

**OLD METAIRIE COMMISSION (OMC) MINUTES
PUBLIC HEARING
December 3, 2020 9:00 a.m.**

In Attendance

Old Metairie Commission Members

	<u>Present</u>	<u>Absent</u>
Clifford Brown, Chair		√
David Webber, Vice-Chair	√	
Dr. Monica Monica	√	
Thomas McAlister	√	
Cynthia J. Steward	√	

Planning Department

Juliette Cassagne, Planning Director
 Brooke P. Tolbert, Assistant Director
 Jay Hébert, Senior Planner
 Nedra McKinney, Typist Clerk III
 Alena Gesser, Planner II

Others

Bess Renfrow, Parish Attorney
 Tom Scott, Inspection and Code Enforcement
 Bernie Wisnowski, Jefferson Parish Arborist

Mr. Webber, Vice-Chairman, introduced himself, other members of the Commission, and the Parish staff. The Old Metairie Commission (OMC) conducted the December 3, 2020 public hearing at the Joseph S. Yenni Building, Council Chambers, 2nd Floor, 1221 Elmwood Park Blvd., Jefferson, LA. 70123. Mr. Webber proceeded to the agenda and opened the meeting at 9:03 a.m.

OM-23-20, 311 Iona St.,

A request to demolish an existing dwelling with tree removal, construct a new dwelling and garage with a variance to the area regulations, on Lot C, Square 8, Metairie Suburb Subdivision, Jefferson Parish, LA, bounded by Avenue B, Hector Ave., and Duplessis St., zoned R-1A Single-Family Residential/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Mr. Hebert reported the findings of the case.

Planning Department: Approval for the following reasons:

- Meets all district regulations
- The Planning Department defers to the Parish Arborist on the tree removal request and protection of the remaining trees during demolition and new construction

Mr. Hebert also introduced a letter for the record received by the Planning Department from the resident at 235 Iona St. Metairie La. 70005 which stated "I treasure the tree cover in the neighborhood and I'm concerned about the removal of a sizeable tree in the front yard of this property to accommodate the driveway; possibly this can go forth without the removal of this tree. If it must be removed maybe it can be replaced with another large tree in a nearby location. If you have any questions please call me, Leon Jay & Raymond Jr."

Mr. Webber opened the floor for the applicant/owner to speak.

Mr. Sam Solomon, 404 Notre Dame St., New Orleans, La, introduced himself as the owner of the property and stated that the existing home is already gutted on the inside and they are proposing this new construction for a house for the property. Regarding the trees, they did consult with Brisk Tree Service about the two trees shown on the site plan that were in poor shape. In speaking to the neighbor to the left of the property, the tree that is on the north property line is consistently dropping a lot of limbs and for that reason as well, they are concerned about building a new home and having a tree that is already in disrepair to potentially affect the neighboring property as well as the new home.

Mr. Webber opened the floor for any opponents to speak.

Mr. Charles Wilmore, 315 Iona St. stated that 2 of the 3 proposed trees to be removed abut or adjoin the same property line, fig. 3. The locations are somewhat accurate. The proposal refers to a couple of documents that Mr. Wilmore has not seen, one is the tree protection plan dated July 21, 2020 and an e-mail from the Arborist dated November 24, 2020, suggested that the Pear Tree is of a certain diameter and stated he has not been contacted by anyone to discuss the size of the Pear Tree. He further stated that he measured the Pear Tree and it appears to be slightly larger than 24 inches in diameter as presented in the e-mail that he has not seen. The Pear Tree is referenced as 24-inches in diameter and other times its referenced as smaller than a 24-inches. Potentially the most troubling about this is that although these 2 trees adjoin his property line he has not had any contact with the applicant and the Arborist or anyone else in regards to removing the trees. Mr. Wilmore is asking that this case be deferred until he has the opportunity to meet/speak with the applicant or anyone else who plans on removing the trees.

Mr. Webber reopened the floor for any proponents to speak. There were none.

