

# St. Charles Parish Department of Planning & Zoning

## LAND USE REPORT CASE NUMBER: PZR-2010-01



### GENERAL APPLICATION INFORMATION

- ◆ **Name/Address of Applicant:** Application Date: 1/28/2010  
Mary & Neal Clulee  
221 Evelyn Drive  
Luling, La 70070  
(985) 785-8667
- ◆ **Location of Site:**  
A portion of Lot 1 of Tract "A" (10783 Hwy 90) is approximately 3.08 acres; a portion of Lot 1 of Tract "A" (10763 Hwy 90) is approximately 1.1 acres; Lot A-1 (10743 Hwy 90) is approximately 1.4 acres; and the "Balance of Lot B" in Lot 1(10669 Hwy 90) is approximately 3.5 acres. All properties are located in Section 37, T13S, R21E and are shown on a survey by Roland P. Bernard dated 9/25/98 in Luling, LA. Council District 2.
- ◆ **Requested Action:**  
Rezoning three lots from W-1 to C-3- addressed as 10783, 10763 and 10669 Hwy 90  
Rezoning one lot from R-1B to C-3 – addressed as 10743 Hwy 90

### SITE-SPECIFIC INFORMATION

- ◆ **Size of Parcel:**  
A portion of Lot 1 of Tract "A" (10783 Hwy 90) is approximately 3.08 acres; a portion of Lot 1 of Tract "A" (10763 Hwy 90) is approximately 1.1 acres; Lot A-1 (10743 Hwy 90) is approximately 1.4 acres; and the "Balance of Lot B" in Lot 1(10669 Hwy 90) is approximately 3.5 acres.  
  
Total acreage to be considered is approximately 9.08 acres
- ◆ **Existing Zoning and Land Use:**  
Zoning: W-1, Wetlands District and R-1B Single Family Residential (10,000 SF minimum lot size)  
  
Existing Land Use: 10783 Hwy 90 is developed with two residential mobile homes; 10763 Hwy 90 has been used for commercial purposes; 10743 Hwy 90 is vacant/ partially utilized for temporary construction job site related to levee project; 10669 Hwy 90 is vacant.
- ◆ **Surrounding Land Uses and Zoning:**  
Property to the north across Hwy 90, to the west of 10783 Hwy 90 and to the east of 10669 Hwy 90 is vacant. Property to the east of 10743 Hwy 90 and to the west of 10669 Hwy 90 is developed with two single family residential units and contains one vacant single family lot.
- ◆ **Comprehensive Plan Specifications:**  
Maintain and encourage the residential character and encourage controlled commercial growth.
- ◆ **Utilities:**  
Parish sewer is not available.  
Parish water is available.  
Drainage improvements as deemed necessary with future development.
- ◆ **Traffic Access:**  
US Highway 90

### 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.

## ANALYSIS

The St. Charles Parish Zoning Code sets forth provisions for zoning district amendments. Three criteria must be evaluated in light of the rezoning request. There should be reasonable factual proof by the proponent of a change that one or more of the following criteria are met.

Three of the subject properties are currently zoned W-1, Wetlands District. Of these properties, 10783 Hwy 90 is currently developed with two residential trailers; the property at 10763 Hwy 90 has been used for commercial purposes and is currently being utilized (along with a portion of 10743 Hwy 90) as a temporary construction job site related to the Western Tie-In US Army Corps of Engineers Levee project; and, the property identified as the Balance of Lot B is undeveloped. Wetland delineation reports were not submitted with the application. Any future development on any of the lots encumbered with wetland areas will be required to meet all permitting requirements through the US Army Corps of Engineers and the LA Department of Natural Resources.

Lot A-1 addressed as 10743 Hwy 90 is zoned R-1B, Residential. As indicated above, this property has been utilized in conjunction with 10763 Hwy 90, as part of a temporary construction site related to the levee construction project. Lot A-1 was rezoned as part of an approximately 7.25 acre rezone from W-1 to R-1B under Ordinance 97-3-6.

