



November 26, 2013

HAND DELIVERED

New Orleans City Planning Commission
Chair Kelly Brown
Vice Chair Craig Mitchell
Member Lois Carlos-Lawrence
Member Joseph Williams
Member Pamela Bryan
Member Robert Steeg
Member Royce Duplessis
Member Kyle Wedberg
Member Nolan Marshall III

1300 Poydras Street, 7th Floor
New Orleans, La. 70112

Re: Port of New Orleans Comments on Proposed Comprehensive Zoning Ordinance (September 2013 Draft)

Ladies and Gentlemen:

The Port of New Orleans staff has reviewed the draft Comprehensive Zoning Ordinance (CZO) and come to the conclusion that many of the proposed changes conflict with our constitutional and statutory mandates to promote commerce along the Mississippi River, the New Orleans Inner Harbor Navigation Canal (IHNC) and the Gulf Intracoastal Waterway (GIWW). Our objections derive from three aspects of the proposed ordinance:

- Zoning changes where there is a potential for existing tenants and shippers of the Port to be considered to be Legally Non-Conforming uses;
- The designation of vacant industrial property owned by the Port as an Environmentally Sensitive District (ESD) or Natural Assets (NA), which could severely restrict our rights to develop the properties;
- Provisions related to the Site Plan and Design Review, which we believe could unnecessarily delay projects to develop Port property.

These are our primary concerns after reviewing the draft CZO, but since the document represents a sweeping change to the regulation of property use in the city, and the Port is one of the largest landowners in Orleans Parish, it's difficult to foresee all of the ways that the CZO could impact us. We believe that it's in the City Planning Commission's and the Port's best interest to find ways to resolve

these potential conflicts, since we are both public entities working to improve the economic prosperity and the overall quality of life in the New Orleans area.

Maritime activity in the Port of New Orleans generates 160,498 jobs, \$8 billion in earnings, \$17 billion in spending and \$800 million in taxes statewide. The Port owns more than 22 million square feet of cargo-handling area and more than 1,000 acres of maritime and industrial land. Pursuant to La. R.S. 34:1 et seq and Article VI, Sections 43 and 44 of the Louisiana Constitution of 1974, the Board of Commissioners of the Port of New Orleans is charged with the responsibility of regulating commerce and traffic of the port and harbor of New Orleans in such a manner as may be best in its judgment. Moreover, the Industrial Canal was constructed under Act No. 244 of 1914, which became an amendment to the Louisiana Constitution of 1913. The act directed the Board to dig, build, erect, and operate a navigation canal in the City of New Orleans from the Mississippi River to Lake Ponchartrain in aid of commerce. Pursuant to Revised Statutes Section 34:45, *inter alia*, the Board has been granted the power to lease for manufacturing, commercial and business purposes lands acquired for the navigation canal. To the extent that the Master Plan and the CZO would conflict with the central mission of a political subdivision of state government to manage publicly-owned property on behalf of the citizens of Louisiana, we believe they would be unconstitutional. However, in the spirit of working together with the Planning Commission and the City of New Orleans to promote economic development and to encourage smart growth, we have submitted requests for changes in the Land Use Categories (letters of May 11 and Aug. 1) and plan to continue to engage on the CZO throughout the planning review process.

Zoning Changes

Most of our objections to the zoning changes relate to the proposed change of segments of Port property to Maritime Industrial (MI). While it seems that the City Planning Commission staff was trying to be responsive to the Port's needs by creating the MI zone and the Maritime Mixed Use subzone, several specific elements of these zoning designations could create more problems than they would solve. In an August 1, 2011 letter to the CPC, we proposed a Mixed Use Maritime Industrial land use be applied to a limited section of the northwest quadrant of the IHNC. The reason for the proposal was to address the needs of the Port to accommodate both industrial and recreational uses tied to water. With two tenants that operate a Marina/RV Park and a Marina/Boat Repair and Storage facility in an area that is also home to more traditional Port and industrial uses, we were proposing ways to allow for a reasonable transition between maritime-related industrial and recreational uses. We also believe that it's essential to preserve the industrial character of our properties if some of the recreational activities are not successful in the long term.

