On motion of Ms. Lee-Sheng, seconded by Mr. , the following ordinance was offered:

 **SUMMARY NO. 23410 ORDINANCE NO.**

An ordinance to amend Chapter 40, Zoning of the Jefferson Parish Code of Ordinances, specifically the regulations of the Old Metairie Neighborhood Conservation District concerning 1) the duties and responsibilities of the Old Metairie Commission in relation to the Board of Zoning Adjustments; 2) fences; 3) landscaping and fill; 4) tree preservation and replacement; 5) mass; 6) violations; and providing for related matters. (Council District 5)

**WHEREAS**, Resolution No. 114535, adopted May 12, 2010, as amended by Resolution No. 114732 adopted June 9, 2010, authorized the Planning Department to conduct a study of the Old Metairie Neighborhood Conservation District regulations; and

**WHEREAS**, several revisions and amendments have been made to the Old Metairie Neighborhood Conservation District regulations since their creation, as is common to municipal codes to reflect an ever changing built environment; and

**WHEREAS**, many items in the regulations need to be clarified and the development of certain new regulations is necessary to help further the purpose of this district; and

**WHEREAS**, the recommended amendments reflect the long-term goals of protecting the natural and aesthetic value of the Old Metairie Neighborhood Conservation District; and

**WHEREAS**, a public hearing was held by the Planning Advisory Board in accordance with law. Now, therefore,

**THE JEFFERSON PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** That Chapter 40 ZONING, Article X. Old Metairie Neighborhood Conservation District, (OMNCD). Sec. 40-169. Definitions, is hereby amended by adding the following new definition and graphic, to read as follows:

\* \* \*

*Façade Massing Angle* shall mean the forty-five degree angle measured at Base Flood Elevation from the front lot line towards the structure on the lot and controls the structures mass as it is perceived from the street. See Figure 40.169.1.

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Figure 40.169.1. *Façade Massing Angle* illustration

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**SECTION II.** That Chapter 40 ZONING, Article X, Old Metairie neighborhood Conservation District (OMNCD), Sec. 40-170 Old Metairie Commission (OMC), (2) Duties and responsibilities, is hereby amended to read as follows:

*\* \* \**

d. The Old Metairie Commission shall review petitions for zoning variances which affect the Old Metairie Neighborhood Conservation District and make recommendations to the Board of Zoning Adjustments regarding the appropriateness of the request with respect to the Old Metairie Neighborhood Conservation District regulations, in accordance with the following procedures:

1. Immediately following the meeting at which the Old Metairie Commission makes its recommendation, the Planning Director shall submit to the Board of Zoning Adjustments the Planning Department’s report of the findings and recommendations, including the recommendation of the Old Metairie Commission, and the site plans and building elevations related to the application.
2. Upon receipt of an application for a variance, the BZA shall schedule a hearing in accordance with Sec. 40-795, and the notice of hearing shall specify only the variance(s) reflected in the proposed development and shown on the plans and elevations that the Old Metairie Commission reviewed and upon which it made a recommendation.
3. In its action, the BZA may grant a modified variance without additional review and recommendation of the Old Metairie Commission only if the variance is the same type of variance and is more restrictive than the variance proposed in the notice; if the BZA grants such variance then the applicant must submit revised site plans and building elevations that are dimensioned and drawn to scale to the Planning Department.
4. The BZA shall not grant a substitute, alternative, or modified variance that is less restrictive or a different type of variance without review and recommendation of such variance by the Old Metairie Commission.
5. Notwithstanding the deadlines of Sec. 40-171, the Planning Director shall not forward the recommendation of the Old Metairie Commission to the Council until the BZA has taken final action on an application for a variance and the Planning Department has received revised drawings, if applicable.

*\* \* \**

**SECTION III.** That Chapter 40 ZONING, Article X. Old Metairie Neighborhood Conservation District, (OMNCD). Sec. 40-171. Review Procedures, is hereby amended to amend existing language, add new subsection d and renumber all remaining subsections, to read as follows:

*\* \* \**

(c) *Application for Old Metairie Commission review.* An application for Old Metairie Commission review shall be submitted to the Jefferson Parish Planning Department and shall include one (1) copy of the application form and twenty (20) copies of the following unless otherwise specified:

\* \* \*

(7) *Demolition of existing structures.* If the proposal includes demolition of any structure meeting the twenty-five (25) major alteration criteria within the Old Metairie Neighborhood Conservation District, the reasons for demolition shall be stated. A site plan drawn to scale indicating the structures proposed for demolition and denoting the square footage of those structures with all dimensions clearly shown shall be required.