Dr. Monica asked why the Pear Tree couldn't stand. Mr. Solomon replied that on the southside of the property adjoining Mr. Wilmore's property line, regarding the Pear Tree, they can take another glance at it and see. Currently the driveway is planned for that side to access the garage in the back. Mr. Solomon stated they will take another look at it and see if they can keep the Pear Tree.

Mr. Webber asked if the tree in the back of the garage is going to be 3 feet from it, and is that tree going to remain? Mr. Hebert stated that the tree is to remain protected.

Bernie Wisnowski, Jefferson Parish Arborist, stated that the Bradford Pear Tree is 30 inches in diameter and it has a sizable decay pocket on the backside of the trunk. Bradford Pears have a likelihood for failure during a storm, when considering the storm it recently went through. The smart

thing to do is allow the removal of the tree and require that the owner would remediate as required by ordinance. He can plant another tree of like species or pay \$1000.00 per required tree.

On the north side of the property, there's a Live Oak in the front yard which currently has tree protection fencing around it and any construction around that tree will be detrimental to it for a period of time. Dr. Monica asked can the driveway continue to be on the southern portion, with some deviation around this tree. Mr. Wisnowski stated that could work but depending on what species of tree the property owner replants in the future because of the lack of area for the tree to grow, they're going to have infrastructure problems with the driveway and any sub surface drainage would have to be considered.

Mr. McAlister said it was listed as a Live Oak but it's actually an Elm, is it dead? Mr. Wisnowski stated it's not dead but dying. Is the 36-inch Water Oak on the northern boundary line dead or dying? It was stated that it's dying. Mr. McAlister further stated that looking at the survey, the boundary line splits the trunk of each of those trees that are planted directly on the boundary line. The adjoining owner to the south said that no one has spoken to him about removal of the Pear Tree or the Elm. Mr. Webber asked if Mr. Wisnowski would comment on the Birch tree by the rear garage. Mr. Wisnowski stated that the reason they approved the tree protection on this is because if the property owners are willing to protect the tree, regardless of what it is, he's not going to tell them that they have to remove it because of the species or the lack of planting area or whatever, and further stated he is allowing the property owner to make that decision.

Dr. Monica made a motion of deferral until Mr. Solomon and Mr. Wilmore can get together and discuss this matter and until we can get some clarification on the split of the property line. Seconded by Ms. Steward.

Mr. Webber called the roll on the motion:

	Aye	Nay
Mr. Brown (Absent)	_____	_____
Dr. Monica	____√____	_____
Mr. Webber	____√____	_____
Mr. McAlister	____√____	_____
Ms. Steward	____√____	_____

The ayes have it by a vote of 4 to 0. (With 1 absent). Motion of deferral approved.

OM-25-20, 425 Northline St.

A request to construct a new residence, porte cochere, parking turn table, garage, cabana, and swimming pool, on Lot 10, Square B, Metairie Club Gardens Subdivision, Jefferson Parish, LA, bounded by Hector Ave., Avenue E, and Vincent Ave., zoned R-1C Rural Residential District/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Mr. Hebert reported the findings of the case.

Planning Department: Approval for the following reason:

- The proposal meets all requirements of the R-1C/OMNCD

Mr. Webber opened the floor for the applicant/owner to speak.

Mr. Charles Silbernagel, of CLS Architects, identified himself as the applicant and was there to answer any questions.

Mr. Webber asked if the parking turn table was really a structure that you drive in. Mr. Silbernagel stated yes, it's similar to what is seen in the Batman movies; it's a turn-table that is placed at grade and it's within the concrete, as you drive in, it will turn the car 180 degrees and you'll be able to pull out instead of backing out of the driveway. It's a small hydraulic driven motor, hardly any noise, and sits underneath the turn-table.

Ms. Steward asked for clarification on the equipment on the garage. There's been a request to add the language about the height relative to the distance from the edge and would like the language to include the cording that it sits on. Mr. Silbernagel stated the height of the equipment will be around 42 inches including the cording that it sits on. The AC equipment-will be about 48 inches tall.

Ms. Steward asked if we can add the language that says that the blocking is included in the height. It was stated that the language will be revised to add this language.

