the meeting packet.

STAFF RECOMMENDATIONS

Staff recommendations from the original meeting are included in the meeting packet.

PARISH OF ASCENSION

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APPEAL OF DECISION APPLICATION

All Questions must be answered

Appeal of Decision by (check one)

Planning Commission Zoning Commission Board of Adjustments

Appellant / Applicant Information

Name: Berthelot Holdings, LLC (the "Applicant")

Phone: 225-769-0858

Address: C/O David M. Cohn | The Cohn Law Firm
10754 Linkwood Ct.

Fax: 225-769-1016

City: Baton Rouge

State: LA

Zip: 70810

Cell Phone: 939-0672

Project / Item Name: Oakbourne Subdivision; DPZ #16-__ (Major Subdivision Preliminary Plat)

Project / Item Location: North side of LA Hwy 74, approximately 1980 east of Bluff Rd (LA Hwy. 928, Council Dist. 8; Zoned Medium Intensity (RM))

Date of Decision for which appeal is being filed: October 12, 2016

State the specific action you are appealing:

The denial of the preliminary plat by the Planning Commission.

State the reasons why the decision should or should not have been made:

The Planning Commission should have approved the preliminary plat for the subdivision for reasons that include, without limitation:

1. The Project met all criteria mandated by the Parish of Ascension for approval of a Preliminary Plant, including those related to traffic and drainage, except for two waivers, i.e.: (a) Block length waiver to which the Applicant conformed to Staff request for a note on the plat no improvements will be built, which satisfied the purpose of Table "C"-Block Length waiver of the Zoning Code and (b) side set back waiver from Table "C" of the Zoning Code where applicant requested a waiver of the 6' to 7' side setback for housing types "D" and "E" lots for a 5' side set back normally applied to minor subdivisions and individual lots, which Staff recommended not be granted and Developer would have accepted the recommendation of Staff
2. Other than the two waivers discussed in paragraph "1." above, The Staff indicated the Project met all criteria mandated by the Parish of Ascension for approval of a Preliminary Plant, including those related to traffic and drainage.

PARISH OF ASCENSION

OFFICE OF PLANNING AND DEVELOPMENT



3. The Commission's cause to deny the Preliminary Plat was generalized as being related to the health, safety and/or welfare of the public as tied to the traffic conditions and the drainage conditions. Further, the unprecedented 500 to 1000 year rain event that caused flooding in the Parish in August of this year was considered heavily in a decision to question drainage, though there was no evidence that the property that is to contain this residential subdivision flooded. The caretaker of this property noted only minimal water outside of the boundaries of the existing drainage ditch located at the south of the property (water exceeded the boundary of the ditch by approximately 25 yards on each side of the ditch per the caretaker). Furthermore, the drainage study exceeded Parish code where it not only considered a ten year flood event but a 25 and 100 year flood event, and in all those cases studied, the proposed drainage system performed BETTER THAN the existing conditions. As to traffic, the report, as re-iterated to the Commissioners at the hearing, reveals that independent LA DOTD data was used in preparing the report and that such data was developed by DOTD in March of the year during peak school related use. In their reasoning however, when asked to articulate their reasons for traffic and/or drainage, none of the commissioners took any serious issue with the drainage or traffic studies that were approved by their Staff and Staff engineers. Staff's recommendation regarding the Block Length was not disputed by the Commissioners other than one Commissioner whose comments had more to do with wanting a road built now to connect to a public street, which is not required by any code. As for the side set back of 5', this was a request of the Applicant that could have been turned down by the Commission who would have otherwise approved the Preliminary Plat. Lance Brock of Staff stated simply that if the request for waiver was denied, the revised plat would have been approved by Staff with the code mandated side set back. It is worth noting that the side set backs were never discussed by the Commissioners in their reasoning to deny in tying their decisions to health, safety or welfare of the public. This is not surprising, since the subdivision denial related to Camelia Cove that same evening had no waivers requested by its developer and the Commission denied its passage as well with similar vague reasoning.
4. The decision of the Planning Commission was in effect legislating that is not within its scope of its authority. Furthermore, the action of the Planning Commission in denying the Preliminary Plat abandons the Commissioners basic administrative function and served to in effect impose a suspension of development in the Parish or areas of the Parish where they deemed the need for development is no longer appropriate. The Planning Commission had no legal or compelling discretionary basis to deny the Preliminary Plat of the Project. In *Homeowner Construction Consultant, LLC v Ascension Parish Planning & Zoning Commission*, 32 F. Supp. 2d 398 (Middle District of Louisiana), the Court held that the approval of a subdivision plat is an **administrative act and not a legislative function**. In *Zachary Housing Partners, LLC v City of Zachary*, 2013 WL 11258687, writ denied 131 So. 2d. 864

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(LA 2014), the First Circuit Court of Appeal said that (a) zoning regulations and procedures must be uniformly applied and strictly construed in favor of the use proposed by the landowner and (b) where the landowner, without seeking variances or special consideration, complies with the Parish statutes, ordinances and regulations, provides the landowner a use by right and (c) the denial of the site plan and resubdivision application of the developer was a violation of due process and such denial was arbitrary and capricious. The Attorney General of this State has issued an opinion (the "Opinion") consistent with the foregoing conclusions, but inconsistent as well.¹ The Opinion indicates that R.S. 33:101.1 recites that the action of the planning commission is a function involving legislative discretion. However, the *Homeowner Construction Consultant, LLC* case that is mentioned above clearly reveals that the federal courts of the United States Fifth Circuit Court of Appeal have said this revised statute provision does not proscribe a legislative function but rather the action of a planning commission is instead an administrative function.² Under the Supremacy Clause of the United States Constitution, the federal law and its court decisions take priority over a state's law and its court decisions. In addition, the Opinion does not speak to the scrutiny to be applied if Federal Court in a case where the Planning Commission denies an application seeking approval of a subdivision where all statutory and regulatory requirements have been met. In the instant case, we have a Preliminary Plat that is denied without the articulation by the Commissioners as to a definite compelling public purpose. Even the Opinion recites that the decision of the Commissioners is subject to "strict scrutiny" by the Courts. In *State v. Webb*, 2013-1681 (La. 5/7/14), 144 So. 3d 971, 978, the Louisiana Supreme Court gives some definition of strict scrutiny when it said: "For a law to survive strict scrutiny, "the government bears the burden of proving the constitutionality ... by showing (1) that the [law] serves a compelling governmental interest, and (2) that the [law] is narrowly tailored to serve that compelling interest." *Draughter*, 13-0914 at 8, 130 So.3d at 862, quoting *In re Warner*, 05-1303, p. 37 (La.4/17/09), 21 So.3d 218, 246." In the case at hand, the Planning Commission denied the Project, when it met all criteria met by the Parish. Where the act to be taken by the Planning Commission was administrative in nature, it had no cause to deny the acceptance of the Preliminary Plat based upon criteria that would be legislative in nature. Further, the Commissioners are in direct danger of losing the immunity. Where applying strict scrutiny, it is not enough to say that the denial is based upon the health, safety and welfare of the public. In the face of the accepted and approved traffic and drainage

¹ See Attorney General Opinion 16-0011 dated May 10, 2016 to Mr. O'Neil Parenton, Parish Attorney. An Attorney General opinion is simply a statement made by an attorney as to that attorney's opinion of the law. It is not conclusive and courts are not bound to it.

