

**OFFICIAL MINUTES  
PLANNING AND ZONING BOARD  
July 13, 2005**

Members Present: Clay Breaud, Melvin Adams, Bert Boquet, Sheard Ber and Marguerite Erwin

Members Absent: None

Also Present: Honorable Charles Caillouet, Mayor, Kermit Kraemer, Jr., Public Works Director, Errol Price, Zoning Administrator, Councilmen Dee Richard and Chad Mire and Ruby Maggio, Secretary

**The first item on the agenda was to consider a request by Acadia Land Surveying, LLC on behalf of Jaron Land Development Company, LLC for preliminary plat approval of Phase One of Village One, Project A, Acadia Plantation located on the West side of Percy Brown Rd. (LA Hwy. 648) South of the intersection of South Acadia Rd. and Percy Brown Rd. in Section 36, T15S – R16E, City of Thibodaux, Lafourche Parish, Louisiana.** Mr. David Duplantis of 314 E. Bayou Road came forward and stated that what they are requesting on Project A is the piece of property at the Southwest corner of the intersection of South Acadia Road and Percy Brown Road is to complete a subdivision that is consistent with the T.N.D. Ordinance, this is part of Acadia Plantation. The utilities, water and sewer provided by the city are at the location, from a drainage standpoint we have two options that he would like to talk about, one option is included in the plans and that is to dig some additional reservoir capacity in the adjacent ditch system to the South of the property consistent with the requirements of the City of Thibodaux. The second alternative would be Jaron Land Development Company has commissioned T. Baker Smith to do a study of the St. Louis Canal in the area, they would alternatively go off site into the St. Louis Canal from Martin Luther King Boulevard to Erwin Drive and dig some reservoir capacity within the St. Louis Canal. So what they were asking for tonight is preliminary approval for them to construct the subdivision and he would be happy to answer any questions. Mr. Breaud stated just to go over the approval process, we've gone through the sketch plat approval for this subdivision, it's been approved. The preliminary approval has come before us before and we denied that approval and we asked the developer to go back and add some additional right of way on Percy Brown Road for the future widening of the road. We've also asked them to take a look at the drainage, originally the retention pond was up against the Acadia Point Subdivision. So they've gone back and revised their plans, they've added some additional right of way to Percy Brown Road which now is 100' for the future possibly four laneing of Percy Brown Road. The drainage issues, they have removed the detention pond from the back of the subdivision and they have come up with different options to mitigate or off set any impact that the drainage would have and David I would like for you to explain a little bit further, there's been some concerns and he had some questions asked to him about the drainage along the back property line. A lot of the residents are concerned, there's a lot of dirt that has been filled on the site and they're kind of concerned that some of that runoff will end up on the Acadia Point Subdivision. There is a servitude that you are providing; it's a 10' drainage servitude, what is the proposed design of that back ditch? Mr. Duplantis replied actually there's going to be a concrete swale ditch right on the backside of Acadia Point Subdivision. It would accept the drainage from the rear of the lots that are currently on the West side of the property that drain towards our property in Acadia Point and it will also drain the rear of the residential properties that they are proposing to that swale ditch, that concrete ditch which will drain to the rear ditch which will eventually drain to the St. Louis Canal. So we've made a provision to provide drainage on our property to accept their drainage. Mr. Breaud stated David that's everything from South Acadia Road would drain south, there's no high point in that swale ditch, everything from South Acadia drains to the back ditch. Mr. Duplantis replied that was correct, there may be the first two lots, Clay, that drain towards the right of way of South Acadia Road, but the majority of the property drains towards the back, that is correct. Mr. Breaud stated ok, once we get to the back ditch are we going to dump into the existing ditch, will there be any improvements in the existing ditch until we get to the back canal, cross canal or can the existing ditch accept the additional flow. Mr. Duplantis replied they would do some reservoir work, excavation in that existing ditch on our property to add some additional capacity but as far as the flow goes that ditch is capable of handling the additional flow that is going to go into that system. Mr. Breaud then stated ok, is there any other comments by the commissioners? Mr. Melvin Adams asked if that was going to be a similar swale to the one that Acadia Point has? Are you going to dig a bigger ditch with concrete? Mr. Duplantis replied he wasn't sure which ditch you're talking about Mr. Adams. Mr. Adams replied he has one in back of his lots there on Acadia Point. Ms. Erwin replied it was the same ditch. Mr. Duplantis replied it was the same ditch, they would improve that ditch and make it a concrete line ditch. Right now it's just a soil or dirt ditch, we're going to improve that ditch. Mr. Price replied you made a statement that the water is going to drain all to the rear from South Acadia, our grading plan shows from the center draining both ways. Mr. Breaud replied we're talking about the swale itself. Mr. Duplantis replied that is what he said. Mr. Kraemer stated but the grading plan shows it goes to South Acadia Road and then also back to the ditch on the back side of the lots, the grading plan also shows that it goes, that the majority of the lot drainage goes to Rue Celeste and then to the drainage servitude on the south of the property. He needed to know whether the grading plan is correct or what you just said is correct. Mr. Duplantis replied let's make sure we're all talking about the same thing here, yes that's what I said, the first four lots are going to drain to South Acadia Road and the rest of them are going to drain back to the South, the first five lots are going to drain, the rear of the first five lots are going to drain to South Acadia Road and the rest of them are going to drain towards the South. Mr. Breaud then asked if the roadside ditch along South Acadia Road adequate to handle that runoff. Mr. Duplantis replied yes it is. Mr. Breaud then asked if there were any other comment, does administration have any questions or concerns on this development. Mr. Kraemer replied that the set of drawings that he had did not show the additional right of way on Percy Brown Road and he was going to bring that to the commissions attention. Mr. Breaud replied it was on it.

Mr. Kraemer replied they were fine with the grading plan of the subdivision as it exists he thought it protects both the City as well the adjoining residents. He was not really sure about the alternatives with respect to the off site drainage and in that regard the enlarged drainage ditch on the South side of the property is a definite improvement and a retention pond for that subdivision, the alternatives, while he had seen it, we have not had an opportunity to do the study. Mr. Breaud replied the could offer a conditional approval with acceptance of the drainage study if they wished, were there any other comments. Mr. Melvin Adams stated the last plan he had brought, he had submitted the plan but you hadn't intended to tie in that into Percy Brown Road, that's been changed and you are going ahead to make the tie in to the Percy Brown Road? Mr. Duplantis replied no, we're still not tying into the Percy Brown Road, we're providing a right of way so that the road could be extended in the future to Percy Brown but we're not constructing it all the way to Percy Brown at this time. Mr. Breaud stated the end of the road will contain a "T" turn around for turn around traffic but it's not going to extend to Percy Brown at this time. Mr. Jake Giardina replied there's another Phase that could come after this one, this is just Phase I of that particular area. Mr. Breaud replied ok, were there any other comments by the commissioners, if not, public comments, anybody in the public that lives in this subdivision or wishes to speak, please come to the mike, we're recording this meeting and we'd like to get your name and address for the record, please. Ms. Barbara Gauthier, 315 Plater Dr. came forward and stated they lived in Acadia Woods Subdivision and she kept hearing them talk about Bayou St. Louis, it comes behind our subdivision also. If they're making improvements with concrete and making that ditch better, it's wonderful; she wished they'd do the whole Bayou St. Louis like that but she wondered if it was going to impact their drainage because everything, St. Louis Canal comes to our side of Percy Brown Road so it's a great deal of importance to them about what happens on that side because it ends up on our side and she just wondered. They were not disapproving of any of these things that are helping our City, this would be wonderful but they were just concerned themselves with the impact that we have with drainage in our area because we don't have very good drainage now. Mr. Breaud replied yes, the barrier of the drainage, you're right it all goes to the same location. Everything from Percy Brown Road drains to the West and your subdivision drains to the East and comes back around. They've hired, the developer has hired T. Baker Smith to do a study to mitigate or off set any impacts that these subdivisions have. By doing that what they are proposing to do is to widen that canal you're talking about to accommodate any additional volume of run off that this subdivision would create. So to say it would have an impact, if anything, it would be better than what it was prior to. Ms. Gauthier replied ok, the only thing she didn't understand, she knew she was just a home-cke graduate but she just wondered about how is he going up hill, she thought Bayou St. Louis went to Houma, how does it go just on one side of Percy Brown up and then it comes down on our side. Mr. Breaud replied it was all draining by gravity, this system here drains to the West and then to the South, ok, your subdivision is on the East side of Percy Brown Road, ok. Ms. Gauthier replied correct. Mr. Breaud stated so it comes around the East side of the subdivision, comes back to the South and ties into that same canal further South. Ms. Gauthier replied further South but it still comes into the same canal that comes behind us. Mr. Breaud replied that was correct. Ms. Gauthier replied and that's what she feels like, if they're doing this so good, being done so well that it will, the rain will come off much faster on the concrete and out of the subdivision that's graded properly. Mr. Breaud replied and that's the purpose of the mitigation, the mitigation is to calculate any increased volume run off from this subdivision and they actually go dig the ditch or dig the reservoir wider to accommodate for the additional volume. David do you want to make any further comments on that? Mr. Duplantis replied that was exactly right, we've provided that additional volume within the St. Louis Canal to handle the additional run off that is going to occur. Ms. Gauthier replied ok but is it going to handle, is it going to stop it coming any faster into our subdivision? Mr. Duplantis replied you're not going to see any additional change in the St. Louis Canal based on this, no. Ms. Gauthier replied ok, at that point, because she knew they were trying to work behind ours. Mr. Breaud replied we can't expect this developer to solve all of the problems that exist now. Ms. Gauthier replied no, she knew but she just didn't want to add to it. Mr. Breaud stated we just can't make him do it any worse. Ms. Gauthier replied yes, we don't need to add to it, so they were just trying to get that straight, thank you. Mr. Breaud then asked if there were any further comments from the public? Mr. Clarence Savoie of 107 Acadia Point Dr. came forward and stated maybe David can answer this, you mentioned gravity, he was looking at the, and he guessed it was called elevations, Lea Rutter's mom's house is 12.0' on the scale and he guessed that was the height and the subdivision that Ronald is building is 13.35' and he was worried about the runoff coming to the front from that other swale because everything is going to go, gravity is going to pull it all to the left. He needed to know how it's going to get around the front part to the canal. Mr. Breaud asked Mr. Duplantis if he wanted to address that. Mr. Duplantis replied he wanted to make sure he was on the right spot. Mr. Savoie replied it looks good, he was just curious to see how the water is going to go around. Mr. Duplantis replied this is the new subdivision, that's Acadia Point Subdivision and that's South Acadia Road, that's Percy Brown Road, this water is going to drain to the ditch on South Acadia Road and go westward and drain back down Erwin Dr and get into the St. Louis Canal. Mr. Savoie replied but we have, right here it's not adequate to handle that. Mr. Duplantis replied you have a culvert right here, we've run the numbers and this system right here can handle, you're only talking, you're not talking about a lot of drainage, you're talking about the rear of five lots that are grass so the run off that you're seeing to date versus that you're going to see in this system when it is developed is very little change and difference. This system is going to see very little. Mr. Savoie replied but he was saying, well on paper this looks really good the way you've got it laid out but a week ago, Ms. Rutter's yard floods from what they've got now, so you're telling me this additional stuff is not going to flood. Mr. Duplantis replied he was telling him there's not enough additional run off to make a difference in the conditions that occur today. Mr. Savoie replied so we have a problem now but he was just saying if you put more to it the problem is going to only get larger. Mr. Duplantis replied he was telling him it was not going to get any worse that it is today. Mr. Breaud replied they can look at it under the condition of additional drainage that we'll... Mr. Duplantis replied that they could look at taking all of that water back to the South too, we can do that. Mr. Breaud replied and the other thing is when the water gets up to a certain elevation even though he has a peak in that valley to go back toward South Acadia when water comes up a certain elevation it's going to run South, all the land drops off in elevation towards the South, towards Houma and the water will flow in that direction. Mr. Duplantis replied they could take another look at that drainage ditch to bring it all towards the South. Mr. Breaud replied they would offer a conditional approval with getting with administration to accept the drainage on it. Mr. Savoie replied well that was their concern but this all looks great David, but it's just, the water is flooding now and anything you put more to it is going to make if flood more because it backs up in Lea Rutter's momma's yard now. Mr. Duplantis replied they would take a look at it. Ms. Erwin asked Mr. Savoie if it has always flooded there. Mr. Savoie replied it's getting worse. Ms. Erwin replied but it's always... Mr. Savoie replied it's always had a problem, it's always been a bottleneck because supposedly the water is supposed to split and come

back around the ditch where the fence is now. Supposedly it is supposed to go to the front and come this way and this way and that way that culvert would have been large enough but it's not doing that now. Mr. Breaud stated they would look at that drainage again with administration and they would make a conditional approval. Mr. Savoie replied ok, thank you all. Mr. Breaud then asked if there were any further comments by the public? Mr. James Leonard of 104 W. Plater Dr. and stated that he flooded in '01. He understood that what is being proposed is a well developed plan but his concern is once the St. Louis Canal gets into Terrebonne Parish have we gotten any working plan with Terrebonne Parish to help us with that drainage because that was the problem when we flooded in '01. He was not aware that anything has been done in that area since then, could you all explain that to us please. Mr. Breaud replied he was very familiar with Terrebonne Parish because he worked in that parish and there has been a lot done on that canal. The developer has hired T. Baker Smith to analyze that canal and the propose mitigation we're talking about is in that canal in Terrebonne Parish if he wasn't mistaken, huh Mr. Adams. So there is some improvements that are on the way to improve that system. That system is under pumps; that's the 1-1-B Project, there's 2 big pump stations with 10 pumps in each station down in the lower part of Terrebonne Parish. We can only do so much with this developer, this developer, as long as he handles his run off and his volume of water such that he does not make the conditions worse than what it exists now, we cannot force him to go improve the canal back to Terrebonne Parish. So, in his opinion he has done what he was asked to do, we would take a little further look at some of the drainage concerns that were brought up tonight but we can't force him to go clean the canal all the way to Houma. Mr. Leonard stated that isn't what he asked, what he asked was even though his development is approved, we don't see any reason to disapprove it, how can we be re-assured that no matter how good a job that he does, that our subdivision is not going to flood because Terrebonne Parish isn't helping us. Mr. Breaud replied he couldn't give him that guarantee, if you are flooding right now he could not guarantee you're not going to flood tomorrow, his development is not going to solve your problems. We're going to make sure that his development does not make your condition any worse. Mr. Leonard replied well that was the question he wanted answered, he didn't understand how you've answered that question yet., not making it worse. Mr. Breaud replied by mitigating, that's why he's hired an engineer, the engineer came up here and told him he has done his malice's on it, he's hired two separate engineers, those engineers have calculated the size of the ditch, they have calculated the size of the culverts, they're telling us that they have done some mitigation or they will do some mitigation. The mitigation is to off set any impact. The mitigation is to dig some wider canals or wider detention area to mitigate or off set the additional volume of run off that this subdivision is going to create. Did he answer his question this time? Mr. Leonard replied he hoped he did. Mr. Ronald Adams replied he was president of the North Lafourche Levee and Drainage District and they have been working with the Mayor and Kermit with Public Works and Barbara Gauthier and I had a conversation last week about this, behind Jody Plaisance's house there's a drainage canal that comes from the old oxidation pond into the St. Louis Canal. The North Lafourche Levee District owes some work to the City of Thibodaux but we can't go work in Terrebonne Parish because it is out of our jurisdiction. So what we are waiting is for Charlotte Randolph to do an intergovernmental agreement with Terrebonne Parish so we can go and clean that ditch, so that is going to help you because you have blocked from your subdivision right when you get into the St. Louis Canal. Hopefully that will help you. Dr. Leonard replied thank you. **Mr. Breaud then asked if there were any further comments if not, he would entertain a motion for preliminary plat approval for Phase I, Village I, Project A conditioned upon additional information be provided on the drainage and acceptable to administration, it was moved by Ms. Erwin and seconded by Mr. Boquet, all members were in favor, motion carried.**

