



PERGAMON

Social Science & Medicine 55 (2002) 425–435

SOCIAL  
SCIENCE  
&  
MEDICINE

www.elsevier.com/locate/socscimed

## Secondhand effects of student alcohol use reported by neighbors of colleges: the role of alcohol outlets

Henry Wechsler<sup>a,\*</sup>, Jae Eun Lee<sup>a</sup>, John Hall<sup>b</sup>, Alexander C. Wagenaar<sup>c</sup>, Hang Lee<sup>d</sup>

<sup>a</sup> *Harvard School of Public Health, Department of Health and Social Behavior, 677 Huntington Avenue, Boston, MA 02115, USA*

<sup>b</sup> *Mathematica Policy Research, 600 Alexander Park, Princeton, NJ 08543, USA*

<sup>c</sup> *Department of Epidemiology, School of Public Health, University of Minnesota, 1300 South 2nd Street, Suite 300, Minneapolis, MN 55454-1015 USA*

<sup>d</sup> *Center for Vaccine Research & Department of Pediatrics, UCLA School of Medicine, 1124 West Carson Street, Research and Education Building E-6, Torrance, CA 90502, USA*

### Abstract

This is a study of the secondhand effects of student alcohol use experienced by residents of neighborhoods near college campuses. We examined the relationship of a college's level of binge drinking and the number of alcohol outlets in the immediate area, to lowered quality of neighborhood life through such secondhand effects. Adults from 4661 households in the United States were interviewed through a stratified list-assisted random digit dialing telephone survey. The interview schedule included questions about residents' experiences of secondhand effects of alcohol use such as noise, vandalism or public disturbances. Reports about the quality of neighborhood life provided by respondents residing near colleges were compared with those of respondents who did not live near colleges; and reports of neighbors of colleges with high rates of binge drinking were compared with those of neighbors of colleges with lower rates. The presence of alcohol outlets in these areas was also compared. Residents near colleges and particularly near colleges with heavy episodic drinking reported the presence of more alcohol outlets within a mile. Those neighborhoods were characterized by lower socioeconomic status. Neighbors living near college campuses were more likely to report a lowered quality of neighborhood life through such secondhand effects of heavy alcohol use as noise and disturbances, vandalism, drunkenness, vomiting and urination. A path analysis indicated that the number of nearby alcohol outlets was an important factor mediating the relationship between colleges, especially those with high rates of binge drinking, and such secondhand effects. The results suggest that neighborhood disruptions around colleges due to heavy alcohol use may be reduced by limiting the presence of alcohol outlets in those areas, and the marketing practices that this engenders. © 2002 Elsevier Science Ltd. All rights reserved.

*Keywords:* Neighborhood; College students; Alcohol use; Environment; Alcohol-related disruption; Alcohol outlet density; Socioeconomic status; USA

### Introduction

In 1993, the Harvard School of Public Health College Alcohol Study (CAS) found that two in five US college students were binge drinkers (Wechsler, Davenport, Dowdall, Moeykens, & Castillo, 1994) and this rate

remained constant in two follow up surveys (1997 and 1999) over a 6-year period (Wechsler, Dowdall, Maenner, Gledhill-Hoyt, & Lee, 1998, 2000a). Among the problems associated with these high levels of alcohol use are what we have termed "secondhand" effects. Wechsler, Moeykens, Davenport, Castillo, and Hansen (1995b) found that non-binge drinking students residing on campuses where more than half of students were binge drinkers were twice as likely to experience secondhand effects than non-binge drinkers living on campuses with

\*Corresponding author. Tel.: +1-617-432-1137; fax: +1-617-432-3223.

E-mail address: hwechsle@hsph.harvard.edu (H. Wechsler).

fewer binge drinkers. These secondhand effects include having sleep or study interrupted, having to take care of a drunken student, being insulted or assaulted, being the victim of unwanted sexual advances, or having personal property vandalized.

Heavy alcohol consumption by college students and others may be encouraged by a “wet” environment, that is, an environment in which alcohol is prominent and easily accessible (Edwards et al., 1995). Physical, social, and economic availability of alcohol is associated with alcohol consumption among the general population (Parker, Wolz, & Harford, 1978; Rush, Steinberg, & Brook, 1986; Abbey, Scott, Olinsky, Quinn, & Andreski, 1990; Abbey, Scott, & Smith, 1993; Gruenewald, Madden, & Janes, 1992; Gruenewald, Miller, & Treno, 1993) and among young adolescents and older teenagers (O’Malley & Wagenaar, 1991; Wagenaar, 1993; Wagenaar et al., 1996; Jones-Webb et al., 1997). High density of alcohol outlets has been found to be associated with higher rates of alcohol-related health and social problems such as homicide (Scribner, Cohen, Kaplan, & Allen, 1999), assaultive violence (Alaniz, Parker, Gallegos, & Cartmill, 1996; Alaniz, Cartmill, & Parker, 1998; Gorman, Speer, Labouvie, & Subaiya, 1998a; Scribner, MacKinnon, & Dweyer, 1995; Speer, Labouvie, & Ontkush, 1998), domestic violence (Gorman, Labouvie, Speer, & Subaiya, 1998b), traffic safety outcomes (Rabow & Watts, 1982; Jewell & Brown, 1995; Scribner et al., 1994), and mortality, morbidity and economic costs (Tatlow, Clapp, & Hohman, 2000; Mann, Smart, Anglin, & Adlaf, 1991; Rabow & Watts, 1982; Scribner, Cohen, & Farley, 1998; Gorsky, Schwartz, & Dennis, 1988; Smart, Mann, & Suurvali, 1998). Alcohol outlets and advertising appear to be over-concentrated in ethnic minority communities (Alaniz, 2000; Hackbarth, Silvestri, & Cospes, 1995; Altman, Schooler, & Basil, 1991; LaVeist and Wallace, 2000), implying that it is necessary to understand the socio-demographic and economic background of a community in coping with drinking problems.

As Gruenewald and others (1995) have pointed out, most of these studies find relationships between outlets, demographics, and drinking patterns, but most do not provide a theoretical basis for understanding such interrelations. One such theoretical approach receiving increased attention recently is the “routine activities” theory (Fox & Sobol, 2000). Most commonly applied to crime victimization, routine activity theorists find that more frequent “going out” increases one’s risk of victimization (Mustaine & Tewksbury, 1998). In the context of college drinking, one might argue that high rates of heavy drinking and alcohol-related problems among college students are “simply” the result of their frequent and routine activity of going out, particularly to bars and nightclubs. Thus, just as time spent walking the street increases exposure to risk of (one type of)

assault, time spent in bars increases exposure to the risk of experiencing secondhand effects of heavy drinking. The point remains, however, that a high density of bars and clubs around campuses may encourage heavier drinking among students.

Alcohol use rates and related problems have been reduced by strategies to restrict alcohol availability. Coate and Grossman (1988) reported that as alcohol excise taxes increased, youth drinking rates and deaths resulting from motor vehicle accidents significantly decreased. O’Malley and Wagenaar (1991) found that as states increased minimum drinking age laws, alcohol use and problems associated with it significantly decreased. Chiu, Perez, and Parker (1997) reported that an alcohol ban, its lifting, and its re-imposition had statistically significant effects on the number of alcohol-related outpatient visits in a geographically isolated community. Restrictive alcohol control policies significantly affected injury death rates in a population with extremely high injury mortality (Berman, Hull, & May, 2000).

Colleges with large numbers of binge drinkers are characterized by greater visibility and availability of alcohol in their environment. College students’ binge drinking is associated with the degree of ease of access to alcohol (Wechsler, Kuo, Lee, & Dowdall, 2000b), location of a bar within a mile from campus (Wechsler et al., 1994), price (Chaloupka, Grossman, & Saffer, 1998; Wechsler et al., 2000b), and state alcohol control policies (Chaloupka et al., 1998).

Clearly, drinking levels and rates of alcohol-related problems are associated with state and local policies as well as alcohol availability, price, and marketing practices. For many dimensions of the policy and marketing environment (e.g., alcohol taxes, drinking age), we know that the causal influence runs from policy to drinking. For others (e.g., outlet density), the causal influences may be reciprocal, with the environment encouraging drinking, and heavy drinking encouraging deterioration of the community environment. The current study examines the interrelationships between a community environment that encourages drinking and a concentration of heavy drinkers (on college campuses) that shape the community environment. Specifically, we used surveys of community residents around colleges, along with surveys of student behavior on those campuses to answer the following questions:

- Are there more alcohol outlets in neighborhoods near colleges than in similar neighborhoods which are not near colleges?
- Do residents living in communities near a college experience more secondhand effects of alcohol use than residents of similar areas not near a college?
- Are the increased secondhand effects related to more alcohol outlets near a college?

- Do residents of areas near colleges with high levels of binge drinking experience more secondhand effects than residents of areas near colleges with low levels of binge drinking?

## Methods

### *Study procedure*

We conducted a telephone survey of adult residents of the contiguous United States plus the District of Columbia using a stratified list-assisted random digit dialing (RDD) sample purchased from Genesys Sampling Systems.<sup>1</sup> The list-assisted method used covers an estimated 96.5% of all households with telephones (Brick, Waksberg, & Starer, 1995). Actual coverage may be higher because the sample was selected at multiple points in time, so some households excluded early in the survey could have been included later on. Brick et al. (1995) concluded that list-assisted RDD sampling is “efficient and ... not subject to important coverage bias”.

The survey was conducted by Mathematica Policy Research of Princeton, NJ. The interview schedule included questions about residents’ experiences of secondhand effects of heavy alcohol use such as noise, vandalism or public disturbances. Questions were patterned after those included in the Harvard School of Public Health College Alcohol Study student questionnaire (Wechsler, Dowdall, Davenport, & Castillo, 1995a; Wechsler, Kelly, Weitzman, Giovanni, & Seibring, 2000a). Respondents were also asked about their views on alcohol control policies, as well as personal background characteristics. The schedule was pre-tested on a small sample of respondents residing near colleges that were not part of the sampling frame. Minor revisions were done as a result of the pretest.

Survey interviews were conducted between March and August 1999. Up to 15 calls were attempted to obtain a completed interview for each sampled telephone number. English-speaking adults (age 18 and above) living in a household setting who were not full-time college students were eligible for the survey. In households with more than one eligible adult, one was randomly selected for the interview. Interviews were conducted by trained interviewers using conventional Computer Assisted Telephone Interviewing (CATI) methods.

A total of 9248 telephone numbers were called, with 4661 households identified. Of these, 2621 were study eligible and 2300 were successfully interviewed, yielding a completion rate of 86% and an estimated overall response rate of 50% using methods recommended by

the Council of American Survey Research organizations (CASRO; Frankel, 1983). Despite the level of response, a comparison of selected demographic characteristics of the respondents with US census data indicated no significant differences, providing no strong evidence of selection bias on the basis of these variables.

### *Sampling design*

We defined 7 strata for sample selection. Strata 1–4 included areas near high and low binge schools. A high binge school is one of the 30 schools with the highest prevalence of binge drinking among the 116 colleges participating in the 1997 Harvard School of Public Health College Alcohol Study (CAS). Similarly, a low binge school is one of the 30 schools that were lowest in the prevalence of binge drinking (Wechsler et al., 1998). The high binge areas include strata 1 (published numbers) and 2 (unpublished). The low binge areas are covered by strata 3 (published) and 4 (unpublished). More precisely, strata 1 and 2 included telephone numbers associated with census tracts that were estimated to be within a 1 mile radius of colleges that had been classified as high binge drinking schools. Strata 3 and 4 were similarly near colleges that had been classified as low binge drinking schools. Published and unpublished refer to whether a household’s telephone number appeared in the telephone directory. Published numbers were assigned to stratum 1 or 3 based on their street addresses. Unpublished numbers were assigned to stratum 2 or 4 if they belonged to a telephone exchange where at least 30% of the published numbers were assigned to stratum 1 or 3, respectively.

Strata 5 and 6 included households in counties that have colleges on the sample frame used in selecting the sample for the earlier student survey. Stratum 7 is the balance of the US. More specifically, stratum 5 included other counties with colleges provided the county had a large enough population to be selected with certainty when using probability proportional to size (PPS) methods. Stratum 6 included any other counties with one or more colleges on the sample frame. Stratum 7 comprised counties with no college on frame.

Telephone numbers in strata 1–4 also could have been sampled in either stratum 5 or 6. These multiple chances of selection were accounted for in sample weighting. The sample is a multistage design. Within strata 1, 2, 3, and 4 the primary sampling unit (PSU) is the college and the surrounding area. For stratum 6 the PSU is the county. In each case the secondary sampling unit is the household. The samples of households in strata 5 and 7 are not likely to be clustered.

Data were weighted to reflect differences in probability of selection and response rates across strata. Other components of the weights included adjustments for multiple telephone lines and for interruptions in

<sup>1</sup>List assisted RDD sampling methods are described in Lepkowski (1988).

telephone service,<sup>2</sup> and post-stratification adjustments to national estimates of the population distribution by sex, age, race and home ownership.<sup>3</sup> All analyses were conducted using weighted data.

### Measures

Almost all of the measures in the study were obtained from responses to the completed interviews. Respondents were asked if they have seen or witnessed negative consequences of others' drinking (litter, noise or disturbance, vandalism, people who are drunk, fighting or assault to others, vomit or urination, and automobile accidents) one or more times in their neighborhood in the past year (secondhand effects). The number of neighbors experiencing four or more of these secondhand effects was examined. The secondhand effects were broken down into the incidents attributed to college students by asking if the college students were primarily responsible for the incident.

Community problems were measured by asking respondents if they thought neighborhood concerns and issues were a major problem or a problem in their neighborhood. Neighborhood concerns and issues included homelessness, crime, public drunkenness, drug use, vandalism, drunk driving, underage drinking, and loitering.

Respondents were asked to estimate the distance of the nearest college from their home: "How many miles from your home is the closest college or university (Please exclude community college in your answer)?" They were also asked to estimate how many alcohol outlets (on-premise and off-premise, separately) were located within 1 mile of their home.

In addition to survey data, we also used some variables from census data. Of the community background variables, estimates of income, racial composition, home ownership and age distribution were estimates at the telephone exchange level provided by Genesys Sampling Systems (Marketing Systems Group) or the US Census Bureau.

<sup>2</sup>Adjustments for interruption in telephone service allow the survey to compensate for the omission of non-telephone households. Very few households without telephone service on a given day never have telephone service. Most fall into what Keeter (1995) calls the "transient" category—having service some times and being without at others. By using a weight adjustment factor that is proportional to the number of months without telephone service, the transient telephone household population can be appropriately represented in sample estimates.

<sup>3</sup>Adjustments for home ownership were based on estimates provided by the sample vendor, Genesys Sampling Systems (Marketing Systems Group). Adjustments for age, race and sex were based on Census Bureau projections (Bureau of the Census, 2000).

### Analysis

SUDAAN V. 7.5 (Shah, Barnwell, & Bieler, 1997) was used for all Chi-square tests and multiple logistic regression analyses; SUDAAN employs a Taylor series linearization to approximate correct standard errors for sample estimates given the multistage sampling design of the survey and the effects of sample weighting. 2×2 Chi-square tests were used to examine the difference in socioeconomic backgrounds between communities defined by the distance (within and farther than 1 mile) from the closest college. Multiple logistic regressions were conducted to test if reported secondhand effects of drinking attributable to college students differed among residents of high and low heavy-episodic drinking school areas, and whether secondhand effects varied depending on the distance from the closest college. The logistic regressions controlled for socioeconomic background variables estimated at the telephone exchange level (racial composition, % income 0–10k, % owner occupied, % age 18–24, and rural/urban).

We used structural equation models to examine how the distance from the closest college or the college binge drinking rate is related to numbers of alcohol outlets and the number of secondhand effects (controlling community's socioeconomic characteristics). We created an index of socioeconomic status reflecting race, income, home ownership, and population age distribution to simplify the model and avoid potential multicollinearity. When we conducted the path analysis, we assumed a unidirectional causal relationship between alcohol outlets and the environment even though there was the possibility of a bi-directional relationship between the two. Since our major concern through the path model was to determine the mediating role of alcohol outlets between college binge drinking and secondhand effects, we used a recursive rather than non-recursive model. The initial path model was based on our hypotheses. Fit of the model was evaluated by comparative fit index (CFI), Bentler and Bonett's (1980) non-normed fit index (NNFI), Bentler and Bonett's (1980) normed fit index (NFI), and the Chi-square goodness of fit. The statistical viability of the restrictions in the model was determined by Lagrange Multiplier test. The SAS CALIS procedure was used for structural equation modeling (Hatcher, 1994).

