CITY OF CENTRAL

BY MAYOR PRO TEMPORE WASHINGTON AND COUNCIL MEMBERS DeJOHN, AND MESSINA

ORDINANCE NO. 2013 - 30

AN ORDINANCE TO REPEAL CERTAIN PROVISIONS OF THE CENTRAL UNIFIED DEVELOPMENT CODE, TO REDESIGNATE, AMEND, REENACT AND RENAME CERTAIN PROVISIONS OF THE CENTRAL UNIFIED DEVELOPMENT CODE AS THE DEVELOPMENT CODE AND TO PROVIDE FOR RELATED MATTERS

WHEREAS, prior to the incorporation of the City of Central, land use within the area now incorporated as the City of Central was governed by the Unified Development Code enacted by the Metropolitan Council for the City of Baton Rouge and Parish of East Baton Rouge ("EBR-UDC");

WHEREAS, the City of Central adopted the EBR-UDC to regulate land use and thereafter adopted the Central Unified Development Code ("Central-UDC");

WHEREAS, the City of Central has held numerous workshops and public meetings to develop a Comprehensive Zoning Code;

WHEREAS, on May 23, 2013, the Central Zoning Commission conducted a public hearing on the proposed Comprehensive Zoning Code and recommended to the Central Council and Mayor, enactment of the Comprehensive Zoning Code; and

WHEREAS, the adoption of the Comprehensive Zoning Code necessitates repealing certain chapters of Title 7 and amendment of certain sections of the Central-UDC;

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Central, State of Louisiana as follows:

Section 1. Chapters 7-11 and 17 of Title 7, the Central Unified Development Code, are hereby repealed in their entirety.

Section 2. The remaining chapters of Title 7 are hereby renamed the Development Code.

Section 3. Chapters 1, 2, 3, and 5 of Title 7 are hereby and are amended and reenacted as attached hereto as Exhibit B.

Section 4. Chapters 4-6, 12-16, 18 and 19 of the Development Code are as follows:

Chapter 4 entitled Permits and Final Plat Approval
Chapter 5 entitled Waivers, Variations and Exceptions
Chapter 6 entitled Enforcement and Review

Chapter 12 entitled Recreation Facilities and Open Space
Chapter 13 entitled Streets and Sidewalks
Chapter 14 entitled Utilities
Chapter 15 entitled Floodways, Floodplains, Drainage and Erosion (Ordinance No. 2012-08)
Chapter 16 entitled Signs (Ordinance No. 2008-18, amended by Ordinance 2013-25).
Chapter 18 entitled Landscape, Clearing and Trees
Chapter 19 entitled Amendments

Section 5. This Ordinance shall supersede any and all other ordinances in conflict with this Ordinance.

Section 6. Violations of any provision of the Development Code may be enforced by the City pursuant to the Administrative Procedure Ordinance, Chapter 12 of Title 12 of the City of Central Code or in any court of competent jurisdiction.

Section 7. Severability. If any section, subsection, sentence, clause or other provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such declaration of invalidity shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the provision declared invalid. The remainder of the Ordinance shall not be affected by the declaration of invalidity and shall remain in force and effect.

Section 8. Effective Date. This Ordinance shall be effective on January 1, 2014.

Introduced on October 22, 2013.

This Ordinance having been submitted to a vote, the vote thereon was as follows:

For: DeJohn, LoBue, Messina, Moak, and Washington
Against: None
Absent: None

Adopted the 12th day of November, 2013.
Delivered to Mayor on the 25th day of November, 2013.

Mark Miley, City Clerk
Approved:

Shelton "Mac" Watts, Mayor

Received from Mayor on the 25th day of November, 2013:

Mark Miley, City Clerk
Adopted Ordinance published in The Advocate on the 6th day of December, 2013.