² See *Homeowner Construction Consultant, LLC v. Ascension Parish Planning & Zoning Commission*, 32 F. Supp. 2d. 398 (Middle District of Louisiana), footnote 35. Further note that this case also indicated when the commissioners acted in connection with the approval or denial of a preliminary plat, the U.S. Fifth Circuit has not accorded the Commissioners absolute legislative immunity.

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studies, the Commissioners in this case were not free to "roam" to tailor a result that wanted to reach, which appears to just stop development in the Parish or parts of it. In summary, the denial of the preliminary plat for the Project and the application of the Appellant by the Planning Commission was wrong and arbitrary and capricious under the standards of the above mentioned cases and should therefore be overturned resulting in the preliminary plat approval for the Project.

Cite the specific outcome you are requesting under the appeal:

Reverse the decision of the Planning Commission and approve the preliminary plat for the Project.

State how you are an affected individual entitled to file this appeal:

Appellant is the applicant to approve the preliminary plat for the Project. The Appellant, without preliminary plat approval cannot fulfill its intended use of the land as a residential subdivision.

Did you speak at the public hearing when this item was considered: yes [x] no []

Ross Berthelot is a member of the Applicant Company, who spoke at the Planning Commission hearing on behalf of the Appellant.

Did you submit written comments prior to the action on the item being appealed? yes [x] no []

Will you be speaking on your own behalf? yes [] no [x]

If 'no' who will represent you? David M. Cohn, Attorney at Law (address/phone noted above) will speak on behalf of the Appellant.

What is the nature of the information to be presented regarding this appeal?

Exhibits on information to be presented will include, but not be limited to:

1. Documentation presented to the Planning Commission as prepared by the planning staff.
2. Documentation submitted to the Planning Staff by McLin Taylor, Inc. on behalf of the Appellant.
3. Any documentation presented at the Planning Commission hearing.
4. Correspondence and communication between McLin Taylor, Inc. and the Planning Staff or other Parish employees or officials related to the Project.

MAJOR SUBDIVISION PRELIMINARY PLAT

B) Oakbourne

The subject property is located on the north side of LA Hwy. 74 approximately 1,980 feet east of Bluff Road (LA Hwy. 928) in Council District 8 and zoned Medium Intensity (RM). The application is on behalf of Berthelot Holdings, LLC by McLin Taylor, Inc.

The property is approximately 19.9 acres and the applicant is proposing a private major subdivision containing 60 single family residential lots. Lots range from 65 – 75 feet wide with a minimum size of 9,122 square feet. The subdivision will include 1.8 acres of designated park space. The applicant is also asking for a waiver from the block length for the west side of Oakbourne Ave. (Section 17-4020.B) The applicant is also asking for a waiver for the side setback requirements for housing types 'D' and 'E' that would allow a reduction to 5'. (Section 17-4020.D.1.a)

STAFF REVIEW COMMENTS

All elements of the subdivision as per ordinance have been provided and addressed on the plat along with the required notes, labels, setbacks and servitudes as per Paragraph 17-406 of the Subdivision Regulations.

The developer is proposing a sewer treatment plant that will eventually be donated to the parish. All other comments have been addressed by the consultant.

The block length waiver being requested on the west side of Oakbourne Ave. was discussed at the pre-application meeting and was requested due to the fact that this project is presented as a private subdivision, land use of the existing adjacent property to the west of the site and the unlikely possibility that a roadway would ever continue through to Hwy 928 (Bluff Road). A lot 'break' was proposed between lots 18 and 19 as Lot GS-3 to satisfy the ordinance. Staff required that notes be added to state that no obstructions would be placed on this lot and that, should the subdivision ever desire the streets go public, the HOA will provide the street connection to Oak Crossing Ave. on a roadway constructed to parish standards. Staff analysis is that this action satisfies the purpose of Table 'C'-Block Length of the Zoning Code.

Applicant is requesting a waiver on side setbacks from Table 'C' of the Zoning Code. The intent of table 'C' is to govern Major Subdivision Development and provide a variety of lot sizes and setback requirements for multiple product offerings within a subdivision. Table 'C' of the Zoning Code applies as the standard for Major Subdivisions and requires side setbacks according building classification and lot width. The typical 5' side setback for the RM classification of Zoning is to be applied for minor and individual lot

development. Staff opines that to grant this variance would set an unacceptable precedent for future development and that table 'C' should be followed as written for this Major Subdivision.

ENGINEER REVIEW COMMENTS

Preliminary Plat:

The Preliminary Plat has been reviewed by the Engineer Review Agent (ERA)
Comments are attached.

Drainage impact study:

The drainage impact study has been reviewed by the Engineer Review Agent (ERA)
Comments are attached.

Traffic impact study:

The traffic impact study has been reviewed by the Engineer Review Agent (ERA)
Comments are attached.

STAFF RECOMMENDATIONS

The proposed plat meets all guidelines for a major subdivision and should the commission concur with staff's analysis, staff recommends approval based on the following:

- Block length waiver is granted with stipulations on Lot GS-3 as noted.
- Waiver on side setbacks is denied. Should the denial of the setback requirements dictate a reduction in the number of lots, the revised plat can be approved at staff level.



CSRS, INC.
6767 Perkins Road, Suite 200
Baton Rouge, Louisiana 70808
Phone. (225) 769-0546
Fax. (225) 767-0060

September 2, 2016

Mr. Jerome Fournier
Ascension Parish Planning Commission
P.O. Box 1659
Gonzales, La 70707

RE: **Oakbourne Subdivision
Preliminary Plat Review**

Mr. Fournier:

As the Engineering Review Agency for the Ascension Parish Planning Commission, we have reviewed the Preliminary Plat, Drainage Impact Study, and Traffic Impact Study submitted for the above referenced development for compliance with the Ascension Parish Subdivision Regulations and the Ascension Parish Development Code. Shown below are the comments made to the Consulting Engineer for the project as a result of our review of their submittals, as well as a description of their correction or response made to our comments (**shown in bold print**).

