

Commissioner Booth: I'd like to call to order the March 2, 2017 meeting of the St. Charles Parish Planning Board of Commissioners to order. Let's stand for the Pledge of Allegiance to the flag and a moment of silence. The moment of silence will be first. Thank you and be seated.

We have one tabled item from our last meeting PZR-2017-06 requested by Paul J. Hogan, PE, Councilman At Large, Division B

Commissioner Loupe: Motion to remove from the table.

Commissioner Frangella: Second

YEAS: Gordon, Loupe, Granier, Booth, Frangella  
NAYS: None  
ABSENT: Richard, Galliano

PZR-2017-06 requested by Paul J. Hogan, PE, Councilman At Large, Division B for an ordinance to amend the St. Charles Parish Zoning Ordinance of 1981, to change the land use zoning reclassification from M-1 to C-3 on a 21.7 acre portion of land located at 13840 Old Spanish Trail, Boutte. Council District 4.

Commissioner Booth: We're having technical problems, stand by. We're having trouble with our recording and sound system, we have one active microphone if everybody wants to share that as we try to speak. Mr. Hogan you want to hear the analysis again? You want to make a comment?

Councilman Hogan: This is a rezoning request to change the zoning from M-1 back to C-3. This property was originally C-3. The applicant came forward at the request of the department to change to the requested M-1 in order to make his activity, what he was doing a legal use. The applicant, once he got that was required by the department to bring the property within compliance with items that needed to be done. The applicant failed and right now the Legal Department is handling the issue with regards to the non-compliance and the Cease and Desist Order that was issued. This rezoning request is to simply have this come to the Commission and then is going to sit on the shelf until such time that the Legal Department says go ahead and move forward with the rezoning and this was told to the applicant that if he did not comply with all the requirements that he needed to do that I would be bringing the zoning back to C-3 as it was prior and that is why this is in front of yall tonight. If yall have in questions, let me know.

Commissioner Frangella: When it first came before us, it was unanimously denied, our recommendation, it went to the Council and the Council voted for it, did yall have any other information that we were not aware of at that time?

Councilman Hogan: From what I can remember, it's just that the property had been under that use for like 20 years and we felt that we should give the guy the opportunity make his business a legal business, even though there was some objection from the community that he would then have to comply with the requirements of the department, put a fence, he would have to do certain things that would make the situation actually better for the residents. One of the big issues that they had at the time was he was doing some illegal burning and seems like nobody wanted to stop the burning, but since then, the burning has stopped. The residents nearby are well aware that he is absolutely not allowed, he's within that buffer distance, so with that the Council gave him the zoning to go ahead and help him and his situation. Unfortunately, he did not do what he needed to do which put him back in the situation he's in today where we're going to change the zoning back to C-3, once the Legal Department tells us to go ahead and do it. Once it gets passed yall the Council can't act upon it until the department makes a recommendation. So it's just going to be sitting on the shelf, the department will make a recommendation and then the Council will move forward. This is strictly an attempt to shorten the time period when the day comes when Legal says to proceed. If we wait for that day, then it's going to be a month and a half before the Commission hears it and 2 more weeks before the Council hears it, this just shortens the time so when Legal says go, all we have to do is introduce it and 2 weeks later vote on it at the Council meeting.

Commissioner Frangella: Is there a time constraint on this that it needs to be shortened?

Councilman Hogan: No it's just to get the property back where the M-1 is gone and it's back to what it was before where he can do no M-1 activity under the C-3 zoning.

Commissioner Gordon: So is it possible that the property owner can obtain an attorney because we move it on to the Council?

Councilman Hogan: This will never get to the Council until the day that the Legal Department and the Planning Director makes a recommendation where the Council can enact on it. This is strictly getting it passed the Commission and after that it will be sitting on the shelf. It's not going to affect the legal aspects.

Commissioner Gordon: Currently it's sitting in Legal but what if the applicant has his or her own attorney? Will that affect us?

Councilman Hogan: No it's not going to affect yall in this situation what yall have to do tonight.

Commissioner Frangella: What happens if it comes back from the lawyer and the Planning and Zoning with a denial? You're asking us without all the information to go ahead and push something through.

Councilman Hogan: You have all the information you need to act. All you need is the report from the Commission on the merits of the case that the department has provided to yall, that's it. Besides that it's yall duty and obligation to act upon the application that was presented in front of yall. At the last meeting the director made a statement to yall telling yall that it was illegal but he didn't tell yall not to act, the Commission made that decision on its own. Once you have the report, it's yours to act on, after that then it's the Council's turn to act, but we can't act until the department issues the recommendation to the Council because that's what the Code requires. The Commission level doesn't require a recommendation but the Council level has to have a recommendation before it can act and until that comes, we will never act upon it.