### Results

#### Community Background

Income was significantly lower among respondents living within a mile than those living more than 1 mile from a college (Table 1). More African Americans, fewer whites, and, as expected, more young people aged 18–24

Table 1  
Socioeconomic characteristics of community by distance from college

	Prevalence in (%)			Chi-square <i>p</i> -value
	Total	More than 1 mile <sup>a</sup> ( <i>n</i> = 1692)	Within a mile <sup>a</sup> ( <i>n</i> = 526)	
More than 10% of households have annual income less than \$10,000				
Yes	56.2	53.8	72.7	0.0005
No	43.8	46.2	27.3	
More than 12% of individuals are African American (non-Hispanic)				
Yes	31.0	28.8	46.6	0.0028
No	69.0	71.2	53.4	
More than 11% of individuals are Hispanic				
Yes	28.4	27.7	33.1	0.3095
No	71.6	72.3	66.9	
More than 71% of individuals are White (non-Hispanic)				
Yes	61.8	64.3	43.9	0.0009
No	38.2	35.7	56.1	
More than 50% of housing units are owner occupied				
Yes	84.9	87.7	65.4	0.0001
No	15.1	12.3	34.6	
More than 10% of individuals are age 18–24				
Yes	20.9	17.4	38.8	<0.0001
No	79.1	82.6	61.2	

<sup>a</sup> Respondent's estimate of distance of home from college.  
*n* = valid sample size.

lived within a mile from the college. Areas within a mile of a college had a lower prevalence of homeowners.

On-premise (bars/nightclubs) and off-premise (liquor stores) alcohol outlets were more often located within a mile from a college. Ninety-two percent of residents living within a mile from the closest college reported one or more alcohol outlets within a mile from their house compared to 75% of those who lived more than 1 mile away. After controlling for income, race, urbanism, and home ownership, respondents who lived within a mile from the nearest college were significantly more likely to report the presence of alcohol outlets nearby (adjusted OR = 2.83; 95% CI: 1.47–5.47; *p* < 0.001; Table 2).

Community problems reported by respondents are presented in Table 3. Community problems reported most frequently were underage drinking (60.8%), crime (55.6%), vandalism (52.3%), and drunk driving (47.9%). Neighbors who lived within a mile from a college more often reported homelessness, crime, public drunkenness, drug use, underage drinking, and loitering than those living one or more miles from a college (Table 3).

#### *Distance from college and secondhand effects*

Respondents who lived within 1 mile from a college were significantly more likely to report noise and

disturbances, vandalism, drunkenness, and vomit and urination than those living more than a mile from the school. They were significantly more likely to report four or more such effects (Table 4).

College students were not viewed as primarily responsible for most of these secondhand effects. Only about one-fourteenth of the respondents viewed college students to be responsible for vomit/urination (7.8%), noise/disturbance (6.9%), fighting/assault (6.3%), and litter (6.1%). College students were more often viewed to be responsible for litter, noise/disturbance, vandalism, and drunkenness by respondents living within 1 mile from a college, than by those living more than a mile from the school. One in five (19.5%) respondents who lived within a mile from a college viewed college students to be responsible for at least one such effect, while one in twelve (8.3%) living more than a mile away did. Those who lived within a mile were significantly more likely to report at least one of these effects.

#### *Secondhand effects in low and high binge drinking college sites*

While more respondents in high binge drinking school areas than in low binge drinking areas reported the presence of alcohol outlets within a mile of their homes

Table 2  
Presence of alcohol outlets by distance of respondent's home from college

	More than 1 mile <sup>a</sup> ( <i>n</i> = 1692)	Within a mile <sup>a</sup> ( <i>n</i> = 526)		
	(%)	(%)	Adjusted ORs (95%CI) <sup>b</sup>	
Presence of bar/nightclub <sup>c</sup>	49.8	73.9	2.17	(1.32–3.57)***
Presence of liquor store	52.4	77.3	2.33	(1.32–4.17)***
Presence of other store that sells alcohol	63.9	74.2	1.20	(0.75–1.92)
Presence of any one of above alcohol outlets	74.9	92.1	2.83	(1.47–5.47)***

<sup>a</sup> Respondent's estimate of distance of home from closest college.

<sup>b</sup> ORs are adjusted for % income, % race, rural/urban and % owner occupied. OR = odds ratio. 95% CI = 95% confidence interval.

<sup>c</sup> One or more self-reported alcohol outlets within 1 mile from house.

\*\*\**p* < 0.001; *n* = valid sample size.

Table 3  
Reported community problems by distance of respondent's home from college

	More than 1 mile <sup>a</sup> ( <i>n</i> = 1692)	Within a mile <sup>a</sup> ( <i>n</i> = 526)		
	(%)	(%)	Adjusted ORs (95%CI) <sup>b</sup>	
Community problems <sup>c</sup>				
Homelessness	19.1	35.1	1.82	(1.11–3.03)*
Crime	53.7	68.4	1.75	(1.12–2.78)**
Public Drunkenness	30.3	43.1	1.61	(1.01–2.56)*
Drug use	44.7	58.8	1.67	(1.04–2.70)*
Vandalism	51.4	58.5	1.33	(0.87–2.04)
Drunk driving	48.0	47.2	1.09	(0.72–1.64)
Underage drinking	59.5	69.9	1.64	(1.05–2.50)**
Loitering	34.6	54.1	1.92	(1.23–2.94)***
Four or more problems reported	44.0	59.7	1.89	(1.22–2.94)***

<sup>a</sup> Respondent's estimate of distance of home from closest college.

<sup>b</sup> ORs are adjusted for % income, % race, % age 18–24, rural/urban, and % owner occupied. OR = odds ratio. 95% CI = 95% confidence interval.

<sup>c</sup> % reporting this as a problem.

\**p* < 0.05; \*\**p* < 0.01; \*\*\**p* < 0.001; *n* = valid sample size.

(90.3% vs. 82.1%, adjusted OR = 2.33; 95% CI: 1.45–3.70; *p* < 0.001), no significant difference in socioeconomic status was found between the two school areas.

Respondents who lived in high-binge school areas more often reported litter and noise/disturbance by college students than those in low-binge drinking school areas (Table 5). One in five (18.6%) respondents in high-binge drinking school sites reported at least one such secondhand effect, compared to only one in ten respondents in low-binge school areas.

#### *Role of alcohol outlets as mediating factor*

We conducted a path analysis to explore the degree to which alcohol outlets mediate the relationship between college factors (distance from college and college binge drinking levels) and the secondhand effects (Fig. 1). The Chi-square statistic was not significant and the CFI, NNFI, and NFI all exceeded 0.98, indicating the model fits the observed data well. All path coefficients shown

were significant at *p* < 0.05. Distance from the closest college and college binge drinking level had an indirect effect on rates of secondhand problems through the number of alcohol outlets in the area. No direct effect of distance from a college on secondhand problems was found. Socioeconomic status had both direct and indirect effects on secondhand problems. The indirect or mediated effects of college, student drinking, and socioeconomic status on secondhand problems is stronger than direct effects, indicating that the presence of alcohol outlets appears to be essential for colleges and their binge drinking students to have a significant effect on neighborhood disruption.

#### **Discussion**

A survey of a national sample of households revealed significant correlations between the distance from the nearest college and such secondhand effects of heavy

Table 4  
Reported secondhand effects of alcohol by distance of respondent's home from college

	More than 1 mile <sup>a</sup> ( <i>n</i> = 1692)	Within a mile <sup>a</sup> ( <i>n</i> = 526)		
	(%)	(%)	ORs (95% CI) <sup>b</sup>	
<b>Secondhand effects<sup>c</sup></b>				
Litter	72.8	79.3	1.22	(0.76–2.00)
Noise or disturbance	53.4	70.8	1.72	(1.10–2.70)*
Vandalism	31.7	48.7	2.00	(1.27–3.23)***
People who are drunk	35.6	58.5	2.00	(1.22–3.33)**
Fighting or assault to others	17.8	28.5	1.41	(0.85–2.38)
Vomit or urination	10.5	32.2	2.70	(1.54–4.76)***
Automobile accident or others	40.2	46.1	1.19	(0.78–1.79)
Four or more problems observed	30.8	53.2	2.00	(1.25–3.23)***
<b>College student-attributed secondhand effects<sup>d</sup></b>				
Litter	5.2	11.9	2.27	(1.09–4.76)*
Noise or disturbance	6.0	11.8	2.63	(1.20–5.88)*
Vandalism	1.7	8.9	5.00	(1.39–16.67)**
People who are drunk	4.3	12.5	2.94	(1.19–7.14)*
Fighting or assault to others	4.9	12.2	3.45	(0.81–14.29)
Vomit or urination	5.1	13.8	3.23	(0.75–14.29)
Automobile accident or others	3.2	5.4	2.27	(0.54–10.00)
Any one of above problems	8.3	19.5	2.78	(1.54–50.00)***

<sup>a</sup> Respondent's estimate of distance of home from college.

<sup>b</sup> ORs are adjusted for % income, % race, and % owner occupied. OR = odds ratio. 95% CI = 95% confidence interval.

<sup>c</sup> % reporting observing event one or more times.

<sup>d</sup> % who observed event and attributed it to college students.

\**p* < 0.05; \*\**p* < 0.01; \*\*\**p* < 0.001; *n* = valid sample size.

Table 5  
Secondhand effects attributed to college students by respondents near high and low binge level colleges

	Low binge drinking school site ( <i>n</i> = 817)	High binge drinking school site ( <i>n</i> = 490)		
	(%)	(%)	Adjusted ORs (95% CI) <sup>a</sup>	
<b>College student-attributed secondhand effects<sup>b</sup></b>				
Litter	4.7	15.8	3.36	(1.77–6.40)***
Noise or disturbance	8.3	13.9	1.97	(1.12–3.44)*
Vandalism	2.8	7.4	2.70	(0.76–9.68)
People who are drunk	7.9	15.8	2.32	(0.98–5.83)
Fighting or assault to others	4.0	5.8	1.60	(0.40–6.34)
Vomit or urination	1.1	8.7	3.93	(0.85–18.10)
Automobile accident or others	2.5	2.4	1.05	(0.32–3.44)
Any one of above problems	10.3	18.6	2.11	(1.21–3.68)**

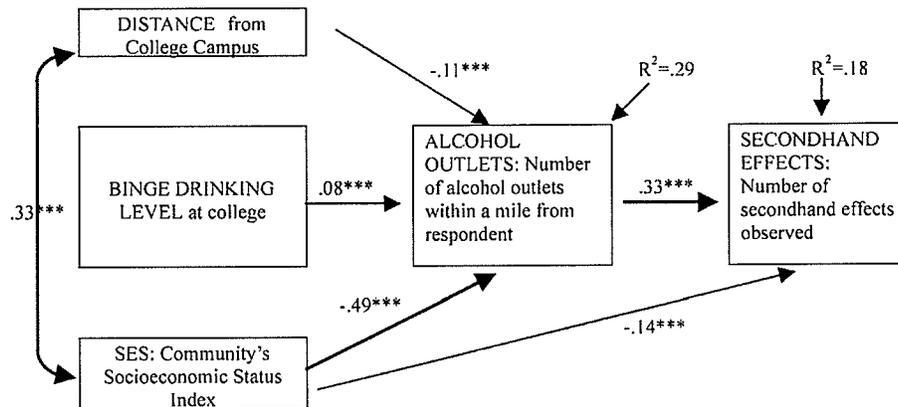
<sup>a</sup> ORs are adjusted for % income, % race, and % owner occupied. OR = odds ratio. 95% CI = 95% confidence interval.

<sup>b</sup> % who observed event and attributed it to college students.

\**p* < 0.05; \*\**p* < 0.01; \*\*\**p* < 0.001; *n* = valid sample size.

alcohol use as noise, litter, and vandalism. Respondents residing near a college were at higher risk of experiencing such secondhand effects. They were also more likely to have alcohol outlets located near them. Path analysis indicated that residing near a college does not appear to be sufficient for experiencing high rates of secondhand problems. The colleges' contribution to neighborhood

problems appears to operate through the presence of alcohol outlets. Our findings suggest that alcohol outlets are more often located in areas near colleges, particularly those with high rates of binge drinking. Community residents in these areas are likely to experience higher rates of neighborhood disruption. Such an interpretation is consistent with the literature on alcohol



\*\*\*  $p < .0001$ .

$\chi^2(2) = 4.9661$ ,  $p = 0.08$ ; CFI = 0.9964, NFI = 0.9822, and NFI = 0.9941.

Valid samples = 2,206.

Fig. 1. Reduced path model of secondhand effects.

outlet density in general, which finds that higher outlet densities increase perceived availability of alcohol, lower retail price through increased competition, lower total cost to the drinker (including travel time), increases consumption of alcohol, and increases violence and other crime and disruption associated with drinking (Abbey et al., 1990; Alaniz et al., 1998; Scribner, Cohen, & Fisher, 2000; Berman et al., 2000). Given the cross-sectional design of the current study, we cannot answer the question of which came first. Does the presence of a college, especially with a high rate of heavy drinking, encourage more alcohol outlets? Or does the presence of many competing alcohol outlets encourage high rates of heavy drinking by the students of the nearby college? Our results suggest however, that rates of neighborhood disruption around colleges may be significantly reduced by limiting the presence of alcohol outlets in those areas.

Other factors contribute to the presence of alcohol outlets around many colleges. Our results indicate neighborhoods near colleges are more likely to be lower socioeconomic areas. These conditions might increase the ease of obtaining alcohol licenses, and produce a higher presence of outlets. Others have reported particularly high rates of alcohol outlet density in poor urban areas (Gorman & Speer, 1997; LaVeist & Wallace, 2000), and residents of these neighborhoods are more likely to report a range of social problems such as homelessness, crime, public drunkenness and loitering.

Current attempts to change student behavior through education and brief motivational techniques are among the main interventions colleges are using to reduce heavy drinking. Results of this study suggest that dealing with

the high density of alcohol outlets and the marketing practices this engenders in neighborhoods immediately surrounding campuses may also be an important strategy. Strictly limiting licenses for new outlets and phasing out licenses of establishments that repeatedly violate serving and marketing regulations are means to reducing alcohol outlets. In many communities, half of all alcohol outlets regularly violate laws against selling or serving alcohol to those under the legal drinking age (Forster, Murray, Wolfson, & Wagenaar, 1995), and a recent study revealed three-quarters of outlets violate laws prohibiting sales to patrons who already show signs of obvious intoxication (Toomey et al., 1999). Active enforcement of these laws is needed through regular compliance checks of all alcohol outlets, especially in college areas where sales to minors and sales to intoxicated infractions may be particularly prevalent. Such enforcement has immediate benefits in reducing risky sales practices (Jeffs & Saunders, 1983; Preusser, Williams, & Weinstein, 1994), and may have further benefits via the revocation of the licenses of particularly problem-prone outlets, and a gradual reduction in alcohol outlets in college neighborhoods. Residents who suffer the secondhand effects of heavy drinking can be enlisted in this effort, using a type of 'neighborhood watch' operation. Raising licensing fees and alcohol taxes to pay for the prevention and cleanup of neighborhood disruption should be considered, especially since substantial majorities of the US general population support such policies (Wagenaar, Harwood, Toomey, Denk, & Zander, 2000).

Another noteworthy finding suggests that lower socioeconomic conditions around college campuses

may contribute to the presence of alcohol outlets. Disadvantaged neighbors may be less able to prevent the granting of licenses to sell alcohol. This may be part of a vicious circle: lower socioeconomic status near colleges may result in more alcohol outlets, more alcohol outlets may lead to more secondhand effects, and more secondhand effects may contribute to decreased real estate values and still lower SES. Efforts should be focused on how to disconnect the vicious circle.

A few cautions are important to consider when interpreting data from this study. The results are based on a telephone survey, and are subject to the limitations inherent in such methods. Persons without telephones cannot be part of the sample. However, in a large scale general population survey with adequate coverage and response rate the results for those who have phones were found to not differ significantly from those of the population as a whole (Aday, 1989). Sample attrition also occurs because of failure to obtain and complete interviews with the selected telephone numbers. The response rate of 50% may have introduced sampling bias. However, a comparison of selected demographic characteristics of the respondents with US census data indicated no significant differences. While other sources of bias may exist, the sample of respondents matches the characteristics of the general population.

In addition to possible sampling bias, self-reports may introduce a whole set of measurement error components (Del Boca & Noll, 2000). However, such errors are likely to be random, and should not alter the nature of the relationships. Since we examined relationships at the aggregate or neighborhood level, estimates of a college's heavy drinking rate or a neighborhood's alcohol outlets and level of alcohol-related disruption represent an average for overall respondents at that site, by which the potential measurement errors may be averaged out.