Preliminary Plat

1. Since this is a private subdivision, Section 17-4024 requires that the subdivisions restrictions must be approved by planning commission and recorded prior to acceptance of final plat. These restrictions need to address to accommodations for school buses, emergency vehicles, public utilities access, and street maintenance. Add note to preliminary plat stating that "Subdivision restrictions must be reviewed and approved by planning commission and recorded prior to acceptance of final plat."
Consultant has provided
2. Remove the note stating, "Any new drainage ditch required by the subdivision of this property for the purpose of transporting runoff or sewage treatment plant effluent to an existing parish maintained ditch shall be constructed and maintained by the property owners." This project is not proposing a ditch to convey sanitary sewer. **Consultant addressed this comment.**
 1. Add a note stating, "This project is subject to development fees and traffic impact fees in accordance with the Ascension Parish ordinances. **Consultant has provided.**
 2. The waiver request ("Section 17-4038 for block length for west side of Oakbourne Ave") does not fall under the proper ordinance section and should be updated to reflect the correct section. **Consultant has provided.**
 3. Show the location and configuration of the proposed access gate. **Consultant has provided.**
 4. The existing ditch is difficult to see as depicted and should be darkened or otherwise depicted more clearly. **Consultant addressed this comment.**
 5. Note the flow direction of the existing ditch. **Consultant addressed this comment.**

6. Label the existing and rerouted portions of the ditch separately. **Consultant addressed this comment.**
7. Provide all greenspace landscaping details (e.g. tree and park space standards) as required per ordinance and denote upland park acreage. **Consultant addressed this comment.**
8. Depict all proposed pedestrian systems including sidewalks, walking paths, and trails in order to verify connectivity to greenspace. **Consultant addressed this comment.**
9. Depict the proposed pond outfall location. **Consultant has provided.**
10. Show line work to depict proposed roadway and medians. **Consultant has provided.**
11. Provide proposed cross-section of sidewalk details and any other pedestrian walkways. **Consultant has provided.**
12. Show all proposed drainage servitudes and widths in accordance with Section 17-4045E. **Consultant has provided.**
13. The side inlet drainage boxes on the typical section are to be precast instead of the currently depicted brick. **Consultant addressed this comment.**
14. Show the proposed sanitary sewer stacks with the typical street section. **Consultant has provided.**
15. Note the thickness of the asphalt and roadway base in the typical street section and ensure the specifications match the requirements for public roadways unless a variance is otherwise requested. **Consultant addressed this comment.**
16. Section 17-4044H states rear yard swales are required unless there exists a natural ridge or a variance is granted. In addition, all private drainage servitudes for swales should be noted. **Consultant addressed this comment.**
17. In order to ensure adequacy of the finished floor elevation, provide record inundation of the August 2016 flood. **Consultant will coordinate with the Parish to determine a record inundation for the project.**
18. State the proposed plan for all school buses picking up children. We recommend coordinating with the school board in order to have an acceptable plan in place. **Consultant responded, "The school bus pickup is planned to occur at the front entrance and use the turnaround outside of the front gate. We have been in contact with the Ascension Parish Board and will continue to refine the front entrance geometry in the construction planning phase."**
19. Clearly label the proposed drainage servitude of the ditch through GS-1. **Consultant has provided.**
20. Section 17-4044H states rear yard swales are required unless there exists a natural ridge or a variance is granted. This needs to be addressed on the preliminary plat. **Consultant has provided.**
21. Provide a legend showing hatching designations for the shaded region and sidewalks. **Consultant has provided.**
22. Pumping sanitary sewer (aka "cascading") to an offsite private treatment plant is no longer allowed. Show proposed location of treatment plant. **Consultant responded, "This exact system design concept was approved by the Parish and Parish Attorney a few months ago in the spring of 2016 for the Grove at Ascension subdivision (Lift station onsite pumping to an offsite non-parish owned plant). We would like to know when these changes (new requirements) were made and if they were by ordinance. We also aren't sure why the Parish would want to create an additional discharge point when they are trying to consolidate the sewer systems. We have contacted the Parish with these inquiries and are awaiting input/response."**

Staff Comments

3. Verify park space acreage is correct, consistent, and meets ordinance requirements. **Consultant has provided.**
4. Note the existing and proposed ditch widths at the front of the property. **Consultant has provided.**

5. Hatch or otherwise make the delineation between flood zones 'X' and 'A' more clear. **Consultant has provided.**
6. Since there are no plans to construct a street on lot GS-3, it should be stated that no obstructions of any kind will be placed on Lot GS-3. It should also be noted that if the streets in Oakbourne are ever made public, the roadway shall be paved to the rear of Lot GS-3 so that it may tie in to Oak Crossing Ave. **Consultant has provided.**

Drainage Study

1. Separate all onsite areas from the pre developed and post developed hydrographs in order to ensure that the site does not increase post developed runoff when compared to pre developed conditions. There may be additional comments regarding CN values and time of concentration values after reviewing the drainage areas have been revised and resubmitted. **Consultant addressed this comment.**
2. According to the HEC-RAS model for the post-developed re-routed ditch, the top bank width will be about 30 ½ feet. Per section 17-4045-E, a minimum servitude width of twenty (20) feet must be provided on each side from the top banks of the ditch. The proposed preliminary plat only leaves about 7 ½ feet on the left side of the ditch, which is not sufficient for satisfying servitude width requirements. **Consultant revised plat to show necessary servitude width.**
3. Provide preliminary estimates for how much flood plain volume this site provides, how much is taken away from the proposed fill, how much additional storage will be generated, and note the proposed method for storage creation. **Consultant has provided.**
4. More in-field topographic surveying is needed during the construction planning phase in order to verify that onsite areas 10B and 10C are draining towards the rear wales of Lakes at Dutchtown Subdivision as indicated on the pre-developed watershed map. **Consultant acknowledged this requirement.**
5. The combined flow from the onsite areas draining to Outfall 20 is greater than the existing conditions. Therefore, additional detention is required for the proposed pond. **Consultant provided additional information to confirm that total flows are correct and that additional detention is not warranted.**

Traffic Impact Study Comments:

1. No comments.

Drainage Impact Study Summary:

Consulting Engineer:	William L. "Billy" Taylor, II, P.E., P.L.S
Date of Study:	July 2016
Size of Development:	19.9 acres
Existing Land Use:	Pasture with Trees
Receiving Basin:	Johnson Bayou
FEMA Flood Zone:	A & X
100-year Flood Elevation:	15.0 ft
Record Inundation:	None provided by Parish.
Offsite Drainage Area:	Approximately 60 acres
Fill Mitigation:	Fill mitigation is being addressed with the proposed pond.

Storm Water Mitigation: Detention pond proposed

The Drainage Impact Study substantially conforms to the requirements of the Drainage Impact Study Policy included in the Subdivision Regulations. The Engineering Review Agency has performed a review of the input parameters and results of the submitted drainage calculations for compliance with the Subdivision Regulations and generally accepted practices for storm water hydrologic design. The Engineering Review Agency has not performed a detailed numerical check of the analysis submitted. Upon approval of the preliminary plat, the applicant can proceed with final drainage design in accordance with the concepts submitted in the impact study.