**The second item on the agenda was to consider a request by Acadia Land Surveying, LLC on behalf of Jaron Land Development Company, LLC for sketch and preliminary plat approval of Phase One of Village One, Project B, Acadia Plantation located on the West side of Percy Brown Rd. (LA Hwy. 648) North of the intersection of North Acadia Rd. and Percy Brown Rd. in Sections 35, 36 & 37, T15S-R16E, City of Thibodaux, Lafourche Parish, Louisiana.** Mr. David Duplantis came forward and stated that Project B is about a 10-acre development that is located on the Northwest corner of Percy Brown Road and N. Acadia Road. Again this is a single lot subdivision basically there's actually two lots that are being created but it's a single lot subdivision again consistent with the T.N.D. Master Plan and new zoning designation. This property again has city utilities provided to it. Water and sewer, sewer is actually going to be brought across Percy Brown Road to the East into a new pump station that will be constructed and that will discharge into the Nicholls St. pump station. From a drainage standpoint again, everything on the North side of North Acadia Road, Acadia Woods Dr. all drains towards the North into the Forty Arpent Canal so it doesn't get into the Acadia Woods drainage system, it goes to the Forty Arpent Canal. Again, what we've done is we have made improvements to the Forty Arpent Canal drainage system to provide additional reservoir capacity to mitigate our impact on drainage. We have an access point on Percy Brown Rd. and N. Acadia Rd. and again they were asking for preliminary approval tonight. Mr. Breaud stated ok, this is another item that we have looked at already and we have requested the same additional right of ways for Percy Brown Rd. and we requested a servitude for the drainage. The developer or the developer's engineer has provided that information for us. The only other comments he would like to make Tract A and Tract B are large tracts of property, any further redivision of these tracts for sale would have to come back in front of the planning commission for approval with possibly some additional infrastructure improvements. But as it stands right now, Tract A and Tract B are two large tracts of property. Were there any further comments from the commission? Were there any public comments? Ms. Barbara Gauthier of 315 Plater Dr. came forward and stated they were at the end of the line for the water in their subdivision and she wondered where they are getting their water from and is it the same source as ours and if so, what is the impact going to be on ours because the bottom end of our subdivision has poor... Mr. Breaud replied you are talking about drinking water not drainage here. Ms. Gauthier replied yes. Mr. Breaud stated David do you want to address that. Ms. Gauthier replied because he talked about a water line, he said he's putting a water line in and were they talking about the property that is on this side of the Country Club, is that the? Mr. Duplantis replied they were on the West side of the Country Club. Ms. Gauthier replied you are on the hospital side. Mr. Duplantis replied correct. Mr. Breaud stated they were on the Southwest side of North Acadia and Percy Brown Rd. Mr. Duplantis replied yes this is city utilities and you are serviced by...Ms. Gauthier replied they were serviced by the parish. Mr. Duplantis replied they were getting city water. Ms. Gauthier replied oh you are, how nice. Mr. Duplantis replied it's two different systems. Mr. Breaud replied they're not taking any of your water from you. Mr. Duplantis replied and that would be consistent through all of the development, we're getting city water and you have parish water, it's two different systems. Ms. Gauthier replied ok because our line goes through your property on the East side. Mr. Duplantis replied that they understood that. Ms. Gauthier replied

so you will just run your little city pipe parallel to our little parish pipe. Mr. Breaud then asked if there were any further comments from the public, if not he would...Mr. Adams, go ahead. Mr. Ronald Adams stated he would add something to Barbara's concern, she would love him after tonight, they were working with Lafourche Fresh Water District to remove the existing 4" water line on our property because there's no servitude and we're going to give them a servitude on the Percy Brown/South Acadia Rd. and we are going to pay 50% of a new 8" water line going into Acadia Woods, David is working on the plans right now and the contract should be awarded in August so by September or October you should have an 8" water line with fire protection in all of Acadia Woods. Mr. Breaud replied all right, Mr. Kraemer, he was sorry, does administration have any problems with this development or any concerns. Mr. Kraemer replied they had one concern Mr. Chairman, the sewerage in this particular development goes to a non-existent lift station at the present time it is contingent upon the development of the next phase of this particular subdivision with respect to this one. So we do have some City concerns, we acknowledge the fact that they are up for approval at this particular time but it does presently go into a non-existent system. Mr. Breaud replied ok, we can give conditional approval upon acceptance of Project C. Mr. Price replied that Project C didn't have the sewer station in it. Mr. Kraemer replied that the sewer station is not in C. Mr. Breaud then asked when does the sewer station get constructed. Mr. Duplantis replied in Project C, it would be constructed in Project C. Mr. Breaud replied all right they would address that in Project C in a little while. Mr. Adams stated he would like to correct one thing for the record too, you mentioned in Project A and Project B that it was turned down because no additional right of way was given by Percy Brown, Project A and Project C are on the West side of the Percy Brown and the right of way is in Project B, the extra 100' and that's the one that your comment... Mr. Breaud replied at the time it was denied though we wanted additional right of way for Percy Brown and you all elected to give the right of way on the East side of the reserved strip. Mr. Adams replied that was correct and when we do something South of Acadia Woods we'll have to reserve the same amount to make the two sections the identical right of way width. Mr. **Breaud then asked if there were any other comments, if not he would entertain a motion for preliminary and sketch plat approval for Phase I, Village I, Project B conditioned upon the sewer lift station being approved by administration under Project C. The motion was moved by Mr. Adams and seconded by Ms. Erwin, all members were in favor, motion carries.**

**The third item on the agenda was to consider a request by Acadia Land Surveying, LLC on behalf of Jaron Land Development Company, LLC for sketch and preliminary plat approval of Phase One of Village One, Project C, Acadia Plantation located on the East side of Percy Brown Rd. (LA Hwy. 648) East of the intersection of North Acadia Rd. and Percy Brown Rd. in Sections 37, 38 & 39, T15S-R16E, City of Thibodaux, Lafourche Parish, Louisiana.** Mr. David Duplantis came forward and stated Ms. Barbara, do you want to come up now? Mr. Duplantis replied he was just joking. Project C is on the Northeast corner of Percy Brown Road and Acadia Woods Dr. and it is about a 40-acre development and it's got a little over 100 residential lots in it and some commercial property consistent with the T.N.D. Zoning Ordinance that will abut Percy Brown Road. Again, they were going to utilize City services for utilities, city water, from a sanitary sewer standpoint we are proposing to build a new lift station consistent with the City of Thibodaux's requirements to handle the sewerage for this first phase as well as future phases. The motors for the pump station have been sized adequately to handle the flow that will go to it today. The sewerage will discharge into the Nicholls Street pump station via force main and that system is going to be constructed within the Project C. From a drainage standpoint, this part of the development has several water features planned for it. They are going to construct two of those water features, there's basically going to be an open pond/lake system and within that lake system we are mitigating our storm water run off and handling our detention requirements within that system discharging those two ponds to the Forty Arpent Canal. So we are mitigating our storm water drainage in this instance through pond or detention systems that will be an amenity to the neighborhood. Mr. Breaud stated ok, the proposed dedication of the right of ways and roadways is the non-shaded areas on your map, there's a lot of areas that are called private alleys that are shaded, which will remain private and not be publicly dedicated to the city, those are alleys along the back of the lots which contain most of the utilities and access to the lots. Those will not be dedicated, the dedication will only be the white areas, the roadways and the infrastructure. There is some proposed tie ins from this subdivision into Acadia Woods Drive, David will you explain those somewhat. Mr. Duplantis replied in this phase actually, you want to talk about Acadia Woods Drive in total? Mr. Breaud replied a it relates to Project Section C, he knew they had the next item on the agenda is Acadia Woods Drive but fortunately this ties in and try and explain the way the traffic flow pattern right now is going to work until the whole system is built, we're still going to end up with two way traffic on Acadia Woods, explain that to the people, please. Mr. Duplantis replied well ultimately hopefully what is going to happen is that the City from somewhere near Martin Luther King Boulevard towards Acadia Woods is going to create a couplet system such that North Acadia would run he guessed Westward and South Acadia would run Eastward, it would be similar to Canal Boulevard separated by the grass median. In the City of Thibodaux and the developers, Jaron Land Development Company has entered into a cooperative endeavor agreement. Within that cooperative endeavor agreement there are certain obligations that the City has and there is certain obligations that the developer has to meet. One of those obligations that the developer has to meet is to construct a new Acadia Woods Drive as a boulevard section by December of 2007. When that is constructed you will basically have a continuation of North Acadia and South Acadia Road, it would be a curb and guttered sub-surface drainage street that will extend to the edge of the property. The edge of the property at this point in time is actually East of the entrance into Acadia Woods subdivision. Until that time this subdivision here does not generate enough traffic to warrant a boulevard section so what they are proposing to do at this point in time is to tie into the existing Acadia Woods Drive as it exists today so there is four access points that we are proposing coming from the subdivision. What will happen is traffic will access Acadia Woods Drive and then travel Northward or Westward towards Thibodaux. There is also access from Percy Brown Road so people can also get into the subdivision from Percy Brown Road. Again, 111 homes is not going to generate enough traffic to justify the expenditure of the dollars that need to be expended to build the road at this point in time but they have the obligation to build it by 2007. Mr. Breaud replied ok, so sometime in the future additional phases of this work we may require traffic study, we'll look at the traffic flows to see if there's additional tie ins that are needed to the subdivision or outlets but at this time you feel like the traffic generated from this subdivision has an adequate discharge points to handle the flow of traffic. Mr. Duplantis replied that was correct. Mr. Breaud replied all right and as far as drainage goes, just to clear the issue on drainage, all the drainage from this development flows to the Forty Arpent Canal which is not tied into the 1-1-B System in Houma, it does not drain into Devil Swamp subdivision, it all drains out towards the Raceland area and you have designed some retention ponds to handle that

additional run off and volume before it enters the Forty Arpent Canal so that we're not impacting the Forty Arpent Canal any, is that a fair statement. Mr. Duplantis replied that was correct, that was a fair statement. Mr. Breaud then asked if there were any further comments by the commissioners, if not, were there any public comments. Ms. Barbara Gauthier came forward and stated the first plan had the boulevard a little further in than she had and now you're going to follow the road that we currently have with one side of your boulevard, is that correct? Mr. Duplantis replied that was correct. Ms. Gauthier then asked how are you going to make, she wanted to see how they were making that turn by Dr. Hansen's, this is our only exist so we need, there's a very bad blind spot when you come in and she was wondering if you are building homes which she saw on this little thing you see here... Mr. Duplantis replied today we are stopping the homes in this phase that we're getting approval for today, we're stopping the homes before you get into the entrance into Acadia Woods Subdivision. Ms. Gauthier stated which would be like what, behind Ms. Pitre or Ms. Galliamo or... Mr. Duplantis replied he wasn't sure, he didn't know where they lived. Ms. Gauthier replied it was those three houses, you know right down the side across from Dr. Kalapakis, there's three homes, so you're going to stop back further. Mr. Duplantis replied this is Acadia Woods, that's the Thibodaux's, correct, that is where we are stopping and this is towards Thibodaux. So the intersection of Percy Brown and North Acadia/South Acadia is here. Ms. Gauthier replied so we will come in on our old road but your new design is not going to have any homes back here at all later. Mr. Duplantis replied it could be later and we do that we are obligated to come back before this planning commission again and we get it approved and you'll have an opportunity to comment on that at that point in time. Ms. Gauthier replied ok because that was a concern looking at the homes if they're plotted in here on the one that she had it might, we can't see this way at all. Mr. Duplantis replied in the next item he could address these questions better because the plans will show how Acadia Woods Dr. will tie into the new boulevard in the next phase. Ms. Gauthier replied ok and then you'll just build one side but you won't build the other but you have to build it by 2007? Mr. Duplantis replied we have to build the whole boulevard, both sides by December of 2007. Ms. Gauthier replied ok, all right, thank you. Mr. Breaud then asked if there were any further comments from the public, if not, administration any concerns or issues? Mr. Kraemer replied again they had the same comment for the non-existing sewer lift station because at this time it is not included in this phase of subdivision although we have drawings, etc. which show it being built, at this particular time and certainly he would ask that you approve it conditionally based upon that sewer lift station being constructed. Mr. Breaud replied all right, David any further comments on that? Mr. Duplantis replied that was an acceptable condition. **Mr. Breaud replied ok, were there any further comments by the commissioners, if not, he would entertain a motion for preliminary plat approval for Phase I, Village I, Project C conditioned upon that the plans and design of the sewer pump station be approved by administration, it was moved by Mr. Boquet and seconded by Ms. Erwin, all members were in favor, motion carries.**

