

**CITY OF PASS CHRISTIAN, MISSISSIPPI**

**HISTORIC PRESERVATION COMMISSION**

**REGULAR MEETING**

**July 11, 2018**

**BE IT REMEMBERED** that the Historic Preservation Commission of the City of Pass Christian, Mississippi, met on the above date at 113 Davis Avenue, Pass Christian, Mississippi, at 6 p.m.

**Present:** Chair. Margaret Jean Kalif, Commissioners, Amy Wood, Nonnie DeBardeleben, Jenny Nicaud, Melissa Wagner, Dorothy Roberts, Scott Naugle and Ann James.

Also present was the City Planner, Danit Simon, and the City Attorney, Malcolm Jones.

**Excused Absence:** Commissioner Danny Taylor.

**Unexcused Absence:** n/a

There being a quorum present to transact business of the Commission, the following proceedings were had and done:

**Minutes:** June 13, 2018

**Discussion:** n/a

**Motion to Approve:** Commissioner Naugle

**Second:** Commissioner Wood

**Vote:** Commissioner DeBardeleben abstained as she did not attend the June Meeting, and the remaining Commissioners voted to Approve. The Motion carried.

**New Business:**

- a. **Residential, Garage (T3E Estate Zone), Charles & Julie Merritt, 427 E Scenic Drive, Parcel #0413E-01-008.000.**

**Discussion:** Chairperson Kalif introduced the project.

Commissioner Wood recused herself and left the room.

Commissioner DeBardeleben asked which way the garage door will face.

The applicant, Charles Merritt, responded that the garage door will face Seal Avenue.

**Motion to Approve:** A *Motion* was made by Commissioner Nicaud to approve the garage.

**Second:** Commissioner Naugle

**Vote:** Unanimous

Commissioner Wood returned to the room.

- b. Residential New Construction, House (T4L Limited Mixed-Use Zone), Jourdan Nicaud, 510 E 2<sup>nd</sup> St, Previously part of parcel #0413E-01-005.000 (Harrison County has not assigned a new parcel number to the 2<sup>nd</sup> Street lot yet).**

**Discussion:** Chairperson Kalif introduced the project.

Commissioners Nicaud recused herself and left the room.

**Motion to Approve:** A *Motion* was made by Commissioner James to approve the House.

**Second:** Commissioner Naugle

**Vote:** Unanimous

Commissioner Nicaud returned to the room.

- c. Ratify Minor Repairs (T4L Limited Mixed-Use Zone), Brett Garcia as agent for Amy S Sheffield & Jeffrey Steiner, 309 E Scenic Drive, Parcel #0313H-02-010.000.**

**Discussion:** Chairperson Kalif introduced the project.

**Motion to Approve:** A *Motion* was made by Commissioner Wood to Ratify the Minor Repairs.

**Second:** Commissioner Roberts

**Vote:** Unanimous

**Old Business:**

- a. Presentation by City Attorney, Malcolm Jones, on recusal requirements and procedures.**

Chairperson Kalif asked if Commissioner Taylor is able to recuse himself from voting and present a project that he has designed?

Jones responded that Section 13 of the Historic Ordinance states that if you have a property of interest, a financial interest, or an impropriety Commissioners should give notice to the Chairperson to recuse yourself. Even if a Commissioner does not recuse himself, if any of the above standards are in question another Commissioner may vote to have a Commissioner recused. Commissioners cannot use their position for financial interest, or to assist a relative, spouse, sibling, parent, child or the spouse of those family members. This comes up more often if the Commissioner works as a Real Estate Agent, Architect, Engineer, etc. Recusal requires leaving the room and not discussing the application. The Ordinance does not define how a Commissioner may recuse himself and also present an application.

The appearance of an impropriety is nuanced; even if you don't receive money from the applicant, certain situations may seem improper, and then you can air on the side of caution and recuse yourself. If you vote, or don't vote but stay in the room, instead of recusing, the vote can be tainted and the motion nullified. This creates mistrust by the public. Therefore, the Ethic Commission always recommends airing on the side of caution. Commissioner Taylor might have drawn the plans, but he is not required to present the application.

Commissioner Nicaud asked how the Commission should handle applicants who specifically hire Commissioner Taylor as their architect because he's on the Commission.