Commissioner Gordon: On page 8, the question states something about the property or the surrounding neighborhood that makes the rezoning necessary. It has the impacts on the neighbors so how will it impact the neighbors if the zoning changes?

Councilman Hogan: The M-1 zoning allows for more activities than just what the individual has going on. The individual stated that that was all he was going to do on the property, leaving it with the M-1 he could do any light industrial uses which are some pretty nasty things if you look in the Code and see the various things that are allowed. So once we change it back to C-3 it removes the ability of any of those activities from impacting the neighbors in the future.

Commissioner Booth: Any other questions or comments? Yes sir, you can come up, this is the only microphone we have.

My name is Tujack Hoover, the address is 13840 Old Spanish Trail Road. Just to let the Council know, we were putting the fence up, the buffer fence that was stated to us after we were rezoned because the adjacent property owner has some, it was supposed to be all C-3 from what we understood from the GIS map and all that, but she has an extension of R-1 on the other side so which entailed caused us to have the buffer fence and stuff like that. I asked for a variance and they said no. I said ok. When we go to start, we buy the materials, Planning & Zoning says you have I can't remember the exact date maybe August 24<sup>th</sup> or something was the start date and 6 months from that date to proceed, I said ok. The week before we had building materials dropped off at the yard, set up, stacked up, we go out there a few days later, they're stolen. I said ok. I make a police report. I said since we've never been out to the property since I've been going through this back and forth since the rezoning of M-1 I've not used the property. We just kind of avoid going there to keep the peace. So we then take the building materials have them delivered to my house in St. Amant and it floods. They said it wasn't going to flood, I'm on a ridge but my house floods, my shop floods, my equipment floods, the concrete and the building materials turn into a big, giant rock in the driveway. I contacted Planning & Zoning, now this is the week prior to the start date. I spoke to one of the individuals, there's only 3 in the department and said we're having a problem. It's flooded, I don't have a vehicle, materials loss, materials were stolen but we're going to be delayed. He said I fully understand. I said thank you very much, I don't hear nothing. I said ok. Come Monday morning the newspaper is contacting me at 8:10 in the

morning, he said would you like to give a comment? I said in regards to? He said well the parish is pulling your zoning back from the M-1 because you ceased to comply with what was agreed on. I said wow I have until today and all I had to do was start. I did purchase the materials and unfortunately there was some theft and then there's a flood. I notified them a week ago, we have it in emails, we contacted them and they said they fully understand. I said even though we had 6 months from that date so I need to go out there now and set a post and just say I set the post to start. She said you need to contact them because that's not their intentions. She said do you have the emails, I said yes I do. I contacted Planning & Zoning trying to get a hold of the individual we spoke with, he was unavailable until about 2 days later and he said look it's out of my hands, my boss, they're moving forward and I said how can that be if we contacted you last week and your representative said I fully understand. Our own Governor gave everybody a 30 day grace extension on contractual obligations due to storm. So then I tried contacting Mike, Mike said it's being turned over to Legal, I said ok. I tried contacting Legal throughout the week, yall had a meeting coming up that Monday so I was trying to speak to somebody and the lady said look it's a lot of review and I don't know nothing about it and nothing being done, I said ok. I contacted her a few times and she kind of got almost aggravated and said look I told you I would call you and I said I'm kind of running out of time, it's Friday morning, Monday I don't want them to go to a Council meeting like I didn't do anything. She says ok, she calls me back right before 4:00 or 4:30 but it was a minute before they were closing, rushed to the phone to call her back and she says our intentions are we're moving forward, taking legal action. I said did you talk to him, she said look I can't speak to you, you have legal representation, can't talk to you. I said I do not have legal representation, she said that's what they told me, I said ok hypothetically speaking if I didn't what do I need to do, I have a Cease and Desist there that's blank, can't go on the property they say I'm arrested if I go to the property, she goes I can't speak to you and hangs up the phone. So from then on every time I went to the property, Entergy went there, I pull up the adjacent neighbor calls the police, police comes out, you can't come on the property. So that went on for about 15 different times and in some of the clauses of them asking us to clean up the property, I'd send somebody out there and as soon as they get there the police comes, what are you doing on the property, you're going to be arrested. The mechanical people that are trying to do work for us are like I'm not going back out there, I'm not going to jail and then finally I went out there and the police department was like you have to call Planning & Zoning, every time somebody drives up here, we get a report and we're out here, he goes it's crazy and so I go back to Planning & Zoning. Finally they say yeah you can go back to the property but you can't conduct no business, the only business I have is the tree business which we've been there for 16 years, that's the whole problem, no variances, nothing granted but I was preceding to do the fence, which I thought was ridiculous, whatever, but I still was doing it, but unfortunately with that and then the flood. No one gave me any consideration, nothing, just don't go on your property, done deal. So that's where I'm at and now yes I do have legal counsel because I have no other choice. I'm paying for a property, I have employees I can't employ out there because we're never there. Since then trailers are robbed and just numerous theft but that's it thank you very much.