CITY OF CENTRAL
TITLE 7 DEVELOPMENT CODE

Chapter 1. GENERAL PROVISIONS

Section 1.01 Authority and purpose

This Development Code is enacted in accordance with R.S. 33:101 *et seq*., and particularly R.S. 33:112, to promote the health, safety, convenience, morals, and general welfare of the community, to provide for the proper arrangement, width, naming of streets in relation to other existing or planned streets and to the Master Land Use Plan, and to provide for the adequate and convenient open spaces for traffic, vehicular parking, utilities, access of fire-fighting apparatus, recreation, light, and air for the avoidance of congestion of population.

Section 1.02 Subdivision of Land

Every subdivision of land or site or tract development, as outlined in the definitions in Chapter 2, within the City of Central, shall be shown upon a plat and submitted to the Planning Commission for approval or disapproval. Any plat approved by the Planning Commission and endorsement shown thereon shall be recorded in East Baton Rouge Parish Conveyance Records, and no lots shall be sold from such plat unless and until approved as required by this Development Code. No street number or building permit shall be issued for the construction or renovation of any building on any property other than on an original or resubdivided lot in a duly approved and recorded subdivision without the written approval of the Planning Commission, or its authorized representative. Public money shall not be expended for the maintenance of streets, sewers, or other improvements until those improvements have been accepted and the plan, plot, or replot of such land shall have been approved by the Planning Commission and recorded in the East Baton Rouge Parish Conveyance Records.

A. No sale or contract of sale or agreement to purchase any lot or division of land either by lot description or by metes and bounds shall be made prior to the approval of a plat thereof by the Planning Commission as required by law.

B. These regulations shall not apply to:

1. Land in subdivisions previously legally recorded, except in the case of resubdivision;

2. Subdivisions in which a building exists on each proposed lot, provided that the owner certifies on the plat that all such existing buildings were constructed prior to December 19, 1949, and provided that such plat is submitted to the Planning Commission for signature by the Planning Director prior to filing in the East Baton Rouge Parish Conveyance Records;

3. The subdivision of land to be used for orchards, forestry, or the raising of crops, provided that the owner certifies upon the plat that such land is to be used only for orchards, forestry, or the raising of crops;

EXHIBIT
B

4. Small parcels of land sold to or exchanged between adjoining property owners, where such sale or exchange does not create additional lots or make any existing lot nonconforming provided that the Planning Director certifies upon the plat that such sale or exchange does not create additional lots or make any existing lot nonconforming.

Section 1.03 Uses
Use of all premises in the City shall be in accordance with the minimum standards hereinafter established.

Chapter 2. DEFINITIONS

Section 2.01 Defined terms

Except as specifically set forth below, terms used in this Development Code shall have the same meaning as set forth in the Comprehensive Zoning Code.

Words used in the present tense include the future. The singular includes the plural and the plural the singular. "Building" includes "structure". "Shall" is mandatory.

Abutting is to share a common property line.

Agricultural Activities is the production, keeping, or maintenance, for sale, lease, or personal use of plants and animals (including fish).

Area of Shallow Flooding is a designated AO, AH, or VO Zone on a community's rate map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard is the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHBM). After detailed ratemaking had been completed in preparation for publication of the (FIRM), Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, VI-30, VE, or V.

Arterial Streets are primarily intended to carry through traffic within sections of urban areas and major thoroughfares in rural areas that may be considered major streets in accordance with the Major Street Plan.

Build is to erect, convert, enlarge, reconstruct, or structurally alter a building or structure.

Building is any structure built for use of persons or animals or any structure that is incidental but essential to the function of the primary structure or structures.

Building Line is the boundary that determines the building area of a lot or tract.

Building Official is the individual designated by City to enforce building codes.

Collector Streets are principal arteries within residential or commercial areas that provide linkage between arterials and local streets which may be considered major streets in accordance with the Major Street Plan.

Consolidated Sewer District is the area within East Baton Rouge Parish designated by the Metropolitan Council and as amended.

Construction, Existing is for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures."

Critical Feature is an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Detention Basin is a specifically designed and engineered storm water management facility whose primary purpose is to temporarily store storm water runoff resulting from a development and slowly release it at a designed rate.

Development is any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

Dry Detention Basin is a detention basin, which is not designed to have a permanent pool level, and does not hold water except during periods of a rainfall occurrence and not more than a 24-hour period thereafter.