 (8) *Construction or new development*. If the proposal includes construction or new development within the Old Metairie Neighborhood Conservation District, the application shall include the following:

a. A twenty-four inch by thirty-six inch site plan drawn to scale showing the location of all proposed structures, driveways and sidewalks, square footage of all structures, square footage of all accessory structure footprints, square footage of the rear yard, a calculation showing the percentage of rear yard covered by the cumulative square footage of all accessory structure footprints, front, rear, and side yard setbacks, and all setbacks from significant trees and public rights-of-way with all dimensions clearly shown on the site plan.

b. Twenty-four inch by thirty-six inch elevation drawings of proposed structures drawn to scale indicating the architectural style, materials, height including base flood elevation, elevation of top of the floor of the lowest livable area, elevation of the top of the foundation, flood elevation measurement and height allowance utilized by applicant if applicable, elevation of the centerline of the street, elevation of existing grade, slope of and elevation of proposed driveway(s), elevation of proposed lot grade, and the façade massing angle with all dimensions clearly shown on each required elevation.

(9) *Renovation of existing structures.* If the proposal includes renovation of any existing structure within the Old Metairie Neighborhood Conservation District, a general statement of the purpose of the renovation shall be required. A detailed set of drawings drawn to scale with all dimensions shown, including a plan view of each floor, elevations of all exterior views, and specifications detailing kinds of materials, shall also be included.

 (10) *Elevation of, additions to, or alterations of existing structures.* If the proposal includes elevation over three (3) feet, additions to, or alterations of existing structures within the Old Metairie Neighborhood Conservation District, the application shall include the following:

a. A general statement of the purpose of the additions or alterations shall be required.

b. A twenty-four inch by thirty-six inch site plan drawn to scale showing the addition or alteration in relation to the existing buildings on the site, driveways, sidewalks and all setbacks from rights-of-way, square footage of all structures, the square footage of all accessory structure footprints, square footage of the rear yard, a calculation showing the percentage of rear yard covered by the cumulative square footage of all accessory structure footprints, setbacks from any significant trees, and front, rear, and side yard setbacks with all dimensions clearly shown on the site plan.

c. Twenty-four inch by thirty-six inch elevation drawings of proposed structures drawn to scale indicating the architectural style, materials, height including base flood elevation, elevation of the top of the floor of the lowest livable area, elevation of the top of the foundation, flood elevation measurement and height allowance utilized by applicant if applicable, elevation of the centerline of the street, elevation of existing grade, slope of and elevation of proposed driveway(s), elevation of proposed lot grade, and the façade massing angle with all dimensions clearly shown on each required elevation.

d. A drainage plan, with all dimensions, signed and affixed with a seal of a state licensed civil engineer, engineer, architect, or landscape architect.

(11) *Graphic materials.* One (1) copy of an eleven-inch by seventeen-inch graphic reduction of all scaled plans and drawings submitted with the application shall be required.

(12) *Tree protection and landscape plan*. All submittals required by the tree preservation requirements of this district, including but not limited to a twenty-four inch by thirty-six inch landscape plan dimensioned and drawn to scale showing the front yard landscaping, tree planting, and, if applicable, terraced or elevated planting beds including location, elevation, and soil stabilization.

\* \* \*

(d) *Minimum submittal requirements to begin reviewing an application*. The following information must be submitted before the planning director may find that an application is complete to begin reviewing:

 (1) Application Summary Sheet

 (2) Ownership Affidavit

 (3) Campaign Contribution Disclosure Affidavit

 (4) Survey

 (5) Site Plan, floor plan, building elevations, and tree preservation plan

 (6) Fees

(e) *Fees for Old Metairie Commission public hearing.* The fee required of the applicant to cover the administrative costs of Old Metairie Commission review of development activity within the Old Metairie Neighborhood Conservation District with the required public hearing shall be one hundred dollars ($100.00) per application, plus the costs of the notice of public hearing for advertisement in the official legal journal for the Parish and the abutting property owners. Checks shall be forwarded to the Planning Department and made payable to the Jefferson Parish Pooled Fund.