Traffic Impact Study Summary:

Consulting Engineer: Pranseth Malisetty, P.E., PTOE, Neel-Schafer, Inc.
Date of Study: June 2016
Number of Proposed Lots: 60
Peak Hour A.M. Trips: 52
Peak Hour P.M. Trips: 66
Study Threshold Level: 1
Conclusion: No improvements are required.
Sight Distance Evaluation: Sight distance was evaluated at the current condition and concluded that sight distance will cause no traffic operational problems for this proposed development.

The following intersections were studied with the following conclusions:

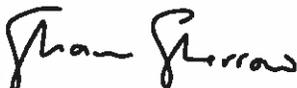
La 74 at Proposed Entrance: All approaches are anticipated to operate at a LOS of C or better during AM and PM peak periods. Consultant does not recommend any improvements.

The following items should be considered by the Planning Commission in their analysis of the case:

- The applicant needs to resolve the sewer collection options with the Parish prior to submitting construction plans.
- Approval of the preliminary plat as submitted requires granting approval to waivers for:
 - Block length for west side of Oakbourne Ave.
 - Side setback requirements of housing types D & E

If you have any questions or comments, please do not hesitate to contact me at (225) 769-0546.

Sincerely,
Engineer Review Agency for the Ascension Parish Planning Commission



Shaun Sherrow, P.E.

CC: William L. "Billy" Taylor, II, P.E., P.L.S., McLin Taylor, Inc.

Stacie Webb

From: Ross Berthelot [rossberthelot@cox.net]
Sent: Tuesday, October 04, 2016 6:51 PM
To: Eric Poche; Lance Brock; Shaun Sherron; Jerome Fournier; Stacie Webb
Subject: Oakbourne - Restrictions Summary
Attachments: Microsoft Word - Oakbourne – Draft of Restriction Bullet Points.docx.pdf

Eric,

I would like to have this email, along with the attached Bullet Point / Summary Restrictions, on record with the Planning Staff and the Planning Commissioners. I will be referring to these Bullet Points at the Oct. 12th Planning Commission Meeting. I have also emailed these Bullet Points to the neighbors in the area around the proposed Oakbourne subdivision, and to Councilwoman Casso.

As I mentioned to the neighbors when I met with them and with Councilwoman Casso on Sept. 28th, these will be the “minimum” threshold level restrictions for the subdivision, and I am comfortable saying that the Final Restrictions will incorporate “at least” these Bullet Points.

I believe that the final economics of the lot prices in Oakbourne will ultimately dictate a higher average sized home closer to 2,300sf living area, versus the minimum size mentioned in these Bullet Points, and I related that sentiment to the neighbors and the Councilwoman as well.

Thank you - see attached.

Ross F. Berthelot
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Oakbourne – Draft of Restriction Bullet Points

- Minimum home size of 1800sf living area. All plans are to be approved by Developer.
- Minimum 50% of the exterior of the homes must be brick or stucco or stone. All materials are to be approved by Developer.
- No vinyl or aluminum siding or shutters will be allowed.
- Minimum 2-car garage required. No carports allowed unless they are located in the rear of home.
- Architectural 3-tab shingles or higher quality material will be required for roof.
- Only shingle covered ridge vents will be allowed. All roof protrusions must be roof color.
- If home is two-story and has second story window(s) facing the rear yard, the builder or homeowner will be required to plant at least 2 evergreen or similar trees (trees must maintain foliage year round) in the rear yard prior to occupancy. Trees should be planted within 25' of rear yard property line and should be spaced so as to obtain maximum privacy for homeowner and neighbor to the rear of home. Trees should have a minimum measured height at time of planting of 10' from ground elevation to top of tree.
- Fences must be constructed of wood, brick, wrought iron, or simulated wrought iron. If wood, fence will remain unpainted, and must be made of cedar, cypress or pine, with a minimum height of 6', and with a minimum of 3 horizontal runners. Wrought iron or simulated wrought iron fencing should be at least 4' tall.
- All residences shall be constructed with interior ceilings on the ground floor not less than nine feet (9') high.
- No foil, sheets, reflective materials, paper or other inappropriate materials or bright colors shall be used on any windows for drapes, sunscreens, blinds, shades or other purpose on a temporary or permanent basis.
- Storage sheds must be attached to the house or garage unless otherwise approved by the HOA, and shall be constructed of the same materials as the residence. No prefab free-standing structures shall be permitted.
- No commercial, business or trade activities shall be conducted on any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the Subdivision. This restriction, however, shall not prohibit a builder from erecting a temporary shed and/or office on any Lot during the construction of a house on the same Lot. A Builder may use a home or homes as a model and temporary sales office during his building program in the subdivision. An exception to this paragraph is that the Developer (or its designee) may have a construction and/or sales office in the Subdivision. These Restrictions shall not prohibit any home office that is allowed according to the type of zoning on the Subdivision (applying the zoning ordinances of Ascension Parish), however, no direct retail or wholesale sales activities shall be allowed from residences or Lots in the Subdivision.
- No trailer, basement, shack, garage, garage apartment, storage room, barn or other out-buildings shall at any time be used as a residence, temporarily or permanently. No structure may be occupied as a residence until its exterior is completely finished and a Certificate of Occupancy is issued by the Parish.
- No animals, livestock, poultry or birds of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other ordinary household pets may be kept, provided that

they are not kept, bred or maintained for any commercial purposes and further provided that they are kept, bred, or maintained otherwise in accordance with law. Domestic animals shall not be permitted to roam freely, but must be leashed or detained by fences. Domestic animals shall not be of such kind or disposition, or kept in such numbers as to cause a nuisance. Dogs that tend to obsessively bark shall not be allowed to remain outside in the yard of any residence.