Commissioner Booth: Any other questions or comments? Step forward to the microphone. Would you state your name and address for the record please?

My name is Phoebe Sellers Cellos, I live at 120 Sellers Lane, Boutte, La. We're across the railroad and the highway from Mr. Hoover. First of all I'd like to comment on the thing about him since he was M-1 and not being on the property, they were there repeatedly, we called the police, we reported it to the sheriff's office, he was coming on a regular basis and when we talked to zoning about it, it seemed to be an issue about it, our understanding of it was he was not supposed to be on the property using it for work. They were bringing in truck and people on the property. So his saying that they were not using it, they were. Finally for some reason or another, I guess because we called enough and complained about it, it finally stopped. First of all I wanted to thank yall for revisiting this issue and Councilman Hogan for bringing it back up again. There are some things I'd like to say about it, if yall give me a minute I wrote some notes down and I'd like to cover it with you. In the initial review of Mr. Hoover's property with P & Z and the Zoning Commission, you were right and it was concluded that he had not met any one of the three criteria, ultimately this decision was overridden by the parish council and he was allowed to have the M-1 zoning. Since then Mr. Hoover has refused to comply with the M-1 requirements as he's done under C-3 zoning which has resulted in legal action with the parish. Now only 2 of the 3 criteria are met to zone this property back to C-3, but it's sufficient for yall to approve it on that. As of today derelict vehicles are still scattered throughout the property as is

yard waste and debris. Through the years we've had repeated encroachments on our property where Mr. Hoover has knocked down trees while pushing trash and debris from his dump onto our adjoining land. Mr. Hoover has had this property for approximately 12 years and has not once met the requirements of the parish laws and the zoning. He has not had a license to work in the parish and has not only diminished the parish aesthetically, he's diminished its ability to acquire revenue from his business. My husband and I have probably spent more money and hired more people locally to work on our property in the last 2.5 years than he has spent on his 12+ years on the property. We've not asked for exception from the current laws and zoning as Mr. Hoover has done, we've only requested enforcement of the current laws. Even though Mr. Hoover hadn't met the C-3 zoning requirements, he was granted a reprieve and given a generous opportunity and quite generous I would say to correct his past behavior and he was zoned to M-1 anyway even against the recommendation of the Commission and P & Z. With all this said, Mr. Hoover still refuses to follow the zoning laws and remains blatantly in violation of the laws by not bringing his property up to the M-1 standards, it doesn't even meet C-3 standards. We still have vehicles everywhere, trash everywhere, weeds growing everywhere, a great deal of valuable manpower time and parish funds has been spent on enforcement and now legal costs. This is an opportunity for the Commission to restore the integrity of the zoning laws and demonstrate that St. Charles Parish desires only the best for its citizens and businesses. We ask again, please revert this property back to C-3 and make it compatible with the existing lands that are around it. Thank yall and I hope yall consider it. Thank you.

Commissioner Booth: Any other ones to speak? Yes sir, step forward and state your name and address for the record.