Elements of the Mixed Use Maritime Industrial land use category that we proposed were incorporated into the new Maritime Industrial Zone and Maritime Mixed Use Subzone in the draft CZO. However, instead of applying that new designation to the confined area that was recommended, it was used in many waterfront areas that are now subject to a wider variety of industrial uses that aren't

explicitly permitted in MI. There also seems to be some errors that in plotting the MI area, since some landlocked properties that the Port does not own on Downman Road are included in the MI district.

If MI is to be widely used on Port property as the Draft CZO proposes, we believe that the permitted uses don't fully incorporate the compatible industrial activities on Port properties that have been established pursuant to statutory authority and the Louisiana Constitution. . For instance, food processing is not a permitted or conditional use in MI, even though New Orleans is ranked number 2 in U.S. coffee imports and many coffee-related manufacturing and processing activities take place on property that the Port has sold or leases in this area. These activities mean jobs and investment that benefit the citizens of New Orleans, and we do not believe that the CPC intended to make these compatible activities a non-conforming use. On the industrial side, many other existing uses of Port property aren't listed as permitted uses in MI, such as light and heavy manufacturing, contractor storage yards, utilities, salvage yards and truck repair. Those should all be permitted uses. On the recreational side, we request that ancillary activities one might expect at a marina, such as RV parks, restaurants and retail sales of alcoholic beverages are permitted in Maritime Mixed Use.

We believe that there are several acceptable approaches to addressing these issues. The MI designation could be limited to the area that the Port originally proposed in its comments to the Master Plan, while keeping the existing zoning of the other areas of the IHNC and the GIWW. The recreational and industrial uses allowed in Maritime Industrial could be broadened to fully account for existing uses of property along the IHNC. There could be a combination of map changes and permitted use changes to keep existing Port tenants and shippers within the parameters of the zoning ordinance.

Environmentally Sensitive District and Natural Assets

Proposed changes in the draft CZO would make about 280 acres of Port Property on the Gulf Intracoastal Waterway essentially useless and tremendously hamper the Board's endeavors to promote commerce. The 280 acres is comprised of two vacant pieces of properties on the north and south side of the Paris Avenue Bridge that are currently zoned heavy industrial. Under the draft CZO, the parcel on the north end (Aurora Property) would be classified as an Environmentally Sensitive District (ESD) and the southern parcel (Paris Road Property) is designated a Natural Asset (NA).

Since there are very few permitted or conditional uses for ESD and NA designations, the changes in zoning would essentially make it impossible to market and develop these properties in accordance with our statutory and constitutional mission. To zero in further on the Aurora Property, it seems arbitrary to declare this property ESD since there are many other properties in the same planning district which are similarly situated but retain their classification of heavy industrial. Furthermore, there is already a state and federal process for development in environmentally sensitive areas. If the Port meets those state and federal standards, we see no justifiable and lawful reason why we shouldn't be able to market and develop our properties. It is unclear what public purpose would be served by the

City using a zoning ordinance to create additional layer of environmental regulation that is potentially more restrictive than existing state and federal environmental regulation.

Moreover, changing properties from heavy industrial to zoning designations that would ensure they remain undeveloped represents a substantial reduction in the value of the land. One could argue that the land under the new zoning designation has essentially no value to its owner and therefore the zoning change constitutes a taking. If the changes suggested in the draft CZO are allowed to stand, the City would effectively be superimposing its judgment that these publicly-owned, waterfront properties should remain vacant over the Board's authority to develop these properties in accordance with its statutory and constitutional mission.

Site Plan and Design Review

The draft CZO sets forth a new process that would require certain development projects, including non-residential development projects in excess of 40,000 square feet of floor area, to undergo a Site Plan and Design Review approval process. The process is intended to assure "development or redevelopment occurs in a manner that is harmonious with surrounding properties and neighborhoods." We believe that there would be no benefit to subjecting Port-owned industrial property to this review process and that either all industrial property or industrial property owned by the Port should be explicitly exempted from this process.