- No trash, ashes or any other refuse may be thrown or dumped on any Lot (vacant or occupied). No building materials may be stored on any Lot except during the construction period of a residence or other approved improvements thereon. No building materials or trash may be stored or deposited on any Lot other than the one under construction, except with the permission of such other Lot Owner (vacant or occupied). No trash containers may be placed in front of any home before 6 PM on the day before trash pickup.
- For all lots, the yard to be maintained includes the grass area between the front of the lot and the back of any street curb bordering the Lot. For Lots that have a Lot Servitude bordering the Lot, the yard to be maintained by the Lot Owner shall include such bordering Lot Servitude area. The Lot Owner shall maintain landscaping in a neat and attractive manner. If the Lot is not mowed and kept clean by the Lot Owner (and the landscaping maintained) the HOA may notify the Lot Owner of the condition. If after 10 days from the sending of such notice, no action is taken by the Lot Owner, then the HOA may cause said Lot to be mowed (and landscaping maintained) and the Owner of such Lot shall be billed the greater of the cost thereof (including attorney fees if legal action for collection is deemed necessary by the HOA) or \$80 per mowing (or maintenance). The Association shall have lien rights to enforce payment of any charges for such mowing and maintenance (and attorney fees if legal action for collection is deemed necessary by the HOA).
- Each Owner of a home shall keep the exterior of said home reasonably maintained, including garages, carports and other approved out-buildings. This shall include the painting or replacement of roofs, gutters, downspouts and exterior building surfaces and any other necessary maintenance including the replacement of windows, doors and shutters when necessary.
- Playground equipment and swing sets may be made of wood, metal, or plastic. Metal equipment must be kept in good condition, free of rust and chipping paint. Wood is recommended. All such playground equipment must be placed in the rear of the house only.
- Basketball goals are permitted, however, under no circumstances should basketball goals be attached to any part of a residence or other structure. Any Owner desiring to install a basketball goal must get the HOA's approval of the location and placement of the same prior to installation.
- No noxious or offensive activity shall be carried on, nor shall anything be done which may be or become an annoyance or nuisance to the other Owners. Decisions of the HOA in its sole discretion shall be final as to what does or does not constitute an annoyance or nuisance.

BASE BEARING: **GPS - EAGNET - RTN (LA SPCS-SOUTH ZONE-NAD83)**
 FLOOD ZONE: **X₁ & X₂** BASE FLOOD ELEVATION: **19**
 F.E.M.A. FIRM PANEL NO: **220013 0025 E** DATE: **8/16/07**

DRAWN BY: **CBM**
 CREW CHIEF: **JMB**
 TECHNICIAN: **BJM**
 CHECKED BY:
 CHECKED BY:

GENERAL NOTES:

ZONING DISTRICT: MEDIUM INTENSITY RESIDENTIAL, RM
 EXISTING LAND CHARACTERISTICS: PASTURE AND WOODLAND
 LAND USAGE: SINGLE FAMILY RESIDENTS
 (MEDIUM INTENSITY RESIDENTIAL)
 TOTAL AREA: 19.89 ACRES
 TOTAL NO LOTS: 60
 SEWER: COLLECTION LINES TO LIFT STATION WITH FORCE MAIN TO PROPOSED ON SITE TREATMENT PLANT
 WATER: ASCENSION WATER CO
 ELECTRIC: ENTERTY
 TELEPHONE: EATEL
 CABLE: EATEL
 GAS: ATMOS ENERGY
 STREETS: PRIVATE 50' SERV OF ACCESS WITH LIMITED GATE ACCESS
 27' CURB & GUTTER
 (3" ASPHALT OVER 10" SOIL CEMENT BASE)
 SCHOOL DISTRICTS: SPANISH LAKE PRIMARY
 DUTCHTOWN MIDDLE
 DUTCHTOWN HIGH
 FIRE DISTRICT No 1
 GRAVITY DRAINAGE DISTRICT EAST ASCENSION
 RECREATION DISTRICT No 1
 BUILDING LINES: FRONT - 30'
 REAR - 20'
 SIDELINES - 5'
 AVERAGE LOT SIZE: 65' x 75' x 140'
 DETENTION POND TO BE PRIVATELY OWNED AND MAINTAINED
 ALL LOT CORNERS ARE TO BE SET 1/2" 1 Rod
 NO CURVES EXIST ON PUBLIC STREETS WITHIN ONE-FOURTH (1/4) MILE OF THE PROPOSED SUBDIVISION ENTRANCE
 PROPERTY IS VACANT
 FLOOD ZONE SCALED FROM FIRM
 SOURCE OF WATER SUPPLY SHALL BE APPROVED BY THE ASCENSION PARISH HEALTH UNIT
 SUBDIVISION RESTRICTIONS MUST BE APPROVED BY THE PLANNING COMMISSION AND RECORDED PRIOR TO ACCEPTANCE OF THE FINAL PLAT
 A WETLANDS DETERMINATION WAS COMPLETED FOR THIS SITE BY CHD SERVICES, INC AND SHOWN ON A MAP DATED JUL 29, 2015
 SIDEWALK MUST BE CONSTRUCTED FOR EACH LOT PRIOR TO THE CERTIFICATE OF OCCUPANCY BEING ISSUED
 ONE CLASS "A" TREE PER LOT MUST BE PLANTED PRIOR TO THE CERTIFICATE OF OCCUPANCY BEING ISSUED
 ONE SIGN, 12 CLASS "A", AND 24 ORNAMENTAL TREES PER ACRE WILL BE ADDED TO PARKS.
 DETENTION AND PARK AREAS ON TRACTS GS-1, GS-2, AND GS-3 SHALL BE MAINTAINED BY THE HOMEOWNERS ASSOCIATION
 THIS PROJECT IS SUBJECT TO DEVELOPMENT FEES AND TRAFFIC IMPACT FEES IN ACCORDANCE WITH THE ASCENSION PARISH ORDINANCES
 EXISTING DITCH TOP BANK WIDTH 16'-26' (VARIES)
 PROPOSED DITCH TOP BANK WIDTH 30'-33' (VARIES)
 NO OBSTRUCTIONS OF ANY KIND SHALL BE PLACED ON LOT GS-3
 IF THE HOA FOR THE SUBDIVISION TAKES A VOTE AND DECIDES TO CONVERT THE STREETS TO PUBLIC USE, THE HOA SHALL PAY FOR THE PAVING OF THE CONNECTOR ROAD BETWEEN OAKBOURNE AVE AND OAK CROSSING AVE. IN ADDITION, THE HOA SHALL PAY FOR ANY OTHER MODIFICATION TO ROADWAY OR GATE AS REQUIRED BY THE PARISH TO CONVERT THE ROADWAY TO PUBLIC USE. THE DEVELOPER SHALL NOT HAVE ANY RESPONSIBILITY WHATSOEVER BY CONVERTING THE ROADWAY TO PUBLIC USE AT ANY POINT IN THE FUTURE.