(f) *Administrative review.* The Planning Department shall coordinate site plan review of the development proposal within the Old Metairie Neighborhood Conservation District on behalf of the Old Metairie Commission. The appropriate departments shall provide the Planning Department with all written technical information relative to the proposal prior to the public hearing. The Department of Inspection and Code Enforcement shall provide the requisite data as to whether the proposal meets zoning regulations, building and other codes and any violations issued on the site. The Planning Department shall recommend to the Old Metairie Commission as to whether the proposal meets the Old Metairie Neighborhood Conservation District regulations and forward all findings from the administrative departments.

(g) *Hearing.* Each complete application shall be assigned a case or docket number. After evaluation of the development proposal in compliance with the administrative review procedures of this section, the Planning Department shall advertise the application for the next available Old Metairie Commission hearing. The commission shall conduct a hearing which shall be open to the public and at which all interested parties and citizens shall have an opportunity to be heard.

(h) *Notice of public hearing.*

(1) *Advertisement in the official journal.* Once a complete application is submitted, reviewed, and determined to be ready for advertisement, the Planning Department shall advertise the time and place of the public hearing scheduled before the Old Metairie Commission in the official journal of the Parish of Jefferson, at least seven (7) days before such hearing.

*\* \* \**

**SECTION IV.** That Chapter 40 ZONING, Article X. Old Metairie Neighborhood Conservation District, (OMNCD). Sec. 40-172. Design Guidelines, is hereby amended to read as follows:

Sec. 40-172. Design guidelines.

\* \* \*

(1) *General elements.* The general elements of the design guidelines for the Old Metairie Neighborhood Conservation District contained herein shall be intended primarily for review of residential structures within the Old Metairie Neighborhood Conservation District. The general design guidelines may be applied to other land uses when appropriate.

a. *For all structures*.

1. *Setbacks and streetscape*. The Old Metairie Neighborhood Conservation District shall preserve the open character of the area or streetscape, established by the generally uniform setback of structures from the street and from other structures on both sides of the street within a linear distance of five hundred (500) feet.

\* \* \*

v. Notwithstanding regulations in Chapter 33 which require that the lot frontage having the shortest distance shall be the front for setback purposes, the lot frontage which was the front lot line of the prior development shall remain the front for the purposes of determining setback requirements for corner lots. Requests for variances to the lot orientation shall be heard by the Board of Zoning Adjustments in accordance with the regulations of this chapter.

vi. Building over lot lines shall be prohibited in the Old Metairie Neighborhood Conservation District. Development sites within the Old Metairie Neighborhood Conservation District with multiple lots shall be required to resubdivide into one (1) lot of record prior to the issuance of a building permit. Setback requirements shall be set by the new single lot created by the subdivision.

vii. Prior to the demolition of any structure situated over multiple lot lines within the Old Metairie Neighborhood Conservation District, a resubdivision into one (1) lot or lots meeting the underlying zoning district lot area standards shall be required.

viii. Porches, decks, solid fences and other additions shall be located so as not to intrude into the front yard or open character of the streetscape between structures and the street.

ix. Circular drives shall not be allowed within the side yard required by the underlying zoning district and shall be permitted on lots with a minimum frontage of seventy (70) feet.

2. *Mass.* To encourage development that is similar to and compatible with the existing structure and neighboring structures, the following regulations shall apply:

\* \* \*

iii. *Proposed structures and additions.*

1. No part of a proposed structure or addition to an existing structure, except for minor or incidental projections, shall penetrate the lot’s façade massing angle.
2. Minor or incidental projections as determined by the Planning Department include but are not limited to chimneys, ornamental vents, and dormers.

3. *Exterior materials and design.* To encourage development that is consistent in character with the existing structure on the site, and to promote architecture that is in harmony with the character of the district and traditional regional architecture, the following regulations regarding finishes shall apply to new development and additions or repairs of significant structures:

i. New finish materials for additions or repairs of significant structures shall match the materials, style, and roof pitch of the existing structure.

ii. Structures shall have similar style and quality windows, doors, trims, and moldings on all exterior elevations.

iii. Piers, pilings, posts, or columns used as design elements shall be finished with architecturally finished wood or masonry including cement finish stucco, natural cement finish, brick, stone, or similar materials.

iv. Synthetic stucco shall only be permitted for use as an accent material for architectural details and shall not be used as a main finish material.

v. Vinyl siding shall not be permitted.