Elevated Building is a non-basement building (i) built in the case of a building in Zones Al-30, AE, A, A99, AO, AH, BC, X, and D, to have the top of the elevated floor, or in the case of a building in Zones Vl-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones Al-30, AE, A, A99, AO, AH, B, C, X, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones Vl-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of section 60.3(e)(5) of the National Flood Insurance Program regulations.

Emergency is an occurrence where service provided by a public utility is unexpectedly interrupted and requires the restoral of same service or requires the utility to take immediate action to prevent damage or correct a condition that may pose a hazard to life or property.

Erect is to construct, build, raise, assemble, install, place, replace, locate, relocate, affix, attach, display, alter, use, create, paint, draw, illuminate, or in any way bring into being or establish.

Expressway is a limited access route on the Major Street Plan.

Flood or Flooding is a condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) is the official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles and water surface elevation of the base flood, as well as the flood boundary-floodway map.

Flood Proofing is any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Flood Protection System is those physical structural works for which funds have been authorized, appropriated and expended, and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standard.

Floodplain is the area located in the 100-year flood plain as determined by the Department of Public Works.

Floodplain or Flood-Prone area is any land area susceptible to being inundated by water from any source (see definition of "Flooding").

Floodplain Management is the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and Floodplain Management Regulations.

Floodplain Management Regulations are zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodway (regulatory floodway) is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Grade is the average level of the finished surface of the ground for building more than five feet from a street line. For buildings closer than five feet to a street the grade is the sidewalk elevation at the center of the building. If there is no sidewalk, the Department of Public Works shall establish the sidewalk grade.

Grade Level is the average level of the finished or natural surface of the ground area adjacent to the exterior walls of a building or adjacent to the supports of a sign structure.

Grading is movement and reshaping of earth to create new contours.

Ground Cover is material planted in such a way as to form a continuous cover over the ground that can be maintained at a height not more than twelve inches.

Highest Adjacent Grade is the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Lake bodies of water with a surface area of two or more acres and where the deepest part of the basin at low water is six feet or greater.

Land Reclamation is the return of land that has been disturbed by mining activities to productive use. Reclamation procedures may include addition of topsoil, return of vegetative cover, planting of trees and restoration of landforms.

Landscape Area is a non-built upon area of land in which landscape materials are placed, planted or maintained.

Landscape Materials are materials such as, but not limited to, living trees, shrubs, vines, lawn grass, ground cover, earthen mounds, landscape water features and non-living, durable materials commonly used in landscaping including, but not limited to rocks, pebbles, sands, decorative walls, fences, brick, stone or concrete paving or landscape support systems such as irrigation, drainage and landscape lighting components.

Landscape Plan is the preparation of graphic and written criteria, specifications, and detailed plans to arrange and modify the effects of natural features such as plantings, ground and water forms, circulation, walks and other features to comply with the provisions of the Comprehensive Zoning Code or these Subdivision Regulations.

Lowest Floor is the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Major Street is a street which serves or is intended to serve as a major traffic way and is shown on a major street plan and adopted by the commission, or a revision thereof.

Major Subdivision is any subdivision of more than five lots or two (2) acres of land or when a public or private street servitude of access is constructed.

Mean Sea Level is for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Minor Subdivision is any subdivision of five lots or less in which no public or private street is constructed. Further, minor subdivisions shall not involve the creation of any other public improvement, shall not involve more than two acres of land, shall not reduce a lot size below the minimum area or frontage requirements established by ordinance, and shall otherwise meet all the requirements of the subdivision regulations and zoning ordinances. A minor subdivision may provide for the dedication, acceptance, relocation, or deletion of public utility servitudes, other than streets, or the deletion of gas, electric, or telephone utility servitudes acquired by private act or pursuant to the provisions of R.S. 9:1 *et seq*. on the property being resubdivided.

Natural Resources for the purposes of this Development Code, are to include, but are not limited to, soil, sand and gravel.

New Construction is for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision is a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the Floodplain Management Regulations.