The very nature of industrial zoning indicates that intense uses of the property, which wouldn't be harmonious in a residential or commercial setting, are allowed in a circumscribed area. These areas have been zoned industrial so that these types of necessary but intensive uses can take place in a setting where they are not likely to disturb the neighbors, who are also likely to be engaged in industrial activity. Since the land use and zoning regulations already place these activities in areas where they don't impact neighbors, it is unclear what would be gained by having a review process that also protects against the same issues. It is clear, however, what would be lost. The ability to move quickly from planning to construction would be severely limited by a process that could add several months to the development process. This would inhibit capital investment in Port property.

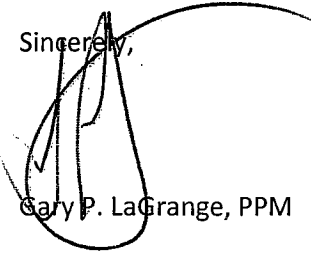
It should also be noted that the Port's industrial tenants are not normally subject to the City's construction permit process. Since the Port manages its own construction permit process, the proper forum to cover issues that would be subject to the Site Plan and Design Review process can be enforced by the Port through its own permit process.

In conclusion, we believe that the City Planning Commission and the Port of New Orleans are both committed to improving the property values and overall quality of life in the City. Drafting a new CZO is a monumental undertaking that has the ability to greatly benefit all property owners in New Orleans, including the Port of New Orleans. However, the devil is in the details. Many of the details as

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS

set out in the draft CZO could severely limit our ability to carry out our central mission. We have proposed a number of specific ways to address these conflicts and look forward to discussing them with the CPC staff. We would like to suggest that Port staff and CPC staff meet to work toward solutions that is mutually beneficial to our organizations. Please contact Chris Bonura at 504-528-3222 or bonurac@portno.com to make arrangements.

Sincerely,



Gary P. LaGrange, PPM

Cc:

Mitch Landrieu, Mayor
Jacquelyn Brechtel Clarkson, Council President and Councilmember-at-Large
Stacy Head, Council Vice President and Councilmember-at-Large
Susan Guidry, District A Councilmember
LaToya Cantrell, District B Councilmember
Kristin Palmer, District C Councilmember
Cynthia Hedge-Morrell, District D Councilmember
James Gray II, District E Councilmember
Robert Rivers, CPC Executive Director
Michael Hecht, Greater New Orleans Inc.
Rod Miller, New Orleans Business Alliance



Anthony P. Lorino
*Senior Vice President for Operations
and Chief Financial Officer*

September 10, 2013

City Planning Commission
1340 Poydras Street, 9th Floor
New Orleans, LA 70112

Re: Tulane University Additional Comments to Draft Comprehensive Zoning Ordinance

Dear City Planning Commissioners:

This comment letter regarding the draft Comprehensive Zoning Ordinance of the City of New Orleans (the "Draft CZO") is being submitted by Tulane University ("Tulane"). Tulane hereby reiterates the comments sent in the November 1, 2011 Tulane Letter, which were issued in response to the Draft CZO. These comments are in addition to those shared by the university group with the CPC staff. In furtherance of addressing any issues that remain or may arise out of the Draft CZO or any future revised draft of the Comprehensive Zoning Ordinance of the City of New Orleans (the "Future Draft CZO"), Tulane respectfully restates the following issues to the attention of the City Planning Commission:

Height Limitation and Setback Requirements

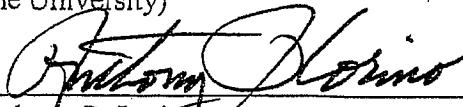
With respect to off-campus properties, if the Tulane University Square site is zoned as MU-1 Medium Intensity Mixed-Use (proposed 48 ft. maximum height), then such classification would remove approximately sixty percent (60%) of the existing development rights for that site. Current zoning allows 130 ft. of development. If this site is zoned as an EC Educational Campus District, reduction in development rights depends on EC district regulations. We respectfully request that the maximum height for MU-1 Medium Intensity Mixed Use is increased, or the property is zoned as MU-2 High Intensity Mixed-Use or EC Educational Campus District (depending on EC regulations).