In our study, distance from the nearest college, and number of alcohol outlets within a mile of home were based on respondents' estimates rather than physical measures, and may not exactly reflect real distances and actual number of outlets. However, using an administrator survey developed to obtain information on campus alcohol policies from deans of students or other administrators, Wechsler, Lee, Kuo and Lee (2000c) also found a statistically significant association of campus drinking levels with administrators' report of alcohol outlets located within a mile of their college. These consistent results using reports of distance from nearest alcohol outlet obtained from two different types of respondents serve to validate the measure. Furthermore, while not reflecting actual miles, respondents may be reporting the number of alcohol outlets within the area that they perceived as "their neighborhood".

One possible source of error that may not be random, relates to the drinking behavior of respondents. It is possible that respondents who drank more frequently

were more aware of the outlets in their environment, and could provide more accurate, and probably fuller counts of them. Although we included questions about respondents' drinking behavior, we could not control for this factor because of the large number of no answers to this question (45%). Since most analyses were conducted with dichotomous variables (no outlet vs. some outlets), the potential confounding effect of this factor may be minimized, though not fully discounted.

Another limitation in interpreting the results of the study is the cross-sectional design. While complex and expensive, future studies are needed to examine the role of alcohol outlets in heavy drinking on college campuses which track changes over time in both drinking rates and the density and practices of alcohol outlets. The best opportunities for such studies are most likely situations in which there are major changes in law, regulation or economic conditions that result in substantial changes in alcohol outlets over a relatively short period of time. Controlled time-series studies (Biglan, Ary, & Wagenaar, 2000) of such natural experiments in select college communities may help further our understanding of the apparently important role alcohol outlets play in encouraging heavy drinking on college campuses.

#### Acknowledgements

We gratefully acknowledge the assistance of Elissa R. Weitzman in the development of the survey questionnaire. This study was supported by the Robert Wood Johnson Foundation.

#### References

- Abbey, A., Scott, R. O., Olinsky, D. M., Quinn, B., & Andreski, P. M. (1990). Subjective, social, and physical availability. II. Their simultaneous effects on alcohol consumption. *International Journal of Addiction*, 25(9), 1011–1023.
- Abbey, A., Scott, R. O., & Smith, M. J. (1993). Physical, subjective, and social availability: Their relationship to alcohol consumption in rural and urban areas. *Addiction*, 88(4), 489–499.
- Aday, L. A. (1989). *Designing and conducting health surveys*. San Francisco, CA: Jossey-Bass Inc..
- Alaniz, M. L. (2000). Community-identified alcohol issues in the Mexican American community: Research design and utilization. *Substance Use and Misuse*, 35(1–2), 157–169.
- Alaniz, L. A., Cartmill, R. S., & Parker, R. N. (1998). Immigrant and violence: The importance of neighborhood context. *Hispanic Journal of Behavioral Sciences*, 20(2), 155–174.
- Alaniz, M. L., Parker, R. N., Gallegos, A., & Cartmill, R. S. (1996). *Alcohol outlet density and Mexican American youth violence*. Final Progress Report, Inter-University Program for Latino Research, The Ford Foundation.

- Altman, D. G., Schooler, C., & Basil, M. D. (1991). Alcohol and cigarette advertising on billboards. *Health Education Research: Theory and Practice*, 6(4), 487–490.
- Bentler, P. M., & Bonett, D. G. (1980). Significance test and goodness-of-fit in the analysis of covariance structures. *Psychological Bulletin*, 88, 588–606.
- Berman, M., Hull, T., & May, P. (2000). Alcohol control and injury death in Alaska native communities: Wet, damp and dry under Alaska's local option law. *Journal of Student Alcoholism*, 61(2), 311–319.
- Biglan, T., Ary, D., & Wagenaar, A. C. (2000). The value of interrupted time series experiments for community intervention and policy research. *Prevention Science*, 1(1), 31–49.
- Brick, J. M., Waksberg, J., Culp, D., & Starer, A. (1995). Bias in list-assisted telephone samples. *Public Opinion Quarterly*, 59, 218–235.
- Bureau of the Census. (2000). *Projections of The voting age population for November, 1998*. Report P25, 1132, Government Printing Office.
- Chaloupka, F. J., Grossman, M., & Saffer, H. (1998). The effects of price on the consequences of alcohol use and abuse. *Recent Developments in Alcoholism*, 14, 331–346.
- Chiu, A. Y., Perez, P. E., & Parker, R. N. (1997). Impact of banning alcohol on outpatient visits in Barrow, Alaska. *Journal of the American Medical Association*, 278(21), 1775–1777.
- Coate, D., & Grossman, M. (1988). Effects of alcohol beverage prices and legal drinking ages on youth alcohol use. *Journal of Student Alcoholism*, 48, 167–175.
- Del Boca, F. K., & Noll, J. A. (2000). Truth or consequences: The validity of self-report data in health services research on addictions. *Addiction*, 95(Suppl 3), S347–S360.
- Edwards, G., Anderson, P., Babor, T. F., Casswell, S., Ferrence, R., & Giesbrecht, N., et al. (1995). *Alcohol policy and the public good* (pp. 125–152). New York: Oxford University Press.
- Forster, J. L., Murray, D. M., Wolfson, M., & Wagenaar, A. C. (1995). Commercial availability of alcohol to young people: Results of alcohol purchase attempts. *Preventive Medicine*, 24, 342–347.
- Fox, J. G., & Sobol, J. J. (2000). Drinking patterns, social interaction, and barroom behavior: A routine activities approach. *Deviant Behavior*, 21(5), 429–450.
- Frankel, L. R. (1983). The Report of the CASRO Task Force on Response Rates. In F. Wiseman (Ed.), *Improving data quality in a sample survey*. Cambridge, MA: Marketing Science Institute.
- Gorman, D. M., Labouvie, E. W., Speer, P. W., & Subaiya, A. P. (1998a). Alcohol availability and domestic violence. *American Journal of Drug Alcohol Abuse*, 24(4), 661–673.
- Gorman, D. M., & Speer, P. W. (1997). Concentration of liquor outlets in an economically disadvantaged city in the Northeastern United States. *Substance Use and Misuse*, 32(14), 2033–2046.
- Gorman, D. M., Speer, P. W., Labouvie, E. W., & Subaiya, A. P. (1998b). Risk of assaultive violence and alcohol availability in New Jersey. *American Journal of Public Health*, 88, 97–100.
- Gorsky, R. D., Schwartz, E., & Dennis, D. (1988). The mortality, morbidity, and economic costs of alcohol abuse in New Hampshire. *Preventive Medicine*, 17(6), 736–745.
- Gruenewald, P. J., Madden, P., & Janes, K. (1992). Alcohol availability and formal power and resources of state alcohol beverage control agencies. *Alcoholism: Clinical & Experimental Research*, 16(3), 591–597.
- Gruenewald, P. J., Miller, A. B., & Treno, A. J. (1993). Alcohol availability and the ecology of drinking behavior. *Alcohol Health and Research World*, 17(1), 39–45.
- Gruenewald, P. J., Treno, A. J., Nephew, T. M., & Ponicki, W. R. (1995). Routine activities and alcohol use—constraints on outlet utilization. *Alcoholism: Clinical & Experimental Research*, 19(1), 44–53.
- Hackbarth, D. P., Silvestri, B., & Cosper, W. (1995). Tobacco and alcohol billboards in 50 Chicago neighborhoods: Market segmentation to sell dangerous products to the poor. *Journal of Public Health Policy*, 16(2), 213–230.
- Hatcher, L. (1994). *A step-by-step approach to using the sas system for factor analysis and structural equation modeling*. Cary, NC: SAS Research Institute Inc.
- Jeffs, B. W., & Saunders, W. M. (1983). Minimizing alcohol related offences by enforcement of the existing licensing legislation. *British Journal of Addiction*, 78, 67–77.
- Jewell, R. T., & Brown, R. W. (1995). Alcohol availability and alcohol-related motor vehicle accidents. *Applied Economics*, 27, 759–765.
- Jones-Webb, R., Toomey, T. L., Short, B., Murray, D. M., Wagenaar, A., & Wolfson, M. (1997). Relationship among alcohol availability, drinking location, alcohol consumption, and drinking problems in adolescents. *Substance Use and Misuse*, 32(10), 1261–1285.
- Keeter, S. (1995). Estimating noncoverage bias from a phone survey. *Public Opinion Quarterly*, 59, 196–216.
- LaVeist, T. A., & Wallace Jr., J. M. (2000). Health risk and inequitable distribution of liquor stores in African American neighborhood. *Social Science and Medicine*, 51(4), 613–617.
- Lepkowski, J. (1988). Telephone sampling methods in the United States. In Robert M. Groves, et al. (Ed.), *Telephone survey methodology*. New York: Wiley.
- Mann, R. E., Smart, R. G., Anglin, L., & Adlaf, E. M. (1991). Reductions in cirrhosis deaths in the United States: Associations with per capita consumption and AA membership. *Journal of Student Alcoholism*, 52(4), 361–00365.
- Mustaine, E. E., & Tewksbury, R. (1998). Predicting risks of larceny theft victimization—a routine activity analysis using refined lifestyle measures. *Criminology*, 36(4), 829–857.
- O'Malley, P., & Wagenaar, A. C. (1991). Effects of minimum drinking age laws on alcohol use, related behaviors, and traffic crash involvement among American youth 1976–1987. *Journal of Student Alcoholism*, 52, 478–491.
- Parker, D. A., Wolz, M. W., & Harford, T. C. (1978). The prevention of alcoholism: An empirical report on the effects of outlets availability. *Alcoholism: Clinical & Experimental Research*, 2(4), 339–343.
- Preusser, D. F., Williams, A. F., & Weinstein, H. B. (1994). Policing underage alcohol sales. *Journal of Safety Research*, 25, 127–133.
- Rabow, J., & Watts, R. K. (1982). Alcohol availability, alcoholic beverage sales and alcohol-related problems. *Journal of Student Alcoholism*, 43(7), 767–801.
- Rush, B., Steinberg, M., & Brook, R. (1986). The relationships among alcohol availability, alcohol consumption and

- alcohol-related damage in the province of Ontario and the state of Michigan 1955–1982. *Advances in Alcohol Substance Abuse*, 5(4), 33–45.
- Scribner, R. A., Cohen, D. A., & Farley, T. A. (1998). A geographic relation between alcohol availability and gonorrhea rates. *Sex Transmission Diseases*, 25(10), 544–548.
- Scribner, R. A., Cohen, D. A., & Fisher, W. (2000). Evidence of a structural effect for alcohol outlet density: A multilevel analysis. *Alcoholism: Clinical & Experimental Research*, 24(2), 188–195.
- Scribner, R., Cohen, D., Kaplan, S., & Allen, S. H. (1999). Alcohol availability and homicide in New Orleans: Conceptual considerations for small area analysis of the effect of alcohol outlet density. *Journal of Student Alcoholism*, 60(3), 310–316.
- Scribner, R. A., MacKinnon, D. P., & Dweyer, J. H. (1994). Alcohol outlet density and motor vehicle crashes in Los Angeles county cities. *Journal of Student Alcoholism*, 55, 447–453.
- Scribner, R. A., MacKinnon, D. P., & Dweyer, J. H. (1995). The risk of assaultive violence and alcohol availability in Los Angeles County. *American Journal of Public Health*, 85(3), 335–340.
- Shah, B. V., Barnwell, B. G., & Bieler, G. S. (1997). *Sudaan user's manual, release 7.5*. Research Triangle Park, NC: Research Triangle Institute.
- Smart, R. G., Mann, R. E., & Suurvali, H. (1998). Changes in liver cirrhosis death rates in different countries in relation to per capita alcohol consumption and alcoholics anonymous membership. *Journal of Student Alcoholism*, 59(3), 245–249.
- Speer, P. W., Gorman, D. M., Labouvie, E. W., & Ontkush, M. J. (1998). Violent crime and alcohol availability: Relationships in an urban community. *Journal of Public Health Policy*, 19(3), 303–318.
- Tatlow, J. R., Clapp, J. D., & Hohman, M. M. (2000). The relationship between the geographic density of alcohol outlets and alcohol-related hospital admissions in San Diego County. *Journal of Community Health*, 25(1), 79–88.
- Toomey, T. L., Wagenaar, A. C., Kilian, G., Fitch, O., Rothstein, C., & Fletcher, L. (1999). Alcohol sales to pseudo-intoxicated bar patrons. *Public Health Reports*, 114(4), 337–342.
- Wagenaar, A. C. (1993). *Minimum drinking age and alcohol availability to youth: Issues and research needs*. Research Monograph 25, US Department of Health and Human Services, National Institute on Alcohol Abuse and Alcoholism, Rockville, MD.
- Wagenaar, A. C., Harwood, E. M., Toomey, T. L., Denk, C. E., & Zander, K. M. (2000). Public opinion on alcohol policies in the United States: Results from a national survey. *Journal of Public Health Policy*, 21(3), 303–327.
- Wagenaar, A. C., Toomey, T. L., Murray, D. M., Short, B. J., Wolfson, M., & Jones-Webb, R. (1996). Sources of alcohol for underage drinkers. *Journal of Student Alcoholism*, 57, 325–333.
- Wechsler, H., Davenport, A., Dowdall, G., Moeykens, B., & Castillo, S. (1994). Health and behavioral consequences of binge drinking in college: A national survey of students at 140 campuses. *Journal of the American Medical Association*, 272, 1672–1677.
- Wechsler, H., Dowdall, G. W., Davenport, A., & Castillo, S. (1995a). Correlates of college student binge drinking. *American Journal of Public Health*, 85, 921–926.
- Wechsler, H., Dowdall, G. W., Maenner, G., Gledhill-Hoyt, J., & Lee, H. (1998). Changes in binge drinking and related problems among American college students between 1993 and 1997. *Journal of the American College of Health*, 47, 57–68.
- Wechsler, H., Kelly, K., Weitzman, E. R., Giovanni, J. P., & Scibring, M. (2000a). What colleges are doing about student binge drinking. A survey of college administrators. *Journal of the American College of Health*, 48, 219–226.
- Wechsler, H., Kuo, M., Lee, H., & Dowdall, G. W. (2000b). Environmental correlates of underage alcohol use and related problems of college students. *American Journal of Preventive Medicine*, 19(1), 24–29.
- Wechsler, H., Lee, J. E., Kuo, M., & Lee, H. (2000c). College binge drinking in the 1990s: A continuing problem results of the Harvard school of public health 1999 college alcohol study. *Journal of the American College of Health*, 48, 199–210.
- Wechsler, H., Moeykens, B., Davenport, A., Castillo, S., & Hansen, J. (1995b). The adverse impact of heavy episodic drinkers on other college students. *Journal of Student Alcoholism*, 56, 628–634.

## CPCinfo

---

**From:** Keith Hardie <keithhardie@yahoo.com>  
**Sent:** Monday, July 20, 2015 11:11 AM  
**To:** CPCinfo  
**Cc:** T. Gordon McLeod  
**Subject:** CPC: Maple Street Overlay: MARI Exhibits 5 - 10  
**Attachments:** Exhibit 5 010125 Cowen Letter.pdf; Exhibit 6 080604 Council Approves Uptown Bar.pdf; Exhibit 7 Phillips 4th Cir Opinion.pdf; Exhibit 8 Dumpster Photo.pdf; Exhibit 9 011220 Ordinance Nautical.pdf; Exhibit 10 TP Article Nautical Approval 122201.pdf

Attached are Exhibits 5 - 10 of MARI's Memo in Support of Maple Street Overlay.

**Keith Hardie, Jr.**  
**keithhardie@yahoo.com**  
**757 St. Charles, Suite 304**  
**New Orleans, LA 70130**  
**(504) 522-6222**  
**(504) 522-6226 (fax)**

President Scott S. Cowen  
Tulane University  
January 25, 2001

Dear Tulane Student Community,

As president, I have a tremendous sense of pride in Tulane University. We have talented and principled people, a long tradition of scholastic excellence, and a future ripe with opportunity. As I walk the campus, meet with various groups, and listen to Tulane stories, I am reminded over and over again that this is a vital community that defines and sustains us.

Despite my delight in the overall quality of the Tulane experience, I am distressed that, particularly for undergraduates, this experience is all too often marred by alcohol abuse. Even though only a small segment of Tulane students habitually abuse alcohol, the community as a whole feels the negative effects of this misuse. Excessive and high-risk drinking detracts from the quality of the educational experience, threatens the health and safety of our students, and diminishes our reputation as an academic institution.