Out Parcel or Out Lot is a parcel of land associated with a shopping center or multi-tenant property development, which is designated on an approved site plan as a location for a freestanding structure.

Overburden is all of the earth and other materials that lie above natural deposits of minerals, and also means such earth and other materials disturbed from their natural state in the process of surface mining.

Parkway is a route intended to be used primarily by passenger vehicles which may have a varying width of right-of-way and which right-of-way is, or is intended to be, developed with a park-like character.

Planting Area is any area designed for landscape material installation having a minimum area of 25 square feet.

Pond is a permanent body of open water that maintains a surface area of at least one-half of an acre and no more than two acres.

Premise shall be interchangeable with the term "lot".

Premises is a parcel of real property with a separate and distinct number or designation shown on a recorded plat, record of survey, parcel map, subdivision map, or a parcel legally created or established pursuant to applicable zoning. Out Parcels of shopping centers shall be considered on the premises of the shopping center.

Private Drive is an access that only allows ingress and egress for an individual lot.

Private Street is a privately owned (or controlled) and maintained street, road, lane or any improved surface, not dedicated as a public street, which provides the primary means of vehicular ingress or egress from a public street to dwelling units, lots, parcels or principal buildings.

Public Property is any real property belonging to any the City of Central or any land on which a public street right-of-way has been granted.

Public Street is that portion of a public right-of-way which has been improved to the standards for public streets as set forth in this Development Code and dedicated to the City of Central, the Parish of East Baton Rouge or the State of Louisiana for public vehicular use and maintenance.

Public Utility is any business providing any utility service, including but not limited to, water, sewerage, gas, electricity, telecommunications, or cable television to the residents of the City of Central.

Reclamation Plan is the applicant's written proposal for reclamation of the affected areas including land use objectives, maps, or other documents as required to describe reclamation, and where relevant, grading specifications and manner and type of revegetation.

Recognized Residential Subdivision is any recorded subdivision containing more than five lots for residential use but not necessarily single family.

Recognized Single Family Residential Subdivision is any recorded subdivision containing more than five lots for single family use.

Record inundation is the highest flood level recorded by the City-Parish in an applicable area.

Right-of-Way is a strip of ground dedicated by the subdivider for public use, title to which shall rest in the public for the purpose stated in the dedication.

Servitude is a parcel of land designated for private access, utilities, drainage and/or other (public or private); the title to which shall remain with the property owner, subject to the right of use designated in the reservation of the servitude.

Sight Distance Triangle (See Sight Triangle)

Sight Triangle (Vision Triangle or Sight Distance Triangle) is triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines (or a right-of-way line and the curb or a driveway). See "Vision Clearance" for vertical restrictions. The sight triangle may consist of one of three different configurations. Intersections of streets and/or drives may consist of a combination of the various geometric designs given below:

A. At intersections with streets having speed limits that are greater than or equal to forty (40) miles per hour, a sight triangle 15 feet by 60 feet is required with the longer dimension parallel to the street with the speed limit that is greater than or equal to 40 miles per hour.

B. On streets having a speed limit that is less than or equal to 35 miles per hour, a sight triangle of 15 feet by 45 feet is required with the longer dimension parallel to the street with the speed limit that is equal to or less than 35 miles per hour.

C. For driveways exiting commercial businesses or multi-family residential developments a sight triangle of 15 feet by 30 feet shall be required with the longer dimension running parallel to the public street.

Sites or tracts are those parcels of five or more acres on which two or more multi-family buildings, office buildings, shop or store buildings, warehouses or other commercial or industrial buildings are to be developed, whether or not such sites or tracts front on a public street, and whether or not such building(s) are to be retained by the developer, sold, leased, or rented.

Sloping is the inclination of the ground from the horizontal.

Start of Construction [for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Street is property dedicated for and accepted for primary public access to lots. Alley means land dedicated, improved and publicly maintained providing secondary access to lots.

Street Planting Area is the front yard and the contiguous unpaved area of land that is to be used for landscape planting.

