

St. Charles Parish Department of Planning & Zoning

LAND USE REPORT CASE NUMBER: PZR 2015-09

GENERAL APPLICATION INFORMATION

- ◆ **Name/Address of Applicant:** **Application Date: 3/6/15**
Roxanne & Rory Comardelle
128 Carlon Dr
Des Allemands LA 70030
985.758.7279 985.233.1567 985.233.9978
rpcrjm@aol.com
- ◆ **Location of Site:**
Ridge Road, approximately 2,300 feet beyond Folsie Street, Des Allemands.
- ◆ **Requested Action**
Rezone from W-1 to OL.
- ◆ **Purpose of Requested Action**
Single-family residential

SITE – SPECIFIC INFORMATION

- ◆ **Size of Parcel**
A 1.139 acre portion of a 17.949 acre lot.
- ◆ **Existing Land Use and Zoning**
W-1 & vacant.
- ◆ **Surrounding Land Uses and Zoning**
Site is surrounded on 3 sides with W-1 zoning and land use; across railroad tracks and Old Spanish Trail, the zoning is R-1AM but land uses are vacant.
- ◆ **Traffic Access and Parking**
Ridge Road.
- ◆ **Plan 2030 Recommendations:**
Wetlands.

APPLICABLE REGULATIONS

Appendix A., Zoning Ordinance, Section IV.9:

Rezoning Guidelines and Criteria: Before the Planning & Zoning Commission recommends or the Parish Council rezones property, there should be reasonable factual proof by the proponent of a change that one or more of the following criteria are met:

1. Land-use pattern or character has changed to the extent that the existing zoning no longer allows reasonable use of the proponent's property and adjacent property. Reasonableness is defined as:
 - a. Land use the same as, or similar to that existing on properties next to, or across the street from the site under consideration.
 - b. Consideration of unique or unusual physical or environmental limitations due to size, shape, topography or related hazards or deficiencies.
 - c. Consideration of changes in land value, physical environment or economic aspects, which tend to limit the usefulness of vacant land or buildings.
2. The proposed zoning change, and the potential of a resulting land use change, will comply with the general public interest and welfare and will not create:
 - a. Undue congestion of streets and traffic access.

- b. Overcrowding of land or overburden on public facilities such as transportation, sewerage, drainage, schools, parks and other public facilities.
 - c. Land or building usage which, is, or may become incompatible with existing character or usage of the neighborhood.
 - d. An oversupply of types of land use or zoning in proportion to population, land use and public facilities in the neighborhood.
3. The proposed zoning change is in keeping with zoning law and precedent, in that:
- a. It is not capricious or arbitrary in nature or intent.
 - b. It does not create a monopoly, or limit the value or usefulness of neighboring properties.
 - c. It does not adversely affect the reliance that neighboring property owners or occupants have placed upon existing zoning patterns.
 - d. It does not create a spot zone, that is, an incompatible or unrelated classification which would prevent the normal maintenance and enjoyment of adjacent properties.

Appendix A., Zoning Ordinance, Section VI. A. Open Land District (OL):

Policy statement: This district is composed mainly of large open unsubdivided land that is vacant or in agricultural, forestry or residential use. The regulations are designed to protect the open character of the district, and to allow residents to retain their traditional ways of living, by prohibiting the establishment of scattered business, industrial and other uses that are unrelated to any general plan of development and that might inhibit the best future utilization of the land. It is intended that land in these districts will be reclassified to its appropriate residential, commercial or industrial category in accordance with the amendment procedure set forth in the St. Charles Parish Code.

1. Use Regulations:

a. A building or land shall be used only for the following purposes:

- (1) Farming.
- (2) Animal husbandry.
- (3) Farm family dwellings.
- (4) Tenant dwellings.
- (5) Site-built, single-family detached dwellings.
- (6) Additional dwellings for family and relatives on unsubdivided property on a non-rental basis, and which meet the criteria outlined in Special Provisions [subsection 3].
- (7) Manufactured housing.
- (8) Mobile homes.
- (9) Accessory buildings.
- (10) Family subdivisions, provided that they conform to the St. Charles Parish Subdivision Regulations [appendix C].
- (11) Farmer's market, provided that the criteria outlined in Special Provisions [subsection 3] is met.
- (12) Any permitted uses under subsection 1.a. items (1) through (9) on a lot or property without frontage provided that a permanent right of passage to access the structure exist or is provided for, is recorded into the deed of the property, and is filed with the Clerk of Court. (Ord. No. 95-9-11, § I, 9-18-95; Ord. No. 97-9-12, § II, 9-22-97; Ord. No. 08-5-8, § I, 5-19-08)

b. Special exception uses and structures include the following:

- (1) Religious institutions.
- (2) Golf courses and golf practice ranges.
- (3) Public parks and recreational areas.

c. Special permit uses and structures include the following:

