

VIEUX CARRE COMMISSION

Mitchell J. Landrieu
MAYOR

CITY OF NEW ORLEANS

Bryan D. Block
INTERIM DIRECTOR

Minutes of the **Vieux Carré Commission** meeting of **Wednesday, April 06, 2016 - 1:30 P.M.**

COMMISSIONERS PRESENT: Nicholas S. Musso, Chairman
Daniel C. Taylor, Vice-Chairman
Leslie S. Stokes, Secretary
C.J. Blanda
Rick Fifield
Michael A. Skinner
Patricia C. Denechaud
Jorge A. Henriquez

COMMISSIONERS ABSENT: None

STAFF PRESENT: Bryan D. Block, Interim Director; Renée Bourgoigne, Architectural Historian; Nicholas G. Albrecht, Building Plans Examiner; Erin Vogt, Building Plans Examiner; Erika Gates, Inspector; Jennie Garcia, Intern; Melissa Quigley, Assistant City Attorney

STAFF ABSENT: None

OTHERS PRESENT: Logan Trotter, John Connolle, Eric Brown, Mark Thomas, Lee Walker, Henry Hanisee, Debra Harkins, Richard Choate, Oscar Gwin, Rebekah Williams, Stavros Panagouloupoulos, Carol Gniady, Sarah Weinkauff, David Waggoner, Martha Griset

I. ROLL CALL

Chairman Musso called the meeting to order at approximately 1:33 PM. Mr. Block called the roll, noting the presence of a quorum with five (5) of the eight (8) seated Commissioners present.

II. REVIEW OF MINUTES

Mr. Skinner moved, Mr. Taylor seconded, that the minutes of the Vieux Carré Commission meeting of March 2, 2016 be approved as previously circulated. The motion passed unanimously.

III. CHAIRMAN'S REPORT

[Ms. Stokes arrived during the Chairman's report]

Mr. Musso began the Chairman's report noting that public lighting, specifically street lighting does not fall under the purview of the Vieux Carré Commission but rather falls under the purview of Public Works. Mr. Musso noted that guidelines that address both public and private lighting have been supplied and accepted by the City Council.

Mr. Musso also noted the upcoming French Quarter Festival and recommended that anyone having complaints related to the festival or associated activities document the source of those complaints with photographs or other means.

IV. DIRECTOR'S REPORT

[Mr. Henriquez arrived during the director's report]

Mr. Block began the Director's report noting that the inter-departmental violation sweep has continued, totaling inspections of 267 properties. 61 violation notices had been sent as a result of the sweep and applications were coming in to correct many of these violations.

Mr. Block continued that the staff was currently researching the properties that had been nominated for awards and that the award ceremony was scheduled for May 18th.

Mr. Block noted that Mr. Musso, Ms. Stokes, and Mr. Hesdorffer, along with himself, had been reviewing the 2013 lighting study in anticipation of an offer from a vendor to address the current state of lighting within the district.

Finally, Mr. Block noted that the Vieux Carré Foundation was funding a digital archiving of the VCC slide library, with the full goal to digitally archive all VCC printed items, documents, pictures, slides, maps, etc. and make them searchable by both VCC staff and the public for documents and images that are legally open to the public.

V. OLD BUSINESS

520 Royal St: Barry Siegel, applicant; Kemper & Leila Williams Foundation, owner; Proposal to renovate buildings and construct new building in conjunction with a **change of use** from *vacant* to *museum*, per application & materials received 02/25/16.

[Mr. Fifield recused himself from discussion of 520 Royal]

[Ms. Denechaud arrived during the staff report]

Mr. Albrecht gave the staff presentation with Messrs. Waggoner and Gwin, and Ms. Weinkauff present on behalf of the application. With no other discussion necessary, Mr. Taylor moved to **approve** the application as submitted. Mr. Blanda seconded the motion, which passed unanimously.

VI. NEW BUSINESS

336 Decatur St: Mark Thomas, applicant; Joseph C Paciera, owner; Proposal to demolish existing yellow-rated structure and construct new three-story building with rooftop terrace, per application & materials received 07/04/15.