Mr. McAlister asked regarding the drainage servitude how significant the encroachment in to the servitude is and what does it entail; strictly overhangs, foundation, equipment, just driveway paving? Mr. Silbernagel stated that the servitude on this property was put in about 5 years ago and that the servitude was established in order to give Wavertree Ct. drainage. There's a drain behind the back cul-de-sac behind the property so it drains about six houses along Wavertree Ct. and all of that drainage along Wavertree runs along his client's property and is tied in to the Northline drainage. Starting from the rear of the property, there's the garage overhang within the servitude (only overhang), past the garage there's the turn-table (mechanical device which sits in the driveway). There's the driveway within the servitude and at the porte-cochere there's the overhang of the porte-cochere in the servitude. No foundations and no walls.

Mr. Webber and other members of the Commission wanted clarity regarding the Hold Harmless Agreement; Ms. Renfrow stated that the Hold Harmless generally states that the owner puts any structure into the servitude at his own risk and if the Parish has to access the pipe or the servitude for any reason and remove his improvement the Parish will do so at the cost of the owner to replace it. The Hold Harmless is executed by the owner; No notices are provided to abutting property owners but they have the right to file a public records request.

Mr. Webber asked about the Oak Tree on the east side next to the driveway. The canopy is 20 ft. protruding out and he is concerned about putting a concrete driveway over that. Would the applicant consider a gravel limestone driveway for the first 25 ft. up to the foundation?

Mr. Silbernagel stated he will discuss this with his client and also stated that there are other alternatives they can use besides gravel such as permeable concrete.

Mr. Wisnowski stated that his only concern with permeable concrete is that it requires more excavation before it can be implemented, so of course any additional excavation will further damage

additional roots and further suggested to go along with gravel limestone or something along those lines.

Mr. Webber opened the floor for any opponents to speak.

Ms. Ninette Eastman, 213 Stella St, was concerned about the generator and air conditioning equipment being on top of the flat roof and wanted to know if there can be a sound barrier. Further states that every house has a generator, but they're down low so it's not so bad.

Mr. Silbernagel stated that they will look to see if there's any way they can screen the sound from the equipment that is placed on the top of the garage.

Mr. Webber opened the floor for any proponents to speak. There were none

Mr. McAlister asked if a Hold Harmless Agreement includes indemnification? It was stated yes it does. Does it indemnify the adjoining landowners that were served by the servitude? It was stated that it does not. Mr. McAlister stated he is concerned if it was damaged in the course of construction in the pipe. He wanted to confirm if there was any indemnification to the Parish for any damage to the infrastructure that is contained in the servitude. Ms. Renfrow stated that generally there is and that she will send a copy to the commission later this afternoon.

Regarding incidental penetration of the massing angles, Mr. McAlister mentioned that the penetration seemed a little more than incidental because it actually includes exterior walls, not just roof overhand or gutters. He asked if this is still considered incidental? Mr. Hebert stated yes, it is as long as there is no actual livable space. If the encroachment was beyond the massing angle to such a degree that the massing angle penetrated the interior living space that would not be incidental. Regarding the concept of accessory building, each of these accessory buildings are not separated from the structure itself. The interior doors connect to the accessor buildings and it's hard to tell where the Cabana is and if it's in close living space in which it no longer constitutes an accessory building. Ms. Renfrow stated that the accessory structure can be attached to the principle structure. It's the use of the space that deems the determining factor of it being principle or accessory, but we have accessory structures that are detached and some that are attached.

Dr. Monica made a motion to recommend approval with the following stipulations:

1. That they address the indemnification on the Hold Harmless
2. On the entry of the driveway, that permeable gravel be placed there
3. That there is a wall/sound barrier around the elevation of the generator or air conditioner unit

Seconded by Mr. McAlister.

Ms. McKinney called the roll on the motion:

	Aye	Nay
Mr. Brown (Absent)	_____	_____
Dr. Monica	____√____	_____
Mr. Webber	____√____	_____
Mr. McAlister	____√____	_____
Ms. Steward	____√____	_____

The ayes have it by a vote of 4 to 0. (With 1 absent). Motion approved with stipulations.