4. *Additions and accessory structures.* Additions such as porches, fences and decks and accessory structures to the primary structure within the Old Metairie Neighborhood Conservation District may be permitted subject to coordination with the streetscape and the design guidelines of this district.

\* \* \*

ii. *Fences.*

 A. *In General.*

I. Fences shall be permitted in the front yard of structures within the Old Metairie Neighborhood Conservation District, provided an open design in a durable material is used. Wood and metal picket fences may be used in conjunction with low masonry walls. Chain link fences shall not be permitted when located in the front yard of the Old Metairie Neighborhood Conservation District except as provided for in the Temporary Fencing section of this article.

\* \* \*

III. Fence height shall not exceed seven (7) feet and total combined height including retaining wall and fill shall not exceed nine (9) feet. The height of fences placed on retaining walls or on fill shall be measured from the side of the fence with the lowest elevation of soil adjacent to the fence.

B. *Temporary Fencing*. Temporary fencing surrounding lots or development sites under construction, demolition, or while vacant shall be permitted, however, the following regulations shall apply:

I. Chain link fencing shall be permitted to surround lots or development sites only while under construction or demolition and shall be exempt from limitations on front yard fences.

\* \* \*

III. Chain link fencing shall be permitted to secure a vacant lot in the OMNCD with OMC review. The fencing shall not be closer to the street than the nearest front building line of the abutting lots, or the required front yard setback in situations where both abutting lots are vacant. Time limits for security fencing may be established by the OMC when the request receives a recommendation of approval.

IV. Tree protection fencing, as required by the tree preservation requirements of this district, shall be removed within one (1) month after demolition is completed; however, if less than six (6) months exists between demolition and scheduled construction, the tree protection fencing may remain.

\* \* \*

(2) *Neighborhood elements*. The neighborhood elements of the design guidelines for the Old Metairie Neighborhood Conservation District contained herein shall include characteristics unique to Old Metairie which define the ambience of the area and merit special consideration.

a. *Tree preservation*. The Old Metairie Neighborhood Conservation District shall recognize the critical contribution of the vast number of large trees and the tree canopy to the character of the district. To ensure adequate tree preservation, the following regulations shall be enforced:

1. *Preservation District Regulations*. All development shall comply with the tree preservation regulations of Article X.5 Metairie Ridge Tree Preservation District (MRTPD) except for the following:

i. Tree preservation as part of development:

1. Tree preservation associated with applications for major demolition, construction or new development, major alteration, major addition and major renovation within the district shall be submitted with an OMNCD application to the Planning Department, which shall be the repository for these application materials, rather than the Department of Inspection and Code Enforcement; and
2. The review and approval process for tree preservation shall follow standard OMNCD procedures; and
3. The uncontested tree removal area regulations of Sec 40-180(d) shall not apply.

ii. Requests for Tree Removal Only Applications. Applications for tree removal only in the OMNCD shall follow the same procedure as outlined in Sec. 40-181, including submittal requirements, deadlines, and fees with the following exceptions:

1. Applications for tree removal only shall be submitted to the Planning Department and the Planning Department shall forward the application to the Parish Arborist;
2. If the Parish Arborist determines that the requested tree(s) should be removed, the Planning Department will forward the following information to the Department of Inspection and Code Enforcement for the assessment of the application fee and issuance of a permit and placard:
	1. Completed tree removal application
	2. Certification by a landscape architect, landscape contractor or an arborist licensed as such by the State of Louisiana stating why the tree should be removed
	3. Statement by the Parish Arborist stating that the tree should be removed
	4. Affidavit agreeing to tree replacement, if required.
3. If the Parish Arborist determines that the requested tree(s) should not be removed, the applicant must submit an application to the Planning Department for Old Metairie Commission review.

iii. Payments in lieu of on-site tree replacement shall be paid to the Department of Parkway and shall be placed in a special account dedicated to the planting or maintenance of trees on public property within the OMNCD, with second priority given to the Metairie Ridge Tree Preservation District, and third priority given to Council District Five (5). Payments shall be paid prior to the Old Metairie Commission forwarding its recommendation to the Jefferson Parish Council.