Planning Department staff analyzed the requirements for a rezoning application and found the proposed application meets the elements related to the second criteria:

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

*Undue congestion of streets and traffic access.*

Access to Hwy 90 will not cause a burden to the general street system. Hwy 90 in this vicinity does not have transportation capacity issues. Therefore, undue congestion to streets and traffic access will not be created as a result of this rezoning action.

*Overcrowding of land or overburden on public facilities such as transportation, sewerage, drainage, schools, parks and other public facilities.*

Any future development of the property would be required to meet the requirements of the Health Department for private sewer treatment because public sewer does not exist in this area of the Parish. Water is available to accommodate the future development of the subject property to a commercial use consistent with the C-3 zoning district. Drainage in the area would not be significantly affected by the development of the subject properties to commercial uses. Any future development would be required to meet the on and off site drainage requirements of the permitting process. Commercial development of the properties would not affect schools, parks or other public facilities. Therefore, the rezoning of the subject properties would not create an overburdening of public facilities.

*Land or building usage which, is, or may become incompatible with existing character or usage of the neighborhood.*

The use of 10763 Hwy 90 has been commercial in nature; while development on 10783 Hwy 90 consists of two mobile homes. The surrounding land use and character of the area is vacant with the exception of the adjacent two existing homes and the vacant single family lot. Development along the Hwy 90 corridor to the west is commercial in nature and developed to C-2 and C-3 uses. In that area, residential development often abuts the commercial development to the rear. However, broad-scale commercial and residential development along this particular stretch of Hwy 90 has not occurred like those areas further to the west mainly due to environmental constraints.

Although it is not ideal to place commercial development adjacent to single family residential uses the proximity to a major arterial highway should be noted. Additionally, the C-3 regulations anticipate the mixture of commercial and residential uses and provide for buffering requirements when those uses are adjacent. Any future commercial development on Lots A-1 and the Balance of Lot B would be required to meet those buffering requirements.

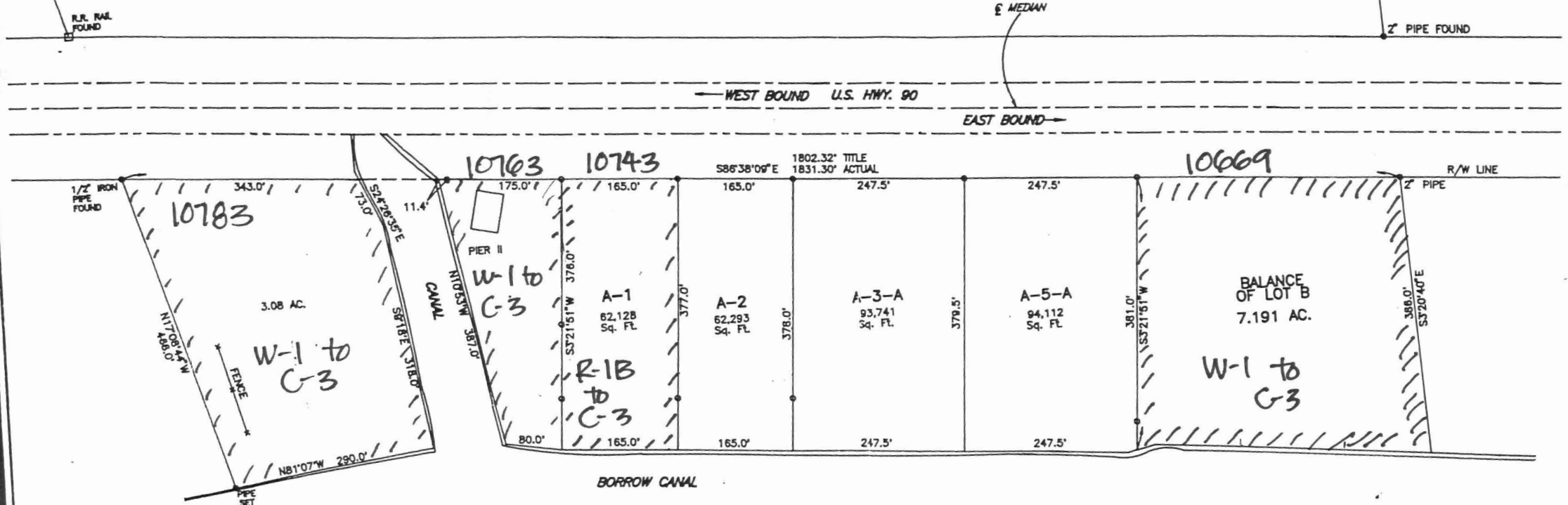
*An oversupply of types of land use or zoning in proportion to population, land use and public facilities in the neighborhood.*

Since this area is largely undeveloped, there is not an oversupply of commercially zoned property in the vicinity.