OM-26-20, 120 Duplessis St.

A request to amend the size and location of a previously approved accessory structure, on Lot 204, Vincent Subdivision, Jefferson Parish, LA, bounded by Stella St., Geranium St., and Vincent Ave., zoned R-1B Suburban Residential/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Mr. Hebert reported the findings of the case.

Planning Department: Approval for the following reason:

- The proposed development meets all applicable R-1B/OMNCD requirements.

Mr. Webber opened the floor for the applicant/owner to speak.

Eric McCutcheon, 7711 Maple Street, New Orleans, Architect Associate to Patrick Melancon who is the Architect of Record on this project. Mr. McCutcheon was present to answer any questions.

Dr. Monica asked why was the accessory structure being moved. Mr. McCutcheon stated that it was moved closer to the main structure because the owner requested it.

Mr. Webber stated there is a very large branch falling off of that Oak tree that's going to be close to 13 ft elevation. Is the structure going to be a problem fitting underneath this?

Ms. Nancy Biggio, property owner, 349 Focis St. stated they have staked out the accessory structure and shrunk it from a single car garage to the current size which is an 11x12 storage building with only doors, no windows on it. The backside will have an outdoor kitchen with a sink, no bathroom all of that has been removed from the accessory structure and this will only be used as storage. Because they have moved the accessory building closer to Vincent Ave, they will make sure to clear that large tree limb without any intentions on making any additional trimmings to that Live Oak Tree.

Mr. Webber opened the floor for any proponents to speak. There were none.

Mr. Webber opened the floor for any opponents to speak.

Mr. Fred Sher, 127 Vincent Ave, stated he approves everything that has occurred from the beginning of the construction all the way through and states that this project would be an asset to the neighborhood.

Ms. Ninette Eastman, 213 Stella St., also thinks that the construction is beneficial but is concerned about the driveway and parking issue. Anything parked on Duplessis St., makes it a one lane street, which has caused major traffic hazards. Looking at the driveway and the turning radius on the back, she suggested that if they can do a circular driveway it'll be beneficial traffic wise.

It was stated that there is a circular driveway outlined for the front of the property with parking for at least two vehicles there and along the side it'll be sufficient parking.

Dr. Monica made a motion to recommend approval. Seconded by Mr. Webber.
Mr. Webber called the roll on the motion:

	Aye	Nay
Mr. Brown (Absent)	_____	_____
Dr. Monica	____√____	_____
Mr. Webber	____√____	_____
Mr. McAlister	____√____	_____
Ms. Steward	____√____	_____

The ayes have it by a vote of 4 to 0. (With 1 absent). Motion approved.

OM-28-20 311 Bella Dr.

A request to demolish a residence, carport, and swimming pool, and for tree removal, on Parts of Lots 20 and 21 (Proposed Lot 20A), Square B, Metairie Golf View Subdivision, Jefferson Parish, LA, bounded by Frisco Ave., Cuddihy Dr., Woodvine Ave., and Falcon Rd., zoned R-1B Suburban Residential/OMNCD Old Metairie Neighborhood Conservation District. (Council District 5)

Mr. Hebert reported the findings of the case.

Planning Department: Approval of the demolition of the residence, carport, and swimming pool for the following reason:

- The proposal to demolish the residence, detached carport, and swimming pool is consistent with the OMNCD intent to "...maintain neighborhood character and integrity by focusing special attention on the maintenance of the physical environment... and the accommodation of desirable change".
- The Planning Department defers recommendation to the Parish Arborist regarding requests for tree removal.

Mr. Webber opened the floor for the applicant/owner to speak.

Mr. Stephen Chauvin, Architect/Representative, 111 Grenadine St., Metairie, La. 70005, stated it's a simple request to demolish the structure, pool and garage so that they can build a new residence. The tree is 47 ft. from the rear property line, approximately 30 ft from the south property line and about 50 ft from the north property line. So, by the time there is a front set back, it may be about 64-65 ft of depth. They would prefer not to have to build around this tree and would like to add to the neighborhood by putting two Live Oak Trees in the front as a replacement.