Mr. Albrecht gave the staff presentation with Messrs. Thomas and Hanisee as well as Ms. Harkins present on behalf of the application. Mr. Skinner stated that he was concerned about the design of the rooftop deck and that he doesn't believe rooftop decks should be used for parties. Mr. Blanda stated that he concurred with Mr. Skinner and that the use of a roof for the proposed purpose was alien to the Vieux Carré. He stated he was concerned about the noise and the disturbance of neighbors.

Mr. Fifield stated that the rooftop will not be that visible and noted that the concern over sound has only recently become a concern. Mr. Skinner used Lafitte's Blacksmith bar as an example stating that it often becomes like a street party and that sort of crowd is not controlled. He continued that the only way to prevent similar scenarios from playing out at this new building would be to design it in such a way so as to prevent rooftop parties. Ms. Denechaud stated that she was not concerned with the use of the rooftop but was concerned about possible noise that could be generated there. Ms. Harkins stated that they would meet all sound ordinances as required by law.

Mr. Thomas noted that they could eliminate the concrete decks and eliminate the pergola from the roof deck. Mr. Hanisee stated that the steel beams used as headers could be changed to granite or another stone, noting that the exposed steel was more of a motif they were trying.

Mr. Henriquez inquired if the rooftop area would be a bar and was told that it would be. Mr. Musso noted that there have been situations in the past where applicants were a little ambiguous concerning the loading of areas such as the rooftop area and requested that the

applicants provide the designed loading for the rooftop.

Mr. Skinner moved to **return** the application to the Architectural Committee. Mr. Blanda seconded the motion, which passed unanimously.

VII. CHANGE OF USE HEARINGS

806 Conti St: Rebekah Williams, applicant; Johnny Provenza, owner; Proposal to install one double-faced neon sign, in conjunction with a proposed **change of use** from *vacant* to *restaurant*, per application & materials received 02/11/16. [**STOP WORK ORDER posted 03/16/16**]

Mr. Albrecht gave the staff presentation although no one was present on behalf of the application. Mr. Taylor commented that this looked like a Stop Work Order that need not reach the Commission and moved for **approval** of the application and to **lift** the Stop Work Order. Mr. Blanda seconded the motion, which passed unanimously.

VIII. APPEALS AND VIOLATIONS

229 Royal St: John C. Williams, applicant; 229 Royal Street LLC, owner; Appeal of Architectural Committee denial of 02/23/16 to construct new rooftop addition including a pool and new exterior staircase, per application & materials received 01/26/16. [Request to appeal letter received 03/23/16]

The application was deferred at the applicant's request prior to the meeting.

922 Philip St: Jeremy Michael Daniels-Stock, applicant; Pond Koi, owner; Proposal to lift **STOP WORK ORDER** in order to resolve existing violations and to correct work begun without benefit of VCC review or approval, per application received 02/12/16. [**STOP WORK ORDERS posted 03/11/16, 03/14/16 AND 03/23/16**]

Ms. Vogt gave the staff report despite a lack of representation on behalf of the application.

Meg Lousteau, Executive Director of Vieux Carré Property Owners and Residents, informed the Commissioners that VCPORA had received multiple complaints about work at the property, as well as suspected illegal short term rentals.

Various Commissioners commented that the property could be considered to have had an illegal Change of Use from residential to commercial (multi-family), and that the Department of Safety and Permits may not allow the property to be occupied.

Mr. Skinner asked the other Commissioners if there were any other punitive actions that could be taken, particularly if the property has transitioned from residential use to commercial. Mr. Musso stated that the Commission should consult with legal to explore additional options. Ms. Quigley responded that the property could be sent to adjudication. Mr. Block explained that adjudication cannot be scheduled until thirty (30) days after violation letters are received, and that thirty days had not passed as of the Commission hearing.

Mr. Taylor moved to **defer** the appeal to lift the SWO, consistent with staff analysis and recommendation. Mr. Henriquez seconded the motion, which passed unanimously.

928 Burgundy: Eric Brown, applicant; Gwendolyn H Brown, owner; Proposal to lift **STOP WORK ORDER** in order to correct work begun without benefit of VCC review or approval, per application received 02/26/16. . [**STOP WORK ORDER posted 02/29/16**]

Ms. Vogt gave the staff presentation with Mr. Brown present on behalf of the application. Mr. Musso stated that wall sections should be provided by a contractor or architect for staff review.