Subdivision

A. Means the division of a lot, tract, or parcel of land into two or more lots, plots, sites or a division of land, for the purpose, whether immediate or future, of sale or of building development;

B. The dedication, granting of construction of a road, highway, street, alley, or servitude through a tract of land regardless of area, except where the dedication, granting or construction of a road, highway, street, alley, or servitude is done by the City of Central, Parish of East Baton Rouge, the East Baton Rouge Sewerage Commission or the State of Louisiana.

Subdivision Sign is any sign designed to identify a subdivision or neighborhood, including multi-family developments.

Terminating Vistas a T-intersection in which a building (preferably civic) or monument that stands at the end, or in the middle of a road, so that when one is looking up the street the view ends with the site.

Tree is any self-supporting perennial woody plant that is at least four inches in diameter.

Tree Class "A" is any self-supporting woody plant of a species that normally grows to an overall height of at least 50 feet, usually with one main stem or trunk and many branches, as in several varieties of oak trees.

Tree Class "B" is any self-supporting woody plant of a species which normally grows to an overall height of at least 25 feet, with either one main stem or trunk with many branches, or several stems or trunk (Crape myrtles for example).

Tree Removal or Shrub Removal is any intentional or negligent act which is likely to cause a tree or shrub to decline and die within one year, including but not limited to, damage inflicted by application of toxic substances, operation of machinery, excavation or filling around root systems, or fire.

Violation is the failure of a use, structure or other development to be fully compliant with the applicable City Ordinances.

Vehicular Use Area is that area of private development subject to vehicular traffic, including accessways, parking aisles, loading and service areas, areas used for parking and storage of vehicles, boats, or portable construction equipment and all land which vehicles cross over as a function of primary use.

Vision Triangle (See Sight Triangle).

Waiver of Local Freeboard is a grant of relief to a person from the freeboard requirements set forth in these Subdivision Regulations that are in excess of the minimum requirements established in Section 60.6 of the National Flood Insurance Program Regulations.

Water Surface Elevation is the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Wastewater Suburban Transportation Network is the existing gravity and pressurized sanitary sewerage collection system.

Chapter 3. ADMINISTRATIVE MECHANISMS

Section 3.01 Planning Commission - Powers and Duties

The Planning Commission shall have all the powers and duties conferred or imposed on municipal planning commissions by State law.

Section 3.04 Master Land Use Plan

A. The Master Land Use Plan adopted in September 2010 and, from time to time, reviewed and updated by the Planning Commission in accordance with State law. The Master Land Use Plan may include, but not be limited to, the following elements:

1. A future land-use element;

2. A traffic circulation and mass-transit element;

3. A wastewater, solid waste, and drainage element;

4. A conservation and environmental resources element;

5. A recreation and open space element;

6. A housing element;

7. A public services and facilities element, which shall include but not be limited to a capital improvement program;

8. A public buildings and related facilities element;

9. Development and redevelopment;

10. Health and human service element; <u>and</u>

11. Methods of financing to implement recommendations.

B. The Master Land Use Plan and any amendments thereto shall be drafted by the Planning Commission and adopted as a whole or in parts.

C. The several elements of the Master Land Use Plan shall be coordinated and be internally consistent. Each element shall include policy recommendations for its implementation and shall be implemented, in part, by the adoption and enforcement of appropriate land development regulations.

D. Legal Effect of Master Plan. The Master Land Use Plan as amended by the Planning Commission, no subdivision, street, park or public way, ground or space, drainage, building development or structure, whether publicly or privately owned which is in conflict with the Master Land Use Plan shall be constructed or authorized by the appropriate department of the City government, until and unless the locations and extent thereof shall have been submitted to and approved by the Planning Commission.

Section 3.101 Board of Adjustment ~~is~~ Created

A Board of Adjustment is hereby created. The membership and terms of office of the Board of Adjustment, shall be as provided in R.S. 33: 4727.

Section 3.102 Board of Adjustment Meetings

Meetings of the Board of Adjustment shall be held once a month, at the call of the chairman, and at such other times as the Board of Adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such facts, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public records. A majority vote of members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of Building Official, or to decide in favor of the applicant on any matter upon which it is required to pass or to effect any variation.