## **DEPARTMENTAL RECOMMENDATIONS**

### **Approval**

This is to certify that I have consulted the Federal Insurance Administration Flood Hazard Boundary Maps and found that the surveyed property as shown hereon is in a special flood hazard area. The property lies in an AE zone as per sheet 150 of said maps, having an effective date of June 16, 1992. The base flood elevation of this zone is +4.00' NGVD



PZR 2010-01

SURVEY OF A PORTION OF LAND LOCATED IN LOT 1 OF TRACT "A" AS PER A PARTITION OF SAME BY H.E. LANDRY, C.E., DATED 6/4/41 LOCATED IN SECTION 37, TOWNSHIP 13 SOUTH, RANGE 21 EAST, ST. CHARLES PARISH, LA.

SURVEYED IN ACCORDANCE WITH THE LOUISIANA "MINIMUM" STANDARDS FOR PROPERTY BOUNDARY SURVEYS FOR A CLASS "C" SURVEY.

*R.P. Bernard*  
SURVEYOR

R.P. BERNARD, PLS  
LA. REG. #226

Date:	9/25/98
Scale:	1" = 150'
File #:	98K109

*Permit Application Services--St. Charles Parish*

392 Marcia Dr.

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Luling, LA 70070

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(985) 212-2374

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February 10, 2010

TO: Ms. Kimberly Marousek, Director  
St. Charles Parish Dept. of Planning & Zoning

FROM: Phil Dufrene



RE: Case PZR 2010-01

Mary & Neal Clulee have retained my services to review and address the rezoning criteria established in the Zoning Ordinance in relation to their petition to rezone. Attached is that list of criteria, and my evaluation of this rezoning request as it pertains to the criteria.

In summary:

- I fully believe that Mr. Clulee's change of zoning petition meets the established rezoning guidelines as well as the spirit of the Comprehensive Land Use Plan for the parish, and;
- Because of the protection to be afforded by the hurricane protection levee along that section of Hwy. 90, the time has arrived to determine the type of future development that will be best suited for that area, and;
- The parish's Comprehensive Land Use Plan generally recommends that future development of properties along major highways should be of the commercial or light industrial nature. I believe this to be a normal planning recommendation in most communities throughout the state, and;
- I feel that the rezoning to R-1B of properties abutting a 4 lane federal highway was done in error and that the error should not be perpetuated by denying future commercial zoning requests. Section VI.B.[III].3 of the Zoning Ordinance specifically restricts R-1B zoning to local or collector streets and;
- Section VI.C.[IV].3 of the Zoning Ordinance specifically requires that C-3 development be along arterial streets or other high-traffic transportation corridors.

If you have any questions, please contact me at your earliest convenience. I will be at the Planning Commission meeting on March 4, 2010 to address any questions that the commissioners may have in regard to this correspondence.

Attachment: Factual proof that rezoning petition meets rezoning guidelines

*Rezoning Guidelines and Criteria:* Before the Commission recommends or the 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.

**Evaluation:**

**The majority of land along Hwy. 90 between the Davis Diversion Bridge and the Parish line is undeveloped and zoned "W". A very small portion was rezoned to R-1B—too small to declare that a land-use pattern has been established. The Comprehensive Land Use Plan generally recommends throughout the parish that future development adjacent to major transportation corridors be commercial and/or light industrial.**

b. Consideration of unique or unusual physical or environmental limitations due to size, shape, topography or related hazards or deficiencies.