Mr. Taylor stated that permitting could be completed at staff level, without Architectural Committee review.

Mr. Taylor moved to **lift the STOP WORK ORDER** and **approve** the application, consistent with staff analysis and recommendation. Ms. Denechaud seconded the motion, which passed unanimously.

1236 N Rampart St: Richard Choate, applicant; R C Church Of The Arch Of No, owner; Appeal to retroactively permit demolition of two accessory storage buildings, completed without benefit of VCC review or approval, per application submitted 03/15/16.

Ms. Vogt gave the staff presentation with Mr. Choate and Mr. Torres present on behalf of the application.

Mr. Fifield stated that he was concerned that demolition had proceeded without following required permitting procedures. Mr. Torres agreed, and Mr. Choate explained that an interior demolition permit had been issued and the scope was exceeded by the contractor. Mr. Musso reminded the applicant that all permitting procedures must be followed in future.

Mr. Fifield moved to **defer** the application until a proposal for renovations and new construction could be submitted. Mr. Taylor seconded the motion, which passed unanimously.

414 Burgundy St: John W Connolle, applicant/owner; Proposal to correct violations, per application received 03/17/16. [**STOP WORK ORDER posted 03/23/16**]

Mr. Albrecht gave the staff presentation with Mr. Connolle present on behalf of the application. Mr. Musso stated that a comprehensive documentation was needed for the work that needs to be done. Mr. Musso suggested that the owner's contractor meet with the staff to discuss any questions about work on the building.

Mr. Taylor moved to **lift** the Stop Work Order to allow staff to issue permits upon receipt of satisfactory application materials. Mr. Blanda seconded the motion, which passed unanimously.

IX. OTHER BUSINESS

Various locations: Travis Martin, applicant; City of New Orleans, owner; Review and recommendation regarding proposal to add screens to select storm sewers, per materials received 07/24/15 & 03/02/16.

Mr. Albrecht gave the staff presentation with Mr. Martin present on behalf of the application. With no discussion necessary Mr. Taylor moved for approval of the application. Ms. Denechaud seconded the motion, which passed unanimously.

Discussion of VCC Stop Work Order protocol. Mr. Musso began the discussion noting that in some instances the VCC staff is hesitant to post a SWO for relatively minor work because of the procedure currently in place that requires a SWO be lifted by the full Commission. Mr. Musso continued that the staff would like to modify that to allow staff or the Architectural Committee to lift SWO in cases of minor violations. Mr. Musso stated that a working definition of what constitutes minor work would be needed in order to institute this new procedure.

Mr. Block read a brief report summarizing the goal of staff to more effectively use a SWO.

Mr. Musso stated that some checks and balances would be needed to implement this new system. Mr. Musso suggested leaving it to the discretion of the director to determine what kind of work is appropriate to lift a SWO at the staff level.

Mr. Skinner noted two SWO examples from this meeting's agenda – 806 Conti, which Mr. Skinner did not feel needed to be reviewed by the full Commission and 922 St. Philip, where Mr. Skinner feared that type of work could be considered deviation of a permit.

Mr. Musso stated the need to publish a definition of a minor violation. Mr. Block stated that this work could be limited to work that is generally approvable at the staff level or has been previously approved but is somehow in deviation. Mr. Fifield noted that current policy was put in place before the current guidelines and that the current guidelines are much clearer on work that is approvable or not approvable. Mr. Fifield suggested requiring an endorsement from the Chairman to lift a SWO.

Mr. Musso requested that all suggestions of the Commissioners be written up and distributed. Mr. Taylor suggested broadening the definition of work where staff could lift a SWO beyond that found in the Guidelines.

Mr. Musso noted that an open discussion regarding the use of commercial rooftop decks would be beneficial in the near future.

Air Rights

Ms. Quigley introduced Martha Griset, from Property Management, present to discuss the mechanism by which air rights are assessed. Ms. Griset began that leases/servitudes for air rights have been in place for at least thirty years and that now they are better enforced and there is increased construction in the city. Ms. Griset stated that her office does approximately 200 servitudes a year and that approximately 35 of those are in the French Quarter.