- (1) Child care centers.
- (2) Public and private academic institutions (trade, business and industrial schools shall be located in the appropriate commercial or industrial zoning district).
- (3) Cemeteries and mausoleums, provided that they meet the criteria outlined in Special Provisions [subsection 3].
- (4) Extraction of oil and gas, minerals and other natural resources provided that criteria set forth by the St. Charles Parish Coastal Zone Management Section of the Planning and Zoning Department are met.
- (5) Public stables and kennels.
- (6) Cellular installations and PCS (personal communication service) installations. (Ord. No. 97-7-4, § III, 7-7-97)
- (7) Green markets upon review and approval by the Planning Commission and supporting resolution of the Council. Such sites must possess frontage on a hard-surfaced public collector or arterial street. (Ord. No. 03-1-12, § II, 1-21-03)

(8)Reserved. (Ord. No. 07-1-6, § III, 1-8-07; Ord. No. 08-5-8, § I, 5-19-08)

(9)Fire stations with or without firefighter training facilities. (Ord. No. 08-7-8, I, 7-21-08)

(10)Nonresidential accessory buildings

(Ord. No. 12-7-4, § II, 7-2-12)

2.Spatial Requirements:

a.Minimum lot size shall be twenty thousand (20,000) square feet; minimum width fifty (50) feet. (Ord. No. 07-1-6, § II, 1-8-07)

b.Minimum yard sizes:

(1)Front—thirty-five (35) feet.

(2)Side—ten (10) feet.

(3)Rear—twenty (20) feet.

(4)Whenever property abuts a major drainage canal as defined by the Subdivision regulations the required setback for all structures shall be ten (10) feet measured from the inner boundary of such servitude or right-of-way, notwithstanding any other more restrictive setbacks, this provision shall not apply to any lot of record created and existing prior to the effective date of Ordinance No. 99-12-8, December 15, 1999. (Ord. No. 08-8-9, § II, 8-18-08)

c.Accessory buildings:Minimum rear and side setbacks shall be ten (10) feet.

d.Permitted encroachments:

(1)Overhangs projecting not more than twenty-four (24) inches excluding gutter.

(2)Stairs and landings not more than three (3) feet in height, projecting no more than four

(4) feet into the required front or rear yard.

3.Special Provisions:

a.Additional dwellings on unsubdivided property:

(1)Additional dwellings on unsub-divided property referred to in 1, a(11) above, will be permitted at the rate of one (1) dwelling unit for each ten thousand (10,000) square feet of lot area.

(2)The applicant for any additional dwellings on unsubdivided property shall submit a copy of all subdivision restrictions (covenants) which govern the property in order to protect the integrity of the neighborhood.

(3)Under no circumstances will the total number of dwellings per unsubdivided lot permitted under these provisions exceed four (4).

(4)Permits issued under this provision will be issued for a two-year period. At the expiration of this time, an investigation will be conducted by the Planning and Zoning Department to determine if this Code is complied with. Non-compliance will result in the revocation of the permit.

b.All manufactured housing and mobile homes shall be secured according to the Federal Emergency Management Agency's Sept. 1985 publication *Manufactured Housing Installation in Flood Hazard Areas*.

c.All dwelling units shall be connected to utility systems which provide for health and safety under all conditions of normal use. Home utility services shall only be connected to the supply source by means of approved materials, and shall be inspected by the appropriate agency.

d.Farmer's market

(1)All products must be sold on the premises on which they were grown or produced, from either a truck, stand, display table, or other means of display which has been inspected and approved by the Parish Health Unit. (Ord. No. 92-9-20, § II, 9-21-92)

(2)No structure, vehicles or signs may be located closer to any property line than the general setback requirements of the O-L District with the exception of one (1) on-premises sign which contains the name of the market. This sign shall be located approximate to the entrance drive directing attention to the market. The sign shall conform with acceptable commercial standards regarding quality and aesthetics. No temporary signs will be allowed. If the sign is to be illuminated, lighting shall be arranged as not to interfere with traffic safety or cause a nuisance to abutting properties.

e.Cemeteries and mausoleums:

(1)All cemetery or mausoleum sites must have a minimum street frontage of one hundred (100) feet. (Ord. No. 08-3-4, § 1, 3-24-08)

(2)All cemetery or mausoleum sites must have a fence or screen planting six (6) feet high along all property lines adjoining all districts. (Ord. No. 08-5-7. § 1, 5-19-08)

4.Prohibited Use:Medical waste storage, treatment or disposal facilities. (Ord. No. 90-9-4, § II, 9-4-90)

Appendix A., Zoning Ordinance, Section VI. F. Wetlands (W-1):

1. Use Regulations:

Automatically permitted uses: None.

b. Special exception uses and structures:

(1) Low intensity uses permitted as a N.D.S.I. Permit (No Direct Significant Impact) by the Louisiana Department of Natural Resources.

(2) Low intensity uses permitted as a general permit by the U.S. Army Corps of Engineers.

c. Special permit uses and structures:

(1) Coastal dependent uses ineligible for listed Special Exception Uses and Structures, as per approval of the St. Charles Parish Coastal Zone Advisory Committee with supporting resolution of the Council.