**Evaluation:**

**Property located south of Hwy. 90 is relatively shallow in depth precluding the development of residential subdivisions that can meet St. Charles Parish Subdivision Regulations. Section VI.B.[III].3 of the Zoning Ordinance restricts R-1B zoning to local or collector streets. Hwy 90 is a 4 lane federal highway with a traffic count of over 15000 vehicles per day and is considered an arterial street.**

c. Consideration of changes in land value, physical environment or economic aspects which tend to limit the usefulness of vacant land or buildings.

**Evaluation:**

**Highway Commercial (C-3) development is the highest and best use for the property abutting Hwy.90. With the new hurricane protection levee being constructed south of the property, this land will be protected in the near future, placing the property in a more advantageous position for development.**

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.

**Evaluation:**

**The property abuts Hwy. 90, a 4 lane divided federal highway, the future I-49 corridor.**

b. Overcrowding of land or overburden on public facilities such as transportation, sewerage, drainage, schools, parks and other public facilities.

**Evaluation:**

**Commercial facilities developed in the future will probably be required to handle their sewerage with a treatment facility on the property. Federal, state & local agencies will probably determine where drainage is to run. Commercial development should have only minimal impact on schools, parks, etc.**

c. Land or building usage which is, or may become incompatible with existing character or usage of the neighborhood.

**Evaluation:**

**Property is open, undeveloped land abutting a major federal highway. A very small portion of property located on the south side of Hwy. 90 has been rezoned to R-1B. In retrospect, this property probably should not have been zoned R-1B. In keeping with the Zoning Ordinance and the spirit of the Comprehensive Land Use Plan, the property should have been zoned C-3 Highway Commercial and the property owner(s) then could have applied for a Special Permit to use the property for residential purposes. (Section VI.C.[IV].c.2 of Zoning Ordinance)**

d. An oversupply of types of land use or zoning in proportion to population, land use and public facilities in the neighborhood.

**Evaluation:**

**There is little development along this section of Hwy.90. However, this is a prime area for future commercial activity.**

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.

**Evaluation:**

**There is a definite purpose and intent for requesting the rezoning—to accommodate present day commercial activity associated with construction of the hurricane protection levee and for future commercial development.**

b. It does not create a monopoly, or limit the value or usefulness of neighboring properties.

**Evaluation:**

**The neighboring properties are fairly large tracts of land and the owners should be able to continue to enjoy their property. Any commercial development adjacent to residential use will require the installation of fencing and buffer zones; and, it will not create any more noise or congestion than already encountered by highway traffic.**

c. It does not adversely affect the reliance that neighboring property owners or occupants have placed upon existing zoning patterns.

**Evaluation:**

**A very small portion of property along Hwy. 90 between Willowdale Blvd. and the Parish line has been zoned R-1B, too small to say that a zoning/land use trend has been established.**

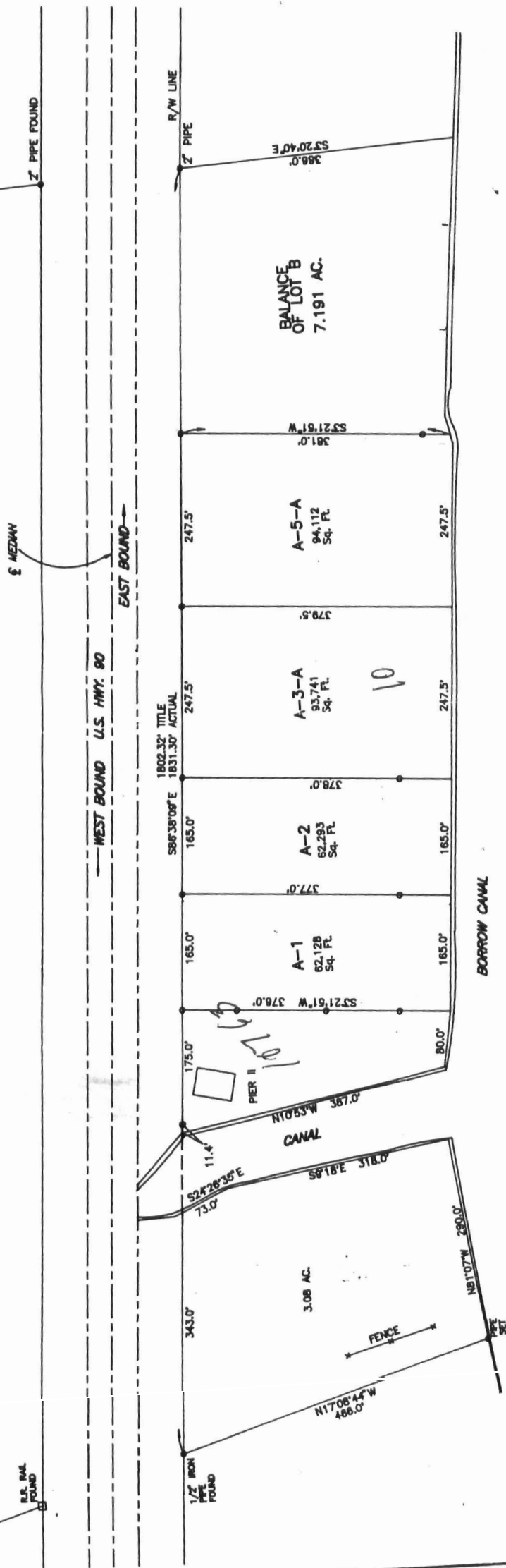
d. It does not create a spot zone, that is, an incompatible or unrelated classification which would prevent the normal maintenance and enjoyment of adjacent properties.