I am very concerned about the possibility of someone dying or being seriously injured because of alcohol poisoning or an alcohol-related accident. Yet, this is not my only concern. Sometimes heavy drinking leads to aggressive behavior such as fights, vandalism, and sexual assault. Sometimes heavy drinking leaves an otherwise fit person vulnerable to victimization. Drinking to the extent of incurring these consequences is indeed high-risk. In all of the recent discussions about alcohol at Tulane, no one has suggested to me that the outcomes of abusive drinking are good for the drinker, his or her social group, or the community at large. Many—including students—have suggested that as a caring community, Tulane must do what it can to curb these risks.

Last year, my concern about the abuse of alcohol among our students led to the establishment of an Alcohol Task Force. Their report to me was predicated on its realization that high-risk drinking at Tulane is a multifaceted problem requiring a multifaceted solution. The task force recommended 24 courses of action, involving academics, late-hour programming, and discipline and policy matters. The recommendations were ambitious and well thought out. We are deeply committed to their implementation.

Although the recommendations of the Alcohol Task Force were fairly comprehensive, I do not think they adequately addressed residence hall policy. Ninety-five percent of our undergraduates live in residence halls during their first year, and events in residence halls have a significant impact on their Tulane experience. Not only should residence halls provide a hospitable place for all students, including non-drinkers; they also must facilitate the educational accomplishments of residents.

Many persons, including much of the academic leadership within the institution, have urged a change in our current policy that allows persons under 21 to drink in their residence hall rooms. They, like the Alcohol Task Force, have noted the importance of setting a tone of high expectations, academic engagement, and educational excellence.

The senior academic and administrative leadership of the university have consulted with many groups on this topic, internally and externally, including those who oppose as well as those who support a change in residence hall policy. However, I can find little to justify continuance of a policy that contributes to the public's image of Tulane as a "party school" and is at odds with the concept of residence life as integral to the educational mission of the institution.

Therefore, we have decided that Tulane cannot continue to allow drinking in residence hall rooms by anyone under 21. This change will be phased in, becoming effective for first year students in the fall of 2001, and all students under 21 in the fall of 2002.

I realize there are those who believe that this change will make no difference—that students will drink anyway. I agree no single recommendation will make a difference. However, the cumulative effect of all that we are implementing will be significant. I also realize there are those who believe that this change will be difficult to enforce. I agree, and that is why I am asking for student involvement in articulating and implementing reasonable enforcement procedures to enhance our residence hall communities. Since virtually all universities have this policy already in place, we can learn from their collective experiences. Finally, I realize there are those who believe that this change will push drinking off-campus, forcing students into unsafe situations. My response is to suggest that putting oneself in unsafe situations is rarely inevitable, but is more often the result of personal choices that people, not institutions, ultimately make.

Tulane students are among the best anywhere. You deserve the best that this institution and that we, as a caring community, can offer. This is why we are addressing high-risk drinking and the culture it creates at Tulane through an inclusive approach involving faculty, staff, and the community. As part of this effort, we—as individuals, as an institution, as a community—must try new approaches with the confidence that we will be better for it.

Sincerely,

Scott S. Cowen  
President

Paper: Times-Picayune, The (New Orleans, LA)

## **Council approves Uptown bar opening - Neighbors, owner compromise**

**Date: August 6, 2004**

A dispute that has riled tempers in an Uptown New Orleans neighborhood since late last year was resolved with relatively little fuss Thursday by the New Orleans City Council.

The council voted 6-1 to grant a conditional-use permit letting **Bruno's** College Inn build a new bar on Maple Street in the Carrollton-university neighborhood.

A few neighbors' voices still were raised in anger, but most of the residents who had opposed the project for months seemed to have resigned themselves to district Councilman Jay **Batt's** decision to allow the new bar in exchange for significant concessions by its owner. As it almost always does, the full council fell into line behind the district member's position.

The basic terms of **Batt's** compromise were revealed early in the week. He agreed to approve owner David Melius' proposal to build a new bar at 7528-38 Maple, catty-corner to the smaller building at 7601 Maple that **Bruno's** has occupied since 1953.

But **Batt** insisted that Melius reduce his planned building from two stories to one and promise to turn the business at 7601 Maple from a bar into a restaurant within six months of opening the new establishment. The restaurant will keep its liquor license, but will cut off service by 11 p.m. most nights. It will be allowed to stay open until midnight for special events 12 nights a year.

Melius has said he needs the new location because his lease on his current building will expire in four years -- possibly meaning a short life for the restaurant -- and he has been unable to agree with the owner on terms of an extension.

Many nearby residents fought the proposal, saying a new bar would worsen the late-night noise, traffic, parking, crime, littering and other neighborhood problems they blame on **Bruno's** and other college bars.

Maple is a mostly commercial corridor running through a primarily residential section between Broadway and South Carrollton Avenue. The site of the proposed bar is zoned B-1, or neighborhood business district. The nondescript commercial building now on the site would be demolished.

Ray Nichols, president of Maple Area Residents Inc., and Melius said Thursday they had agreed to the terms of the deal offered by **Batt**, and they thanked **Batt** for his role in finding a compromise.

"Councilman **Batt's** leadership has enabled us to put the animosity and bitterness behind us," Melius said.

But members of Nichols' group said they still had reservations about the agreement, which

Nichols called "the best we can do," but far short of his group's basic position that there should be fewer bars on Maple.

**Bruno's** supporters such as David Gniady and Charles Eshleman said Melius has been a good neighbor who for 21 years has run an outstanding business that has helped maintain property values in the neighborhood.

But Maple Street resident Carroll Grevemberg said the "out-of-control 'Animal House' behavior" of customers at **Bruno's** and other Maple Street bars has gotten worse in recent years.

"We have a neighborhood that should be protected," he said.

In approving Melius' proposal, the council -- at **Batt's** urging -- imposed dozens of provisos, which in some cases significantly modify those the City Planning Commission proposed in endorsing Melius' proposal for a two-story building.

One proviso says the new bar must cease selling drinks by 3 a.m. and close by 3:30 a.m.

Another says the "interior and exterior patron area, excluding kitchen and restroom areas, shall not exceed the patron area" of the current bar by more than 10 percent. The current bar's indoor "patron area" totals about 1,800 square feet, plus a 400-square-foot outdoor patio.

Melius was seeking permission for a two-story, 5,500-square-foot building, plus 615 square feet of balconies and 500 square feet of patio space.

Other provisos dictate that "happy hours" and other reduced-rate drinks are prohibited after 8 p.m., that two uniformed security personnel must be stationed outside the bar to monitor patron behavior after 10 p.m., that live amplified music is prohibited, and that all "to go" containers must carry the bar's name so neighbors can know the source of any litter they find.

Melius is required to provide 12 off-street parking spaces within 300 feet of the bar and another nine spaces within 600 feet of the bar. No spaces are required on the site.

Councilman Oliver Thomas cast the only vote against Melius' proposal. Thomas praised **Batt** for his work, but said he wanted to be consistent with his past position that the city should not allow a new alcoholic beverage outlet to open unless an old one closes.

After the vote on Melius' proposal, the council unanimously passed a separate motion by **Batt** asking the Finance Department, working with other city departments, to audit all alcoholic beverage outlets on Maple to make sure they are operating in accordance with city regulations and hold valid alcohol sales permits.

**Batt** said he thinks most critics of Melius' plans concede he has been a good owner and that their real objections are to the way other nearby bars are run.

.....

Bruce Egler can be reached at [beggler@timespicayune.com](mailto:beggler@timespicayune.com) or (504) 826-3320.

Copyright, 2004, The Times-Picayune Publishing Corporation. All Rights Reserved. Used by

NewsBank with Permission.

Author: Bruce Egger Staff writer

Section: METRO

Page: 01

Copyright, 2004, The Times-Picayune Publishing Corporation. All Rights Reserved. Used by NewsBank with Permission.

PHILLIPS' BAR &  
RESTAURANT, INC. AND  
PAUL F. IPPOLITO

VERSUS

CITY OF NEW ORLEANS

\* NO. 2012-CA-1396  
\*  
\* COURT OF APPEAL  
\*  
\* FOURTH CIRCUIT  
\*  
\* STATE OF LOUISIANA

\*\*\*\*\*

APPEAL FROM  
CIVIL DISTRICT COURT, ORLEANS PARISH  
NO. 2007-04321, DIVISION "N-8"  
Honorable Ethel Simms Julien, Judge

\*\*\*\*\*

PAUL A. BONIN  
JUDGE

\*\*\*\*\*

(Court composed of Judge Edwin A. Lombard, Judge Paul A. Bonin, Judge Daniel  
L. Dysart)

*LOMBARD, J., CONCURS IN THE RESULT*

Raymond P. Ladouceur  
Jane C. Alvarez  
LADOUCEUR AND LADOUCEUR, L.L.C.  
22398 Highway 435, P. O. Box 1929  
Abita Springs, LA 70420

COUNSEL FOR PLAINTIFF/APPELLANT

Mark D. Macnamara  
Deputy City Attorney  
Eraka Williams Delarge  
Assistant City Attorney  
Sharonda R. Williams  
Chief of Litigation  
1300 Perdido Street, City Hall - Room 5E03  
New Orleans, LA 70112

COUNSEL FOR DEFENDANT/APPELLEE

Michael J. Laughlin  
LAW OFFICE OF SALVADOR ANZELMO  
3636 South I-10 Service Road West, Suite 206  
Metairie, LA 70001  
COUNSEL FOR INTERVENOR/APPELLEE

**AMENDED AND AFFIRMED, AS AMENDED  
APRIL 24, 2013**

Phillips' Bar and Restaurant has operated at the same location in the University section of Uptown New Orleans for more than seventy years. The alcohol beverage outlet, or ABO, licenses are held by the corporation Phillips' Bar & Restaurant, Inc. The property on which Phillips' operates, that is the licensed premises, is owned by 733 Cherokee, L.L.C., as is an adjoining vacant lot, which Phillips' used as a patio for about seven years. There is overlap between the corporation's shareholders and the limited liability company's members. Phillips's connections filed a petition for declaratory judgment against the City of New Orleans concerning its non-conforming use of the adjoining vacant lot.

The City reconvened and a sought injunctive relief to prohibit any use of the vacant lot by Phillips' as a part of its business operations. A neighborhood association, the Maple Area Residents, Inc., intervened on the side of the City and against the Phillips's connections and sought to enforce a restrictive covenant through a request for injunctive relief. Following the earlier issuance of a preliminary injunction, the district court denied the declaratory relief Phillips's

connections sought and granted the City and MARI declaratory relief and a permanent injunction prohibiting any business use of the patio lot by Phillips'. The Phillips' connections alone have appealed the judgment.

Upon our review, we conclude that the district court was not clearly wrong in finding that Phillips's connections had not established that any non-conforming use enjoyed by the licensed premises extended to the adjoining vacant lot or somehow incorporated that property into the licensed property. And, on that account, we also conclude that the injunctive relief granted, such that it prohibits the selling or serving of alcohol or food by Phillips' or anyone else on the adjoining vacant lot, is proper, but that its reach to prohibiting selling or serving of alcohol or food by Phillips' for its patrons' consumption off of its licensed premises, including on the adjoining lot, is not supported by the law and the evidence. Accordingly, we amend the permanent injunction and affirm the judgment as amended.

We explain our decision in greater detail in the following Parts.

## I

In this Part we describe the history of the ownership and use of the properties as well as provide the specific legal description for the properties involved, then generally describe the particulars of the ensuing litigation among the parties, and finally summarize the evidence at the trial of this matter and the resulting judgments.

A

Paul and JoAnn Ippolito purchased both municipal lots that are the subject of the present controversy from Rose Stipelcovich Phillips. The Ippolitos purchased Lot 1-A, which bears the municipal address 733 Cherokee Street, New Orleans, on October 23, 1986. This is the lot on which Phillips' is licensed to operate as an ABO. Later, they acquired Lot 2-A, which bears the municipal address 727 Cherokee Street, on March 9, 1990. This was an unimproved residential lot that was never used by Mrs. Phillips in connection with the operation of Phillips'. The Ippolitos subsequently transferred their interests in the lots, and the improvements thereon, to 733 Cherokee, L.L.C. in November 2009. The Ippolitos are the only members of the limited liability company.

As we noted, Phillips' is owned by the Louisiana corporation, Phillips' Bar & Restaurant, Inc. Paul F. Ippolito, who is its president, and his wife, JoAnn Ippolito, own two-thirds of its common stock. Their son, Joseph Ippolito, owns the remaining one-third, is also a corporate officer, and is the bar's day-to-day manager. The Ippolitos purchased the business, Phillips' Bar and Restaurant, from Mrs. Phillips in 1986 and incorporated it in 1988.

Phillips' currently operates the bar on Lot 1-A and holds a Class-A general Alcoholic Beverage Outlet license for use on Lot 1-A only. Importantly, an ABO permit has never been issued for Lot 2-A. Both lots are zoned RD-2, two family

residential, though Lot 1-A acquired a legal non-conforming status by virtue of the many decades that a bar and restaurant have been operated on the premises.<sup>1</sup>

The record suggests that the neighborhood association, MARI, has had, at times, a contentious relationship with Phillips'. Several years prior to the Ippolitos' purchase of the two lots and the bar and restaurant, Mrs. Phillips entered into an agreement with the association wherein she agreed to enter into a restrictive covenant with MARI in exchange for MARI's cessation of opposition to Mrs. Phillips's building renovation plans. Specifically, the restrictive covenant provides that Mrs. Phillips agrees to comply with the requirements of New Orleans' Comprehensive Zoning Ordinance, that the bar and restaurant, which she was then rebuilding to replace the one that had occupied 733 Cherokee Street, would not be larger in size than that which had previously existed on the site, and that she would not offer a greater scope or degree of service than that offered by her prior restaurant at that location.

After the acquisitions by the Ippolitos, the neighborhood residents and MARI members complained to the City about operation and use of Lots 1-A and 2-A by Phillips'. The complaints intensified in 1996 after the Ippolitos began improving Lot 2-A to serve as an accessory patio bar connected to the bar and restaurant occupying Lot 1-A. For example, after having received complaints about unpermitted construction activities on Lot 2-A, Inspector Mike Savage of the City's Department of Public Safety and Permits Building Inspection Bureau

---

<sup>1</sup> The parties have stipulated, however, that since 2008 the sale of food and non-alcoholic beverages at 733 Cherokee have accounted for less than 50% of the Phillips' revenue.

conducted a field inspection of both Lot 2-A and the bar and restaurant occupying Lot 1-A on October 23, 1996. Inspector Savage subsequently prepared a written report wherein he noted the construction of a fence, the placement of concrete planters and an air conditioning unit on Lot 2-A. Further, a City investigator again inspected Phillip's and Lot 2-A on August 1, 1997. This inspection resulted in a September 19, 1997, notice of hearing from the City's Administrative Adjudication Bureau, though the hearing was subsequently continued by the City, and later abandoned. Moreover, Mr. Savage, the City inspector, examined the property on September 9, 1999, resulting in a September 10, 1999 Notice from the City ordering Paul Ippolito to either remove the improvements on Lot 2-A or secure a building permit. The record also contains a September 17, 1999 memorandum from Paul May, the Director of the City's Department of Safety and Permits, to a deputy city attorney. In the memorandum, Mr. May notes that he had "received complaints from neighbors of the above alcoholic beverage outlet [at 733 Cherokee Street] that it is operating a patio bar next door to the establishment on a lot at 727 Cherokee Street which I understand the bar owns." A City inspector again visited Lot 2-A on September 21, 1999, and took photographs of the improvements made to Lot 2-A. These photographs were later forwarded to Paul May. Subsequently, the City issued a municipal citation to Joseph Ippolito, d/b/a Phillips' Bar and Restaurant, alleging various violations in connection with Lot 2-A. Mr. Ippolito pled not guilty and filed a motion to quash. The court later dismissed the citation.

On April 20, 2000, MARI's president wrote a letter on MARI letterhead to Mr. May concerning Phillips' use of Lot 2-A as a patio bar. The letter asked the City to order Phillips' to cease commercial activities on Lot 2-A, declare the construction of the patio bar to be in violation of zoning regulations, and sanction Phillips' appropriately.

B

Subsequently, the City filed a petition for preliminary and permanent injunction on August 23, 2000, against Phillips' and Paul Ippolito. The City's petition alleged that the patio bar illegally expanded Lot 1-A's non-conforming use onto Lot 2-A in violation of the City's CZO. The City's petition was supported by an affidavit executed by Mr. May wherein, among other things, he averred:

On September 19, 1999, he personally investigated a complaint that the premises at 727 Cherokee Street were being used as an outdoor patio, where alcoholic beverages were being sold and consumed, for the business "Phillips' Bar & Restaurant, Inc." located next door at 733 Cherokee Street. Additionally, since the time of that investigation, [sic] there he has received subsequent complaints that 727 Cherokee Street is being used as an outdoor patio where alcoholic beverages are sold and consumed.

