

Zoning Creep at Short Street and Leake Avenue

The illegal “intensification of use” of a non-conforming property

Uptown Triangle Neighborhood Association

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Background – the CZO

The New Orleans Comprehensive Zoning Ordinance (CZO) was put into place decades ago to protect the quality and integrity of New Orleans neighborhoods. The CZO specifies what type of residential homes can be built, and what type of commercial businesses can operate, in each area of the City.

A commercial business in a residentially zoned neighborhood that was in operation prior to the introduction of the CZO may continue to operate; such a grandfathered property is called a “legally non-conforming property.”

According to the CZO, a non-conforming commercial property is allowed to change its usage to a *less* intensive zoning category without seeking an official zoning change; but a non-conforming commercial property is not allowed to change its usage to a *more* intensive zoning category without asking City Hall for an official zoning change.

For example, a non-conforming high-traffic restaurant or retail store in a residential neighborhood can become a rarely used (less intense) warehouse without asking permission from City Hall; but a non-conforming, rarely used warehouse in a residential neighborhood cannot become a high-traffic (more intense) restaurant or retail store without asking the City Planning Commission for a Change in Non-Conforming Use Permit, and testifying at a public hearing before the New Orleans City Council.

The CZO is posted on the New Orleans City Hall website: Article 13 lists the rules governing Non-Conforming Uses; Article 17 lists the rules governing Building Permits and Enforcement Proceedings. The CZO allows any citizen to make a formal complaint regarding illegal zoning. The responsibility for enforcing these rules lies with the Department of Safety and Permits.

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In November 2011, the Uptown Triangle Neighborhood Association met with the Zoning Administrator of Safety and Permits and lodged a complaint regarding the intensification of use of a non-conforming commercial property at Short Street and Leake Avenue.

Stop Zoning Creep – Uptown Triangle Neighborhood Association

This property at Short and Leake had for decades been a storage warehouse surrounded by residential properties. In 2011, this little-used (low intensity) warehouse was transformed into a new retail (higher intensity) business.

This new retail business posted hours of operation on the building, put up new outdoor lighting, embellished the exterior building walls, filled the outdoor street space with display merchandise, and obstructed the line-of-sight for cars turning the corner at Short Street and Leake Avenue – all of which are illegal according to the CZO.

Additionally, this new retail business did not have a revenue permit to remit sales tax to the New Orleans Department of Revenue, as required by Chapter 150, “Taxation,” of the New Orleans Municipal Code.

The City’s response

As a result of our complaint, the Department of Safety and Permits sent a Letter of Violation to the owner of the illegal business.

On March 26, 2012, the owner of the illegal business appeared at an Adjudication Hearing; the Hearing Judge fined the owner, and ordered the owner to remove the illegal building adornments and outdoor display merchandise, and return the building to its former, low-intensity warehouse status.

Vigilance is needed

Citizens must be vigilant to protect our residential neighborhoods and to prevent illegal expansion of commercial businesses.