**Evaluation:**

**The Comprehensive Land Use Plan for the Parish generally recommends that future development along most arterial transportation corridors in the parish be commercial and/or light industrial. I would submit that residential zoning on properties abutting major highways would be a spot zone and should be discouraged.**



This is to certify that I have consulted the Federal Insurance Administration Flood Hazard Boundary Maps and found that the surveyed property as shown hereon is in a special flood hazard area. The property lies in an AE zone as per sheet 150 of sold maps, having an effective date of June 16, 1992. The base flood elevation of this zone is +4.00' NGVD



SURVEY OF A PORTION OF LAND LOCATED IN LOT 1 OF TRACT "A" AS PER A PARTITION OF SAME BY H.E. LANDRY, C.E., DATED 6/4/41, LOCATED IN SECTION 37, TOWNSHIP 13 SOUTH, RANGE 21 EAST, ST. CHARLES PARISH, LA.

SURVEYED IN ACCORDANCE WITH THE LOUISIANA "MINIMUM" STANDARDS FOR PROPERTY BOUNDARY SURVEYS FOR A CLASS "C" SURVEY.

*R.P. Bernard*  
 SURVEYOR  
 R.P. BERNARD, PLS  
 LA. REG. #226

Date:	9/25/98
Scale:	1" = 150'
File #:	98K109

This is to certify that I have consulted the Federal Insurance Administration Flood Hazard Boundary Maps and found that the surveyed property as shown herein lies in a special flood hazard area. The property maps, having an effective date of June 16, 1992. The base flood elevation of this zone is  $+4.00'$  NGVD