REFERENCE MAPS:

- 1 FINAL PLAT OF THE LAKES AT DUTCHTOWN (FIRST FILING) BY DAVID L. PATTERSON, P.L.S. DATED 28 AUG 2003 (NSTR NO 558051)
- 2 FINAL PLAT OF THE LAKES AT DUTCHTOWN (SECOND FILING) BY DAVID L. PATTERSON, P.L.S. DATED 21 DEC 2004 (NSTR NO 596431)
- 3 SURVEY MAP FOR THE LOUIS DECOTEAU EST ALEY THEROT, JR. L.S. DATED 1975 AND REVISED MAY 22, 1978 (NSTR NO 158905)
- 4 FINAL PLAT OF MEACHELLE PLACE FOR WENDELL EVANIS BY LESTER A. MOHR, JR. DATED 5/11/94 (NSTR NO 335305)

REFERENCE BENCHMARK:

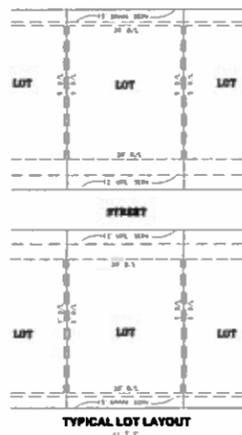
DESIGNATION: APG-2009-1002
 ELEVATION: 11.2 FT (N.A.V.D. 88)

LINE TABLE

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VICINITY MAP
SCALE: 1" = 200'

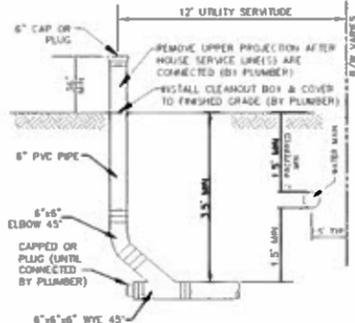


CURVE TABLE

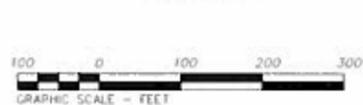
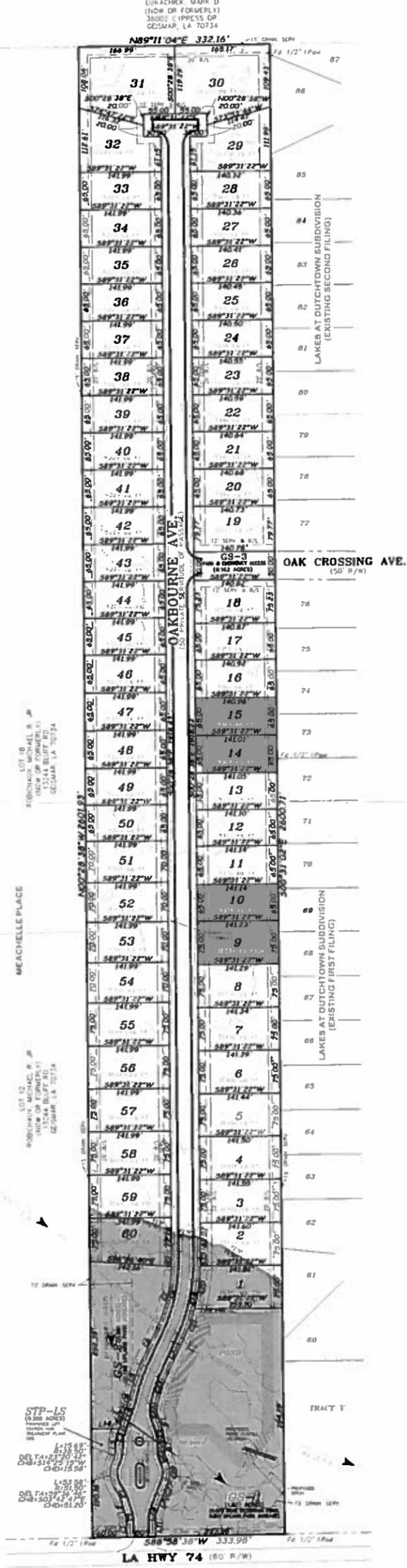
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WAIVERS REQUESTED:

- 1) Section 17-4020, B Requesting waiver of block length for West side of Oakbourne Ave
- 2) Section 17-4020, D 1 a Requesting a waiver for the side setback requirements of housing types D & E be reduced from 7 and 6 feet, respectively, to 5 feet



SANITARY SEWER SERVICE LINE TERMINUS DETAIL
(BY DEVELOPER EXCEPT BY OTHERS - SUCH AS THE HOME BUILDER'S PLUMBER)



TYPICAL STREET SECTION
N.T.S.



TYPICAL SIDEWALK/WALKING PATH SECTION
N.T.S.
DENOTES PROPOSED SIDEWALK

PRELIMINARY PLAT OF OAKBOURNE SUBDIVISION

(A GATED-PRIVATE DEVELOPMENT)
 LOCATED IN SECTION 15, T 9 S-R 2 E
 GREENSBURG LAND DISTRICT
 ASCENSION PARISH, LOUISIANA

FOR
BERTHELOT HOLDINGS, LLC
 15053 REVELLE AVE
 BATON ROUGE, LA 70810
 (225) 205-1059

NOTE:
 THIS MAP REPRESENTS A PRELIMINARY CONCEPTUAL PLAN ONLY, AND IS NOT INTENDED TO REPRESENT AN ACTUAL SUBDIVISION OF LAND AS DEFINED BY LOUISIANA REVISED STATUTES 33:5051 ET SEQ. DIMENSIONS AS SHOWN ARE SCALED AND APPROXIMATE ONLY, AND ARE SUBJECT TO CHANGE. SERVITUDE LOCATIONS AND SIZES SHOWN ON THIS PLAN ARE SUBJECT TO CHANGE AS NECESSARY IN ORDER TO ACCOMMODATE UTILITY COMPANIES AND DRAINAGE DESIGN.

THIS SURVEY WAS PREPARED AT THE REQUEST AND FOR THE EXCLUSIVE USE OF
BERTHELOT HOLDINGS, LLC

THIS FIRM WAS NOT CONTRACTED TO PERFORM A COMPLETE TITLE ABSTRACT OF THE PROPERTY SHOWN HEREON. BE AWARE THAT SERVITUDES SHOWN HEREON WERE TAKEN FROM REFERENCE DATA AND THAT OTHER SERVITUDES, ENCUMBRANCES OR RESTRICTIONS, EITHER VISIBLE OR NOT VISIBLE, MAY AFFECT THE SUBJECT PROPERTY.



APPROVED:

FILE NUMBER _____

DATE _____

CHAIRMAN
 ASCENSION PARISH PLANNING COMMISSION

SUBMITTAL DATE: JULY 29, 2016



McLin Taylor, Inc.
 Engineering and Land Surveying
 8638 FROST ROAD, LAFAYETTE, LA 70504 (225) 988-1444



A) Oakbourne Subdivision

The subject property is located on the north side of LA Hwy. 74 approximately 1,980 feet east of Bluff Road (LA Hwy. 928) in Council District 8 and zoned Medium Intensity (RM). The application is on behalf of Berthelot Holdings, LLC by McLin Taylor, Inc.

The property is approximately 19.9 acres and the applicant is proposing a private major subdivision containing 60 single family residential lots. Lots range from 65 – 75 feet wide with a minimum size of 9,122 square feet. The subdivision will include 1.8 acres of designated park space. The applicant is also asking for a waiver from the block length for the west side of Oakbourne Ave. (Section 17-4020.B) The applicant is also asking for a waiver for the side setback requirements for housing types 'D' and 'E' that would allow a reduction to 5'. (Section 17-4020.D.1.a)

STAFF REVIEW COMMENTS

All elements of the subdivision as per ordinance have been provided and addressed on the plat along with the required notes, labels, setbacks and servitudes as per Paragraph 17-406 of the Subdivision Regulations.