Mr. May concluded:

- a. "Phillips' Bar & Restaurant, Inc." violated Section 13.5.2 [of New Orleans Comprehensive Zoning Ordinance], by illegally extending or enlarging the non-conforming use of the "Phillips' Bar & Restaurant, Inc." onto the lot next door, located at 727 Cherokee Street.
- b. Such an expansion of a non-conforming use, in any manner, is expressly prohibited by this section of the CZO.
- c. "Phillips' Bar & Restaurant, Inc." violated Section 4.5.3, by using the lot, located at 727 Cherokee Street, as a Bar and/or Restaurant which, according to Section 4.5.3, is not a permitted

use of property located in an RD-2, Two-Family Residential District.

Phillips' and Ippolito answered the suit and asserted that Lot 2-A had acquired legal non-conforming status by passage of time and that the City's claim had prescribed. Following a hearing, the district court issued a preliminary injunction on December 12, 2000, against the defendants. Notably, the district court's judgment merely noted that "the preliminary injunction filed by plaintiff herein is hereby granted."

The City, however, never set the matter for trial in order to obtain a permanent injunction. Thus, on November 3, 2006, on motion of Phillips' and Ippolito, the district court issued a judgment declaring the 2000 matter to have been abandoned as of June 6, 2006. (The parties stipulated before the trial of the present matter that the last step taken in the prosecution or defense of the 2000 matter occurred on June 6, 2003.)

On May 9, 2007, plaintiffs initiated the present matter by filing a petition for declaratory relief wherein they requested a judgment declaring that: 1) the 2000 matter, by virtue of its abandonment, is to be considered as never having been filed; 2) all causes of action that were, or could have been, brought by the City in the 2000 action are now prescribed; and 3) they now have a vested property right to use Lot 2-A in connection with their legal non-conforming use of Lot 1-A.<sup>2</sup> The City answered and reconvened asking the district court to enjoin plaintiffs from using Lot 2-A as a prohibited bar and/or restaurant. The City subsequently

---

<sup>2</sup> Although they hold different procedural postures, Phillips' Bar & Restaurant, Inc., Paul F. Ippolito, and 733 Cherokee, L.L.C., will, for brevity's sake, be referred to hereafter collectively as "plaintiffs."

amended their reconventional demand several times, though its request for relief remained, essentially, unchanged. On April 2, 2008, the district court issued a preliminary injunction enjoining Phillips' and Paul Ippolito from selling, in the absence of appropriate licenses, alcoholic beverages for consumption at 727 Cherokee Street. On June 9, 2011, MARI intervened in the matter seeking a permanent injunction enjoining the plaintiffs from violating the restrictive covenant signed by Mrs. Phillips in 1981 and prohibiting them from using Lot 2-A in connection with the operation of the restaurant and bar on Lot 1-A.

### C

The matter came to trial on December 12, 2011. At trial, the plaintiffs introduced evidence that the patio, like Phillips' proper, was open for business at least four hours a day, five days a week. The plaintiffs further established that prior to the 2008 preliminary injunction the patio on Lot 2-A had been used by Phillips' patrons for, among other things, cell phone use, tobacco consumption, socializing, private events, keg parties, political fundraisers, baby showers, and crawfish boils. In fact, the plaintiffs elicited testimony that the patio saw at least fifteen special events a year. The plaintiffs also elicited testimony that prior to the imposition of the 2008 preliminary injunction its patrons were allowed to consume food and alcoholic beverage on the patio that were sold from Phillips' proper. We emphasize at this point, however, that there is little if any evidence that alcoholic beverages were ever sold on the patio; indeed, the plaintiffs acknowledge that they

would need an ABO permit for Lot 2-A for such sales and that they do not and never have had, in fact, such a permit.

Specifically, the plaintiffs elicited testimony that once the patio had been put into service, and prior to the imposition of the 2008 preliminary injunction, no six-month period had elapsed where Phillips' patrons had not used the patio. The testimony elicited at trial also established that private events are still held on the patio and that Phillips' patrons, even after the imposition of the 2008 preliminary injunction, have been free to use the patio except that Phillips' now prohibits its patrons from consuming alcohol on the patio.

After trial, the district court took the matter under advisement and issued a judgment, and reasons therefor, on February 8, 2012. Specifically, the district court's original judgment: 1) dissolved the 2000 preliminary injunction as abandoned; 2) found that the plaintiffs failed to meet their burden of proving that they have a vested property right to use Lot 2-A in connection with their legal non-conforming use of Lot 1-A; 3) found conversely that the City established that the legal non-conforming use held by 733 Cherokee does not extend to 727 Cherokee; and 4) held that MARI's action to enforce its restrictive covenant had prescribed. All parties sought motions for new trial. Specifically, the plaintiffs challenged those portions of the district court's judgment that held that they failed to prove, and that the City established, that the plaintiffs did not have a vested property right to use Lot 2-A in connection with the legal non-conforming use held by Lot 1-A. The City challenged the district court's factual finding that it has continuously

permitted Phillips' to operate as a bar, and not a restaurant with an accessory bar, since 1998, and the district court's failure to rule on the City's request for a permanent injunction. Similarly, MARI also sought a ruling on its request for a permanent injunction against the plaintiffs. Significantly, MARI did not ask the district court to revisit its finding that MARI's right to enforce the restrictive covenant had prescribed. Rather, MARI's renewed request for a permanent injunction was based on the plaintiffs' alleged violation of the City's zoning ordinances.

After a hearing on the motions for new trial, the district court issued an amended judgment on May 4, 2012, which: 1) denied the plaintiffs' motion for new trial; 2) denied the City's request to reverse its finding that Lot 1-A has acquired a legal non-conforming status as a bar<sup>3</sup>; and 3) granted the City's and MARI's request for a permanent injunction against the plaintiffs.<sup>4</sup> Specifically, the permanent injunction provides, in pertinent part:

a permanent injunction is hereby issued, without bond in accordance with law, directed to Phillip's Bar & Restaurant, Inc., Paul F. Ippolito, and 733 Cherokee, L.L.C., their agents, employees, and all other persons, firms, or corporations acting or claiming to act on their behalf, and enjoining them from using 727 Cherokee Street, New Orleans, Louisiana as a bar and/or restaurant independently and/or in connection with 733 Cherokee Street and from selling or serving alcoholic beverages for consumption at 727 Cherokee Street.

---

<sup>3</sup> The district court noted that "on March 1, 1998, the City issued 733 Cherokee Street a temporary liquor and beer permit as a bar, not a restaurant with a bar. Continuously thereafter, it was permitted by the City and State of Louisiana as a bar." Neither the City, nor MARI, has appealed this finding.

<sup>4</sup> The district court also clarified its previous rulings – that the plaintiffs did not meet their burden of proving that they had a vested right to use Lot 2-A in connection with their legal non-conforming use on Lot 1-A and that the legal non-conforming use held by 733 Cherokee did not extend to 727 Cherokee – by providing that these rulings were made in favor of the City and MARI and specifically against Phillips', Paul F. Ippolito, and 733 Cherokee, L.L.C. No party appeals these clarifications.

The plaintiffs timely sought a devolutive appeal from the district court's original and amended judgments. Neither the City, nor MARI, has answered the plaintiffs' appeal or appealed any aspect of the district court's original or amended judgments.

## II

Before we address the particular issues arising from the judgments' denial of declaratory relief and grant of injunctive relief, we discuss at the outset in this Part those general principals applicable to zoning and property usage disputes. We reserve for discussion, however, the law regarding acquisition and continuance of nonconforming uses in Part III-B, *post*.

### A

Zoning is designed to foster improvements by confining certain classes of buildings and uses to certain localities without imposing undue hardship on property owners. *City of New Orleans v. Elms*, 566 So. 2d 626, 628 (La. 1990). The essence of zoning "is territorial division in keeping with the character of the lands and structures and their peculiar suitability for particular uses, and the uniformity of use within the division." *Id.* The traditional purpose of zoning is to reduce or eliminate the adverse effects of one type of land use on another by segregating different uses into different zoning districts. *Redfearn v. Creppel*, 455 So. 2d 1356, 1359 (La. 1984).

Zoning by its nature is a legislative function. *Elms*, 566 So. 2d at 629. La. Const. art. VI, § 16 grants local governing authorities the power to adopt zoning

regulations and standards for use of areas and structures subject to procedures established by law. La. R.S. 33:4721 provides that “[f]or the purpose of promoting health, safety, morals, or the general welfare of the community, the governing authority of all municipalities may regulate and restrict the height, number of stories, and size of structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of the buildings, structures, and land for trade, industry, residence, or other purposes.” Additionally, La. R.S. 33:4723 indicates that zoning regulations shall, among other things “be made with reasonable consideration of the character of the district and its peculiar suitability for particular uses, and with a view to conserving the values of buildings and encouraging the most appropriate use of land throughout the municipality.” As observed by the Supreme Court in *Elms*, the “principal regulation which has been utilized to carry out the purposes of zoning is the exclusion of commercial uses from residential uses.” 566 So. 2d at 629. Purely business uses “are generally excluded from residential districts by simply omitting them from the list of permitted uses.” *Id.*

## B

Nevertheless, as observed by us in *City of New Orleans v. Hamilton*, “[w]hile local municipalities are given the power and function of defining the use of property as they best see fit, property users are not wholly unprotected or expected to change their use of property every time their area is rezoned.” 602 So. 2d 112, 114 (La. App. 4 Cir. 1992). It is, therefore, “well settled law that use of

property which does not conform to the use zoned appropriate for that area may still enjoy the same legal status as property that does conform.” *Id.* Non-conforming use status is designed to protect those uses which were legally established before the enactment of a restrictive regulation. *Id.* Thus, a legal non-conforming use is one “which was lawful prior to the enactment of a particular zoning regulation and which is continued after the effective date of the regulation, although the continued use violates the new zoning restrictions for the district in which the property is situated.” *Id.*

The permitted continuation of a nonconforming use is designed to avoid the hardship, injustice and doubtful constitutionality of compelling the immediate removal of objectionable buildings and uses already in the area. *Redfearn*, 455 So. 2d at 1359. As noted, “the purpose of zoning ordinances is to confine certain classes of buildings and uses to certain localities.” *Id.* Because a nonconforming use is inconsistent with this objective, “it should, consistently with the property rights of the individuals affected and substantial justice, be viewed narrowly and have all doubts resolved against continuation or expansion of the nonconformity.”<sup>5</sup> *Id.* As noted in *Redfearn*, the “general rule is that the continuance of a nonconforming use is a continuance of the same use and not some other type of use.” *Id.* The established use may be continued; a different use inconsistent with the zoning regulations is not authorized. *Id.*

---

<sup>5</sup> This principle should not be confused with the principle that a zoning ordinance, being in derogation of the rights of private ownership, must be construed, when subject to more than one reasonable interpretation, according to the interpretation which allows the least restricted use of the property. *Weisler v. Board of Zoning Adjustments*, 98-3007 (La. App. 4 Cir. 11/17/99), 745 So. 2d 1259, 1261. Nevertheless, it has also been held that zoning ordinances must be construed so as to resolve any doubt in favor of the property owner. *Elms*, 566 So. 2d at 632.

A governing authority may, however, lose the right to prohibit a given nonconforming use through the operation of prescription. La. R.S. 9:5625 provides, in pertinent part:

A. (1) All actions civil or criminal, created by statute, ordinance, or otherwise . . . which may be brought by parishes, municipalities, or their instrumentalities or by any person, firm, or corporation to require enforcement of and compliance with any zoning restriction, building restriction, or subdivision regulation, imposed by any parish, municipality, or an instrumentality thereof, and based upon the violation by any person, firm, or corporation of such restriction or regulation, must be brought within five years from the first act constituting the commission of the violation.

(2) Where a violation has existed for a period of two years prior to August 1, 1956, . . . the action must be brought within one year from and after August 1, 1956.

(3) With reference to violations of use regulations all such actions, civil or criminal . . . must be brought within five years from the date the parish, municipality, and the properly authorized instrumentality or agency thereof if such agency has been designated, first had been actually notified in writing of such violation:

(4) Except as relates to nonconforming signs and billboards, any prescription heretofore accrued by the passage of two years shall not be interrupted, disturbed, or lost by operation of the provisions of this Section.

In determining whether prescription has accrued in a zoning enforcement action, the burden of proof is upon the person pleading prescription. *Elms*, 566 So. 2d at 630. The key element in proving that prescription has accrued is knowledge on the part of the Parish. *Id.* at 630. With respect to violation of use regulations, the parish must specifically receive written notice for the prescriptive period to commence. La. R.S. 9:5625 A(3). Once that is shown, however, the burden switches to the party pleading termination of the non-conforming use status by abandonment or discontinuance. *Elms*, 566 So. 2d. at 634. Nonconforming use

status, once attained, may be lost if the property is not used for the nonconforming purpose for a continuous period of six months. Orleans Parish CZO, Article 13, Section 13.2.1. The burden of proving termination of nonconforming use status by abandonment or discontinuance is on the party urging termination of the status. *Elms*, 566 So. 2d at 634.

### III

In this Part, and keeping in mind those general principles of zoning law, we turn to explain why we affirm the declaratory judgment rendered by the district court. This aspect of the present appeal arose out of the plaintiffs' request for declaratory relief. We begin by discussing in general those principals of law that govern actions for declaratory judgment. We then discuss the particular principals applicable to nonconforming uses. And lastly we address why we reject the plaintiffs' arguments that the district court erred when it refused to decree that plaintiffs have a vested property right to use Lot 2-A in connection with their legal non-conforming use of Lot 1-A.<sup>6</sup>

### A

La. C.C.P. art. 1871 authorizes declaratory judgment actions:

Courts of record within their respective jurisdictions may declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for; and the existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The declaration shall have the force and effect of a final judgment or decree.

---

<sup>6</sup> Our discussion on this point, likewise, addresses the plaintiffs' challenge to the district court's related finding that the City and MARI met their burdens of establishing that the legal non-conforming use held by Lot 2-A does not extend to Lot 1-A.

Further, La. C.C.P. art. 1872 indicates who may bring such actions:

A person interested under a deed, will, written contract or other writing constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.

Therefore, "a declaratory judgment is one which simply establishes the rights of the parties or expresses the opinion of the court on a question of law, without ordering anything to be done, its distinctive characteristic being that the declaration stands by itself and no executory process follows as a matter of course. *Succession of Rickerfor*, 120 So. 2d 320, 323 (La. App. 4 Cir. 1960). Accordingly, the declaratory judgment action is "distinguished from a direct action in that it does not seek execution or performance from the defendant or the opposing litigants." *Id.*

A suit for declaratory judgment is, therefore, an appropriate means to decide the rights and obligations of parties to a controversy. *In re Peter*, 98-0701 (La. App. 4 Cir. 12/23/98), 735 So. 2d 665, 667. When a declaratory judgment "would terminate the uncertainty or controversy, the trial court must render such judgment." *Id.* Conversely, La. C.C.P. art. 1876 indicates that a "court may refuse to render a declaratory judgment or decree where such judgment or decree, if rendered, would not terminate the uncertainty or controversy giving rise to the proceeding." However, "the courts' will only act in cases of a present, justiciable

controversy and will not render merely advisory opinions.” *Church Point Wholesale Beverage Co., Inc. v. Tarver*, 614 So. 2d 697, 701 (La. 1993).

Nevertheless, La. C.C.P. art. 1881 declares that these Articles are remedial: “Their purpose is to settle and afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations, and they are to be liberally construed and administered.” Accordingly, La. C.C.P. art. 1875 provides that “the enumeration in Articles 1872 through 1874 does not limit or restrict the exercise of the general powers conferred in Article 1871 in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.” Therefore, if a district court grants a declaratory relief, La. C.C.P. art. 1878 indicates that further relief may be granted whenever “necessary or proper”:

The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application is considered sufficient, the court, on reasonable notice, shall require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

La. C.C.P. art. 1879 notes that when “a proceeding under Articles 1871 through 1883 involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.” With respect to appellate review, La. C.C.P. art. 1877 indicates that all “orders, judgments, and decrees under Articles 1871 through 1883 may be reviewed as other orders, judgments, and decrees.” Further, as this Court has noted, the scope

of appellate review is confined to a determination of whether or not the trial court abused its discretion by granting or refusing to render a declaratory judgment. *Ricard v. State*, 544 So. 2d 1310, 1312 (La. App. 4 Cir. 1989).