The Draft CZO also reduces the development rights of the former Rohm's site (8333 Maple Street, corner of Maple Street and Leake Avenue) by decreasing the maximum height from 75 feet to 40 feet, and by designating a currently permitted use (warehouse) as a conditional use. We respectfully request that the maximum height remain 75 feet in this location historically zoned industrial and that warehouse use remains permitted.

City Planning Commission
September 10, 2013
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Sincerely yours,

The Administrators of the Tulane Educational Fund
(Tulane University)

By: 

Anthony P. Loring
Senior Vice-President for Operations & CFO

CC: Lesley Alley, Deputy Director
Paul Cramer, Planning Administrator

Att: Tulane Specific Analysis and Proposal chart

TULANE Specific Analysis and Proposal

7 10 2013
updated 8 29 2013

These concerns and proposals are in addition to the shared university group proposal and relate to properties outside the Educational District. All concerns have previously been shared in the Nov 1, 2011 Tulane comment letter.

1. Height and Setback Requirements

Site Limitations:

- a. **Tulane University Square** (200 Broadway Street)
If zoned as MU-1 Medium Density Mixed Use, 60% of development rights are removed (assuming 48' max height is maintained for MU-1). If zoned as Educational Campus District, loss of development depends on EC district restrictions. Allow higher height for Medium Density Mixed Use, or zone as EC (depending on EC restrictions) PD 3
- b. **Rohm's site** (8333 Maple Street, corner with Leake Avenue) – development rights reduced from 75' to 40', warehouse currently permitted will become conditional use. Zone as MU-2 and allow warehouse use (current use). PD 3
- c. **Papillion apartments** (1643 Josephine) will become non-conforming due to height. Designate as MU-2 Mixed Use. PD 2

4. Uses and Design Standards

- Several Tulane properties outside of the uptown campus will become non-conforming due to use:
- a. **Elks Place** (127 Elk Place) - research and development not permitted. Designate as CBD 6 Bio-Science District. PD 1
 - b. **Environmental Sciences Building** (1700 Perdido) - research and development not permitted. Designate as CBD 6 Bio-Science District. PD 1
 - c. **N Broad Clinic** (701-711 N. Broad Street) - demonstration kitchen not permitted. Designate as MU-1 Mixed Use PD 4
 - d. **145 University Place** - garage not permitted. Designate as CBD 2 Mixed Use District. PD 1
 - e. **Hayne Boulevard** - residential zoning proposed is restrictive, not permitting educational facilities. Designate as EC District (depending on EC restrictions). PD 9

1. 100% educational use is not permitted on first floor of CBD zones and along Canal Street (Environmental Sciences Building - 1700 Perdido). Allow 100% educational use on first floor of the CBD zones and along Canal Street. 17
2. Ground floor of commercial façade is required to maintain 50% transparency with clear and non-tinted glass. Applies to all buildings, including institutional uses; not just commercial. Strike this requirement (other than commercial uses). 16
3. Educational Facility not permitted in MI-Maritime Industrial Districts (Riversphere). Allow Educational Facilities in MI. 8
4. Educational Facilities not permitted in RRE - Rural Residential Estate (Studio in the Woods - 13403 River Road). Allow educational facilities/classroom as permitted uses in RRE district. 15
5. Single family and two-family housing not permitted in Educational Campus District (visiting faculty housing and live in staff). Allow single family and two-family residential uses in EC. 15
6. Auditorium uses are not permitted in MU-2 High Intensity Mixed Use Districts (Riversphere, Rohm's site - 8333 Maple street). Allow Auditoriums in MU-2. 17
7. In CBD areas, a site plan review and traffic impact study are required for new construction or change in use of buildings over 50,000 sf. Remove this requirement or increase applicable threshold as most buildings in this area are above this square footage. 15
8. Sororities and fraternities are not permitted within 500' of current fraternities/sororities but must be within 1,000' of campus boundary in a two family or multi family district - no such location exists. Modify requirements to permit further than 1000' of campus or closer than 500' from other. 15