The developer is proposing a sewer treatment plant that will eventually be donated to the parish. All other comments have been addressed by the consultant.

The block length waiver being requested on the west side of Oakbourne Ave. was discussed at the pre-application meeting and was requested due to the fact that this project is presented as a private subdivision, land use of the existing adjacent property to the west of the site and the unlikely possibility that a roadway would ever continue through to Hwy 928 (Bluff Road). A lot 'break' was proposed between lots 18 and 19 as Lot GS-3 to satisfy the ordinance. Staff required that notes be added to state that no obstructions would be placed on this lot and that, should the subdivision ever desire the streets go public, the HOA will provide the street connection to Oak Crossing Ave. on a roadway constructed to parish standards. Staff analysis is that this action satisfies the purpose of Table 'C'-Block Length of the Zoning Code.

Applicant is requesting a waiver on side setbacks from Table 'C' of the Zoning Code. The intent of table 'C' is to govern Major Subdivision Development and provide a variety of lot sizes and setback requirements for multiple product offerings within a subdivision. Table 'C' of the Zoning Code applies as the standard for Major Subdivisions and requires side setbacks according building classification and lot width. The typical 5' side setback for the RM classification of Zoning is to be applied for minor and individual lot development. Staff opines that to grant this variance would set an unacceptable precedent for future development and that table 'C' should be followed as written for this Major Subdivision.

ENGINEER REVIEW COMMENTS

Preliminary Plat:

The Preliminary Plat has been reviewed by the Engineer Review Agent (ERA) Comments are attached.

Drainage impact study:

The drainage impact study has been reviewed by the Engineer Review Agent (ERA) Comments are attached.

Traffic impact study:

The traffic impact study has been reviewed by the Engineer Review Agent (ERA)
Comments are attached.

STAFF RECOMMENDATIONS

The proposed plat meets all guidelines for a major subdivision and should the commission concur with staff's analysis, staff recommends approval based on the following:

- Block length waiver is granted with stipulations on Lot GS-3 as noted.
- Waiver on side setbacks is denied. Should the denial of the setback requirements dictate a reduction in the number of lots, the revised plat can be approved at staff level.

Mr. Ross Berthelot with Berthelot Holdings, LLC presented this preliminary subdivision plat. He expressed at the request of Councilwoman Casso he deferred this preliminary plat hearing from last month so he could attempt to assuage some of the anxieties of the neighbors in the area regarding his proposed development. He stated he reached out to the adjacent neighbors and home owners associations and scheduled a meeting at the Dutchtown Library on September 28, 2016. Approximately fifteen (15) from the area were in attendance along with Councilwoman Casso. He expressed his civil engineer and traffic engineer were also in attendance to explain and answer any questions. Mr. Berthelot said he felt the meeting went very well and were able to satisfactorily answer questions and address the neighbors' concerns.

Mr. Berthelot presented the following summary restrictions and says he will agree to incorporate this into his final restrictions for the subdivision when those are due at final plat approval. The "Oakbourne – Draft of Restriction Bullet Points" are as follows:

Oakbourne – Draft of Restriction Bullet Points

- Minimum home size of 1800sf living area. All plans are to be approved by Developer.
- Minimum 50% of the exterior of the homes must be brick or stucco or stone. All materials are to be approved by Developer.
- No vinyl or aluminum siding or shutters will be allowed.
- Minimum 2-car garage required. No carports allowed unless they are located in the rear of home.
- Architectural 3-tab shingles or higher quality material will be required for roof.
- Only shingle covered ridge vents will be allowed. All roof protrusions must be roof color.
- If home is two-story and has second story window(s) facing the rear yard, the builder or homeowner will be required to plant at least 2 evergreen or similar trees (trees must maintain foliage year round) in the rear yard prior to occupancy. Trees should be planted within 25' of rear yard property line and should be spaced so as to obtain maximum privacy for homeowner and neighbor to the rear of home. Trees should have a minimum measured height at time of planting of 10' from ground elevation to top of tree.
- Fences must be constructed of wood, brick, wrought iron, or simulated wrought iron. If wood, fence will remain unpainted, and must be made of cedar, cypress or pine, with a minimum height of 6', and with a minimum of 3 horizontal runners. Wrought iron or simulated wrought iron fencing should be at least 4' tall.
- All residences shall be constructed with interior ceilings on the ground floor not less than nine feet (9') high.
- No foil, sheets, reflective materials, paper or other inappropriate materials or bright colors shall be used on any windows for drapes, sunscreens, blinds, shades or other purpose on a temporary or permanent basis.
- Storage sheds must be attached to the house or garage unless otherwise approved by the HOA, and shall be constructed of the same materials as the residence. No prefab free-standing structures shall be permitted.
- No commercial, business or trade activities shall be conducted on any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the Subdivision. This restriction, however, shall not prohibit a builder from erecting a temporary shed and/or office on any Lot during the construction of a house on the same Lot. A Builder may use a home or homes as a model and temporary sales office during his building program in the subdivision. An exception to this paragraph is that the Developer (or its designee) may have a construction and/or sales office in the Subdivision. These Restrictions shall not prohibit any home office that is allowed according to the type of zoning on the Subdivision (applying the zoning ordinances of Ascension Parish), however, no direct retail or wholesale sales activities shall be allowed from residences or Lots in the Subdivision.
- No trailer, basement, shack, garage, garage apartment, storage room, barn or other out-buildings shall at any time be used as a residence, temporarily or permanently. No structure may be occupied as a residence until its exterior is completely finished and a Certificate of Occupancy is issued by the Parish.
- No animals, livestock, poultry or birds of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other ordinary household pets may be kept, provided that

Planning Commission Minutes

October 12, 2016

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they are not kept, bred or maintained for any commercial purposes and further provided that they are kept, bred, or maintained otherwise in accordance with law. Domestic animals shall not be permitted to roam freely, but must be leashed or detained by fences. Domestic animals shall not be of such kind or disposition, or kept in such numbers as to cause a nuisance. Dogs that tend to obsessively bark shall not be allowed to remain outside in the yard of any residence.