(2) Other compatible uses, as per approval of the St. Charles Parish Coastal Zone Advisory Committee with supporting resolution of the Council.

2. Spatial Requirements: None.

3. Transportation Requirements: None.

4. Special Provisions: None.

ANALYSIS

This request is being made to change the zoning of a 1.139 acre portion of a 17-acre tract of land from W-1 to OL. The applicants stated intent is to build a home. The site is situated in an undeveloped area in Des Allemands, along a public, unpaved portion of Ridge Road and is over 2,000 feet from where the pavement ends at Folse Street. The applicants have received a wetlands determination from the US Army Corp of Engineers (USAOE) which has determined all but approximately 1.139 acres (approx. 49,615 square feet) of the tract as jurisdictional wetlands. This means that the only developable portion of their property is the portion approximately 49,615 square feet.

Recommendation for rezoning approval requires that an application must meet the tests of one of three criteria listed above.

The first criteria addresses whether or not the land-use pattern or character has changed to the extent that the existing zoning no longer allows reasonable use of the proponent's property and adjacent property

Guidance is given to the Department in determining this criterion by evaluation of:

a. Evaluation of surrounding Land Use – The St. Charles Parish Comprehensive Plan shows the entire area north of Old Spanish Trail designated as the Wetlands Future Land Use. The proposed zoning of OL is recommended for land designated under the Rural Residential Land Use. The Department finds that the Land Use pattern has not changed nor is the proposed zoning appropriate under the current Wetland Land Use designation.

b. Consideration of unique physical features of the land – The applicant has presented documentation showing that the request area is not jurisdictional wetland. However, this would permit the owner to build a house under the current Wetland zoning as a Special Exception Permit. The need for a zoning change is not tied to the physical features of the land.

c. Consideration of changed in value or environment which limit the usefulness of vacant land – The applicant has not provided information that would support this consideration.

The site is surrounded by hundreds of acres of vacant, wooded, wetlands and is at least 2,000 feet from the nearest existing residential area. For these reasons, **the first criterion is not met.**

The second criteria addresses whether the proposed zoning change, and the potential of a resulting land use change, will comply with the general public interest and welfare.

Guidance is given to the Department by examples of potential impacts that would not be in the public interest:

a. Undue congestion of streets and traffic – The proposed change will not result in undue traffic impacts.

- b. Overcrowding of land or overburden on public facilities – There is a potential impact on public facilities by virtue of the length, scope, and intensity of services that must be provided along Ridge Road. While these are to be borne by the applicant, there is a substantial extension of services required to serve a single dwelling.
- c. Land or building use that may be incompatible with existing neighborhood character – While the applicant is proposing only a single home, the potential for up to three units on the portion requested is real. Further, farming and open land uses would be permitted and may have an impact on the surrounding wetland.
- d. An oversupply of types of land or zoning in proportion to the population – The applicant has not presented an argument supporting this and the Department supports the adopted Comprehensive Plan for guidance on this matter.

Approving the development of this site at the end of a 2,000 foot gap of vacant undeveloped land is an example of “leap-frog development” and potentially taxes the existing infrastructure in the area. Further, the proposed use is incompatible with the surrounding zoning and the Future Land Use Map according to the adopted Comprehensive Plan. This does not comply with the general public interest and welfare and thus **the second criterion is not met.**

The third criteria addresses whether the proposed zoning change is in keeping with zoning law and precedent.

Guidance is given to the Department by examples of potential conflicts with zoning laws and precedent:

- a. Whether the change in zoning is capricious or arbitrary – The applicant’s request is not capricious. The determination that the land is not wetland allows for a consideration of the zoning change.
- b. It does not limit the value or usefulness of neighboring properties – The applicant’s request, if approved, would not limit the value or usefulness of neighboring properties.
- c. It does not adversely affect the reliance of neighboring property owners have placed upon existing zoning patterns – The proposed rezoning could potentially seriously injure the existing zoning pattern. There are potentially numerous instances of non-wet portions of this massive contiguous area of wetland. Allowing any or all of these portions to be rezoned would erode the nature and character of the surrounding wetland. The Parish, by virtue of its adopted Comprehensive Plan and the Future Land Use Map has demonstrated careful consideration of its desire to protect these areas.
- d. It does not create a spot zone that is incompatible with adjacent properties – This request is a clear example of spot zoning and may affect negatively the maintenance and enjoyment of surrounding land.

The third criterion is not met. The rezoning would result in a spot zone is counter to one of the goals of zoning: an orderly, manageable development pattern.

The Future Land Use Map for Ridge Road is **Wetlands**. Amending the Future Land Use Map is not required in this case as the site being developed is less than 3 acres. Therefore, no change to the FLUM will be required if the rezoning is approved.

DEPARTMENT RECOMMENDATION

Denial.