**The fourth item on the agenda was to consider a request by Acadia Land Surveying, LLC on behalf of Jaron Land Development Company, LLC for preliminary plat approval on the proposed relocation of Acadia Woods Drive, Thibodaux, Louisiana.** Mr. David Duplantis came forward and stated again, we touched on this item a little bit just now but what they have actually submitted to the City is two alternatives, one alternative is what we described in Project C and that is we will have four access points to tie into the existing Acadia Woods Dr. at this point in time. The second alternative that we have is the construction of a new Acadia Woods Blvd. The new Acadia Woods Blvd. again it would be the developer's obligation before December of 2007 to construct that roadway and obviously it would be considered in future phases that will be brought before this planning commission. Again the drainage from the boulevard will be collected in a sub-surface drainage system and will tie into the detention system that is proposed in Project C and ultimately outfall into the Forty Arpent Canal. So, again the water that is coming off of this roadway, on the North side of this roadway will be handled within the Forty Arpent Canal drainage system and the existing Acadia Woods Dr. now drains towards the South and will continue to drain towards the South. Mr. Breaud replied that agreement to build that boulevard David is in the cooperative endeavor agreement between the City and the developer and you're saying it is December of '06, '07? Mr. Duplantis replied it was '07. Mr. Breaud stated he thought it was '05, it is in there as '07? Mr. Duplantis replied he thought it was in December of '07. Mr. Adams replied it was December of '07, that is correct. Mr. Breaud stated and that is an agreement that it has got to be constructed prior to that time. He wouldn't have a problem approving the preliminary plat on this Phase David but when it comes to the final plat approval what he would request is that it is a requirement that infrastructure be constructed, in place and approved prior to dedication of all the right of ways. So what he would ask is that the final plat be revised to incorporate only the right of ways of the tie ins at that time and then when the rest of the road gets constructed we'll dedicated the rest of the right of way with the infrastructure constructed and approved. Mr. Duplantis replied ok, Ms. Barbara do you want me to show you the tie in and this is not all on one page so it would be a little difficult to see, but this is it, this is actually the existing Acadia Woods Dr., ok and this is the boulevard section; this is the two lanes that exist today so you're going out West or North towards Thibodaux and this is the other two lanes that would be the boulevard. So what you will actually have here is you'll have a right turn off of this boulevard directly into the subdivision and then as you come out of the subdivision you would come and make a left on the other side and go back towards town. So this is how this is going to work in the future? Ms. Gauthier came forward and stated and so to clear it up better but the development would be right in here? Mr. Duplantis replied you would still have land that is open and potential for development on this side of the road, that is correct and then again, that would have to come before this planning commission and you would have an opportunity to comment on that. Ms. Gauthier replied she didn't think, maybe since you're up here and we're talking about entrances, was it all right if she expanded on that, about the entrance to the subdivision since they are taking it and changing it. Mr. Breaud replied make it quick because it's not part of this approval process but go ahead and express your concerns so they can maybe incorporate it into the future. Ms. Gauthier replied she spoke to Mr. Adams and he knows my concern because it was all relative, if this entrance is blocked by trees or anything, we can't get out of our subdivision now. Mr. Breaud stated the existing exit. Ms. Gauthier replied correct because the parish so choose to donate some land to them that was part of the road that was an exit in the back end of our subdivision and none of us realized that during the cheret or whatever that we would not have any other exit and when we flooded in 2001 which is an unusual thing but we're getting flooding quicker now with lighter rains, we could not get out of there. We had to walk through, if you know our subdivision, through her back yard and get over to Hale Dr. which is the high point and then go out, the road that she is talking about is Devil Swamp Road. So her concern is that we have exits and she knew that it was not going to be built probably in her lifetime, she hope it does, she hoped he sells everything and he builds the second one, but we need to have exits besides this one. Her concern with this one is that we can see because we have terrible vision to the

right and they are going to develop on this side and it's going to be a dead end as she understood it in front of Dr. Kalpakis, it would remain a dead end there. Mr. Adams replied on Nicholls Dr? Ms. Gauthier replied right. Mr. Adams replied that was correct. Ms. Gauthier stated and you're not going to have any egress into that area at all from Nicholls? Mr. Adams replied no ma'am, from Acadia Road in this phase. Ms. Gauthier replied it only comes from which is now our present road. Mr. Duplantis replied that was correct. Ms. Gauthier replied ok, would you ever consider an entrance from Nicholls into that area, not out to Percy Brown, just into that little area? Mr. Adams replied that Dr. Kalapakis was standing in back of him and if he did that he would kill me. Dr. Kalapakis replied you want to do what? Ms. Gauthier no, she wasn't talking about.... Dr. Kalapakis replied you want to come from Percy Brown into Nicholls? Ms. Gauthier replied no, no, she didn't want to go to Nicholls, she didn't want to extend Nicholls to Percy Brown, she was just thinking that it might be a thought that you could have something that goes into this little area, right here if this road just went into this, not to Percy Brown. Mr. Duplantis replied if you could extend that to Acadia Woods Dr. Ms. Gauthier replied right, it could just go into that development and so they would have an out too because there's no. Mr. Breaud replied Ms. Gauthier we can in the future planning, we can require a traffic plan. Ms. Gauthier replied but she was scared when it was finished that there's no exit, there's nothing on any map that shows an exit. Mr. Breaud replied right now his construction under this phase doesn't go far enough to even make that tie in so it needs to be addressed at a future phase and he would invite her now when this meeting comes about for you to be here. Ms. Gauthier replied ok, but this one is critical because it was their only one at this point and so we are impacting it with you know, more traffic and whatever. Mr. Breaud replied he understood. Ms. Gauthier replied thank you. Mr. Breaud then asked if there were any further comments from the public? Mr. Melvin Adams stated he had a question for Ronald, have your efforts in tying in this new street into Acadia Woods have you all made any effort to contact the state D.O.T.D. to coordinate your efforts with this to see if we could eliminate another Audubon Ave. intersection like we've got a problem with over there; maybe with the D.O.T.D. you might be able to work together with them and make this intersection a little easier to get through. Mr. Adams then asked which intersection he was referring to. Mr. Melvin Adams replied he knew we had a bad intersection at Audubon by the supermarket. Mr. Duplantis replied Percy Brown and South Acadia and North Acadia. Mr. Melvin Adams replied they didn't want another one like that. Mr. Breaud replied they needed to coordinate that with the state but all the permits to D.O.T.D. have been applied for but the future planning of Acadia Dr. is going to be a four lane highway and they're going to incorporate that four lane system all the way into the subdivision by 2007 that will be done, the City has a certain commitment to make and the developer is making a certain commitment so that intersection will be improved with a four lane boulevard across Percy Brown Road, was he correct, David? Mr. Duplantis replied by 2007; he guessed the other thing is, if the couplet system happens which he knew the City administration is working on, he thought that would drastically improve the traffic conditions also. Mr. Breaud replied for that intersection. Mr. Ronald Adams stated Melvin he didn't think it was the time to bring it up now but they were working with the Mayor and Public Works and they are going to overlay North Acadia Road sometimes in the next few months, 3 or 4 months and in that project, we as the developers are going to pay for the curve and the drainage system for North Acadia Road and the City is going to pay for the overlay and that is the beginning of making the couplet system from M.L.K. into our development and as the City takes over the state highway which is 648 we plant do the same thing with the council and the Mayor is pay for the extra curb and as they overlay the street so that we have a beautiful, and we're donating that old railroad section to the city in our cooperative endeavor agreement. So that would be a nice boulevard for about two miles coming into our development. Mr. Breaud stated David don't plan like you're leaving we have a very long meeting left to go we may have further questions. Mr. Curtis Duplechain of 118 Nicholls Dr. came forward and stated he just wanted to expand on what Ms. Barbara Gauthier brought up about our subdivision right now, we are in the City and we just want to be assured that we have some accesses in and out of that subdivision and not be bottlenecked the way it seems to be like at this point. We would like the City to look at our entrances and exits to make sure that we have more than one exit from there in case of a storm, hurricane, fire so that we're not bottlenecked in there. What is happening is this new subdivision is incorporating around us and we still have only one exit so we can easily be shut down and we just want the City to study our situation, make sure we have accesses before anything else is developed around it. Mr. Breaud replied even under Phase I, correct me if I'm wrong, but we're making four tie ins which will give some additional access out of the subdivision on the end if it does get tied to... Mr. Kraemer replied no, it's not in the subdivision yet but there are some cross streets in that subdivision that are presently not developed. Ms. Gauthier replied right, three of them. Mr. Ronald Adams stated Clay, if you want to go back for a whole year, we had a cheret at Nicholls State in September a year ago and all of the people from the whole neighborhood were invited and he explained to Ms. Gauthier on several conversations with her that nobody from Acadia Woods wanted any connecting streets. Of course, it don't effect you now, it may affect you down the road. Mr. Duplechain replied it will. Mr. Adams stated but we have not taken out any exits from Acadia Woods by the donation that Ms. Gauthier said, the parish didn't donate us anything, the parish had a servitude, the service rights of the road and they didn't want to maintain the roads so we asked them to give us back the servitudes and we were going to maintain our roads, but you still have another exit on the Devil Swamp end of Acadia Woods, so you have no exit that was taken away from you, none. Mr. Duplechain replied no, he was just saying with the incorporation of properties around it we need to be assured that we create some more exits because of the increased volume from the development around it. Mr. Adams stated after Ms. Gauthier had a conversation with him he mentioned that to the Mayor, he mentioned that to the councilmen but that's going to come in as she said, three, five, seven years down the road and as you know, one of them was a Jim Ponda and one was by Peter Strawick and she mentioned one more which he was not familiar with. Mr. Duplechain replied sure, but on one of the plans he's seen you had a golf course developing right in those entrances. Mr. Ronald Adams replied that's not going to happen. Mr. Breaud stated we want all your comments and all of these comments are being put on the record and any future addition to the subdivision we can take into consideration those concerns and have them addressed by a traffic engineer or someone like that to make sure that we're not creating a problem just like with drainage. So, we welcome your comments and glad to hear from you. Ms. Barbara Gauthier came forward and stated that she really appreciated what Mr. Adams has done and that he is, we've talked and we have gotten things straight but the only thing that we don't seem to have straight is that she's not blaming you for getting the land, that's fine but it made use realize, chereite or not, everything has been changes since the chereite, all these plans have changed, there's no golf course you know, we didn't know that and you've mentioned that neighbors told you they didn't want any streets, they may not have wanted a street that ran parallel to the back of their homes along the railroad track but no one was asked about exits and until that exit which was our one exit and it does not go to the East which you have now, to the East we could get out in the flood of 2001; to the West we could not get out

because St. Louis Canal was flooded, you see, it was over the road on the Devil's Swamp Road so that's the problem that they have with the fact that now there's nothing to the East, we can't get out and besides that being given, the road is gone that we used to travel on, the old – we called it the cane road, you know to get out. So they were trying to work, we're trying to get exits and into and out of the subdivision in case of dire need, just a temporary thing but she just wanted him to understand it was not because we weren't at the meetings, we were at the meetings but it was never realized that we weren't going to ever have that road open on Devil Swamp which got us out of a lot of trouble when we needed it. So that's the only reason and she didn't think he understood that. Mr. Ronald Adams replied the road open at Devil's Swamp does not need dedication and it is still open today as we speak. Ms. Gauthier replied she knew Ronald but it doesn't go to the, if you travel to the West it crosses St. Louis Canal and when its flooded like this afternoon's rain it was probably right up to the edge, it's flooded, we can't go and get out to LA 20. We had to go to your property and now we can't and she wished they could, she wished it hadn't gone away, but we have a way to solve it because there are dedicated streets in our subdivision, three of them that could be exits but they have to be tied in to the development that you and I probably won't see it, she meant she won't see it in her lifetime, she hoped she did but you know, but your second phase, so those three right now have to be dealt with on, with the pretense that they will enter your subdivision. Not with a street that runs parallel to that back line and she didn't think any of the neighbors understood that it was for any exit purpose and she didn't know what neighbors told you that we didn't want it but we have a.... Mr. Breaud replied all right, let's cut this short, we will try to address this in the future development. Under Phase I right now he has provided the tie ins that he can under this particular development. It's not uncommon for a subdivision to have one exit, he lived in one and we will address it though, we want to hear the concerns. When he comes back with another phase of it we will look at studies to make sure that we do accommodate if we can any access out of your subdivision. Were there any further comments by the public? Administration, any concerns on this? Mr. Kraemer replied he had no comments at this time. **Mr. Breaud replied if not, he would entertain a motion for preliminary plat approval for Jaron Land Company for relocation of Acadia Woods Drive, it was moved by Mr. Adams and seconded by Mr. Ber, all members were in favor, motion carried.**

**The fifth item on the agenda was to consider a request by Acadia Land Surveying, LLC on behalf of J.B. Levert Land Company for final plat of Lots 6 and 7 of the J.B. Levert Commercial Park Subdivision located on the South side of Glenwild Dr approximately 550' west from intersection of Westover Dr. & N. Canal Boulevard in Sections 42 and 43, T14S-R16E, City of Thibodaux, Lafourche Parish, Louisiana.** Mr. Breaud replied this was two tracts of property in between Lowe's and Wal Mart, Mr. Toups. Mr. Jules Toups of Acadia Land Surveying came forward and stated that they were dividing the land that is located between the Wal Mart Store and the Lowe's store into two lots. It has frontage on the existing Westover Dr. and there are some questions whether Westover has been dedicated so we've shaded it on here, called it out very clear, now this plat is dedicating the shaded area or portion of Westover Dr. to the City of Thibodaux. The water and gas were installed with the Lowe's and J.B. Levert has extended the sewer therefore we have all the utilities and we're asking for approval. Were there any questions? Mr. Breaud replied ok this is a two part deal, we can handle them together but this is the dedication of the extension of Westover Dr. and the division of Lot 6 & 7 as shown on the attached plat. The city administration has made an inspection of the infrastructure of this project and it was his understanding that there were some cracks in the pavement for which the City has obtained a construction maintenance bond in the amount of \$110,000.00, is that correct Mr. Kraemer? Mr. Kraemer replied it was \$98,000.00 but it was for the reconstruction of Westover Dr.; we find that Westover Dr. is not compatible with the City's ordinances with respect to surfaces, it has numerous cracks, some of which extend deep into the concrete and it needs to be replaced before it can be accepted. So this road is not accepted at this time and we have a bond from the construction company to cover the cost of the total re-construction if the contractor does not fulfill his obligations. Mr. Breaud stated at this time is it premature to accept conditional approval being we have a bond in hand that is a mechanism that is incorporated into the regulations that allows a contractor to post a bond for incomplete or insufficient work, he guessed. You do have that bond in hand, is it premature to get conditional approval for a recommendation of dedication of the roadway at this time? Mr. Kraemer replied it was stipulated in the subdivision regulations that a developer can post a bond for improvements that are not done and would allow the developer to go forth with final approval without the development being totally complete. We do have an irrevocable bond in the name of the City to cover the improvements that still need to be done to Westover Dr. and if that is a request of the developer within the context of the subdivision regulations he had no way of overturning them. Mr. Breaud then asked if there were any further comments by the commissioners? Were there any public comments on this particular item? **If not, he would entertain a motion to accept final plat approval for the extension, for the public dedication of Westover Dr. on the condition that the bond to the City administration in the amount of \$98,000.00 to cover the expenses to improve that roadway to the satisfaction of the City administration together with the re-division of Lots 6 and 7, it was moved by Mr. Adams and seconded by Ms. Erwin, all members were in favor, motion carried.**