Section 3.103 Powers of the Board of Adjustment

A. The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of R.S. 33:4721 through R.S. 33:4729 or of any ordinance adopted pursuant thereto.

2. To hear and decide all matters referred to it or upon which it is required to pass under the Development Code.

3. In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to vary or modify the application of any of the regulations or provisions of the ordinance relating to the use, construction, or alteration of buildings or structures or the use of land so that the spirit of the Development Code shall be observed, public safety and welfare secured, and substantial justice done.

B. Any person aggrieved by any decision of the Building Official may appeal to the Board of Adjustment. Such appeal shall be taken within ten days of the decision by filing with the Building Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof.

C. The Building Official shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on the cause shown.

D. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Chapter 5. Waivers, Variations and Exceptions

Section 5.1 Waivers

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these regulations would result in real difficulties and substantial hardship or injustice the developer may request a waiver by submitting for approval of the Planning Commission.

A. The Planning Commission is authorized specifically to consider requests for and grant approval of waivers to Section 13.2.D Street and alley rights-of-way, turning circles and T-turnarounds; Section 13.3 Location of new streets in relation to .existing and proposed streets; Section 13.6.I Street and sidewalk improvement standards; Section 14.2 Space allocation for utilities in new subdivisions and on new site or tract developments and Section 16.10.D Prohibited Signs, public rights-of-way. Waivers granted by the Planning Commission are final and subject to appeal according to Section 5.l.G.

B. The Board of Construction Appeals shall consider waiver request items for Chapter 15.

C. On any subdivision where there is a question on whether a street, servitude, or bridge should be added, extended or deleted the Planning Commission staff and/or subdivision developer would place this matter on the Planning Commission agenda for review and recommendation to the City Council. The City Council would be advised, as soon as possible, of the Planning Commission action so that the City Council might either accept or amend the Planning Commission recommendation and the subdivision would be developed accordingly.

D. On any subdivision matter not involving improvements but dealing only with a minor adjustment of lot size, provision of servitudes of passage, and approval of partitions not

generally involving the broader public interest, such matters would be acted upon only by the Planning Commission after staff recommendation.

E. On site or tract developments where plans were begun prior to the adoption of these amendments and no improvements are required, the Planning Commission staff and the Department of Public Works may vary requirements to permit reasonable development with such variations subject to ratification by the Planning Commission.

F. Waivers granting approval to establish a Minor Subdivision shall be valid for a period of two years. If the Minor Subdivision plat has not been approved by the Planning Commission and recorded in the East Baton Rouge Parish Conveyance Records within two years, the waiver shall become null and void.

G. Notwithstanding any other provision of this Development Code, at the Central Council meeting following the decision of the Planning Commission regarding requests for all such waivers, any member of the Metropolitan Council may introduce an appeal of said decision. Failure to appeal will make the Planning Commission decision final.

H. Guidelines for Granting Paving Waivers

1. Paving waivers for residential uses in the Rural Zoning District may be granted by the Building Official provided the proposed home is located on an individual tractor lot of more than one acre, if shell or gravel drives are prevalent in the area, if the first 50 feet of a driveway is paved and if any subdivision deed restrictions permit an unpaved driveway. In the event the owner disagrees with the decision of the Building Official, the decision may be appealed to the Planning Commission.

2. Paving waivers shall not be granted for residential or commercial structures within recognized subdivisions or for any commercial uses in the Rural zoned area unless the waiver is being requested to save one or more trees deemed important by the Planning Director. Limestone aggregate rather than concrete or asphalt may be used around the roots of the tree, however, the first 50 feet of a double driveway, measured from the street edge to the street right-of-way or property line (whichever is greater), shall be hard surfaced. If the owner disagrees with the decision of the Planning Director, the decision may be appealed to the Planning Commission. The following standards are established for the use of limestone aggregate:

   (a) Crushed limestone should be as #610 roadbase material.

   (b) Edging should be permanent brick, steel, concrete or wood.

   (c) Pea gravel is prohibited.

   (d) All aggregate material shall be three inches in depth applied over a compacted subgrade covered with a layer of landscape fabric.