☉ MEDIAN

WEST BOUND

U.S. HWY. 90

EAST BOUND

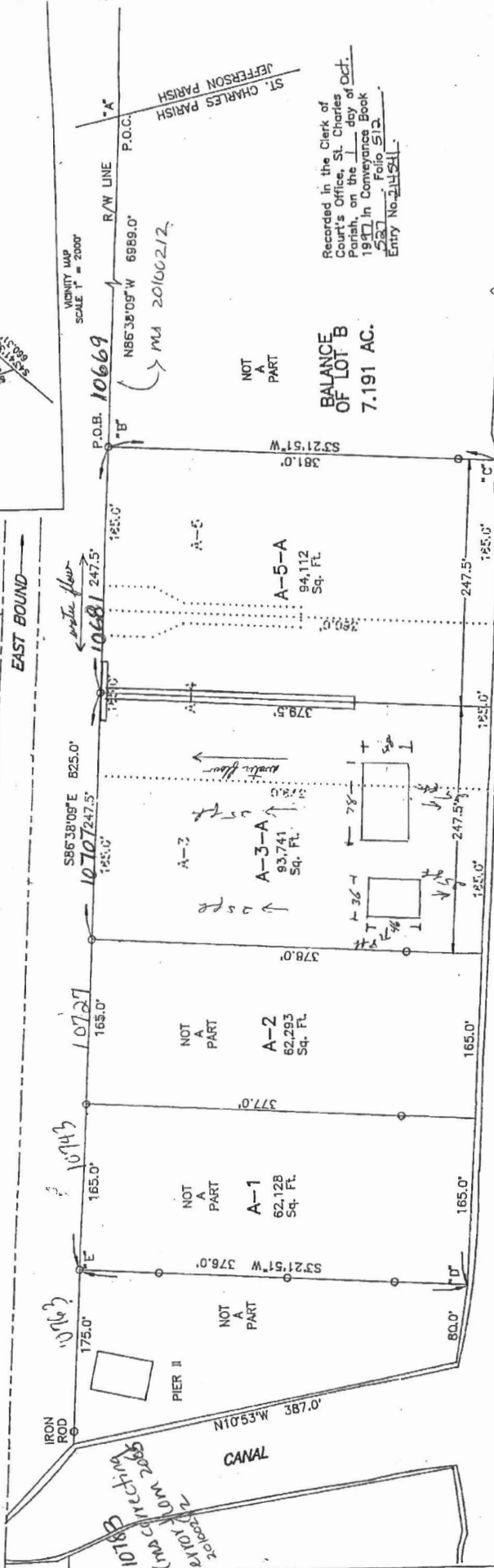
APPROVALS:  
*Chris A. Rega*  
 DIRECTOR, DEPT. OF PLANNING & ZONING  
 ST. CHARLES PARISH PRESIDENT  
 DATE: 9/29/97

APPROVALS:  
*Chris A. Rega*  
 DIRECTOR, DEPT. OF PLANNING & ZONING  
 ST. CHARLES PARISH PRESIDENT  
 DATE: 10/16/97

Date:	9/11/97
Scale:	1" = 100'
File #:	97K092

RESUBDIVISION OF LOTS A-3-A, A-4 & A-5, OF A RESUBDIVISION OF PORTIONS OF LOTS "A" & "B" OF LOT 1 DATE 1/31/95, LOCATED IN SECTIONS 59 & 60, TOWNSHIP 13 SOUTH, RANGE 21 EAST, INTO LOTS A-3-A & A-5-A ST. CHARLES PARISH, LA. BY JACQUELINE T. MARCELLO, 3117 7TH ST., METAIRE, LA. 70002.

BORROW CANAL N86°16'W 825.0'

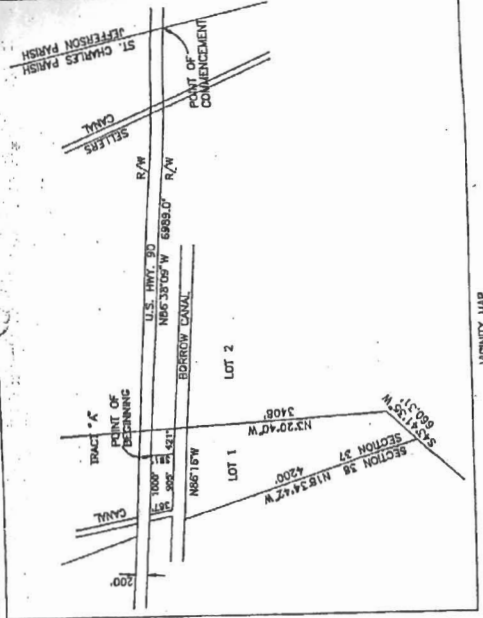


NOT A PART  
 BALANCE OF LOT B  
 7.191 AC.

Recorded in the Clerk of Court's Office, St. Charles Parish, on the 11 day of Oct. 1997 in Conveyance Book 230, Folio 513. Entry No. 244541.

*AP BERNARD*  
 SURVEYOR  
 Prepared by the office of R.P. BERNARD & ASSOCIATES P.O. BOX 402, BOULTE, LA.

*Handwritten notes:*  
 85-021-58  
 1-16-97  
 1-16-97



NEARBY MAP  
 SCALE 1" = 2000'

P.O.B. 10669

R/W LINE N86°38'09"W 6989.0'

ST. CHARLES PARISH