Greg Cellos and I reside at 120 Sellers Lane, Boutte. I have some handouts for you folks to put some pictures to what you just heard from Phoebe. The second handout is from DEQ regarding the BMP permit which was granted and has now been rescinded from Mr. Hoover to conduct his tree disposal operations. Phoebe has really put it to words better than I can but I beg you to go through these slides and go down the list and see the history that we had with this and I think it 17 years Mr. Hoover's bought this property in 2002 I believe it was, 15 years, but since day 1 he hasn't been in compliance with any zoning ordinances, never ever been in compliance with the zoning ordinance. He's had more than ample opportunity. Mr. Albert can tell you, I'm sure he sensed my attitude, my conclusions as to how he was doing his job, apologies if I was ever offensive, but as much as he's tried to get Mr. Hoover to comply and all the extensions, all of the opportunities time after time after time, C-3, M-1, nothing ever got done. You got pictures there that basically reflect the condition of the property 10 years ago. We just keep beating our heads against this wall and the problem needs to go back to square 1 and start anew. You need to refresh this process and get a handle on it. As Phoebe mentioned ongoing violations, net loss for the parish in terms of loss revenue, expenses with respect to administration, inspection hours, I don't know if you keep a tally on the hours your inspectors spent out at the Hoover location. There was a time I think you were going out twice a day when the Cease and Desist order was enacted. There's a picture in here where you heard earlier that the Cease and Desist order was not violated. For commercial purposes there is a picture here of his truck going onto the property and it wasn't just a crew going out there, they were conducting business. We've seen wood waste hauled onto the property while the Cease and Desist order was in effect. We called the police, I work I wasn't there all the time, we didn't call them all the time. We were asked by the Council and P & Z to assist in this enforcement effort and we did and there seems like there were times when we were the only ones doing anything. We called the police and the police were unaware of what they needed to do to enforce the zoning ordinance or enforce a Cease and Desist order. It's been a very convoluted situation and this dump that's right in our neighborhood is a spot zone, everything else around it is C-3 and the businesses are conducted, the residences are there, there's schools, a cemetery, there are churches all in conformance of the C-3 intent of the law of the zoning ordinance but this is an activity that doesn't belong there and it's never belonged there and you guys got it right the first time and in fact I think that this is the 3<sup>rd</sup> or 4<sup>th</sup> time around that this has been to you and you've gotten it right every time and unfortunately you're overridden for some sympathy for someone who has been breaking the law for so long that he's gotten away with it and he's been allowed to get away with it because he's done it so long, that basically was the reason. The property was zoned C-3 the day that he bought it and from that day on he ignored zoning, in fact he claims that he was unaware of zoning, that was his excuse back then. If I walk away go through this take a look at it and if you need substantiation of what I put in front of you, I have a folder full of it and I would like to ask Michael Albert to address the things that Mr. Hoover said with regards to the time periods he's had, the extensions, the basically forgiveness

of infractions, the opportunities he's had, time and time again to make this situation right and he has not done it. He's thumbed his nose at Planning & Zoning and the people of St. Charles Parish from day 1 and that included burning, he knew he wasn't supposed to burn and he continued to burn, countless times the fire department was called out for that. He was divisive, we talked to him about it, he was going to quit encroaching and he never did, he was going to put a barrier up, he was going to put the fence up, everything, nothing ever happened. It's unfortunate that you guys were overridden by the Council and he was given the opportunity to continue this process on, it's just an endless nightmare for us. I hope you can set it right for all the people in our area. Thank you for your time.

Commissioner Booth: Anyone else have any comments or questions?

Commissioner Granier: Can you also characterize the requirements?

Mr. Albert: Yes sir. It's 2017 right? The rezoning took place in December 2015 between the time period of January when the rezoning actually became effective by ordinance, and between, this is all from memory I don't have my notes with me, between January and March 21<sup>st</sup> we spoke with Mr. Hoover. Let me back up a step, before the rezoning was approved we worked for probably 6 months with Mr. Hoover cleaning up the site. When we did the initial inspection there were 50 some odd infractions – debris, junk, equipment and junk vehicles.

Commissioner Granier: Excuse me Michael, when was the initial inspection done?

Mr. Albert: In '15, earlier in the year. We have a report and a letter that we sent to Mr. Hoover that detailed with pictures all of the things that needed to be addressed and despite some consternation from those involved over that time, the majority of those items were corrected, not all of them, there were still some and we talked about that during the rezoning. During the time period between January 2016 and I think it's March 22<sup>nd</sup> Mr. Hoover applied for his occupancy permit, got his business license and tax license and applied to the Zoning Board of Adjustments because he felt that the requirements of the site plan were too onerous. That variance was denied. What he requested was effectively variations from everything that was required in M-1. There's a fence that's required against residential uses and we required parking and hard surface for the vehicles that were in his use. He had Council come in and they worked with us on an agreement, he drew up a site plan and that site plan showed where the fence would be and where the paved area would be. Part of the agreement was we knew that there were still a few vehicles that were not operational and he was going to move them onto that parking area where it would be screened and we didn't have any objection to that with trucks possibly needing to be repaired or decommissioned, that was fine. And that site plan if it had been completely implemented would have dealt with the last of the derelict vehicles and made the site compliant with M-1. When we gave him the temporary occupancy permit which allows you to work or reside on the property, it was conditioned that the work on the site plan would be done within 6 months, we said that it had to start within 3 and be completed within 6 and that would have been in September. That's all documented, we have that all on file and that's effectively when that didn't occur we issued notices of violations and followed standard procedures for a zoning infraction. The only other point I'll clarify is that the Cease and Desist order never prevented Mr. Hoover from going on site because he needed to remove vehicles and other debris so we never stopped him or a crew from going on there to take things away. He simply wasn't allowed to bring wood debris or destroy other wood that was there. Any questions?