**The sixth item on the agenda was to consider a request by Acadia Land Surveying, LLC on behalf of Habitat for Humanity for re-division of Lot 1, Block 5 of Greenland Subdivision into Lots 1-A & 1-B, located on the North side of Bobby Street, east of the intersection of Bobby Street and Midland Dr., in Section 16, T15S-R16E, City of Thibodaux, Lafourche Parish, Louisiana.** Mr. Jules Toups of Acadia Land Surveying came forward and stated they were taking an existing lot, vacant lot, and dividing it into two parcels. What he would ask for is conditional approval, he just realized that we didn't meet the City's requirements for square footage when he was looking at it just now, he needed to go back to the Board of Adjustments, so he was asking for conditional approval with the provision that the Board of Adjustments agrees to give us a variance for the square footage. Mr. Breaud replied what square footages are we looking for, 5,000 square feet? Mr. Toups replied R-3 yes, 5,000 square footage. Mr. Breaud then asked if all the utilities were available to the site. Mr. Toups replied yes, it was an existing subdivision that is already developed with one lot in it, there's no house on, there might have been a house at one time that is gone, so all services would be available. Mr. Melvin Adams replied that is where they tore down that old church house or something, there was something that they torn down. Mr. Breaud then asked if there were any further comments by the commissioners, if not does administration have any concerns or issues on this tract or division? **If not, he would entertain a motion to accept Lot 1-A and Lot 1-B as shown on the plat of Greenland Subdivision conditioned upon a variance by the Board of Adjustments for the minimum lot size, it was moved by Ms. Erwin and seconded by Mr. Ber, all members were in favor, motion carried.**

**The seventh item on the agenda was to consider a request by Woody Falgoust on behalf of East First Street, LLC and Rusty Savoie on behalf of Cornel and Cynthia Graham Martin for rezoning of property along the batture on East 1<sup>st</sup> Street from the western border of property belonging to Jones Insurance Services (605 E. 1<sup>st</sup> St.) to the eastern border of property belonging to East First Street, LLC (711 E. 1<sup>st</sup> St.) from "R-1" & "R-2" Zoning Districts to an "R-4" Zoning District.** Mr. Breaud stated before we start he wanted to say that he received two packages this week and he wanted to present this for public record to Ruby, he didn't know if you received this but he could make it available to you. He received a package from the residents, he guessed of a petition opposing the project and the reasons for the opposition and he would like to make that public record, Ruby if you don't have a copy he could make it available to you all. He also received a package from he guessed Woody Falgoust on reasons why he thinks we should re-zone the property together with some exhibits, A, B and C of some of the appraisals he had done and some of the market studies. So he would like to make those two documents part of public record. What he would like to do before we get started is kind of go over a format that we will follow tonight. He knew everybody is here for this item, what we'll do is we'll let Mr. Falgoust come before us and explain his request, once he is complete we will get questions or concerns by the commissioners. Once they are complete we will open it up for public comment. Once we open it up for public comments we will give everybody a chance to express their concerns. We ask that you be courteous and do it a professional manner. Once all of the public comments are taken we'll give Mr. Falgoust he guessed some closing arguments or closing remarks and then the commission will vote on the issues and they would make a recommendation to the City Council. He would ask that everybody make their remarks to the commission, he didn't want any discussions going on between the speaker and the audience. The people that you are trying to convince are the commissioners up here, so address all of your comments to the commission. With that being said, Mr. Falgoust he would open the floor to you to present your case for this re-zoning issue. Mr. Woody Falgoust came forward and thanked Chairman Breaud and if he may he would like to speak, make a few comments and then he would like to have his clients come up and speak and then of course, Mr. Lincoln Martin is also here with his attorney, Rusty Savoie, we'd like to have them speak and we also have some experts who are here to speak if we could present them before we have the public comments. That said, if anybody has any questions at any time, please feel free to ask me, that's what we are here for, you all have received our briefs but of course you have not had the opportunity to question us, so please feel free at any time to question us. Again, my name is Woody Falgoust and his office address is 1001 Canal Boulevard, Suite A in Thibodaux and he represented East First Street, L.L.C. who is one of the co-petitioners in this matter. Also he wanted to clarify, Chairman Breaud, that we did amend the re-zoning to exclude the property of Jones Insurance Services, L.L.C. so for anyone here that is here with that concern, we have taken them out of the block so now the western border of the block begins with 629 East First Street, the current Martin property, the old Guidroz Florist building. This is a case that involves our right to property and it's a right that we all have and it's based both on the federal constitution and the state constitution. Now that right is subject to a reasonable police power and the zoning for it is an example of that police power. When he said reasonable, that was the key word here, in Title 33, Section 47 of our state statutes which is repeated verbatim in the zoning preamble tells you what reasonableness is and it says, "the regulations shall be made with reasonable consideration of the character of the district and it's peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality," and he would like to break those down into the four sections that they are, the first being the character of the district. This is a commercial district, both historically and presently the rezoned area has always been commercial. In the principles of zoning one of the principles as this board knows is conformity, the use both historically and presently should conform to the classification. Unfortunately what we have here is an R-1 Zoning, a residential zoning in an area where there are no residences and when he say there are no residences, not only on this strip but from Audubon all the way to Canal on the LA 1 batture. If you take it to the extreme on the LA 1 batture all throughout the City of Thibodaux within the city limits, there's one residence, it is abandoned and it is over by Tiger Drive. So the character of this district is clearly commercial. Next there is the peculiar suitability for particular uses, well as an appraiser, Martin Glenn is going to explain to you the narrow character of this batture is not particularly suited for residential uses. The only marketable, reasonable use of this property right now is commercial. It also sits on a state highway, this is not a residential street but a state highway with a shoulder; again, particularly suited for commercial use and lastly of course, what we have here are three buildings that are not houses. This is not a house, this gas station is somehow designated residential only but it is not a personal home, you don't see a yard with green grass there, you don't see azalea roots, there aren't azalea roots below the ground, they're gas tanks. You know there's no tomatoes out there growing, that's concrete and gas pumps. But that is the absurdity, that more than anything else is this is not a house and it should not be designated R-1. So we go to those exiting buildings and that's a perfect sage into the third responsibility of a zoning authority and it is to zone with a view to conserving the value of buildings. Right now you have three buildings in this strip that are not homes that have been devalued because of the zoning and that leads of course into #4 which is encouraging the most appropriate use of land. Because this has been zoned R-1 residential only what you have is two vacated buildings effectively on a strip in a nice area of otherwise prime real estate but the R-1 has left them vacant. Now to answer some questions that might have come up, yes this is open for business right now, this filling station. We're doing so only to satisfy the grandfather clause. The last few years Ron Delaune had this station he was working himself broke and that's basically what anyone is going to do unless the zoning changes. So, if you don't encourage appropriate zoning throughout the municipality this is what it results in. With that said, he would like to just for the record this is the rezoned strip of property, just to have it up there. With that said he would like to turn the podium over to his client, Mr. Bernie Lafaso. Mr. Breaud stated give us your name and address for the record, please. Mr. Bernie Lafaso of 210 Fairfield Dr., Thibodaux, LA came forward and stated he was the principal owner, ladies and gentlemen of the Board, excuse me, I am the principal owner of M & B Rentals of America, LLC. M & B owns East First Street, LLC. He wanted them to have a complete picture how all of this came about, sometime in the 1980's he began doing business with Ron's Texaco station owned by Ron Delaune. During that time we became friends. Ron's business was doing well, the revenues from the station put both of his sons through college. But somewhere in the 90's the market changed and this is when Ron began to have financial difficulties. In 1998 I offered to help him by allowing him to use my C.D. at a local bank as collateral for a line of credit. This was not meant as a business decision he did it as a personal favor. Shortly after this time Ron tried to sell his station. From what he understood a lot of people in the gas business looked at the station but because of the R-1 Zoning no one was willing to risk the problems and politics with obtaining the necessary permits to convert the station into a profitable,

modern facility. In January of 2005 Ron came to our home and informed my wife and me that he had expended that line of credit to the max and used all of his other assets and could no longer pay for gas. At that point the bank had the right to seize his C.D. The only way for Ron to pay me back was to sell me the property at 711 East First Street. So our rental company, M & B purchased the station for \$250,000.00 which was less than replacement cost and land value. We purchased it fully believing we could get a variance change to have it rezoned, or have it rezoned. There's no reason to believe that the Board of Adjustments would not grant our request for a variance. You have to remember there was a "C" store or a convenience store located just next door to Ron's Texaco for 15 years. We believe what we are doing is in the best interest of the community. Our plans are to remodel the station, convert it to a convenience store/filling station and give it a modern, eye-appealing look. He would like to think that he understood how to run a successful business. He owned and operated an oil industry service company for 27 years. Sometime after his retirement from his business in the mid 1990's he began purchasing property for commercial use. Our properties in the City of Thibodaux, Houma and Lafayette are all in marketable locations. Our family requires that our tenants maintain our property so that they reflect positively both on the City and on us. I want the same thing for 711 East First Street. Based on our only judgment and the judgment of our consultants we have no doubts that 711 East First Street is a prime location for a convenience store/filling station because of its proximity to two of Thibodaux's largest employers. Let's face it, the property is only a few hundred yards away from thousands of gas tanks that drive in and out of Nicholls every day. The establishment we plan to construct will be beneficial to the community. It definitely will generate a lot more taxes with an R-4 Zoning than it will with an R-1 Zoning which has killed it's value. R-1 means an abandoned, eyesore property with an economic impact of 0. He wanted to reiterate that he believe with all his heart that renovating this property is in the best interest of the entire community. The Lafaso's have lived in or around the City of Thibodaux since 1947. His father, Frank Lafaso, or I have paid City taxes continuously since that time. His mother's family, the Musso's have lived in Thibodaux since 1898. His grandfather, G.P. Musso was a prominent businessman in the City. His sons and daughters also contributed greatly to the financial well being of this City. His wife Mary's family has made an impact here too. She herself owned and operated a successful business for almost 10 years in Thibodaux. When I retired, she retired. Her family, the Gaudet's, have been in Thibodaux since the '30's. His father-in-law, Eno Gaudet, Sr. was a blacksmith on the old Rienzi Plantation and retired from Thibodaux Boiler Works in the mid '70's. Most of his blacksmithing tools are in the Dugas Museum today. You can see that our family has taken pride in contributing to the growth of Thibodaux in one way or another since 1898. I've said this to show that my family has a big stake in the welfare and future of Thibodaux. We do want what is best for Thibodaux. This property was commercial long before zoning. I submit to you that the change from C to R-1 that was made back in 1979 was illegal and unconstitutional because the R-1 Zoning took away from the batture owners the freedom they had to make the necessary changes to maintain their property values. He respectfully asked the Board to write the wrongs of the '70's and give the batture an R-4 Zoning. The change to R-4 would be the proper one based on constitutional, state and local laws. Thank you. Mr. Falgoust stated we now call to the podium Tony Lafaso. Mr. Anthon Lafaso of 1007 Highway 20, Thibodaux, came forward and stated that he was the manager of East First Street, L.L.C. and it's parent company, M & B Company of America, L.L.C. M & B Rentals is a property development and leasing company, simply this means we go in with our clients, we find a piece of real estate, we develop this real estate to suit their business needs. We have properties in and around the City of Thibodaux. We also have properties around South Louisiana. Our customers extend from small Thibodaux businesses to regional companies to national corporations such as Enterprise Rental Car and Churchill Downs. At this point we are in possession of a piece of commercial real estate that has been forced into failure by the ordinances and the zoning of the City. This property has no chance of a successful future based upon the present zoning. On June 22, 2005 we appeared before the Board of Adjustments, we were requesting a variance to help us to convert our property into a modern filling station and also to allow us to improve the property from its current derelict status. With the Board's denial we have been selling fuel here, we've been operating this in the same fashion that it was operated previously. With the competition in the fuel market today we are learning the same lessons that the Delaune's learned, there's no money to be made here, it's not profitable. The filling station of old has no future. If you raise prices you can't sell product and if you lower prices you cannot make a profit. There's no happy medium there. We were informed of this fact very early when we purchased this property. We had a lot of experts, quite a few, to help us with this. Dr. Chris Cox, Marketing Professor at Nicholls State University performed a market analysis for us on this. His research proved that fuel service was the best thing for this location because of the money of the, in the tanks in the ground and the building above the ground. He also showed us in his study that the fuel service was only service in this market with a grocery attachment. Dr. Cox's research was not the only one we are finding to be true at this point. We hired other professionals in the pursuit of trying to make an informed educated decision on what to do with this property. We talked with contractors, we talked with real estate appraisers and agents, all of the research points in the same direction, this commercial piece of real estate cannot survive in an R-1 district. The question was raised at the Board of Adjustments meeting have we considered any other possibilities, as I mentioned before, yes we have, we've looked at any other possible use for this property. All of our research points in one direction. Let's say for a moment that we were to pursue something else, lets say for whatever reason, whatever we want to do with it aside from a gas station, we would have to go before the Board of Adjustments again because we are a non-conforming structure. This negatively affects the marketability of this property. After going before the Board of Adjustments once as a businessman trying to make business decisions, it's very hard, almost impossible to make a decision based upon the opinion of the Board of the Adjustments. We have put together information from professionals to try and find the best use for this. We've consulted an attorney to inform us of the case laws in this situation. The resulting research has brought us before your board tonight. We are asking for a zoning change to allow us to use this property for its only practical use which requires a minimum of an R-4 zoning. Thank you. Chairman Breaud replied thank you. Mr. Falgoust stated the petitioners now turn the podium to Rusty Savoie, counsel for the Martin family. Mr. Rusty Savoie came forward and stated he was an attorney for Cornel and Cindy Martin, with me is Lincoln Martin who is Cornel Martin's brother. Cornel and Cindy Martin own the property that we are going to refer to as Guidroz Florist which is on the opposite end of the property stretch that we are talking about, in fact the furthest end is a shrine to the Virgin Mary, if you are familiar with this site. The owners, Mr. and Mrs. Martin moved to New York last year when Mr. Martin lost his job. This site is Guidroz florist, it's almost identical from the day it was built, it was built in the '30's it was operated, began operating as a commercial site in the '40's. It ceased operating in the late '80's, Ms. Martin, let me point that out, is the daughter of Stewart Graham, so this property has been in her family, the Guidroz/Graham family since the '20's, the 30's, they built the houses across the street. Since ceasing operation as the flower shop, it's gone through a