## B

In this Part we discuss the law regarding the acquisition and continuance of nonconforming uses. As noted, a legal non-conforming use can arise by virtue of the fact that a given use pre-existed the enactment of a current and otherwise applicable, zoning law. On the other hand, a legal non-conforming use can also arise by virtue of sustained governmental acquiescence. Thus, the jurisprudence obligates the proponent of a given use to establish that their nonconforming use of a piece of property has been “regular and consistent” or “continuous and consistent.” See, e.g., *Elms*, 566 So. 2d at 628; *Weisler*, 98-3007, 745 So. 2d at 1262. La. R.S. 9:5625 also touches on this issue. While Section A sets out the applicable prescriptive periods governing actions for the enforcement of zoning provisions, La. R.S. 9:5625 B provides for the “grandfathering” of certain types of nonconforming uses:

B. In all cases where the prescription provided for herein has accrued, the particular property involved in the violation of the zoning restriction, building restriction or subdivision regulation shall enjoy the same legal status as land uses, construction features of buildings or subdivisions made nonconforming by the adoption of any zoning restriction, building restriction or subdivision regulation . . .

The grandfathering provided for in La. R.S. 9:5625 B applies solely to those types of violations regulated by the prescriptive provisions set out in Part A(1), i.e., violation respecting of zoning restrictions, building restrictions and subdivision

regulations. Part B is, therefore, not applicable to the present matter, which concerns a violation of use regulations that are addressed in La. R.S. 9:5625 A(2). This is not to say, however, that a use regulation could not be grandfathered in by regular and consistent use. Specifically, in Orleans Parish, where Lot 2-A is situated, Article 13, Section 13.6.1 of the CZO provides specifically:

The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish and maintain the existence of a nonconforming use. In order to provide for the continuation of a nonconforming use, it must be opened for business a minimum of four (4) hours per day, five (5) days per week. The hours of operation must be posted on the entrance to the use. Equipment or furnishings required by City ordinances for the specific type of activity must be available and the structure shall be maintained in accordance with applicable ordinances of the City. The existence of a nonconforming use on part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

As an exception, Article 13, Section 13.6.2 provides:

Any business establishment operating as a designated reception facility shall not be considered casual, temporary, or illegal due to the nature of the business operating intermittently for scheduled events with food and beverage service at the request of clients. These private events with food and beverage service, scheduled by non-owners and/or operators, must be held a minimum of fifteen (15) occasions a year to uphold a legal operating status as a reception facility. Exceptions to this operational standard are appealable to the Board of Zoning Adjustments.

Further, Article 13, Section 13.7 of the CZO, while not applicable specifically to the present matter, indicates further the type of evidence that may be used to establish nonconformity:

The Director of the Department of Safety and Permits, at the time application is filed for a certificate of occupancy (attesting to the legal nonconforming status of an existing use), shall make an initial determination as to the existence of such nonconforming use; and in so doing shall require the property owner, or his agent, to produce acceptable evidence attesting to said legal nonconforming status.

Such evidence shall include, but need not be necessarily restricted to, such documents, as rent receipts, affidavits, documentation of utility services or other information as may be deemed to be necessary in a particular case.

Article 13, Section 13.2.1 of the Orleans Parish CZO, nevertheless, provides that vacancy can result in a loss of legal nonconforming status:

No nonconforming building or portion thereof, or land used in whole or in part for nonconforming purposes, which hereafter becomes and remains vacant for a continuous period of six (6) calendar months shall again be used except in conformity with the regulations of the district in which such building or land is situated. The intent of the owner or other person to use a building or land for nonconforming purposes shall not be determinative of whether such building or land was vacant. The burden of proof to establish the existence and retention of a nonconforming use shall be on the property owner of the building or land claiming retention of said nonconforming use by clear and convincing evidence.

Accordingly, in order to establish that they had a vested property right to use Lot 2-A in connection with their legal nonconforming use of Lot 1-A, the plaintiffs were obligated to meet the burden of proof set out by CZO Article 13, Section 13.6.1.

C

We analyze and reject the plaintiffs' arguments that the district court erred when it declined to find that they have a vested property right to use Lot 2-A in connection with their legal nonconforming use of Lot 1-A. In its reasons for judgment, the district court held the plaintiffs did not meet their burden of proof: "The failure to post signs regarding the use of the patio and the intermittent use for smoking and cell phone calls are not sufficient to create non-conforming use." Similarly, the district court also found that the plaintiffs did not establish that the

patio was used frequently enough to support a finding that it attained a legal nonconforming use as a reception facility.

The plaintiffs' arguments in support of their position have not changed substantially since they were first advanced before the district court. The plaintiffs argue, specifically, that Lot 2-A acquired legal nonconforming use status because: 1) the City received written notice of the plaintiffs' violation of applicable use regulations in 1999; 2) the City abandoned the 2000 injunction; 3) the effect of this abandonment meant that La. R.S. 9:5625 prescription did not toll on the City's enforcement action; and 4) its nonconforming use of Lot 2-A had acquired a legal status by operation of La. R.S. 9:5625 and the passage of five years from the City's receipt of written notice. The plaintiffs also argue that the district court erred when it found that they failed to prove that Lot 2-A acquired legal nonconforming status as a reception facility, and that Section 13.6.1 of the Orleans Parish CZO must be invalidated because it is in conflict with La. R.S. 9:5625.

Having reviewed the record and the exhibits introduced by the parties, we are not prepared to say that the district court committed manifest error when it refused to find that plaintiffs have acquired a vested right to use Lot 2-A in connection with the legal nonconforming use of Lot 1-A. While it is true that the patio bar was open, like Phillips' proper, for at least four hours a day for five days a week, and that Phillips' patrons were, before the imposition of the 2008 preliminary injunction, regularly allowed to consume alcoholic beverages on Lot 2-A, and that Lot 2-A played host to numerous types of social gatherings between

2000 and 2008, the record is devoid of any evidence Phillips' hours of operation were posted, pursuant to Article 13, Section 13.6.1, at the entrance to either Phillips' or Lot 2-A.

Further, we are not convinced that the district court misapplied La. R.S. 9:5625 in the context of the plaintiffs' request for a declaration of vested rights. As noted, the present matter concerns a violation of the City's use regulations and Section B, La. R.S. 9:5625's grandfather clause, does not apply to the violation of use regulations. The plaintiffs' arguments on this point are, thus, misplaced. Similarly, we do not believe that the district court erred when it refused to find that Lot 2-A has acquired legal non-conforming status as a reception hall pursuant to Section 13.6.2 of the CZO. Although there is evidence in the record that at least fifteen private events a year have been held on Lot 2-A, there is no evidence in the record that Lot 2-A was operated as a "designated reception facility." We, therefore, decline to hold that the district court committed manifest error when it declined to grant the plaintiffs' request for a judgment declaring that plaintiffs have acquired a vested right to use Lot 2-A in connection with their legal nonconforming use of Lot 1-A.

#### IV

The plaintiffs assail the district court's imposition of an injunction permanently enjoining the plaintiffs from using Lot 2-A as a bar and/or restaurant independently and/or in connection with Lot 1-A, and from selling or serving alcoholic beverages on Lot 1-A for consumption at Lot 2-A. The plaintiffs assert,

specifically, that the district court erred when it permanently enjoined the sale of alcohol on Lot 1-A (in the bar) for consumption on Lot 2-A (on the patio) because the City's and MARI's right to seek an injunction on this use of Lot 2-A has prescribed. We agree and, accordingly, modify the injunction by deleting its prohibition on the sale of alcohol on Lot 1-A for consumption on Lot 2-A, and its prohibition against using Lot 2-A in connection with Phillips' operations as a bar and restaurant. We now explain our decision in this regard.

A

We first, however, set out the law applicable to permanent injunctions. La. C.C.P. art. 3601 A provides in pertinent part: "An injunction shall be issued in cases where irreparable injury, loss, or damage may otherwise result to the applicant, or in other cases specifically provided by law." Traditionally, injunction has been held to be a harsh, drastic and extraordinary remedy which should only issue where the petitioner is threatened with irreparable harm and has no adequate remedy at law. *Kruger v. Garden Dist. Ass'n*, 00-1135, p. 7 (La. App. 4 Cir. 1/17/01), 779 So. 2d 986, 991. A petitioner is, however, entitled to injunctive relief without the requisite showing of irreparable injury "when the conduct sought to be restrained is unconstitutional or unlawful, *i.e.*, when the conduct sought to be enjoined constitutes a direct violation of a prohibitory law and/or a violation of a constitutional right." *Jurisich v. Jenkins*, 99-076 (La. 10/19/99), 749 So. 2d 597, 599. A municipality may enjoin violations of a zoning ordinance. *City of New Orleans v. National Polyfab Corp.*, 420 So. 2d 727, 728 (La. App. 4 Cir. 1982).

A hearing on a permanent injunction is “an ordinary proceeding.” *Elysian Fields Church of Christ v. Dillon*, 08-0989, p. 6 (La. App. 4 Cir. 3/18/09), 7 So. 3d 1227, 1231. The issuance of a permanent injunction takes place only after a trial on the merits in which the burden of proof is a preponderance of the evidence. *French's Welding & Maintenance Service, L.L.C. v. Harris Builders, L.L.C.*, 12-0200, p. 3 (La. App. 4 Cir. 12/12/12), 106 So. 3d 716, 718. A permanent injunction is a final judgment and “so long as it remains in force, it extends the life of the proceeding in which it was granted until it is modified or revoked in a proceeding brought for that purpose in the district court which issued it.” *Tenneco, Inc. v. Oil, Chemical and Atomic Workers Union, Local 4-522*, 234 So. 2d 246, 248 (La. App. 4 Cir. 1970). Appellate courts review a trial court's granting of a permanent injunction utilizing the manifest error standard. *Mary Moe, L.L.C. v. Louisiana Bd. of Ethics*, 03-2220, p. 9 (La. 4/14/04), 875 So. 2d 22, 29.

## B

The plaintiffs argue that the district court erred as a matter of law in granting the permanent injunction because the defendants right to enjoin the consumption of alcohol on Lot 2-A had prescribed by operation of La. R.S. 9:5625 A(3). As noted, the touchstone consideration for this inquiry centers on evidence of written notice. Plaintiffs contend that the City received written notice of the subject use violations in 1999. Regardless of this contention, the trial court observed, and the record indicates, however, that the City received written notice of the fact that alcohol was being sold for consumption on Lot 2-A in 2000.

As noted, MARI's president wrote a letter to Mr. May, the City's Zoning Administrator, on April 20, 2000, concerning Phillips' use of Lot 2-A as a patio bar. The letter noted specifically that "Phillip's Restaurant and Bar has expanded its operations into the adjacent, residentially zoned lot." The letter further states that "[i]n violation of applicable city zoning regulations, the restaurant has constructed an outdoor bar which it has described as a 'patio' in its sidewalk advertisement outside the restaurant." The letter additionally indicates that alcoholic beverages are being consumed on the lot. Clearly, the City had written notice in 2000, at the latest, of the plaintiffs' violation of use regulations pertaining to Lot 2-A.

The plaintiffs also contend that the preliminary injunction, which was issued in 2000, did not toll the running of La. R.S. 9:5625 A(3) prescription. The district court found no legal support for this assertion. We disagree and find that the district court committed legal error when it held otherwise.

First, we observe that the district court's 2000 preliminary injunction could not serve to toll the running of prescription because it was fatally defective, and thus null and void. Specifically, the preliminary injunction stated: "the preliminary injunction filed by plaintiff herein is hereby granted." We find that the 2000 preliminary injunction is invalid as an injunction because it fails to describe the actions being enjoined. La. C.C.P. art. 3605 states, in pertinent part: "An order granting either a preliminary or a final injunction or a temporary restraining order shall describe in reasonable detail, and not by mere reference to the petition or

other documents, the act or acts sought to be restrained.” Accordingly, a judgment that purports to grant an injunction but fails to describe the prohibited acts with specificity is void. *Lucky Coin Machine v. Hillenbeck*, 00-0313, p. 5 (La. App. 4 Cir. 1/31/01), 778 So. 2d 1262, 1264; *Vanvrancken v. Roy*, 296 So. 2d 460, 462 (La. App. 4 Cir. 1974). The 2000 preliminary injunction merely renders judgment in favor of the city. It neither specifies the acts enjoined nor describes the properties involved. The 2000 preliminary injunction is, clearly, null and void as an injunction.

Second, we note that, even had the 2000 preliminary injunction contained the appropriate decretal language, it would not have tolled the running of prescription because the City abandoned the action in 2003. All parties stipulated prior to trial in the present matter that the last step taken in the prosecution of the 2000 matter occurred on June 6, 2003. Moreover, the district court confirmed the 2000 action’s abandonment when it issued a judgment on November 3, 2006, declaring the 2000 matter to have been abandoned as of June 6, 2006. As this Court stated in *Box v. French Market Corporation*, 00-1880, pp. 5-6 (La. App. 4 Cir. 9/5/01), 798 So. 2d 184, 186, when a “party that has obtained a preliminary injunction fails to seek a permanent injunction (and no other action is taken in the case) for a period of at least three years, that case is deemed abandoned by law.” The issue, therefore, is not whether the City abandoned the 2000 matter, but the effect of the abandonment.

The plaintiffs contend that the 2000 preliminary injunction did not toll the running of La. R.S. 9:5625 A(3) prescription by virtue of the operation of La. Civil Code art. 3463. We agree. La. Civil Code art. 3663 provides:

An interruption of prescription resulting from the filing of a suit in a competent court and in the proper venue or from service of process within the prescriptive period continues as long as the suit is pending. Interruption is considered never to have occurred if the plaintiff abandons, voluntarily dismisses the action at any time either before the defendant has made any appearance of record or thereafter, or fails to prosecute the suit at the trial.

By the clear wording of La. Civil Code art. 3463, a suit that has been abandoned cannot serve to toll the running of prescription. The Supreme Court in *Charbonnet v. State Realty Co.*, 155 La. 1044, 1049, 99 So. 865, 867 (La. 1923), first addressed this principal: “a suit which has been abandoned for nonaction during a period of five [now three] years does not constitute a legal interruption to the course of prescription, and its effect is to leave a plaintiff in the same position that he would occupy if he had not instituted the suit.”<sup>7</sup> The Supreme Court further discussed the issue in *Long v. Chailan*, 196 La. 380, 397-398, 199 So. 222, 227 (La. 1940):

According to the terms of the statute<sup>8</sup> it is not the dismissal of the suit that causes it to lose the effect of interrupting prescription. What causes the interruption to ‘be considered as having never happened’ is the plaintiff’s allowing five years to elapse without taking any steps in the prosecution of his suit. The allowing of five years to elapse without taking any steps in the prosecution of a suit constitutes an abandonment of the suit, and the effect of the abandonment is that ‘the interruption [of prescription] shall be

---

<sup>7</sup> The Code of Civil Procedure was amended in 1997 to reduce the abandonment period from five to three years. See Acts 1997, No. 1221.

<sup>8</sup> The Supreme Court in *Long* was discussing art. 3519 of the La. Civil Code of 1870, the source article for the second sentence of current La. Civil Code art. 3463. As noted by the redactors of the present code, the current article does not change the law. Thus, the Supreme Court’s discussion in *Long* is still of relevance to the present controversy.

considered as having never happened.' It is not necessary for the defendant to have the suit dismissed or stricken from the docket in order that the abandonment may destroy whatever effect the suit may have had in the way of interrupting prescription. When the five years of inaction on the part of the plaintiff have expired, the suit becomes as ineffectual so far as it may have interrupted prescription as if the interruption had 'never happened'.

Therefore, as the Supreme Court noted in *Losch v. Greco*, 173 La. 223, 228, 136 So. 572, 573-574 (La. 1931):

In other words, the abandonment which results as a legal consequence of a plaintiff's failure to take any action in his suit during a period of five years merely bars his right to continue with the prosecution of that suit. It does not prevent his bringing another suit for the same cause of action; but, if he brings another suit for the same cause of action, the question whether his right of action is barred by prescription must be determined as if no suit had been theretofore brought.

The City's institution of the injunction proceeding against the plaintiffs in 2000 did not toll prescription on its attempts to prohibit the sale of alcohol for consumption on Lot 2-A because the City subsequently abandoned its suit. Therefore, the City's reconventional demand for preliminary and permanent injunctions had prescribed by the time the City again sought to enjoin the plaintiffs from selling alcohol for consumption on Lot 2-A. Accordingly, the district court erred when it granted the City and MARI a permanent injunction in the present case that forbade the sale of alcohol on Lot 1-A for consumption on Lot 2-A.