- No trash, ashes or any other refuse may be thrown or dumped on any Lot (vacant or occupied). No building materials may be stored on any Lot except during the construction period of a residence or other approved improvements thereon. No building materials or trash may be stored or deposited on any Lot other than the one under construction, except with the permission of such other Lot Owner (vacant or occupied). No trash containers may be placed in front of any home before 6 PM on the day before trash pickup.
- For all lots, the yard to be maintained includes the grass area between the front of the lot and the back of any street curb bordering the Lot. For Lots that have a Lot Servitude bordering the Lot, the yard to be maintained by the Lot Owner shall include such bordering Lot Servitude area. The Lot Owner shall maintain landscaping in a neat and attractive manner. If the Lot is not mowed and kept clean by the Lot Owner (and the landscaping maintained) the HOA may notify the Lot Owner of the condition. If after 10 days from the sending of such notice, no action is taken by the Lot Owner, then the HOA may cause said Lot to be mowed (and landscaping maintained) and the Owner of such Lot shall be billed the greater of the cost thereof (including attorney fees if legal action for collection is deemed necessary by the HOA) or \$80 per mowing (or maintenance). The Association shall have lien rights to enforce payment of any charges for such mowing and maintenance (and attorney fees if legal action for collection is deemed necessary by the HOA).
- Each Owner of a home shall keep the exterior of said home reasonably maintained, including garages, carports and other approved out-buildings. This shall include the painting or replacement of roofs, gutters, downspouts and exterior building surfaces and any other necessary maintenance including the replacement of windows, doors and shutters when necessary.
- Playground equipment and swing sets may be made of wood, metal, or plastic. Metal equipment must be kept in good condition, free of rust and chipping paint. Wood is recommended. All such playground equipment must be placed in the rear of the house only.
- Basketball goals are permitted, however, under no circumstances should basketball goals be attached to any part of a residence or other structure. Any Owner desiring to install a basketball goal must get the HOA's approval of the location and placement of the same prior to installation.
- No noxious or offensive activity shall be carried on, nor shall anything be done which may be or become an annoyance or nuisance to the other Owners. Decisions of the HOA in its sole discretion shall be final as to what does or does not constitute an annoyance or nuisance.

Public hearing was opened.

The following spoke:

- 1 – Mike Mouch – Concerned with traffic issues
- 2 – Rita Lessard – Concerned with traffic issues
Concerned with the possibility of two-story homes being built, it will be a privacy issue
Concerned with drainage
- 3 – Leslie Hill-Dupree – Concerned with traffic issues
Concerned with the possibility of two-story homes being built, it will be a privacy issue
- 4 – Richard Kelly – Concerned with traffic issues
Concerned with the possibility of two-story homes being built, it will be a privacy issue

Public hearing was closed.

Legal Counsel Cody Martin read aloud the following ordinance from the Ascension Parish Land Development Code since there are two requests for variances in this proposed subdivision.

17-4093. Variances

- A. Whenever a tract to be subdivided is of such unusual size or shape or is surrounded by such development or contains unusual conditions that the strict application of the requirements contained in these regulations would result in real difficulties and substantial hardships or injustices, such requirements may be varied or modified by the Commission.
- B. Standards for variances. No variance in the strict application of provisions of this ordinance shall be granted by the Commission unless it finds that the following requirements and standards are satisfied:
 1. The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this ordinance for the district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 2. The granting of the variance will not permit the establishment of any use which is not permitted in the district.
 3. There must be a showing of unique circumstances.

- a. **Commentary:** There must exist special circumstances or conditions, fully described in the findings, applicable to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply general to land or buildings in the neighborhood, and which circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of such land or building.
4. There must be a showing of unnecessary hardship.
 - a. **Commentary:** It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this ordinance; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.
 5. There must be a showing that a variance is necessary for the reasonable use of land or building and that the variance as granted by the board is the minimum variance that will accomplish this purpose.
 6. There must be showing that the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhoods.

Commission Action: Mr. Morrie Bishop made a motion to approve this preliminary subdivision plat with the block waiver request but not the setback waiver request. His motion died for lack of a second.

Commission Action: Moved by Mr. Douglas Foster, seconded by Mr. Aaron Chaisson, to deny this preliminary subdivision plat. Motion was adopted by the following roll call vote:

YEAS:Edward Dudley – on the basis of traffic leading out of the subdivision and not getting a clear answer on Lot GS-3

Anthony Christy – states traffic is an issue everywhere and this subdivision meets all criteria, but due to the situation of traffic in this particular area being worse than most

Aaron Chaisson – based on the impact this subdivision would have on the health, safety and welfare of the community both in regard to the traffic and drainage. Traffic in this area is some of the worse in the entire parish. This is also in the section of drainage area that sat under water for weeks due to recent flooding. He feels that can be taken into consideration. The idea that a 500 year flood occurs only every 500 years is a misnomer. Also

echoes all the sentiments that Mr. Foster stated earlier in the meeting on this preliminary plat.

Douglas Foster – based on the health, safety and welfare of the community also echoing what Mr. Chaisson has stated. Obviously traffic and drainage are the issues with traffic being the most primary concern simply because of safety in that particular area, especially where the intersection of Highway 73 and Highway 74 meets.

NAYS: Morrie Bishop – it meets all statutory requirements and the engineers, as well as the Parish staff, have stated it meets all statutory requirements

ABSENT: Julio Dumas

The Chairman did not vote.

4 Yeas, 1 Nay, 1 Absent and the motion CARRIED.

- X. At this time a motion was made by Mr. Aaron Chaisson, seconded by Mr. Douglas Foster and unanimously adopted, to approved to amend the agenda to reopen Camellia Cove for the purpose of making a formal motion to deny this subdivision.

Commission Action: Moved by Mr. Aaron Chaisson, seconded by Mr. Douglas Foster, to deny this preliminary subdivision plat. Motion was adopted by the following roll call vote:

YEAS: Edward Dudley – Because of wetlands and the flooding we've had. Also because the traffic impact study didn't include the nearby intersections.

Aaron Chaisson – Based on how the proposed subdivision affects the health, safety and welfare of the community. He has an issue with all the traffic impact studies being done by the same firm and traffic continues to be a huge impact on our communities. Also has a problem with the traffic impact study not including the surrounding intersections and there is a school nearby. He feels the health, safety and welfare of the Parish is adversely impacted by this subdivision. He says he travels all over the parish and didn't feel the necessity to deny this subdivision as he did with the previous subdivision as he was more enticed to be against it in the Dutchtown area because of the greater traffic

Douglas Foster – Parrotting everything exactly as Mr. Chaisson has said. He expressed he is also moved by what Mr. Pettit spoke about since he lives in and is familiar with the area. Mr. Foster said he also spends a lot of time in the area and sees how Boudreaux Road floods and is familiar with the traffic in the area and it's clear to be a safety concern. Mr. Foster stated he has concerns with both the Traffic Impact Study and the Drainage Impact Study. Feels the timing of this proposal is inopportune, coming right after the flood.

NAYS: Morrie Bishop – Thinks it meets all of the statutory requirements and sees no reason to deny it. Says they mitigated all the water issues and it has a positive traffic study. He feels the engineers that conducted these studies are well qualified to conduct them and