few approvals and denials of variances. It was denied as a snowball stand in 1998, it was denied as a café' in 2001, in 2003 it was approved as a beauty shop and a blood center but in 2004 it was denied as an office space. The Martin's, including Mr. Lincoln Martin, have invested substantially to operate the spot commercially, office space or what have you. He thought it would be different here if we were going from residential to commercial, this has always been commercial, this predates zoning. Not only are the Martins the owners of the property, they are also the neighborhood, there are three houses across the street, stucco houses, if you know the three almost identical houses, they own two of those houses. Members of the Martin's family live in those houses. Their intent with this property is to make use in the only way you can, it cannot be residential, no one is going to build a house at this site. Plus, they no longer intent to operate as the business they had looked at last year and he knew there were some concerns at the variance board meeting what their intent is to make use whatever way they can, a café', it's a quaint area, you have the Chamber of Commerce bridge going across the street, it's a beautiful little area, maybe a deck over looking the bayou. He knew the City was trying to do more with the bayou and expand tourism. As the neighbors they have no intent of doing anything with that property and again, even the Martins who live in New York intend to someday return and live there, so it's in their best interest to do something that is acceptable to them as the neighbors, to all of these neighbors, but residential is not the answer. He thought in Mr. Falgoust's brief he quoted you what the law is and what is the best use of the property, for a property that has been commercial, used consistently commercial for almost 100 years, is it proper, is it reasonable to suddenly make that into a residential property when it just can't be. So the Martin's are left with a piece of property they've invested in as a commercial site, that has been in their family and will continue to be in their family for years that has gone up and down with variances, can't operate sometimes, can operate other times, it is commercial property and what happened was when the City did their zoning he didn't know why, Mr. Falgoust didn't touch on it but he didn't know why the City decided this should be residential but this was commercial before it was residential and it's always been operated commercial. It should continue to do so and in fact that's all the Martin's were asking for is once and for all to decide that this is a commercial location. They have no intent now to expand that property, they've put money into it, if you go into it it looks really nice. They've redone the interior and they just want to make use of it. No one is going to live there, they're not going to live in the place, it's just not appropriate for residential. The commercial locations are just asking you to make that final determination that this is commercial, has always been commercial and should continue to be commercial although sometime in the past someone decided to put in the books that it is actually residential. He would like to call on Mr. Lincoln Martin if he has some comments to make. Mr. Breaud stated let me pause one second, he wanted to have the records reflect that Mr. Bert Boquet left after item #7 on the agenda, he had another engagement, we still have four members of the commission, we still have a quorum, go ahead. Mr. Lincoln Martin came forward and stated ladies and gentlemen I thank you for allowing me to be here. Again as Mr. Savoie said, Cornell Martin is my brother and at this time we in the past had attempted to get a variance for an office which was denied and we moved on from there. We are looking to utilize the building, in participation with his brother, he was the one who was making a lot of the improvements or made the improvements on this facility. At this time what they were looking at is to take this and make it commercial where they could utilize it, take into account the bridge that Mr. Savoie said coming across doing, his daughter who is standing here with us is a, she has an art degree from Nicholls State University, she is also a professional dancer for the N.F.L. football league, she is a New Orleans Saints cheerleader and her intentions right now is to go ahead and if we can get this turned over where she can make a dance studio out of this. She was a dancer for the Nicholls State Colonelets over here and now is a N.F.L. cheerleader she feels that we can bring in a good base for the young girls here. With that she is also an artist with an art degree from Nicholls. We are looking as another option is to make an art gallery out of this with a bayou side café which would again add to the bridge that crosses from the Chamber of Commerce. We think that making a café and an art gallery combined together would have a nice attraction for the people to come over, look at some of the local art from the university and in turn go ahead and have a place to have a cup of coffee, sit down and have a little light lunch and utilize that area. So that is another option. But one of the negatives that this building has been stuck in with it's current zoning is that once we were denied the possibility for an office building there we contacted the electric company, Entergy and asked Entergy if this building was utilized as a residential what would be next step for the electricity and they said this building has been commercial, we cannot hook up residential to this building. The City says it's residential, it's not commercial, so they didn't want to issue a permit which would allow us to hook up electricity as a commercial facility. So they were stuck in the middle, this building is stuck, it can't be used, we can't get power. Anything we want to do we have to get a little generator, crank it up, clean, wash down and paint in this facility. So it is stuck with the City saying it's residential and the energy company saying it's commercial. The energy company is not going to hook up electricity as a residential in a commercial building and the City is not going to let it be hooked up as commercial in residential. So right now this building is whatever work we've done in it has been done with a generator and then we ceased it once we realized we weren't going to use it as an office or couldn't use it as an office. We relocated our office to Houma or stayed in Houma should we say but this building right now what we are looking for is to utilize it as a dance studio so we can help younger girls become dancers, get some professional dance teams here and we are also looking at to utilize it possibly as an art gallery with a bayou side café using some decking over the bayou utilizing the bayou with some windows taking advantage of that area. So again, that was their proposal, this is what we are looking at doing with the building, we want to keep it, the family will not get rid of the building if it cannot be used it would just stay there, we're not going to move anybody into it. Cornell and Cindy have two houses already across the street so building themselves a third house wouldn't do any good so anybody else coming to build a house the property is too small and the shrine that was built there years ago by Cindy's grandmother was built there for a purpose so the family will maintain and keep that property. So that was their request is that they could utilize the property to generate some financial returns on it. Again, I thank you all. Mr. Falgoust stated the petitioners now call to the podium an expert in history, Dr. Paul Leslie from Nicholls State University to explain about the history of this batture. Mr. Breaud replied he thought they had gave us all the history already. Dr. Paul Leslie came forward and stated greetings, I come as a historian, disinterested because he lived outside of the City of Thibodaux, he lived next probably to the major commercial object in the parish, the bridge that has eight trains pass every day so he knew what it means to have traffic. But as far as the historical nature of the batture, this is an area that is a levee that beginning in the 1720's when we had the French occupation of the Louisiana territory they began to build levees and so as a consequence this particular area was deemed unacceptable as far as residential and if the Spanish would have had their way they would have never allowed anyone to live within a mile of the Mississippi. So as a consequence they would have pushed everyone back because they felt that the natural nutrients from the runoff as well as the flooding were necessary for the riparian

owners. The levee as far as the batture is concerned, in 1903 we've had levee breaks all the way through the 19<sup>th</sup> century, one of the key breaks, we always associate 1927 with the major flood that really precipitated a lot of federal intervention as far as the government. But in 1891 we had every levee almost along the Mississippi that collapsed, it was like a row of cards and it really devastated South Louisiana as well as Arkansas and Mississippi. So at that time we precipitated agreements between the states as to the ownership of these areas adjacent to these waterways because of the necessity of them to be available for protection. But in 1903 along Bayou Lafourche we had the closing off of the bayou from Donaldsonville and since 1903 it's been closed off and around 1912 they began to pump water into Bayou Lafourche. But still as late as 1911 we had a flood along the bayou that devastated some of the areas here. So what has the batture been up until 1903, the batture or this levee area right here, there are photographs of this area, what we call Highway 1 that actually was called Levee Street. I've got maps of Thibodaux back to 1867, 1882, and 1891 and 1912 that actually show, in fact we had an oyster shop that was on Levee Street. It wasn't until the highway department altered Highway 1, knocked the levee down, flattened it out, took away the end here as far as the recreational area at the end of Canal and made Highway 1 there that we start to have this development. But at no time as far as he had been able to find, and he had studied the history of Thibodaux for 35 years, and he had never seen any historical development as far as residential activity on the batture before the 1930's. In fact he did have a photograph of a structure in 1926 but it was on Highway #308 of a structure that was on the batture. It wasn't feasible; the batture as far as the highways creating the batture really didn't exist until Huey Long began to build his highways in the 1930's. In fact as far as he had been able to find Highway 308 really wasn't built in the beginning until 1938 but as far as this batture, it's been for commercial development. It is where the steam boats, when you look at these pictures that he had mentioned earlier as far as Thibodaux, this is where steamboats parked. This is where circuses came to Thibodaux. This is where you have arcades that came to Thibodaux. This is where in fact as late as the 1970's he thought Dantin was managing the shell pile where the Chamber of Commerce building is and we have Mr. Duplantis has his offices over there. So we had tugboats that were coming up and they were parking their boats adjacent to the batture (portion of taping was missed due switching to 2<sup>nd</sup> tape) then a residential area until the 1930's. He didn't think that you can find a house and he had surveyed over 2,500 houses on Highway #308 that you can find a house that was built before the 1930's on the batture that was not moved there. So as a result if you're looking at the area whether it was residential or whether it was commercial, historically the batture has been a commercial area, it has never been a residential area. It's only been a latent development in the 20<sup>th</sup> century since then that you had this particular type of activity because of the flooding and the unsuitability of the soil in these particular areas. Mr. Falgoust stated thank you Dr. Leslie, now to put that into modern context. Mr. Breaud stated let's pause one minute, let's take a three- minute recess, we've got a commissioner that needs to take a break. The meeting was called back to order by Mr. Breaud and he stated he wasn't sure if their other commissioner is going to be back but we still have a quorum and we will continue the meeting, Mr. Falgoust go ahead, pick up where you left off, sorry for that pause. Mr. Falgoust stated thank you Chairman Breaud, at this point he would like to read a letter into the record, the letter is dated today, July 13, 2005 it is from Ben Harang at 515 Blake Court in Thibodaux. Dear Mr. Breaud, This in reference to the rezoning of batture on East First Street. I understand that there is a meeting of the Thibodaux Planning and Zoning Commission to discuss the possibility of rezoning the batture along East First Street from Cherokee Street to Tetreau Street. Unfortunately I am unable to attend the meeting due to a prior commitment. As a resident of 515 Blake Court in Thibodaux since 1994 and a lifelong resident of Thibodaux and the surrounding area, I would like to express my views for your consideration. I am of the opinion that there can be a reasonable mix of residential and commercial property. All of the occupants of the batture property are currently commercial occupants. Currently there is a gas station, two professional office buildings and commercial rental property. I feel strongly that you should vote in favor of the proposed rezoning as presented to the Planning and Zoning Commission. Please feel free to contact me if you would like to discuss this situation. Sincerely, Ben Harang Mr. Falgoust stated at this point he would like to introduce this into the record and then he would like to call on Martin Glenn, an expert and appraiser. Mr. Martin Glenn came forward and stated he moved slow, but he moved, Martin Glenn, 313 Price Lane, Thibodaux. He knew most of them up there for those who he doesn't know, he's been a real estate broker and an appraiser and a certified instructor by both the Louisiana Real Estate Commission and the National Association of Realtors. He has over 16,000 appraisal files over the past 29 years so we've done quite a bit of work, primarily commercial and industrial work. Mr. Falgoust asked me to look at the property and address your committee and he knew most of the group in the audience and he hoped they would not get mad at me but I've got to tell you what I think. When he looked at the property in between and including the old Guidroz all the way to the Ron's Texaco. As you have heard already tonight, everything there has been in the commercial use, there have been no residential properties along that batture property. The residential has been across the street. There are also some commercial uses across the street mixed in with the residential. The old St. Joseph Hospital, now the State school, you've got a dentist office, an insurance office, you've got several non-residential located in the same area. Mr. Falgoust asked me to look at two problems or two issues, one would be the legal highest and best use as we define in uniform standards. The second would be the affect that a re-zoning of this or a variance would be on the surrounding residential neighborhoods. Let's look at the first thing, highest and best use, if we look at the definition it says the use that generates the greatest rent return to the owner, there's three conditions that have to be met, it has to be possible, probable and legal, and legal is the key factor, there's a lot of things you could do but they're not legal so you can't consider that. Just as if he put a commercial operation in a residential area, it would not be legal. But when he looked at the highest and best use we say what is possible, what is probable. Many uses are possible but they are not probable, for instance if he took a lot in the middle of the swamp in Gibson and he said that it is certainly possible that McDonald's would locate a restaurant there, well it may be but it is probable, it's not probable and it's not going to happen. If you look at these properties along that corridor you've got multiple widths the largest being that owned by the church, they were right in the middle where the footbridge comes across. A few of those properties would meet your requirements for R-1 being the width of the property. The problem we had though, when you look at the effective depth, when you pull out the slope of the bank of the bayou and you pull out the servitude for the road you don't have a lot of property left. When you say how probable and how possible for residential, well most of it would be possible, some of the smaller tracts don't meet you minimum width but on the bigger tracts, yes it would be possible and you could put parking to the side but cost would almost be prohibitive because of what you would have to do in the rear end to be able to capture the rest of that property with the bayou bank down the way it is. You say, well they do it on #308, yes they do but you don't have this 30' and 40' and 50' depth of property on 308, most of the area is 200' or 300 feet. If you look across from this property, all along that row, you're familiar with that, there is probably 200'. You've got a couple of properties

there that go back 600', 700' & 800'. So you've got a whole lot greater utility with that kind of depth. It's possible that some of this could be used for residential but it's not probable there are too many other sites that don't have the traffic count, don't have the graveyard, the hospital, the dentist office those types of adverse conditions for residential. There are too many other locations for them to go to the cost would be prohibitive. So on highest and best use, clearly our highest and best use is not single family residential. Now he won't address the issues of neighbors right now, he was simply looking at the economics of highest and best use, it's clearly not single family residential. If he had to guess a number he would say probably into a high volume retail commercial. He understood that what they were looking for is not the high volume C-1, C-2, C-3 but a neighborhood commercial being R-4. If they ask me and he would tell them C-1, C-2, C-3 for the property condition would be it's highest and best use because of the traffic count, the location, the ingress, the egress, the visibility, the other businesses that are there, clearly. Now, looking at the last condition, how would that zoning change or variance adversely affect the neighbors, he didn't believe that change to an R-4, which is all they are requesting from what they've told me, he didn't believe that neighborhood commercial zoning would adversely affect the adjacent properties. You say, well how could you say that, well, if you go down where Wal Mart is you've got zoning, you've got an R-1 on one side and a C-3 on the other. He was not aware of any conditions anywhere locally where that type of R-4 zoning, the zoning itself has adversely affected the residential properties. Ms. Erwin stated Martin you make a great point but she did have a question, do you know what principally permitted is allowed in an R-4? Mr. Martin replied as a general concept, yes. Ms. Erwin stated ok, can I just go ahead and read it and then because you're an expert she would like to know if any of these that are principally permitted, which means they would automatically... Mr. Glenn replied right, right. Ms. Erwin replied would affect any adjacent property. Mr. Glenn stated he had read through them for 20 years but he couldn't recite them to you and he didn't have it in front of him to read it. Ms. Erwin stated car washes, cabinet works, sign shops, washaterias, heating and air conditioning sales and services, furniture and appliance stores, restaurants (indoor service only), TV sales and service, paint and hardware stores, restaurant equipment sales, automobile repairs and service, mobile home (1 per lot only), college and university buildings and uses, boarding and rooming houses, hospitals, public buildings and uses. Those are principally permitted. Mr. Glenn replied right. Ms. Erwin stated conditionally permitted would be filling stations, motels, bars and lounges, animal hospitals and feed stores, those would need additional approval. So in your expert opinion you are saying that none of these would adversely affect the property values any where around. Mr. Glenn replied he didn't believe those uses would, now and he would lay it out for you and if it's an arguable point you can say but what if you have somebody doing something bad, he could buy the property right now and he could put a house there that was so ugly and so gaudy with fifteen junk cars and everything else where it would be the largest eyesore in the city of Thibodaux even though it would be a legal use. When he said that the R-4 does not harm anything from a value, from a use-ability, from a character, he was assuming competent management which is all they can assume as an appraiser, you know what I'm saying. You say well what about a car wash, I've got some car washes that would make people's homes look like dumps, he was just saying assuming competent management he didn't have a problem with an R-4 zoning relative to the value in the neighborhood because you could also argue the fact that what is an insurance office do, you've got a few cars that park outside, you've got a little sign outside, you could argue the same condition there. But he didn't think there was anything along that batture now even on the non-conforming uses that adversely affects that neighborhood. You know they are not, except we have two now that are starting to get into disrepair because they're not being used but if you look at Jones Insurance or Jude Guidry or the doctor's office or the State school or the, they certainly don't adversely affect that neighborhood even though the majority of those would be allowed in an R-4 use either permitted or conditionally permitted. And that's all they've asked me to look at not the specifics or the specific use but the general concept of a rezoning and in his opinion after 29 years of doing this and it's all he's been doing he would not have a problem with an R-4 zoning. , If they would have to tell him he would say a commercial, now the neighborhood may not like a commercial C-1, C-2, they may not like that but that would be the highest and best use of the property itself. So with that backing off to an R-4 in his opinion would not adversely affect anything within the neighborhood. Were there any other questions. Mr. Breaud replied thank you sir. Mr. Glenn stated he was trying to keep this short, he wanted them to get home tonight. Mr. Breaud replied they appreciated it. Mr. Falgoust stated that the petitioners don't plan to call any other people to the podium at this point, he could pass it on to comment from the audience unless the board has any questions, but he would like to reserve some time for rebuttal, Chairman Breaud.