C

We, therefore, modify the district court's permanent injunction in light of the fact that Phillips', as holder of the ABO permit, is not prohibited generally by municipal regulations concerning the sale of alcoholic beverages from selling

alcohol for consumption off its premises.<sup>9</sup> As noted, Phillips' holds a Class A-general permit which City ordinance defines as, among other things, a "retail outlet where alcoholic beverage is sold on the premises for consumption on or off the premises by paying customers." Phillips' premises are limited to Lot 1-A and we can find no statute or ordinance that would limit its patrons to consumption of alcoholic beverages solely on its premises.

Similarly, our modification is made in light of the fact that 733 Cherokee, as owner of Lot 2-A, is not prohibited from allowing its invitees from consuming alcoholic beverages on its premises. As noted, Lot 2-A is zoned RD-2. The CZO does not prohibit the mere consumption of food and alcoholic beverages on properties zoned RD-2. Specifically, Article 4, Section 4.5.1 of the CZO defines the RD-2 district accordingly: "The RD-2 Two-Family Residential District is intended to provide for two-family developments on smaller lots in older, more densely populated sections of the City. This development may be mixed with single-family dwellings, together with such churches, recreational facilities and with accessory uses as may be necessary or are normally compatible with residential surroundings. Town houses are authorized only as conditional uses." Nevertheless, the RD-2 district provides for a wide range of property uses. Other permitted uses within an RD-2 district include public parks, playgrounds, and their concession stands, in addition to private recreational clubs. Further, certain types

---

<sup>9</sup> We note, however, that City Ordinance 10-404, of Chapter 10, Article III, prohibits an ABO licensee from allowing the sale or consumption of alcoholic beverages in the licensee's parking lots or driveway areas, except during carnival parade season. Similarly, City Ordinance 10-403, of Chapter 10, Article III, prohibits an ABO licensee from setting up sidewalk chairs and benches adjacent to the licensed premises.

of restaurants and coffee shops are also considered accessory uses in an RD-2 district. Moreover, the CZO provides that private clubs, among other things, are considered a conditional use within an RD-2 district. Our review of the CZO, therefore, has failed to reveal any indication that the mere consumption of alcoholic beverages is prohibited on lots within an RD-2 district.

Therefore, we modify the district court's permanent injunction by deleting the language that forbade Phillips' from selling food or alcohol at 733 Cherokee Street (Lot 1-A) for consumption at 727 Cherokee Street (Lot 2-A).

#### **DECREE**

Accordingly, the original and amended judgments of the district court denying the plaintiffs' request for a judgment declaring that plaintiffs do not have a vested property right to use Lot 2-A in connection with their legal nonconforming use of Lot 1-A is affirmed. Similarly, we affirm the original and amended judgments of the district court which found that the legal nonconforming use pertaining to 733 Cherokee Street does not extend to 727 Cherokee Street.

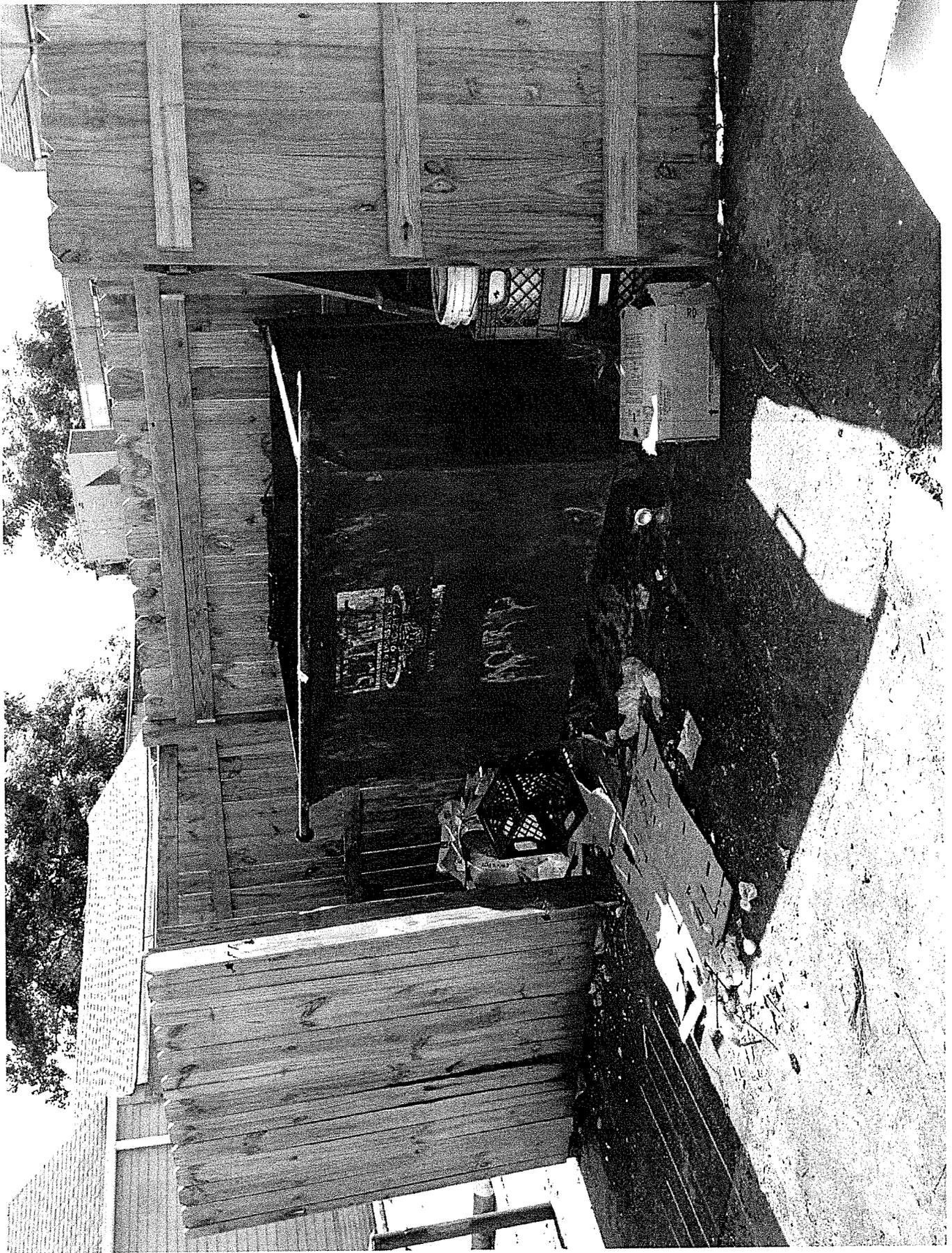
With respect to the original and amended judgments of the district court in favor of the City of New Orleans and Maple Area Residents, Inc., the permanent injunction is modified to remove the restriction on selling food and alcohol at the bar premises on Lot 1-A for consumption by patrons on Lot 2-A and, accordingly, the following permanent injunction issues:

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that there be judgment herein in favor of defendant and plaintiff-in-reconvention, the City of New Orleans, and intervenor, Maple Area Residents, Inc., and against plaintiffs and defendants-in-

reconvention and intervention, Phillips' Bar & Restaurant, Inc., Paul F. Ippolito, and 733 Cherokee, L.L.C., upon the reconventional demand and intervention for permanent injunctive relief, and, accordingly, a permanent injunction is hereby issued, without bond in accordance with law, directed to Phillip's Bar & Restaurant, Inc., Paul F. Ippolito, and 733 Cherokee, L.L.C., their agents, employees, and all other persons, firms, or corporations acting or claiming to act on their behalf, and enjoining them from using Lot 2-A (727 Cherokee Street, New Orleans, Louisiana) as a bar and/or restaurant independently of Lot 1-A (733 Cherokee Street, New Orleans, Louisiana) and from selling or serving alcoholic beverages on Lot 2-A for consumption.

Each party is to bear its own costs. *See* La. C.C.P. art. 2164.

**AMENDED AND AFFIRMED, AS AMENDED**



Dumpster on Adams Street near corner of Maple Street  
Taken Oct. 2, 2012

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL: December 20, 2001

CALENDAR NUMBER: 24,057

NO. 205.11 MAYOR COUNCIL SERIES

BY: COUNCILMEMBER SHEA <sup>SPS</sup>

AN ORDINANCE to provide for the establishment of a conditional use to permit a restaurant, Nautical A Restaurant By The Bays, in an existing building with the sale of alcoholic beverages, in a B-1 Neighborhood Business District, lot 15, Square 81 in the Seventh Municipal District, bounded by Maple, Hampson, Burdette and Adams Streets (Municipal Address: 7708 Maple Street); and otherwise to provide with respect thereto.

WHEREAS, Zoning Docket Number 84/01 was initiated by Hugh Steil and referred to the City Planning Commission; and

WHEREAS, the City Planning Commission held a public hearing on this zoning petition and recommended approval, subject to four (4) provisos in its report dated November 30, 2001, to the City Council on Zoning Docket Number 84/01; and

WHEREAS, the recommendation of the City Planning Commission was upheld, subject to one additional proviso, and the changes were deemed to be advisable and necessary and in the best interest of the City and were approved, subject to five (5) provisos, by Motion M-01-\_\_\_ of the Council of the City of New Orleans on December 20, 2001.

1           SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY  
2           ORDAINS That a conditional use to permit a restaurant, Nautical A Restaurant By The Bays, in an  
3           existing building with the sale of alcoholic beverages, in a B-1 Neighborhood Business District, lot  
4           15, Square 81 in the Seventh Municipal District, bounded by Maple, Hampson, Burdette and Adams  
5           Streets (Municipal Address: 7708 Maple Street) is hereby authorized and approved, subject to the  
6           following provisos, as specifically set forth herein.

7           PROVISOS:

- 8           1. A bar accessible to the general public or restaurant patrons shall not be permitted.
- 9           2. The applicant shall establish a litter abatement plan which shall include the daily sweeping of the
- 10          public right-of-way adjacent to the property as well as the hosing of the sidewalk as needed. The

- 11 owner of the property and/or manager of the restaurant shall be the contact person(s) should a  
12 violation occur.
- 13 3. Services activities such as loading, delivery and trash disposal shall not occur from the street or  
14 public right-of-way.
- 15 4. The restaurant shall operate in accordance with state license requirements for Class A restaurants  
16 in that alcoholic beverages shall be served only in conjunction with meal service.
- 17 5. The conditional use approval is limited to the existing leaseholder, Nautical A Restaurant By The  
18 Bays, and Mr. Eric Bay.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS JAN 1 8 2002

EDDIE L. SAPIR  
PRESIDENT OF COUNCIL

DELIVERED TO THE MAYOR ON JAN 1 8 2002

APPROVED: JAN 2 8 2002  
~~DISAPPROVED~~

MARC H. MORIAT  
MAYOR

RETURNED BY THE MAYOR ON JAN 2 8 2002 AT 12:10 PM

EMMA J. WILLIAMS  
CLERK OF COUNCIL

G:\cm1gs\ord\01-24057.enh 01-150

ROLL CALL

YEAS: Carter, Gusman, Sapir, Shea, Singleton, Thomas, Willard-Lewis - 7

NAYS: 0

ABSENT: 0

THE FOREGOING IS CERTIFIED  
TO BE A TRUE AND CORRECT COPY  
Emma J. Williams, Clerk  
CLERK OF COUNCIL

Paper: Times-Picayune, The (New Orleans, LA)

Title: Maple Street eatery gets OK for drinks -

Residents oppose city's approval

Date: December 22, 2001

Over the objections of several neighbors, the New Orleans City Council decided this week that a Maple Street **restaurant** can serve drinks with meals.

At the urging of Councilman Scott Shea, whose district includes the site, the council approved the request of Eric Bay, owner of **Nautical Restaurant**, 7708 Maple St., to serve alcohol with meals.

The council also authorized alcohol sales at several other sites around the city.

But, also at Shea's request, it extended for six months a moratorium on issuing of city permits for new bars, cocktail lounges, package-liquor stores, fast-food **restaurants** and gas stations in the area around Delgado Community College's City Park Avenue campus.

The moratorium, first imposed in July, affects the area bounded by Canal Boulevard, City Park Avenue, Marconi Drive and Navarre Avenue. It does not affect existing businesses. The move was requested by the Lakeview Civic Improvement Association, which is concerned about the proliferation of unwelcome businesses in the neighborhood.

All the votes at Thursday's meeting were unanimous.

Bay, who opened his small Maple Street **restaurant** in June 1999, said he needs to offer alcohol to stay in business. At present, customers can bring bottles with them but can't buy wine or alcoholic drinks at **Nautical**.

William Syll, president of Maple Area Residents Inc., opposed the request, saying there already are too many bars and **restaurants** serving alcohol along Maple. He said **Nautical** would be the 53rd alcohol outlet in the area bounded by Willow Street, Broadway, the river and the Jefferson Parish line.

Two nearby residents said **Nautical** creates noise and traffic problems.

The opponents also warned that if the council authorized the sale of alcohol at the site, the conditional-use permit would remain in force even if Bay closes his **restaurant**, meaning the site could turn into a less desirable business such as a bar for college students.

But Bay presented an affidavit from the owner of the building, Hugh Stiel, saying he would not try to transfer the permit to another tenant.

Shea said Bay runs a good **restaurant** and has earned the right to sell alcohol with meals. The permit says he can serve drinks only to diners, not at a separate bar. Shea also added a proviso saying the permit would expire if **Nautical** closes.

The council also authorized alcohol sales at Hypnotize Daiquiri and Ice Cream Parlor in a strip shopping center at 8020 Downman Road, in Councilman Marlin Gusman's district, and at two sites in Councilwoman Cynthia Willard-Lewis' district: the Island Grill on U.S. 90 near Fort Pike and Jazz Shell, a gas station and convenience store at Bullard Avenue and the Interstate 10 Service Road. The Shell station will sell only packaged liquor for off-site consumption.

In other actions, also by unanimous votes, the council:

-- Authorized Harrah's New Orleans Casino to create a 150-seat first-floor **restaurant** and increase its buffet operation from 250 to 400 seats. The casino also can relocate its poker area, expand the amount of free and discounted food it offers to favored customers, operate its own catering service rather than rely on outside caterers for events at the casino, and rearrange its kiosk food-service area to include 100 seats. The state authorized the changes several months ago as part of the deal that reduced the casino's annual \$100 million tax obligation to the state to \$50 million this year and \$60 million per year thereafter.

-- Endorsed plans for an \$81 million Grammy Exposition and Hall of Fame museum on Convention Center Boulevard, at the downriver end of the Morial Convention Center. Organizers hope to break ground in May and

open the three-story museum in November 2003. The city has promised \$5 million for the project. By Thursday's vote, the council said it intends to provide the money, but the vote is not an official commitment.

-- Authorized Xavier University to renovate a group of vacant one-story warehouses at Pine and Edinburgh streets as the new home of the university's art department. The "art village," much larger than the department's old quarters, will have space for sculpting and ceramics, computer graphics, drawing, painting and photography. University officials plan to open two buildings next semester and a third next fall. They total more than 18,000 square feet. Council members used the occasion to heap praise on the school's art department and especially sculptor John T. Scott. "Having the art village in Gert Town will be a boost to that community," Councilman Oliver Thomas said.

.....

Bruce Egglar can be reached at

beggler@timespicayune.com or (504) 826-3320.

Copyright, 2001, The Times-Picayune Publishing Corporation. All Rights Reserved. Used by NewsBank with Permission.

*Author: Bruce Egglar Staff writer*

*Section: METRO*

*Page: 01*

*Copyright, 2001, The Times-Picayune Publishing Corporation. All Rights Reserved. Used by NewsBank with Permission.*

## CPCinfo

---

**From:** Keith Hardie <keithhardie@yahoo.com>  
**Sent:** Monday, July 20, 2015 11:16 AM  
**To:** CPCinfo  
**Cc:** T. Gordon McLeod  
**Subject:** CPC: Maple Street Overlay: MARI Exhibits 11 - 17  
**Attachments:** Exhibit 11 020904 Ordinance Il Piatto.pdf; Exhibit 12 050612 Email Live Jazz.pdf; Exhibit 13 060424 Email re seeking ABO.pdf; Exhibit 14 060602 Email re long bar.pdf; Exhibit 15 060723 Email re late night drinking.pdf; Exhibit 16 060922 Hullabaloo Review of Uptown Cajun.pdf; Exhibit 17 061220 Blog re pitchers at Uptown Cajun.pdf

See attached Exhibits 11-17 to MARI's Memo in Support of Maple Street Overlay.