Commissioner Booth: Any questions from the Commission?

Commissioner Granier: All licenses and taxes were taken care of upon the rezoning?

Mr. Albert: With some prompting, yes. Now the Certificate of Occupancy is not a final.

Tujack Hoover, 13840 Old Spanish Trail Road, Boutte, La. Mr. Mike was pretty on point with what he had said. The only thing is when the first did the Cease and Desist it took a couple of weeks for someone to tell us we can go on the property because from the first time that we went there that's when the police come there, that's when they said you can't go there and I said how can I get my trucks from the property to go conduct business, they said don't go onto the property. Entergy went out there because they had a main power line down from the spans, I had to go out there and sit with them but the police wouldn't let them on there and that become a big

old thing but finally yes he said you can go on there as long as you don't dump any wood waste, yes we would go there and we had mechanics go there to try to fix or repair some of the equipment, the police kept coming there and that was the issue to where we had to get Planning & Zoning to maybe talk to the police department but other than that we have not dumped no wood waste and Mrs. Cellos brings up a good point, Mike I don't know the individuals name but the young guy that works for the department...

Mr. Albert: Daniel.

Mr. Hoover: Daniel, he comes out there all the time and I didn't know he's like hey how you doing, he said I've been coming to your property every day, I walk your property I make sure that nothing has been dumped, he said you haven't had someone out here, I said we did have someone cut the lock in the front and they dumped some kind of trash right on the roadway, a very small amount, I don't know who it was or whatever, but since then I just had my guys go out there the other day cutting the grass, kind of cleaning up, but we haven't conducted any kind of business because we could have put the fenced park area up but everybody said don't do nothing, just wait until we go to Council, so that's really where I'm at. We haven't done anything else, I mean I have the materials again to move the vehicle, there's one vehicle in the back but I wasn't doing anything, I wasn't even allowed to go there and that was my issue, but he's pretty detail oriented on the time line and the only other thing with Mr. Cellos, a rebuttal to what he was saying, I just bought the property and I started my business, no I bought a wood waste business that was there 8 years prior, they were doing the exact same thing I was doing. I bought it, they had an occupational license and the point of me not having an occupational license in the parish, I went there from day 1 and the person in the licensing bureau said you have one in Kenner where's your office? I said Kenner. He said you have one in Jefferson Parish? I said yes. He said that not your office? I said no, it's a staging yard, we park there, park the equipment there, he said you don't need one. So I went there numerous times asking them can they just give me one, no. So I finally came here and we went and applied for it but we have 2 occupational licenses, but that was it. I was not aware of what the zoning was, I just bought a business that was there 8 years prior to me being there and I was there 15 years till somebody comes, so 23 years before someone said you were incorrectly zoned. Thank you.

Commissioner Booth: Thank you Mr. Hoover. Mr. Cellos do you want to say anything more?

Mr. Cellos: I just want to make that point that the photographs that I gave you and the handouts were taken the week prior to our previously scheduled meeting here so they are roughly 6 to 8 weeks old, so they are current, the show all of the derelict vehicles that we just heard had been virtually all been cleaned up, they show the grass that they were out there to cut it, it shows the wood waste that wasn't supposedly there. The pictures tell the story, they tell the facts and that's what I encourage you to focus on, what's true and what's not. I know that's a tough one for you guys to discern, but if you will look back at the history of this case I don't think you will have any trouble at all sorting out who's standing up here and telling the truth and who's not. Thank you.

Commissioner Booth: Thank you Mr. Cellos. Any other questions or comments? I guess we'll call for the vote.

YEAS: Gordon, Loupe, Granier, Booth, Frangella  
NAYS: None  
ABSENT: Richard, Galliano

Commissioner Booth: That passes with Mr. Galliano and Mr. Richard being absent tonight, it goes on to the Council for the final decision.