Mr. Breaud stated he would like to ask him some questions and we'll get the commissioners comments and questions before we turn it over to the public. How many parcels of property are there within the limits of the proposed zoning that we're talking about, how many different parcels. Mr. Falgoust replied ok, you have the gas station, that's number one, you have roughly a 40' lot in between the gas station and the Bourg, Carmouche building and of course the 40' lot which is owned by the Ray family does not meet your width requirement for a residential lot, it only has value if rezoned commercial and bought as a lot extension by either lot. Mr. Breaud replied just tell me how many parcels, you don't have to describe each one, how many parcels. Mr. Falgoust replied one, two, three, ok, well there's an issue there's either one, two, three, four, five or six, it depends on who owns this piece right here, which there's a title issue, it's either the cemetery or the Ray family. Mr. Breaud stated have those six or seven parcel owners been contacted and are they in favor of the zoning, of the rezoning. Mr. Falgoust replied of course the petitioners are in favor, everyone else has taken no position, they will stay neutral. Mr. Breaud stated the petitioners are the two out of the six or the seven. Mr. Falgoust replied everyone else has expressed to us that we prefer to take no position but we will not oppose you, we will consent so to speak by acquiescence to the rezoning. Mr. Breaud stated your point of interest he guessed are those two parcels, why he guessed have you included the other parcels or why haven't you included the rest of the batture say all the way to Nicholls or to Canal Boulevard which is, Nicholls is already zoned and R-4, what's the reason for setting these limits on the boundaries. Mr. Falgoust stated ok, the reason for setting, for including those parcels is because is what you have is basically like we said up here several times, commercial use throughout. Even the footbridge is an R-4 public use, even this drainage servitude with this large covered culvert is an R-4 public use, so we did this for consistency and conformity. Now, why didn't we extend it, well we didn't go to Nicholls because frankly at the Board of Adjustments meeting the owners of the tract right next to the filling station expressed an interest in having their parcel remain residential only, so we honored their wishes and did not extend this thing any further. Now, the other thing about this Chairman Breaud is that even with this batture right here, it's very narrow, it's not likely to have any development there, it's likely to stay a green buffer. The same thing when you go from Ben Jones, now Ben Jones as you know we excluded because he opted out, he felt pressure from his clients and his friends, he told

me even though it would protect the value of his building, it was better for his business if he opposes this. So we honored Mr. Jones request, we took him out. Now why didn't we go any further, well once you get past Ben Jones you have a very narrow batture that isn't suitable for anything. And he saw Gerald and Cathy Block out in the audience, they have an office and a house right there, what you've got across from their street, nothing can work there, maybe a dock one day or something like that if the tourist traffic ever picks up but as far as is it probable and like Mr. Glenn said what we deal with in the law is what is probable. It is not probable that any further development between Ben Jones all the way down to, he thought it was a farm bureau adjusters building, so that's why they stopped right there. Mr. Breaud stated isn't it basically true though, he means in front of the cemetery, in front of Peltier/Lawless that you have that same minimal depth that really, that nothing could be developed with the minimum offset or frontage requirement and then the bayou, basically that area cannot be developed also, would you agree to that? Mr. Falgoust stated he would agree that that is not probable for development both based on what you said, Mr. Glenn said and he spoke to George Cook, who as you know, runs the cemetery and the cemetery uses this for overflow parking and for a green buffer area. In that area you are not likely to see concrete, you're just likely to see green but because of the use here it's R-4 both for the drainage servitude and the footbridge. They were just zoning it consistent with the use. Mr. Breaud stated why are you requesting an R-4 designation when you really need a C-1 or better designation for a principally permitted use such as a filling station. Mr. Falgoust stated the filling station is grandfathered in as a C-1 and the use is grandfathered in. What they need is an R-4 so we can have a convenience store attachment there and all the other things that go with a convenient store attachment. Now an R-3 is the minimum for a convenience store attachment, he would say that point blank, so why do we want an R-4? Well, we want an R-4 because he didn't think, what zoning should do is look into all the things that you're supposed to do, compatibility. An R-4 is compatible with residential living, conformity. The present use along this strip is R-4 or greater. History, these buildings were built prior to zoning and the prior uses even on our spot was a barroom, it was Tony's back in the 1940's and '50's as he was sure some of the people in the audience remember. Flexibility for the future, it's not proper to pigeonhole a property with a particular designation. What a business owner needs particularly a lessor type situation is they need to be able to change the occupancy of their building within a proper designation. Now constitutionally speaking since we were a C zone once, we're arguably entitled to a C-3 which was basically a C and a C-1 way back when under the last zoning ordinance. An R-4 though in our opinion suits our needs, suits the needs of the Martins, suits the needs of the other batture owners, mimics the use and also is still residential friendly because obviously across the highway to the left of Peltier Lawless and to the right of the cemetery you do have two R-1 neighborhoods. The Bourg, Carmouche building is a great example of why you can't pigeon hole a use on a building they went through six variances in six years and until Bourg, Carmouche bought it in between the video coop and the Bourg, Carmouche after it was a c-store for 15 years you had long periods of vacancy. Mr. Breaud stated let me ask you, the City of Thibodaux zoning ordinance became effective March of 1979; to his knowledge that zoning on the batture has not changed since that time, I am mistaken? Mr. Falgoust replied that was correct. Mr. Breaud replied it has not, it's always been zoned R-1, R-2 as it is today, right? Mr. Falgoust replied that was correct and the reason it was not ever petitioned to be rezoned is because those uses were grandfathered in and the owners didn't feel the effects of this until the late 1990's. But the law gives you the right to amend the zoning ordinance at any time. Mr. Breaud stated based on your market study are you saying that the revenues from a c-store or a convenience store, 65% of the revenues are derived from the sale of gas. Mr. Falgoust replied that is correct. Mr. Breaud stated he would classify this particular development as a gas station, a filling station which would require a C-1 zoning rather than an R-4, what is your reason again for requesting an R-4 because an R-4 would still in his mind would require a variance from the Board of Adjustments for principally permitted use of a filling station. Mr. Falgoust replied he couldn't disagree with you more sir, the building is currently grandfathered as a filling station and that's what we are using it for. The other uses which we were trying to incorporate there, most particular a grocery attachment which is an R-3, we need a variance for or we need it rezoned. Mr. Breaud stated if we would rezone to an R-4 you have to comply to the new zoning ordinance as an R-4 which would require you to get a variance for the filling station, right now you are grandfathered in. Once we change the zoning rules then you have to comply with the new rules and you would have to request a variance for the filling station. Mr. Falgoust then asked what zoning provision are you referring to? Mr. Breaud replied he was referring to the classification of the development that you're wishing to construct which is based on the revenues derived of the development which would put it in a gas sales which he would classify as a filling station, his self, that was his personal opinion, he didn't know how the administration would interpret it but... Ms. Erwin asked is that in order to make changes and improvements, because it would be classified as a filling station. Mr. Breaud replied once he modifies his development and goes to a different deal, he's got to comply with the new rules. Mr. Falgoust replied well again, the filling station is grandfathered in, the tanks, the pumps you know, the guts of the filling station, they're there, we don't need to adapt that and improve that, sure, they're movable parts that we are going to have to add to the property but what we need the zoning change for is the garage, is the office, the office and garage attachment there which needs to turn into a grocery attachment in order to keep it profitable. Mr. Breaud stated the filling station like you say is a legal, non-conforming use by today's standards, ok, it is allowed to continue because it was grandfathered in, this is because it was in existence when the zoning laws were enacted. There's a lot of talk today about the history of the zoning and all and he would just like to go, this is the zoning laws that were created in March of 1979 and you referenced some of the preamble to it and it was a process that they went through back in 1979, they just didn't arbitrarily select what zoning, areas they wanted to zone residential and commercial and he would just read some of the whereas's it says, "Whereas the City Council deems it necessary for the purpose of promoting the health, safety, morals and general welfare of the City to enact such an ordinance and whereas the City Council pursuant to the provisions of Title 33 of the Louisiana Revised Statute of 1950 has appointed a zoning commission to recommend the boundaries of the various original districts and appropriate regulations begin enforced therein and whereas the zoning commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with comprehensive plan and design to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the over crowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements and whereas the zoning commission has given reasonable consideration among other things to the character of the districts and their peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality." So the reason why he read this is because there was a process you know, when the historian told us that this thing has been commercial and it's always commercial, there was a process that it

went through in 1979, the Council had public hearings, there was input put in when they put the zoning in place. So at that time for whatever reason and none of us were on the commission that entire time, they felt like this area needed to be zoned R-1 and R-2 and it's been zoned that since 1979. Now he didn't have a problem with you requesting a different zoning, he was just telling him the history, you all present a lot of history to us and he wanted to tell them the history they went through to set those zones, it just wasn't arbitrarily done. Let me make another statement, he guessed, the zoning property that you all eluded to or he guessed the variances that were granted in the past by the Board of Adjustments for the video coop, the ice cream parlor, the florist shop, clothing stores, record stores, blood banks, seem all to be non-principally or conditionally permitted and should not have been granted in the past it look like. It looks like some things that were granted in that maybe shouldn't have been and in the ordinance, the zoning ordinance, under Section 103.1 it says, "under no circumstances shall the Board of Adjustments grant a variance to allow a use not permissible under the terms of this ordinance in the district involved or in any use expressly or by implication prohibited by the terms of this ordinance in this said district." So he thought the action that the Board of Adjustments took last week was in accordance with this, they don't have the right, that Board of Adjustments cannot grant variances cart blanche, they have some rules to follow, there is permitted uses and conditional uses and prohibited uses and they don't have the right to grant a variance for a prohibited use. So you know that is written, that paragraph is what he just strictly read out of the book and as a rule of thumb in dealing with zoning ordinances any use not specifically listed as permitted in some fashion is typically expressly prohibited you know, so we've got, when this book was written back in 1979 we didn't include all of the uses, nobody knew what the uses were. So the interpretation of this is if it's not allowed or prohibited in here it is generally considered prohibited you know and that the Board can grant a variance on but if it's prohibited the Board the cannot grant a variance on it. Mr. Falgoust stated you're saying it is prohibited to have a convenience store attachment, they can't grant a convenience store attachment variance for.... Mr. Breaud stated a filling is a C-1 District and they cannot, it's prohibited or it's not prohibited in an R-1 and R-2 district as it is now so they could not grant you that variance. Mr. Falgoust replied well they were going back to the Board of Adjustments meeting and he would like to come back to what we are doing here tonight and first of all he understood that there was a process when they enacted that ordinance in 1979 but as to what they designated there, his position is it is unreasonable and arbitrary and certainly we have the right to make that statement. Now, when we tried to get a permit to operate this building to convert it into a convenience store type filling station what the city gave us is a permit for a gas station, an occupancy permit. It was explained to me that the type of occupancy permit that he would need is a "convenience store" permit and of course convenience stores are permitted in an R-3 zone. So and R-4 would allow under the zoning ordinance and under the City's interpretation of that ordinance at least in dealing with us, the renovation for a convenience store attachment there and that's why we are here to get that rezoning. Believe me, we've spent plenty of time with this we've gone back and forth with the city officials since February. Mr. Breaud stated what classification are you all looking at under the R-3 for this. Mr. Falgoust replied grocery store. Mr. Breaud stated as a grocery store. Ms. Erwin replied that would be allowed in R-3. Mr. Breaud stated but you proposing to sell alcohol and all of this in this establishment. Mr. Falgoust replied that is correct. Mr. Breaud stated and it would also sell gas. Mr. Falgoust replied that is correct. Mr. Breaud stated video poker. Mr. Falgoust replied no, no and he would say right here and right now we can stipulate that because as you know, Chairman Breaud, the zoning ordinance does allow you to put restrictions within a zone, you don't just to blankly call it R-4 or R-3, we will stipulate right now that there will be no video poker machines on that premises. (the audience laughs out loud) Mr. Falgoust stated and everyone is laughing and making comments but the truth is as you know we can make that stipulation and we'll agree to that. He was looking at his clients, as a matter of fact he was looking at Mr. Savoie, the Martins would make the same stipulations that within this proposed rezone we agree to a stipulation of no video poker. Mr. Breaud stated one more question he wanted to ask you, in your information you furnished us with traffic counts, you had 7,400 cars a day of traffic on LA 1, that's a lot of cars in this area, would you not agree that a couplet system in this area would be beneficial. (the audience laughed) Mr. Falgoust stated he knew he would work that in, he better out of respect for another client he better take the fifth. Mr. Breaud then asked if there were any questions by the other commissioners. Mr. Ber replied no, there's no questions from me but the only thing some of the things what you said are incorrect and because those filling stations were there before, I was there before so he could tell you. Ms. Erwin stated she did have a question because she was trying to understand why you went for R-4 was it just totally because of the public buildings and uses. Mr. Falgoust stated well Ms. Erwin Knight it was for several things, one was to conform to the uses the present R uses but the other thing was the Martins did express to me when we talked about this that they were interested in possibly putting a café there with a deck to take advantage of the bayou and the other thing is certainly convenience stores do sell sandwiches and that seems to be a C-3 use but let's say there was some argument later that wait on a second now, you're making sandwiches, you've got a Subway there that's an R-4, it's to alleviate the problem of that later on. Now with all the people we've talked to they have not insisted on the ability to sell sandwiches but again he was trying to prohibit a future problem which was not prohibited when they zoned this R-1. Anything else? Ms. Erwin replied no. Mr. Falgoust replied thank you. Chairman Breaud stated thank you Mr. Falgoust.