2. *Northline Avenue Tree Canopy.* The Old Metairie Neighborhood Conservation District shall seek to preserve the massive trees and the canopy formed on the Parish median of Northline Avenue, which forms a dramatic gateway into the heart of the Old Metairie Neighborhood Conservation District and distinguishes the architecture of the surrounding residential development.

**SECTION V.** That Chapter 40 ZONING, Article X. Old Metairie Neighborhood Conservation District, (OMNCD). Sec. 40-173. Fill and Foundation Requirements, is hereby amended to read as follows:

*\* \* \**

(2). *Fill limitations*. Notwithstanding the tree preservation provisions of this district, portions of the lot or development site may be filled or cut subject to the following limitations:

a. *General*.

\* \* \*

3. *Silt fencing.* Silt fencing shall be installed prior to any activity that disturbs soil, including landscaping or any construction activity, and shall comply with the following installation and maintenance procedures:

i. Fence material shall be a minimum of sixteen (16) inches in height above existing grade and no greater than thirty-six (36) inches above existing grade.

ii. A minimum of eight (8) inches of fence material shall be anchored into a trench no less than four (4) inches wide by six (6) inches deep on the upslope side of the fence.

iii. Stakes or posts supporting the fence material shall be spaced no farther apart than six (6) feet unless fence material is reinforced with a wire or chain link backing, in which case posts shall not be spaced farther apart than ten (10) feet.

iv. All sediment shall be removed once it reaches one-half of the height of the fence.

v. Fence or segments of the fence that are worn, torn, or otherwise damaged shall be replaced.

vi. No silt fence shall be used longer than a period of twelve (12) months unless replaced with a new fence.

vii. Fencing must be removed only after affected upslope area has been permanently stabilized.

*\* \* \**

**SECTION VI.** That Chapter 40 ZONING, Article X. Old Metairie Neighborhood Conservation District, (OMNCD). Sec. 40-174. Violations, is hereby amended to read as follows:

Sec. 40-174. Violations.

(a) *Injunction.* Whenever a person has engaged or is about to engage in any act or practice which constitutes a violation of this section, the Parish of Jefferson may make application to the appropriate court for an order enjoining such act or practice, requiring such person to refrain from such perspective violation, or to remedy such violation by restoring the affected property to the previous condition.

(b) *Penalties.*

(1) Except as provided in subparagraph (2) and as provided for in the tree protection regulations, any owner, agent, lessee or other person acting for, alone or in conjunction, who violate the provisions of this section shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) for such violation. Each day that a violation continues shall constitute a separate offense.

*\* \* \**

 (3) All monetary proceeds from fines imposed in the Old Metairie Neighborhood Conservation District (OMNCD), excluding court costs, shall be paid to the Department of Parkway and shall be placed in a special account dedicated to the planting or maintenance of trees on public property within the OMNCD, with second priority given to the Metairie Ridge Tree Preservation District, and third priority given to Council District Five (5).

**SECTION VII.** That Chapter 40 ZONING, Article XLII. Board of Zoning Adjustments. Sec. 40-792. Powers of the Board, is hereby amended to read as follows:

*\* \* \**

(3) Variances. In accordance with standards, hereafter prescribed, to grant variances from the provisions of the Comprehensive Zoning Ordinance in the following instances:

a. Permit a variance in yard requirements, height restrictions of structures, or lot-area-per-family requirements of any district; if the variance is for a lot overlaid with OMNCD, the OMC shall have reviewed the specific variance requested and made a recommendation to the BZA in accordance with Sec. 40-170(2)(d).

*\* \* \**

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

YEAS:  NAYS:  ABSENT: .

This ordinance was declared to be adopted on the  day of , 2011, and shall become effective as follows, if signed forthwith by the Parish President, ten (10) days after adoption; thereafter, upon the signature by the Parish President, or, if not signed by the Parish President, upon expiration of the time for ordinances to be considered finally adopted without the signature of the Parish President, as provided in Section 2.07 of the Charter. If vetoed by the Parish President and subsequently approved by the Council, this ordinance shall become effective on the day of such approval.