**Keith Hardie, Jr.**  
**[keithhardie@yahoo.com](mailto:keithhardie@yahoo.com)**  
**757 St. Charles, Suite 304**  
**New Orleans, LA 70130**  
**(504) 522-6222**  
**(504) 522-622S6 (fax)**

ORDINANCE  
CITY OF NEW ORLEANS

CITY HALL: September 4, 2002

CALENDAR NUMBER: 24,930

NO. 02128F MAYOR COUNCIL SERIES

BY: COUNCILMEMBER BART

AN ORDINANCE, to Administratively Amend Ordinance No. 20519 M.C.S. (ZD 84/91), an existing conditional use permitting alcoholic beverage sales in a standard restaurant in a B-1 Neighborhood Business District, on Square 81, Lot 15, in the Seventh Municipal District, bounded by Maple, Burdette, Hampson and Adams Streets (Municipal Address: 7708 Maple Street), to delete proviso number 5 limiting the conditional use approval to a previous lease holder; and otherwise to provide with respect thereto.

WHEREAS, Zoning Docket Number 71/03 was initiated by Hugh J. Stiel, and referred to the City Planning Commission; and

WHEREAS, the City Planning Commission held a public hearing on this zoning petition and recommended approval in its report to the City Council dated August 28, 2003 of the Administrative Amendment presented in Zoning Docket Number 71/03; and

WHEREAS, the recommendation of the Planning Commission was upheld and the changes were deemed necessary and in the best interest of the City of New Orleans, and were approved subject to one (1) proviso in Motion Number M-03- 619 of the Council of the City of New Orleans adopted on September 18, 2003.

1 SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY  
2 ORDAINS that Ordinance No. 20519 M.C.S. (ZD 84/91), an existing conditional use permitting  
3 alcoholic beverage sales in a standard restaurant in a B-1 Neighborhood Business District, on Square  
4 81, Lot 15, in the Seventh Municipal District, bounded by Maple, Burdette, Hampson and Adams  
5 Streets (Municipal Address: 7708 Maple Street) to delete proviso number 5 limiting the conditional  
6 use approval to a previous lease holder; is hereby amended and approved, subject to the following  
7 proviso, as specifically set forth herein:

8 **PROVISO:**

9 No person shall use any of the properties described herein or permit another to use any of those  
10 properties described herein for the use authorized by this ordinance, unless the following  
11 requirements are met and continue to be met:

12 1 All provisos included in Ordinance No. 20,519 M.C.S. shall remain in force, except proviso

13 number 5.

1 SECTION 2. Whoever does anything prohibited by this Ordinance or fails to do anything  
2 required to be done by this Ordinance shall be guilty of a misdemeanor and upon conviction shall be  
3 subject to a fine or to imprisonment or both, such fine and/or imprisonment set by Section 1-13 of the  
4 1995 Code of the City of New Orleans, or should alternatively be subject to whatever civil liabilities,  
5 penalties or remedies the law may prescribe. Conviction shall be cause for the immediate cancellation  
6 of the Use and Occupancy permit of the premises.

1 SECTION 3. This ordinance shall have the legal force and effect of authorizing this  
2 administrative amendment only after all the provisos listed in Section 1 of this Ordinance which impose  
3 a one-time obligation have been completely fulfilled and complied with, and only after all the provisos  
4 listed in Section 1 which impose a continuing or on-going obligation shall have begun to be fulfilled,  
5 as evidenced by the Planning Commission's approval of a final site plan (which shall be incorporated  
6 into this ordinance by reference) and its subsequent recordation, and no use or occupancy certificates  
7 or permits (other than the building permits needed to fulfill the provisos) shall be issued until all the  
8 provisos which impose a one-time obligation have been completely fulfilled and complied with, and  
9 only after all the provisos listed in Section 1 which impose a continuing or ongoing obligation shall  
10 have begun to be fulfilled, as evidenced by the Planning Commission's approval of final site plan  
11 (which shall be incorporated into this ordinance by reference) and its subsequent recordation.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS ~~OCT 07 2003~~

*Oliver M. Thomas, Jr*

\_\_\_\_\_  
PRESIDENT OF COUNCIL.

DELIVERED TO THE MAYOR ON OCT 08 2003

APPROVED:



OCT 08 2003

*C. WAY NAGIN*

\_\_\_\_\_  
MAYOR

RETURNED BY THE MAYOR ON OCT 08 2003 AT -3:35 PM

*FLOOY CRUICKFIELD*

\_\_\_\_\_  
CLERK OF COUNCIL.

YEAS: Batt, Clarkson, Gill Pratt, Gusman, Sapir, Thomas, Willard-Lewis - 7

NAYS: 0

ABSENT: 0

THE FOREGOING IS CERTIFIED  
TO BE A TRUE AND CORRECT COPY

*Barry Lewis, Jr*  
\_\_\_\_\_  
CLERK OF COUNCIL

**From:** ">  
**Date:** June 12, 2005 8:16:53 AM CDT  
**To:** "David Keiffer" <dgk3@w-k.nocoxmail.com>,  
**Subject:** **Big Apple Deli**

Big sign out front this morning says: "Live Jazz Today".

Now that students are gone they are sending pamphlets around the neighborhood offering free drinks if folks come there for lunch or dinner.

I think they're desperate and may go under. I'm concerned though that they have no scruples at all and will essentially turn it into a bar if that's the last resort.

>  
>  
> On Apr 24, 2006, at 6:59 PM, ) wrote:  
>  
>> The new establishment - Uptown Cajun - has posted a notice of it  
>> application for an ABO permit including "high alcohol content"  
>> beverages. Apparently, notice of eviction to Big Apple Deli issued on  
>> October 7, 2005.  
>>  
>> David  
>  
> David Keiffer  
> Wettermark + Keiffer Architects  
> .....  
> talk 504 522 3341  
> fax 504 522 2049  
> cell 225 270 0294  
> mail dgk3@w-k.nocoxmail.com  
> visit 1100 st. andrew street/ new orleans/ la, 70130  
>  
>  
>

David Keiffer  
Wettermark + Keiffer Architects  
.....  
talk 504 522 3341  
fax 504 522 2049  
cell 225 270 0294  
mail dgk3@w-k.nocoxmail.com  
visit 1100 st. andrew street/ new orleans/ la, 70130

---

Try the New Netscape Mail Today!  
Virtually Spam-Free | More Storage | Import Your Contact List  
<http://mail.netscape.com>

**From:** ">

**Date:** June 2, 2006 7:40:52 AM CDT

**To:** <<dgk3@w-k.nocoxmail.com>>, **Subject:** Uptown Cajun

Walked thru this morning. Long bar with 2 beer taps behind it and about 6 flatscreen TVs inside. Can anyone say sports bar?

They are set to open next Saturday.

**From:** ">  
**Date:** July 23, 2006 8:09:10 AM CDT  
**To:** "David Keiffer" <dgk3@w-k.nocoxmail.com>,  
**Subject:** Uptown Cajun

Drove home last night after being in Virginia/North Carolina for 3 weeks. 17 hours by myself with my two oldest boys. Got home about 1 a.m. and there were more kids outside of porch drinking in front of Uptown Cajun than new Bruno's. It definitely has morphed into a bar. Mark Klyza apparently knows the owner but this is the poster child why never to agree to an ABO (e.g., nautical/il Piattio). Not sure what we can do at this point other than ask City to audit to make sure not operating as a bar.

gone by. Overall, the entire record sounds a bit like something out of the early 1990s (which is actually stuff that was pulled out of the late 1970s and early 1980s).

While every song on the record is closer to the two-minute mark, they leave the listener feeling satisfied. These songs are tight. They are short yet fulfilling. Rather than creating atmosphere, they jump right into the vibe and leave the excess behind. Each song is a little nugget that the listener can immediately enjoy. You could say they're a bit like that first sip of Coke from the glass bottle: crisp and refreshing.

*Bottom Line: An excellent and more legal pick-me-up.*

COURTESY OF SOCIAL REGISTRY

# College crowd flocks to Cajun

**Uptown Cajun**  
★★★★☆

**Brittany Libson**  
contributing writer

The kitchen stays open until 10 p.m., and the bar as late as 2 a.m., as long as the customers are ordering drinks. On Fridays and Saturdays, the restaurant offers a late-night menu that includes quesadillas, hamburgers, corn dogs and Cajun wings.

With seven big-screen plasma TVs lining the walls, the restaurant also doubles as a sports bar, and the occasional outburst from an excited sports fan livens up the atmosphere.

If you're really hungry, order "The Uptown Ragin' Cajun" which consists of a mountain of fried shrimp, crawfish, oysters, catfish, frog legs, soft shell crab and alligator all served over Cajun jambalaya. The food is fried perfectly, so you can still taste the meat and seafood, not just the breading. As an alternative, the shrimp and catfish can be blackened - cooked this way, the shrimp are especially succulent. The only downside to this dish is the high price of \$25, and while it's more than any other item on the menu, the gigantic portion makes up for it.

Appetizers range in price from \$2.50 for boudin balls to \$6.75 for shrimp cocktail. One waiter recommended the boudin wraps, reminiscent of an egg roll stuffed with boudin. The breading is sweeter than that of an egg roll, and the flavor compliments

Leslie Luquette opened Uptown Cajun in June, inspired by the food from his hometown, just south of Lafayette, La. The restaurant offers authentic Cajun cuisine, and most of the recipes on the menu are Luquette's, with some input from the restaurant's chef, Christopher Dukes and manager Patrick White.

"Basically we want everyone to enjoy themselves and eat a lot," White said. "We also cater to a late-night crowd."

the hearty boudin nicely. The wraps are best when dipped in Stern's 100 percent pure cane syrup.

Another tasty appetizer is the seafood pistoulette, pastry shells made with the same batter as the boudin wraps but stuffed with crawfish, crab and shrimp.

Entrees range in price from \$10 for chopped steak to \$18.50 for the petit filet and come with hushpuppies and two sides, such as boiled okra or corn maquechoux. Boiled crawfish, shrimp and soft shell crab are also offered in season.

The bar carries a variety of draft beer selections including Abita Andygator and specialty cocktails such as the salty, but tasty, margarita on the rocks and a champagne-cranberry juice concoction called a poinsettia. A table of college students raved about the 40 oz. beers served on Thursday nights. But if you want the most liquor for your money, stick with the Category 5 - my companion finished her night with two of them, then passed out within minutes of returning home.

*Bottom Line: Good food, strong drinks and a casual, friendly atmosphere make Uptown Cajun a great place for lunch or dinner.*

09.22.06 13

## CPCinfo

---

**From:** dkgroome@aol.com  
**Sent:** Monday, July 20, 2015 1:08 PM  
**To:** CPCinfo  
**Subject:** Maple Street Overlay

Dear members of the City Planning Commission,

I am writing to request your support and vote FOR the Maple Street Overlay.

We are a small, family oriented neighborhood. The proposed new CZO would strip the protection that the conditional use process in the overlay would afford us and thus allow any restaurant to serve alcohol, have amplified/live music and stay open until 2 am. This would irreparably tear the fabric of our neighborhood and community. We have experienced, and the neighborhood has suffered in the past from loud noise in the early morning hours, public urination from the bar patrons leaving the bars, trash, bottles and even drunks on the lawn or even banging on the front door or vomiting in my driveway. Many of these problems have been reduced in the last two years through efforts from our City Council Person and the universities. We have rebuilt the sense and feel of a residential neighborhood with a small assortment of small shops, a few small restaurants and a restricted number of bars to serve the neighbors and the students.

The Maple Street Overlay would help us control any further expansion of ABOs and prevent Maple Street from turning into a "Frenchman Street". It would allow us to continue to attract young families with children, college professors and staff and their families from the universities and maintain the neighborhood ambiance that has made us an attractive place to live and work.

I and my neighbors are strongly IN FAVOR of the Maple Street Overlay.

Thank you, kirk groome

## CPCinfo

---

**From:** ann marie guidry <amguidry@bellsouth.net>  
**Sent:** Monday, July 20, 2015 1:55 PM  
**To:** CPCinfo  
**Subject:** Maple Overlay Support

Dear City Planning Commission -

Please consider supporting the Maple Street Overlay so that our quality of life can remain health.  
Please know that I support the Maple Street Overlay.

Thanks,  
Ann Marie Guidry-Derby

## CPCinfo

---

**From:** Nica Brady <monica@well.com>  
**Sent:** Monday, July 20, 2015 2:26 PM  
**To:** CPCinfo  
**Subject:** Maple Street Overlay - I live 2 blocks away

Dear City Planning Commission,

I support the proposed Maple Street Overlay.

Between Tulane and Loyola, there are approximately 18,000 students with easy access to the Maple Street corridor. I don't want an increase of alcohol-serving businesses in the area.

Currently there is a diversity of businesses in the Maple Street corridor that serve the neighborhood and are a welcome discovery for students and visitors seeking a quieter side of New Orleans. The businesses include a bookstore, coffee shops, retail clothing and jewelry shops, professional offices, a laundromat, restaurants, a cobbler, fitness studios, a florist, medical offices and hair studios.

There are many homeowners who have properties that abut the property lines of Maple Street businesses. We need the protection from the increased noise and traffic that will appear if Maple Street transforms into an entertainment district.

Know that it is the random, loud, drunken voices that are very hard to control. Those voices come and go, but the homeowner or tenant resident who is trying to go to sleep or who just woke up because some drunk and inconsiderate person is nearby doesn't come and go. We stay. These are our homes.

Please protect us from these threats, and please don't let the genie out of the bottle on Maple Street!

Thank you for reading and for your consideration.

Best regards,

Monica Brady  
7811 Freret Street

## CPCinfo

---

**From:** Vanessa Brown Claiborne <vbrown@chaffe-associates.com>  
**Sent:** Monday, July 20, 2015 6:23 PM  
**To:** CPCinfo  
**Subject:** Maple Street

I support the overlay proposed by Council member Guidry that would make serving alcohol, late hours and live music CONDITIONAL uses requiring a permit on Maple Street. Thank you for your consideration.

Vanessa Brown Claiborne  
7635 St Charles Ave  
New Orleans, LA 70118  
504-861-7934

The information contained in this message is confidential and protected from disclosure. If the reader of this message is not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify sender immediately by replying to this message and then deleting it from your computer. Any dissemination or other use of this information other than for its intended use is strictly prohibited. Chaffe & Associates Inc. has taken precautions to screen this message for viruses; however we cannot make any representation that the e-mail is free of all viruses. The material in this e-mail does not constitute an offer to sell nor a solicitation of an offer to purchase securities. Any such offer may only be made pursuant to a prospectus or private placement memorandum. Investment banking services are provided by Chaffe Securities, Inc., member FINRA/SIPC.

## CPCinfo

---

**From:** Elizabeth Houck <eboahome@bellsouth.net>  
**Sent:** Tuesday, July 21, 2015 10:45 AM  
**To:** CPCinfo  
**Subject:** Maple Street overlay

Dear Commission Members,

One of the best things about the Maple Street corridor is both the proximity of small businesses/ restaurants and the restraints that keep them compatible with residential life. These restraints are a necessary and appropriate part of the privilege of locating a business in the heart of a residential area. To allow unrestricted alcohol and live music permits is the worst kind of short-sightedness. The fact that live music is even on the table is bad enough, given that there are now 4 bars in this stretch.

Consideration of the public good must take into account that this residential area predates most of the businesses along Maple Street. Please keep the conditional use process in place by allowing the overlay for the area.

Elizabeth B. Houck  
909 Burdette Street  
NOLA 70118

## CPCinfo

---

**From:** agoodmama . <agoodmama@gmail.com>  
**Sent:** Tuesday, July 21, 2015 12:47 PM  
**To:** CPCinfo  
**Subject:** Maple Street proposed changes

As a longtime homeowner in the Maple Street area, I am not happy about the proposed changes. What makes this neighborhood so special is that...its that perfect mix of lively and calm. It get customers but not so many that it becomes a ridiculous traffic jam. There are drunk young adults around, but...there is also a certain restraint that is set by the tone of the business environment that...keeps the whole thing at a pleasant level for everyone to share this neighborhood space. Not to mention keeps a safer environment for the young adults as well as the residents and many families with young children who live here.

I have time and again hosted guests to this neighborhood, be they out of towners or people just visiting from regular uptown...and over and over I hear the same thing. That its such a nice mix here...of offerings and also a peaceful atmosphere. In my opinion, as well as the clear input I have received over my twenty plus years owning here....it would be a big mistake to give up the restraint that supports the truly special and so often appreciated charm of this neighborhood.

I hope you will consider.

New Orleans is in such a time of good change...lets not overdue change lest the good that is already brewing here...be lost.

I can also say that I know many others, many of them homeowners in this neighborhood, who have not taken the time to write, but strongly share this view.

Sincerely,

Flora Hearst

918 Adams Street