Ok, we're going to open it up to the public right now, yes sir, come to the mike and give your name and address please. Mr. Warren Authement came forward and stated that he was the retired superintendent of Lafourche Parish Schools and he was also president of the Authement Land Company owning several hundred acres of land in Lafourche Parish. He was referring to Mr. Ber here who is an old friend of course, he thought he was older than I am a few years and so age respects age Mr. Ber. He wanted to compliment Mr. Lafaso for appearing here today he thought this time he did a good presentation, he added a lot of expert witnesses, although he didn't agree with them and he was here to oppose his request for the simply reason that our neighborhood is right across here and it is composed of hundreds of nice homes. We have E.D. White High School, E.D. White Elementary School, the Baptist Church co-cathedral, Nicholls State University and selling gasoline may not be a problem, he wasn't saying it is but when you add alcohol into a convenience store, like he said last time before the Board of Adjustments he thought you were spelling trouble because you're going to have young people coming in, alcohol draws drug addicts and where you have drug addicts that show up you have shootings and people get killed. So this fine neighborhood can hardly tolerate that and I beg of you to turn this request down because although Mr. Lafaso is a nice fellow and his family is a nice person, he knew G.P. Musso personally like Mr. Ber did and all of his relatives are all nice people but this is not about nice people. This is about keeping problems out of our community and we have a lovely community. Thank you very much, do you have any questions to ask me?

Ms. Francine Kern Middleton came forward and stated her husband, David Edward Middleton and I live at 100 Ormonde Dr. in an R-1 District and ask that you deny the request under consideration, East First, L.L.C. and Cornel and Cynthia Graham Martin represented by Woody Falgoust and Rusty Savoie, respectively. These parties are asking that the batture and she was afraid she didn't have the boundaries accurate, but please understand she did realize there's been a modification, these parties are asking that batture from the western border of 601 East 1<sup>st</sup> Street, known as Jones Insurance to the eastern border of 711 East 1<sup>st</sup> street formerly known as Ron's Texaco and tenanted by University Gas and Geaux and operated by the Lafaso family be rezoned from R-1 and R-2 to R-4. This property has had three owners since January 28, 2005. Ron and Pat Delaune, M. & B. Rentals of America, L.L.C. and East First Street, L.L.C. Yesterday, Tuesday, July 12, I dropped off packets of information at what she believed to be the homes of you the commission members. I used the names and addresses on the town's website and I hope most of them were received property. She would briefly describe what was in these packets, there was an email from Ben Jones to Woody Falgoust saying he did no longer wish to be included in the rezoning request, there was a lengthy letter from Cathy and Guy Debold explaining their positions and there were two petitions. A large petition which was signed primarily by the residents in what is now Acadia Subdivision and a second July petition which included residents of Acadia Subdivision, Foret Street, Blake Court, Palm Place and she thought she might be forgetting one but it was a substantial petition and it had about 100 signatures. I would like for you to deny this request based on the following reasons, the are in question is properly zoned as R-1 and R-2 and is in harmony with the purpose and intent of the zoning ordinance as stated in Section 1002, page 17 of the current on line version. Furthermore, the existing classifications are and I quote, "in the best interest of the citizens of the city and of the elders of the city in promoting zoning in general." The area under consideration is approximately a quarter to third mile of the approximate mile length of bayou side between bridges at Canal Blvd. and Audubon Dr. so it does not comprise a majority of the short R-1 and R-2 stretch. It appears that East First Street, L.L.C.'s portion of the request is in response to the Board of Adjustments denial of it's request to sell alcohol at its July, 2005 meeting. Instead of exercising rights set forth in Article X, Appeals from the Board of Adjustments which allow, "any person, or persons or any board, taxpayer, department or bureau of the City aggrieved by any decision of the Board of Adjustments to seek review by a court of record of such decision. The manner provided by the laws of the State and particularly by Title 33:4727 of the Louisiana Revised Statutes of 1950. " East First Street, L.L.C. and the Martins have formed an alliance and have chosen to ask the zoning board to rezone a quarter to third mile of batture from R-1 and R-2 to R-4 rather than resorting to the courts. This request could be interpreted as an attempt at spot zoning which is illegal because of the shortness of the stretch of the land in question, the presence of the Thibodaux state school which prohibits alcohol sales within 300 feet of it's boundaries, the stretch of bayou side under the control of the sanitary board and the signatures on petitions of area residents whose daily lives would be affected by this particular request. The only parties who could benefit from rezoning this area from R-1 an R-2 to the very liberal R-4 are those making the request. Neither of them lives full time in the subdivisions. East First Street, L.L.C. is grandfathered in an R-1 zone as an R-3 site with a gas, filling and/or service stations are conditionally permitted. It is on record as having requested a waiver to sell alcohol, a request that the residents of the area and the Board of Adjustments found objectionable and which the current zoning regulations interpret as a prohibited, expanded use. East First Street, L.L.C. wants the area rezoned as R-4 because bars and lounges are conditionally allowed in that particular category. It must be assumed that the classification would give it more leverage in attaining a license to sell alcohol. Supposedly a potential tenant would like to open a café at the site of the old Guidroz Florist and its owners would similarly reap a financial gain. Indoor service restaurants are permitted in R-4 where alcohol is conditionally permitted. First a license to sell and/or serve alcohol seems to be the common link between the requesting parties. As mentioned earlier, this stretch is currently and probably accurately zoned as R-1 and R-2 and has been so for many years. It is also the least developed stretch of batture within the city limits and the most attractive entrance into town. It contains seven business sites most of which sell service and therefore generate little traffic. This would not be the case with a gas station with an alcohol license or what the Lafaso's really hope to have, a convenience store which then could be leased to a convenience store chain. It is common knowledge that a convenience store cashier, particularly one working at night is more likely to suffer an on the job injury than any other worker, even a fireman or a police officer. I looked at the most recent printed version of the zoning law reveals that there are three R-1 zones within the city limits on what could be called the southeast side of town. A portion of one, the area beginning at Goode St. and including Menard Place is directly affected by this zoning request, the other area which includes an exempted gas station borders on Acadia Subdivision, the residents of which have already presented two petitions protesting any expanded use of the grandfathered service station and their preference for the more conservative R-1 and R-2 zoning classifications. Most affected residents signed the petition. 37:4721 through 4729 of the Louisiana Revised Statutes concern themselves with zoning rights and regulations, accordingly zoning exists and she quote, "for the purpose of promoting heath, safety, morals, or the general welfare of the community and empowers local municipal authorities to determine the location and use of buildings, structures and land for trade, industry, residence or other purposes." As well as being respectful of an area's established character, it does not exist to ensure commercial success and so cannot be blamed should a business fail to prosper. Furthermore, the parties requesting the change must bear the burden of proof that their request promotes health, safety, morals or the general welfare of the community and demonstrate that the current zoning of the property in question is unreasonable, arbitrary and discriminatory under all attending circumstances. The existence of two petitions, one dated March, 2005 and the other July, 2005 and the June, 2005 decision of the Board of Adjustments support the quality of life aspect of the existing R-1 and R-2 classifications and that they are reasonable and fairly applied according to local rules. This request should also be denied because of the proximity of the state school, the nearness of St. Joseph Street and the nearness of Lots of Tots, University Baptist Church, St. Joseph Elementary and E.D. White High School. It is neither prudent nor healthy to sell alcohol and tobacco products near so many under age children and what is already a congested area. It is not time to examine the intent of the Lafaso's. We all have known that they could have been operating a grandfathered service station, a conditional R-3 use in an R-1 area since January, 2005. Their actions speak dissatisfaction with this situation. In the last two or three weeks there has been evidence that the station is open some hours some days of the week and with two or three pumps offering regular and diesel gas. However, recent history implies that the Lafaso's want more. An online check on July 12, 2005 of Yahoo's yellow pages finds a listing for University Gas & Geaux. University Gas & Geaux does not turn up under subject searches using the terms filling stations, gas stations or service stations though a listing of a Shell station at 711 East 1<sup>st</sup> St. with a phone number of 985-447-7803 does appear. This is Ron's old phone number. Interestingly enough a search under convenience stores turns up a listing for University Gas & Geaux at 711 East 1<sup>st</sup> St. with a phone number of 985-446-3308 and I will give you

these pages when I finish. After consulting a variety of sources I asked you as an educated lay person to deny this rezoning request because it runs counter to the quality of life, legal philosophy which underpends zoning. It is against the expressed best interest of those most affected as an attempt to circumvent previous negative decisions by the City Inspection and the Board of Adjustments, does not generate significant employment or economic benefits and will financially benefit only two families. I would like to express my thanks and respect to Mr. Ben Jones who had the courage to change his mind and sacrifice for the greater good. We should all be grateful to him. I would also like to acknowledge the efforts of Guy and Cathy Debold and Steve and Becky Landry, who though they could not be here tonight because of long standing vacation plans with children did fellowmen's work before their departures. I'd also like to thank those who passed petitions, those who signed them, the supporters in attendance and to you the zoning commission for hearing me out. Thank you all. Mr. Breaud replied thank you ma'am. He then stated present this to Ruby for public record. Ok, comments from the public? Yes, sir...

Mr. Gerald Block of 502 East 1<sup>st</sup> Street came forward and stated I appreciate the fact that the Lafasos and the Martins are doing what they are doing. They're friends and its sometimes difficult to be in a situation where you're talking against friends but I want you to know most of these people here are people that I grew up with, I'm not going to go into how old Mr. Ber is or Mr. Authement or anybody, I do have home movies of my kids later on if the commission wants to see them but here is the issue. My wife and I probably within the last two months and I'm not sure exactly, we bought a piece of property across from our office, the bayou side property and that piece of property that we bought we bought from Lloyd Gaubert whose owned that property as part of the Holiday Inn/Ramada Inn tract, we bought it and like the Lafasos we spent money buying that property. But we knew that it was R-1 and we knew that the only thing we wanted to do is to clean it up and make it look nice. It is part of the character of the neighborhood that it should be residential. Now we spent more for it than we wanted to spend, Mr. Gaubert is pretty tough businessman but we bought it; but we didn't buy it with the intent of doing something with it. You know Mr. Gaubert, as a matter of fact we bought it with the intent that there wouldn't be anything there, that it would be green space, that it would make Thibodaux a nice entrance when people drive in and you see that area of the bayou, so we cleaned it up. I understand the position that Mr. Lafaso and I understand the position that the Martins are taking here but to now want to go from R-1 to R-4 and have this Board do that sort of dramatic change of this area I think is unwarranted. I think it would be a serious mistake for our community as a whole. I compliment Mr. Falgoust, I think he's done a good presentation here, I'm going to, you know you said earlier don't be critical, I'm not, I sit here and say fine, this is what they want to do but I think it is a mistake for the Board to make the change. This would be a dramatic change of an area of Thibodaux that we are all proud of; that some of us have actually invested in to keep as a residential character. So, those are my comments and I know we probably don't have time but most of these people if you wanted to ask them whether or not they are for it or against it, they'd probably hold up their hands and tell you they're against it. Maybe that's the direction we should be going in. Mr. Breaud replied this is not a vote, we don't vote on popularity. Further comments from the public?

Mr. Chester Boudreaux of 200 Ormonde Dr. came forward and stated it is about a block from East First Street, I'll be brief. I do respect the other side and I respect all their arguments but I come before you today on behalf of my wife, my four young children and I ask you to oppose this rezoning request. I live in a beautiful, peaceful part of Thibodaux. It's frequented by joggers, walkers, strollers, as you know there is a large park, an elementary school, a church, a cemetery and many historic homes, these are all part of the landscape. Accordingly the City recognized this beauty and allowed the construction of a pedestrian bridge across scenic Bayou Lafourche, the only one of its kind in the area. For nearly 30 years this area has been wisely protected by the strict zoning rules and subsequently it has retained its beauty and prosperity. The area has attracted numerous new families, like myself, many of whom have made substantial improvements to existing homes like myself. If we rezone even this small area of the batture to R-4 we risk the erosion of this beautiful area from commercialism ranging from a 24-hour convenience store to bars, washaterias, car washes, along with many other reasons mentioned tonight, I and most of my neighbors who are here tonight believe that rezoning even this small section of the batture would devastate one of the few remaining, truly residential neighborhoods in this City and tarnish the very charm Thibodaux is known for. Thanks. Mr. Breaud then replied thank you sir.

Ms. Margo Donnes of 218 Abigail Dr. came forward and stated my family I believe has owned the property on LA 1 for pretty much longer than anyone else has in that area and it would be wonderful if that whole area, that whole batture could be nothing but green space with trees and a walk but it's not. There is a gas station there, there is a vacant building there. My concern and the concern of my family is what will happen, will it stay a run down gas station; will it stay a vacant building. The fact of the matter is that is a major thoroughfare, it is an entryway into Thibodaux, I don't believe that a nice convenience store/gas station, a nice coffee shop on the batture will in any way be detrimental to the neighborhood to the value of the property there. That's all I wanted to say. Mr. Breaud replied thank you. Ms. Donnes replied ok. Mr. Breaud stated anybody else in the public.

Mr. Malcolm Hodnett of 322 East 2<sup>nd</sup> Street came forward and stated he was also Chairman of the Board of Adjustments. Mr. Breaud asked if he was speaking on behalf of Malcolm Hodnett. Mr. Hodnett stated yes I'm speaking on behalf of Malcolm Hodnett but many references were made back to the Board of Adjustments and what may have been done or not done in the past and just a few things, some of those businesses, reference was made to the Bourg, Carmouche Agency and we did allow, I was on the Board when we voted for that, we did allow that in because we thought that was not going to be a detriment to the neighborhood, we thought that was a compatible use. Most of the businesses that are referred to as commercial are really service oriented, insurance companies, Dr. Jason Ray's dental practiced and really the only commercial if you want to call it that, true businesses that I consider are Copy Connection because you can walk in and walk out with a product and Danny and Clydes and I live a block away from Danny and Clydes and I have nothing personal against Danny and Clydes but it's a good business but it's in the wrong neighborhood and I think that is, by rezoning you would wind up doing the same thing there is maybe doing a good business but putting it in the wrong location. You referred to, Clay, the health, safety and welfare as well Fran, I agree with that, I don't think by rezoning this you are going to enhance the area at all. I don't think as Fran mentioned that rezoning should be based on convenience or economic hardship and the Board referring what his Board had on, that's what we concluded also, unanimously. I think zoning is here to protect the majority and I think when they come back and carve out an R-4 zone out of an R-1 its, I think you are stretching the definition in not calling it spot zoning. I think there's no continuous zone that's an R-4 that is adjacent

to this property, it would be a zone or a block onto itself. I also find it interesting that the point was made that 65% of the sales are gasoline, well when you go back through the zoning, R-3 filling station is conditionally permitted or as you mentioned, R-4 a filling station is conditionally permitted, so if 65% of the sales are in gasoline then I would have to say that when it comes time for a permit that it's going to be classified as a filling station rather than a grocery store because the majority of its sales come from gasoline. So they would make another visit back to us at the Board of Adjustments to get a variance for a gas station. I also find it interesting too in the comments that it was pointed out that it's unfit for residential, the batture is unfit for residential use because of the small lot size but on the other hand it's really big enough for a commercial use, I don't see how that is possible but again I would urge you not to vote for this and to keep it as is. That gas station that is there now is a non-conforming use and we had turned it down because it was going to be an additional increase to a non-conforming use. We also turned down Lincoln on his proposed use of his building because the residents did not feel that that was appropriate to the neighborhood nor of the convenience store, so I urge you not to vote for this. Thank you. Mr. Breaud stated Mr. Duplantis I thought you were finished after the first four items on the agenda.