Jones responded that while that statement isn't necessarily accurate, the public might believe it. The standards for recusal are not for the benefit of Commissioners or the Historic Commission; they are designed for the benefit of the public. If Commissioner Taylor is required to recuse himself, then he must leave the room and cannot present the project.

Chairperson Kalif asked how long post financial benefit must a real estate agent or other professionals are required to recuse themselves?

Jones stated that one of the City's Aldermen, Buddy Clark, is a surveyor, and if he has a current project or a continuing business relationship with an applicant, he recuses himself. If he hasn't had any business dealings for a year, then he does not recuse himself. Having to recuse versus recommending to recuse; the first is clear and the second is done to protect the integrity of the Commission or Board.

Commissioner DeBardleben asked if the owner/presenter could go outside to get needed information from Commissioner Taylor during the meeting?

Jones responded that the Commissioner recusing himself may not call other Commissioners prior to the meeting to discuss the application. The recusing Commissioner must be careful to share info during a meeting that provides financial benefit (i.e. billable hours). And, information learned during an Executive Session cannot be shared with the recusing Commissioner. Commissions are protected, as long as you stay within the scope of the Commission's jurisdiction.

Commissioner Wood asked about a timeframe for requiring recusal.

Jones answered that the rule of thumb is one year.

Commissioner Wood stated that once you have worked with a client, they remain a client for life, regardless of how recent a financial benefit occurred.

Jones responded that to fulfill the duty of disclosure, Wood should let the Commission know that she has worked for the applicant however many years ago, and not since, and is not currently working with the applicant on anything.

The Commission continued to discuss the difference between the need to recuse and when the *appearance of an impropriety* is strong enough to justify a recusal.

Commissioner Roberts stated that some Commissioners might recuse themselves when votes are difficult, and they don't want to upset their friends and neighbors.

Jones replied that Commissioners shouldn't use recusal as a way to get out of voting on difficult applications. Commissioners should consider what the public will think, and if it appears like the relationship you have with the applicant has biased your vote, then recuse yourself.

Commissioner Naugle added that you can always call Jones prior to a meeting to discuss how to handle a particular application.

Commissioner James asked about how to draw the line on Commissioners giving professional advice to an applicant during a meeting?

Jones answered that you are required to stay within the Commission's scope. Commissioners may not give their opinions or advice during a meeting. And, if you do so after the meeting, the City cannot protect you. The Chairperson or Commissioners should recommend ending discussions that are outside the purview of the Commission. A vote can even be made to end a topic of conversation if the Commissioner does not cease after a warning. Please be cautious about giving your opinions, legal or other professional advice to applicants, and stay within the Commission's scope.

Chairperson Kalif thanked Jones for the information and requested that he get back to the Commission regarding whether Commissioner Taylor's can continue to recuse himself and present an application.

**Other Business/Public Comment:**

- a. **Cooler Addition (T4+ Mixed-Use Zone), Bacchus Restaurant, Nicaud Holding LLC, 111 W Scenic Drive, Parcel #0313H-02-082.001.**

**Discussion:** Chairperson Kalif introduced the project.

Commissioner Nicaud recused herself and left the room.

Commissioner DeBardleben asked when the project will be completed, the painting finished, and noted that the handrails were not part of the approved COA Application.

Jones responded that the Building Code Official required him to install the handrail to meet a building code requirement, and the applicant has six more months on his permit to complete the work, paint and screen the air conditioning unit and storage area.

Chairperson Kalif asked the Commissioners to review the installed handrails, whether they are acceptable or need to be altered.

Commissioner DeBardleben stated that the railing is incompatible with the rest of the building; the application stated that the handrails would match the existing structure. The handrails are visible from Scenic Drive and should therefore be consistent with the rest of the building

Commissioner Wood asked how he selected the handrails?

Jourdan Nicaud responded that he simply thought they were nice and purchased them.

Commissioner DeBardleben stated that they could be made consistent with the rest of the building, if they are painted white and Greek key detail is removed.

Jourdan Nicaud agreed to the update.

**Motion to Approve:** A *Motion* was made by Commissioner Roberts to accept the handrails with the condition that it is painted white and the Greek key detail is removed.

**Second:** Commissioner Wagner

**Vote:** Unanimous

Commissioner Nicaud returned to the room.

**Adjournment:** Commissioner James made a motion to adjourn the meeting at 7:20pm.

**Second:** Commissioner Nicaud

**Vote:** Unanimous

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**Chairperson**

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**Date:**