Mr. Webber opened the floor for any proponents to speak. There were none.

Mr. Webber opened the floor for any opponents to speak. There were none.

Dr. Monica asked if Mr. Wisnowski would comment on the tree replacement.

Mr. Wisnowski stated that the OMNCD and MRTPD are tree preservation districts not tree replacement districts. The Water Oak Tree is in good health and he cannot justify the removal of this tree just because it's a Water Oak and stated the BZA would need to make this decision.

Ms. Steward asked what is the age of the Water Oak Tree. It was stated not more than 10 years old. Ms. Steward asked what is the timeline for construction of this project. It was stated that it could take about a year or so. It depends.

Mr. Webber asked if the Parish is allowing demolition before we have a proposal for rebuilding. It was stated yes demolitions can be reviewed without plan for rebuilding.

Mr. Chauvin stated there is no uncontested area in the Old Metairie Tree Conservation District, but this is talking clearly talking about protected areas where the buildable area is in a preservation area. The preservation area is the entire lot and neighborhood. It says that if the protected tree is located in the buildable area then it substantially would hinder the development of the site that the Parish Arborist may allow.

Ms. Steward asked if it's possible to remove this tree. Mr. Wisnowski stated no because it would be too damaging to the tree.

Mr. Hebert stated that the Planning Department suggested that the applicant apply to the BZA now due to the holidays and the scheduling of the meetings. When it comes to demolition and construction we know that it's a tight time constraint, it was highly suggested they apply at this point and time.

Ms. Renfrow stated for clarity "May" is permissive and "Shall" is mandatory. The fact that the code gives Mr. Wisnowski the option to do so does not demand that he do so and does not require that.

Mr. McAlister added that "May" is upon the discretion of the Arborist and according to his opinion and discretion, it shall not be removed.

Mr. McAlister recommended a motion of approval of the demolition plan, with the exception of the removal of the Water Oak Tree and that it be conditioned upon the administrative resubdivision into lot 20A.

Seconded by Dr. Monica.

Mr. Webber called the roll on the motion:

	Aye	Nay
Mr. Brown (Absent)	_____	_____
Dr. Monica	√_____	_____
Mr. Webber	√_____	_____
Mr. McAlister	√_____	_____
Ms. Steward	√_____	_____

The ayes have it by a vote of 4 to 0. (With 1 absent). Motion approved.

Minutes

Dr. Monica made a motion to adopt the minutes from November 5, 2020. Seconded by Mr. Webber.

Mr. Webber called the roll on the motion:

	Aye	Nay
Mr. Brown (Absent)	_____	_____
Dr. Monica	√ _____	_____
Mr. Webber	√ _____	_____
Mr. McAlister	√ _____	_____
Ms. Steward	√ _____	_____

The ayes have it by a vote of 4 to 0. (With 1 absent). Motion approved.

Dr. Monica made a recommendation to approve and adopt the proposed 2021 meeting schedule. Seconded by Mr. McAlister.

Mr. Webber called the roll on the motion:

	Aye	Nay
Mr. Brown (Absent)	_____	_____
Dr. Monica	√ _____	_____
Mr. Webber	√ _____	_____
Mr. McAlister	√ _____	_____
Ms. Steward	√ _____	_____

The ayes have it by a vote of 4 to 0. (With 1 absent). Motion approved.

Dr. Monica made a recommendation to approve Mr. Brown as Chair and Mr. Webber as Vice-Chair for the 2021 election of officers. Seconded by Mr. McAlister.

Mr. Webber called the roll on the motion:

	Aye	Nay
Mr. Brown (Absent)	_____	_____
Dr. Monica	√ _____	_____
Mr. Webber	√ _____	_____
Mr. McAlister	√ _____	_____
Ms. Steward	√ _____	_____

The ayes have it by a vote of 4 to 0. (With 1 absent). Motion approved.

Dr. Monica recommended a motion of deferral of the Rules of Procedure. Seconded by Ms. Steward.