Mr. David Duplantis of 712 East First St. came forward and stated I actually live right across the street from the gas station and I told Woody, I have to apologize to him, I told Woody I wouldn't do this, I told him I wouldn't get up here and talk positively or negatively about the situation but some of the comments that have been made tonight I feel it necessary to do so. I think the most compelling thing for me is when Mary and I bought our home we did some research, we looked at the zoning of our property, we looked at the zoning across the street because obviously Mr. Ron operated a gas station there, we supported that gas station, we were friends with Ron and Pat but we understood when we bought our property that it was R-1, that Ron operated a gas station, he was basically there from 7 o'clock in the morning to 5 o'clock at night, he didn't work on weekends, he didn't sell alcohol, he didn't sell, I don't know how they can call it a convenience store because I've been in there many times and I haven't seen enough items to even, there's more items in my wife's pantry than there is in that convenience store, so I think the unfortunate thing is is that the Lafasos agreed to buy a piece of property that wasn't zoned correctly for that proper use and now they've got a situation where they have to request a change. I sympathize with them but I don't think everybody else should have to pay for that decision, so he was not in support of it. Mr. Breaud replied thank you for your comments, anybody else in the public?

Mr. Hugh Larose of 102 Palm Place came forward and stated he would also identify my mothers home at 100 Menard Place, we are directly adjacent to the, I guess what has been described here as the Martin property. I would compliment Ms. Kerns for doing an incredible job, I think she hit all the legal issues and she is correct. This is a veiled attempt at spot zoning, there are two lots at issue here today, the lot controlled by East First Street, L.L.C. and the lot controlled by the Martins, that is the only two lots here. The proper venue for this hearing is in zoning, I'm sorry, is in the variance, not in zoning. They're asking for a spot zone, that is patently unconstitutional, we've heard that word a few times, I'm not sure it was in the proper context but that is patently unconstitutional. They were denied access as they requested, their next step is to the courts, make them go to the next step. Thank you. Mr. Breaud then thanked him for his comments, anybody else from the public?

Councilman Dee Richard, 416 Plater Dr. came forward and stated I wasn't going to come up here an elected official and I am speaking as an elected official unlike Buddy because I'm not a resident but I support these people, they support me, I'm an elected official of the City of Thibodaux and you don't like to get involved in two sides, Woody has done a good job in his presentation but I would have to ask you to not support this change. If you do pass this it does come to the City Council and I'm not going to tell you how I'm going to vote but I think you get the point where I stand right now but I have to support these people and I want you to think about not giving them what they want and to not support it. Thanks. Mr. Breaud then thanked him and asked if there was anybody else from the public, public going one, public going twice, three times, Mr. Falgoust close out.

Mr. Woody Falgoust stated first Chairman Breaud I'd like to clear up what spot zoning is and what it's not and to help demonstrate that I'm going to bring a map that we specifically gave you all copies of the zoned area we're talking about which of course is this area right here. Spot zoning is when and again, it's not just classification, it's use that's important, what is the actual use of a property. In spot zoning, I'll go ahead and read a definition out of one of these cases just so there's no doubt, "it's the practice of classifying a small parcel of land differently from the uses of neighboring property for either two reasons, 1) solely for the owners benefit or 2) for the benefit of the small parcel's neighbors to the owner's detriment when in either scenario no rational basis exists for the distinction. So the first point there is there has to be no rational basis for the distinction. There's come cases which I did not include in my brief which admittedly spot zoned lots, one lot was it went from single family residential to multi-family residential I the middle of an area of single family residential but the town of Marksville felt there was a housing shortage. In another case they rezoned a tiny lot which was like this one near a residential district but also near a commercial district, they rezoned it for a commercial use which included a bar room but for whatever the reason the town accepted it and they allowed that. Now in this case what you have here is a spot zone in reverse, the area on the batture is in fact not a part of a residential batture but a commercial use only batture, it is an R-1 spot zone in the middle of all of that. Chairman Breaud you brought up that on the other side of Audubon it's R-4. You may or not have brought up, I don't recall that on the other side of Canal it's C-1 and C-2, so in my mind the spot zones are these R-1 spot zones on the batture. If you want to look at it a different way, non-commercial use including R-4 use for this Peltier-Lawless Center go from the batture and it follows the lot lines of the cemetery and the Peltier-Lawless Center, all the way down past E.D. White, past the old Napasco building, which of course is industrial, all the way to the city limits. There are no single-family residential in that area. This is not a spot zone, I disagree wholeheartedly with Hugh Laroses and Ms. Middleton's classification of a spot zone. Some of the other things I want to talk about, you know Mr. Block talked about the residential character of his neighborhood and I would agree that his home, you know we talked about speaking on the other side of friends and certainly the Blocks are good friends of mine and I've spent a lot of nice days in the pool behind that house but this area, not the area in front the Block house is the area we are talking about. The Blocks live further to Canal, this area that I'm pointing out has never had a house, it's never had a residence, it's only been commercial. You know we talked about the health, safety and welfare, I don't think we're zoning towards the health, safety and welfare, we're creating a situation where buildings on prime real estate are abandoned, where their properties are devalued. We're disrespecting history when we zone an area which has always been commercial to residential only you know. Mr.

Block said that the character of this, it would be a dramatic change, the dramatic change occurred in 1979 when a C Zone which we were in which included of course, C-1, C-2, C-3 and all the commercial uses today, was rezoned all the way to commercial only. I can't think of anything more dramatic than that. There's was the drama which now is just matching the zoning with the use, that's all it's doing, that's what you're supposed to do as the zoning authority. Now, a couple of things that were said specifically about our filling station, I know you all are addressing the zoning as a whole but I have to correct some things, first of all there are no plans whatsoever for this to be a 24 hour filling station; however, state law does not allow municipalities to regulate the hours of a filling station. That said, the plan is not for 24 hours and then it was mentioned bars, we've discussed this thoroughly with the Martins and we have no plans for a bar room there. Yes, back in the 50's the old Tony's existed right there, it is not included within our plans and within an R-4 zone it is not principally permitted. We already went through this discussion. If something is possibly conditionally permitted you need a variance, well you need a variance to get a bar room and we don't want that and neither do the Martins. Just some other comments that were made, you know, talking about selling alcohol near schools, well the state law, Title 26 governs that, not Zoning Boards, not Boards of Adjustments, Title 26 and the ABC Board decides where you can sell or not sell alcohol and there's a rule that says within 300' of a school. I've got news for the people who made this comment, the state school, the old state school which is now the Peltier-Lawless Center is not a school; but if you want to take that fight up, if you agree to this then the proper authority, the proper place is the ABC Board. Now, yes, sure there are some schools beyond 300' in that area but they are all along the bayou, going all the way from the St. Mary area in West Thibodaux all the way to where we are, nursery schools, elementary schools, you go along Canal Boulevard, you've got South Thibodaux Elementary, not far from a convenience store, I mean you could go on and on, that's why the ABC Board, not a zoning authority controls where you can sell alcohol. Now, we talked about the green areas, I think it is pretty clear that what we are doing here other than matching the public use with an R-4 is not going to affect those nice green areas, they're going to stay green, that's one of the things why Chairman Breaud, as I explained earlier we didn't go all the way to Audubon and all the way to Canal because they were nice green areas that are likely never to be developed that just as soon stay green. We're trying to take care of the concrete areas where we have existing buildings, this is the bottom you know, I could go on and on but there is no case precedent that he could find that allows a zoning authority to rezone existing commercial buildings that pre-dated zoning or were built in a C zone all the way to R-1 and has that stand up, there are no cases out there that say that. Ok, the footbridge, Dr. Boudreaux made a nice comment about the footbridge, it is a nice area but where does it lead people now from the Chamber of Commerce building, to an area where an R-1 zone has killed commerce, to two abandoned buildings. It would be much better if it lead them to an area where there was a nice café where they could cross the bridge and get a nice latte' or go in the other direction and buy something at the convenience store. Right now the footbridge is being under utilized because of the zoning and before passing the podium on to my co-counsel, I'd like to make this point, zoning laws, property laws, the U.S. Constitution, they all exist for our equal protection. I think if the people from the neighborhood or anyone affected would own commercial property and I know many of them do, they would not want their commercial property rezoned residential only. Maybe there would be no effect right away because of the grandfather clause but if they needed to change their tenant and change the occupancy, if their children inherited the building and then the business petered out well then they would have a problem; and that's the point, this precedent, changing it from R-1 to what it should be R-4 minimum protects all of us because we do not want to create a precedent that eventually will hurt us. With that said, we again request that batture to be rezoned from and R-1 classification to a residential friendly use that will allow us to maintain our property values which is R-4. Thank you.

Mr. Rusty Savoie came forward and stated just a few comments, Mr. Chairman that we appreciate your time and the audiences time, my clients property and I only heard a few comments on it, just to give you a little bit more about the property, Steward Graham ran the flower shop, he ran a good business., in fact if you remember, he ran it from a wheel chair. After his death the business failed, the bank foreclosed. My client bought the property from the bank to keep it in the family. Unlike Mr. Block I believe he left, they didn't buy an empty lot, they bought a commercial property and now they're being told you can't have any commercial property as Mr. Martin, Mr. Lincoln Martin pointed out, you can't have electricity. What is my client going to do and I think that you recognize you have commercial areas in the city and this is a commercial area. There's a lot of emphasis on R-4 versus R-3, yes R-4 is liquor but what is not in R-3 is coffee, what my client intends to do, they can do a dance studio in 3 but 4 is where they can have food preparation or coffee preparation. A lot of emphasis on what happened in 1979 but it is this board's power and authority to make changes, progress, grow, change areas that were made in the past. We appreciate your time, he didn't know if Mr. Martin has anything to add, just briefly.

Mr. Lincoln Martin came forward and stated ladies and gentlemen I would like to thank you again, just very briefly, I would like to make a point and just a point of interest and refer back again to my daughter and her education. For Mr. Authement, Dr. Ayo and the other educators in this room, ok, she was educated in the Lafourche Parish system, she was a dancer at South Lafourche High School, a graduate there. She graduated from Nicholls State University on the dance team for four years and an art graduate from the art division. She's currently an N.F.L. Saintsations cheerleader to say that again. Right now she is employed as a graphic designer in New Orleans, ok, she is in Metairie, I said New Orleans and should have said Metairie, Tiffany would love to come back and take her talents and educate our youth here. What I think you're saying by not giving us the opportunity to use this building as a dance studio, as an art gallery with a small café shop to bring people in is telling our educated people that graduate from Nicholls State University, come here we want you to graduate from here but don't come back and do business next to our university, so please think about that. Mr. Breaud stated thank you.

Mr. Breaud stated Errol what kind of classification we're looking at for a dance studio and art? Ms. Erwin stated it was under R-3, it actually says it, it says studios, art, dance, health and photography. Mr. Breaud stated ok, I'd like to thank everybody for their patience here and the way they conducted themselves tonight; everybody was courteous. I thank you all for the research, there were some good cases presented on both sides, we appreciate that in helping us make our decisions. Unlike what Mr. Block's comments, I can't ask for a vote of the audience and take a vote of the audience to make our decisions, that's not how we make our decisions. We're not elected officials, we are appointed, we are voluntary, we don't get paid to do this and we don't to count votes and that is one reason why planning commissioners and zoning commissioners are not voted in, we don't have to count votes to make our decisions. Our decision are made on and this word was used a couple of times tonight, we have to

ask ourselves if this is a reasonable request and in that are we promoting or preserving the health, safety and welfare of the community and we heard those three words tonight and that's what this commission bases our decisions on, are we preserving or promoting the health, safety and welfare of the community. With that being said, you know the question you've got to ask yourself I guess is alcohol sales and that's where I kind of got a problem, alcohol sales, are we promoting health and safety in the area. You know the City has a plan for a pedestrian pathway and bike way throughout the City, that bike way crosses the pedestrian bridge at Bayou Lafouche and it is supposed to connect to Nicholls so we can have a pedestrian pathway through there. I don't know how this proposed development would fit in with a pathway through the front of the establishment with a lot of traffic coming in for convenience stores and things of that nature. But with that being said, I'll open it up to other commissioners and ask you what are your wishes because at this time we'll take a vote one way or the other and make a recommendation to the City Council; any comments by other commissioners? Mr. Melvin Adams stated first let me say that when we passed this, I was on the board when we passed the new zoning ordinance and it was publicized if people had any objection to it to voice their opinions at the public hearings here and we hardly had anybody turn up for the hearings. Of course, we made some mistakes and we corrected a lot of them and we improved some of the things that we have done in the zoning ordinance and there's still some to be done. That was a section there that was made into a commercial area, I mean in a R-1 residential area and it was a commercial area at the time and it's probably one of the boo-boo's we made and it maybe it needs to be corrected but it should have been brought up before it was voted on and there was a public hearing to correct all of the mistakes that we had approved and it was never done and as far as strictly going back and spot zoning I don't think, and that's what I believe it is for two businesses and he was not agreeable with that. I want to say that I enjoy the situation the way it is and he wasn't going to say anymore, I'm going to vote. Mr. Breaud then stated ok, do you all want to make any motion either one of you all, Mr. Ber? Do you want me to make the motion for you all? **Mr. Adams stated he sympathized with the people, the petitioners but he would make a motion that it remains an R-1 area. Mr. Breaud stated it's been moved by Mr. Adams that we deny the rezoning as requested based on your reason for denial would be based on promoting the health safety and welfare, is that your basis of denying the request? Mr. Adams replied yes. Mr. Breaud stated ok, it's been moved by Mr. Adams that we deny the request based on the fact that he feels that the proposed rezoning would not promote or preserve the health, safety and welfare of the community. It's been moved, Ms. Erwin seconded the motion, all members were in favor, motion carries, request denied.**

Mr. Breaud stated if there's no further business to be brought before the commission, meeting adjourned. Thank you all for your patience.