

# St. Charles Parish Department of Planning & Zoning

## LAND USE REPORT

**CASE NUMBER: PZR-2013-06**

### GENERAL APPLICATION INFORMATION

- ◆ **Name/Address of Applicant:** **Application Date:** 4/2/13  
Tracy & Dwayne Plaisance      Doris Dempsey  
406 Ellen St                      165 St Marks St  
Ama LA 70031                      Ama LA 70031  
**504.432.5938**                      **504.431.7406**
- ◆ **Location of Site:**  
297, 299, 301, 303, 305 St Marks Ave, Ama  
(Lots H1, H2, H3, H4, H5)
- ◆ **Requested Action:**  
Rezone from R-1A to OL

### SITE-SPECIFIC INFORMATION

- ◆ **Size of Parcel:** **Plan 2030 Recommendations:**  
71,467 sq ft (1.64 ac) Rural Residential
- ◆ **Zoning and Land Use:**  
R-1AM zoning;  
undeveloped land uses
- ◆ **Surrounding Land Uses and Zoning:** **Traffic Access:**  
Surrounded by R-1A zoning, St Mark St  
Sparse residential to vacant uses.

### 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.

**AND**

**Appendix A., Zoning Ordinance, Section VI. A. [I.] O-L. Open Land District:**

*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)

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)

## ANALYSIS

The applicants are requesting rezoning of properties off of an undeveloped portion of St Marks Avenue from R-1A to OL. The site totals approximately 71,467 square feet and exceeds the minimum square foot requirements for the zoning district. The vacant site is approximately 260-feet from the nearest hard-surfaced portion of St Marks Avenue. However, the standards in the OL zoning district allow for permitted uses to be developed without hard surface frontage so long as a right of passage is recorded. Surrounding zoning is R-1A with the surrounding land uses being primarily vacant and undeveloped. On St Marks Avenue toward River Road, there are houses and mobile homes on the downriver side whereas the upriver side of the street includes St Marks Park.

In 2008 the Parish completed an area-wide zoning analysis for the Ama community which resulted large scale changes to the zoning patterns. Prior to completion of the study, the subject site was OL. Through the public hearing process, this zoning in this general area was requested to be changed to R-1A in an effort to promote site built single family residential uses, which the council approved. Since that approval, very little development has occurred in the community.

A rezoning request must meet all of the tests of at least one of three criteria listed in applicable regulations if a recommendation for approval is stated. **This request does not appear to meet any of the three.**

It falls short of the first criteria because the character of land use patterns has not significantly changed since the zoning change in 2008. The property surrounding the subject site is all zoned R-1A. Although the bulk of the property is vacant, the existing zoning does allow a reasonable use of the proponent's property and adjacent property. The Department is not aware of any environmental or physical constraints on the property that would necessitate a change in the zoning to OL. The site is not served by a developed street; however, that should not limit the usefulness of the property. Residential development, as a whole, as decreased in the Parish due to larger economic issues; however, the community of Ama is now part of a larger hurricane protection levee system which could generally increase the residential development potential of the area.

It falls short of the second criteria because it would conflict with the intent of the approved community wide zoning changes. Much effort went into addressing the concerns of the Ama community. To rezone this site back to OL would not comply with those goals and intents. For the St. Marks Avenue area, the intent is to transition the street to single family use. Approving the applicant site to OL would contradict that desire and potentially promote development that is or would become incompatible with the surrounding properties.

It falls short of the third criteria because it would create a spot zone and could adversely affect the surrounding property owners' reliance on the existing zoning. The property is surrounded by similar R-1A zoning; and, as previously stated the zoning change for the community of Ama was undertaken with several public meetings, hearings and opportunities for public input. The community as a whole identified the type of zoning and development that should occur over time. There have been no significant changes in the area that would suggest a change back to the previous zoning for this property.

#### **DEPARTMENTAL RECOMMENDATION**

**Denial.**