Mr. Webber called the roll on the motion:

	Aye	Nay
Mr. Brown (Absent)	_____	_____
Dr. Monica	√ _____	_____

Mr. Webber	<u> √ </u>	<u> </u>
Mr. McAlister	<u> √ </u>	<u> </u>
Ms. Steward	<u> √ </u>	<u> </u>

The ayes have it by a vote of 4 to 0. (With 1 absent). Motion approved.

Administrative Approvals & Follow-up of previous cases.

Mr. Hebert reported that there were two administrative approvals since the last public hearing:

OM-19-20, 310 Bella St, placement of a new generator along the south property line zoned R1-B which requires minimum side yard set back of 7 ft. The generator was set back at 8.2 ft. because it met the minimum setbacks. This was approved administratively on November 9, 2020.

There were no follow-ups on previous cases.

Ms. Steward requested that they receive electronic copies instead of the hard paper copies of the packets. The rest of the board agreed to receiving electronic copies as well.

Ms. Tolbert mentioned that the Planning Department is in the process of looking at the OMNCD regulations and we will look at the accessory structures as a part of that and one outstanding question we had was regarding demolitions.

Ms. Gesser presented an overview of the Demolition Review, pointing out the current review and the issues with the current review.

Three different approaches were presented:

1. Transfer demolition review from OMC to ICE
2. Transfer demolition review from OMC to Planning Director, with potential for OMC review
3. Maintain OMC review of demolition but subject to review criteria

The following criteria the New Orleans HDLC uses to evaluate demolitions in historic districts* may be applicable to the OMNCD with limitations:

- The historic or architectural significance of the building.
 - Only a few historic or architecturally significant structures left in the OMNCD.
- The importance of the building to the tout ensemble of the district.
- The special character and aesthetic interest that the building adds to the district.
 - Difficult in the OMNCD, with a variety of architectural styles represented
- The difficulty or impossibility of reproducing such a building because of its design, texture, material, or detail.
- The future utilization of the site.

Ms. Steward stated that they would point out that whether or not it's part of a registered district because there can be historic buildings within a non-registered district and part of the history of the neighborhood is part of that history, the national register.

Dr. Monica stated that Metairie Rd has some historic value according to Councilwoman VanVrancken and would like to include her input in this factor.

A discussion took place between the Commission members Planning Department staff and Ms. Renfrow regarding historic districts in general and the review criteria for demolitions.

Ms. Cassagne added that the Planning Department has been studying the regulations of the conservations district in totality for years now and wanted to bring this to the Commission and get this feedback and go back and look at approaches 2 and 3 and make a recommendation from where we are now as an entity. Respecting the fact that the Commission would like to pursue a stronger historic district option. Where we are now is the conservation district. She further stated that we need to move forward in how we handle demolitions and then if something happens later with the historic district aspect that can always occur but at this point we'll take the feedback that was given this morning and we will include that into the formal recommendation of the totality of the conservation district amendments that we will be bringing to you in the early part of the new year.

Mr. Webber re-opened the floor for public comment.

Ms. Eastman 213 Stella St., stated regarding demolition,

1. There should be consistency because in today's hearing a demolition was allowed in one instance and it didn't even come up in another instance where the property on Iona St. they could have demolished and then discussed the tree issues after the fact because a vacant house is sometimes a hazard.
2. If there is demolition; Code Enforcement maintenance on the lot

Mr. McAlister stated that because of all of the variables included in reviewing demolitions, he is now thinking about approach 1.

A discussion then took place between the commission members and other present regarding possible demolition reviews involving code enforcement.

Dr. Monica made a motion to open and discuss the rules of procedures.

Ms. Cassagne briefly went over a few recommendations that will be presented formally at the January hearing which included adopting a new location for the OMC Hearings to be in the Council Chambers for the 2021 calendar year instead of suite 604 as they were previously scheduled prior to Covid, and also briefly discussed omitting the role call vote and replacing that with "all in favor".

Dr. Monica made a motion to adjourn. Seconded by Mr. McAlister. Meeting adjourned.