Mr. Taylor stated that he felt that historically significant buildings that have encroached into the public way, particularly in historic districts, should be exempt from these requirements. Mr. Taylor continued that anyone seeking a new condition or modification should be subject to these rules, noting that the VCC had seen cases where this policy has had a detrimental effect on historic structures.

Mr. Musso cited an example of someone he knew who had recently purchased a National Register listed property in the Vieux Carré for approximately 2 million dollars. At the time of the purchase the buyer was not made aware of the necessity for a servitude agreement and came to the Commission asking if she had any rights to avoid the associated fees. Mr. Musso told her that because of the status of the building the balcony could not be modified or eliminated. Mr. Musso continued asking if there is a formula for how the fees are assessed and if the buildings will be re-assessed on some kind of set schedule. Concluding that on buildings of national significance there is no option but to lease the space.

Ms. Griset cited Article 7, Section 14 of the Louisiana constitution, which she stated requires all municipalities to receive fair market value for the use of its property and does not allow for any grandfathering of conditions. Ms. Griset continued that the servitude agreement includes all the terms including when and how much the agreement will go up in price. Ms. Griset continued that the fees are based on fair market value with vacant land being 10%, air rights set at half of that (5%), and existing encroachments at half of that (2.5%) per year.

Mr. Fifield inquired about the issue of indemnification with balconies and galleries where the City indemnifies itself from damages. Ms. Griset responded that owners are liable for damages caused by their encroachment. Mr. Musso asked about a scenario in which a truck strikes a gallery pole causing the gallery to collapse and who would be responsible in that scenario. Ms. Griset replied that the gallery owner would be responsible.

Ms. Lousteau, in the audience, stated that this should not be a question of whether we allow people to retain historic elements, that we should be encouraging people to retain historic elements. Ms. Lousteau expressed concern for people renovating their properties who are then

informed by the City that they need to pay additional money for air rights for any portions of property overhanging the property line. Ms. Lousteau continued that this creates disincentives for people to renovate buildings as the action that has seemingly triggered the fees have been applications to renovate properties, regardless of whether the work involves the encroaching elements. Mr. Musso stated that this is a requirement mandated by the state constitution and recommended that in order to change this, a group may need to be formed to lobby the state to make the change.

Ms. Lousteau requested that the City provide some kind of written documentation of how and when air right fees are calculated so that potential buyers of property are made aware of this requirement. Ms. Griset agreed with Ms. Lousteau that the City could do a much better job of publicizing this issue so it does not hit people as a surprise. Ms. Griset continued that they would be putting something on the OneStop website addressing this.

Mr. Fifield stated that the City profits from its historic architecture, noting that the streets are often leased for filming, that visitors and cruise ships passengers come to enjoy the streets and architecture and that the City is then requiring citizens to pay for those elements that the City profits from through tourism. Ms. Griset stated that for minor encroachments (steps or awnings as examples) a one-time fee of \$350 is charged which creates a liability with the property owner and that that agreement is transferred from owner to owner.

Ms. Griset continued that larger encroachments like balconies and galleries are charged yearly. Mr. Fifield inquired about how that determination was made. Ms. Griset responded that a fair market value is determined and if that value is very nominal then the flat rate of \$350 is charged. Mr. Fifield inquired if there is a set value or square footage point at which point the nominal fee is charged. Ms. Griset responded that it is 5% of the value of vacant land where the property is located.

Carol Gniady, in the audience, noted that the French Quarter welcomes 9 million visitors a year and that the balconies and aesthetics are part of what brings visitors to the area. Ms. Gniady noted that a recent applicant before the Commission withdrew their application to rebuild a balcony because they did not want to deal with the air rights issue. Ms. Gniady continued that now this building will not get a balcony when historically it had one and that this has negatively affected the aesthetic of the streetscape.

RATIFICATION of Architectural Committee and Staff actions since the Wednesday, January 06, 2016 VCC meeting.

Mr. Taylor moved, Ms. Denechaud seconded, to ratify the actions taken by the Architectural Committee and Staff since the Vieux Carré Commission meeting of March 2, 2016. The motion passed unanimously.

With no further business to be considered, Mr. Taylor moved for adjournment. The motion, seconded by Mr. Skinner, passed unanimously. The meeting was adjourned at approximately 3:15 PM.