

Monthly Zoning Meeting  
Tuesday, September 11, 2007

CPC Deadline: 10/26/07  
CC Deadline: 12/04/07  
Council District: C  
Council Member: Carter

### PRELIMINARY STAFF REPORT

To: City Planning Commission

Prepared by: Jeremy Tennant and  
Todd Breckman

Zoning Docket: 85/07

Date: August 31, 2007

#### I. GENERAL INFORMATION:

**Applicant:** Audry R. Saladino

**Request:** This is a request for a Zoning Change from an RD-2 Two-Family Residential District to a B-1 Neighborhood Business District and a Conditional Use to permit the sale of alcoholic beverages for consumption off premises.

**Location:** The petitioned property is located in the Second Municipal District, Square 352, Lot A, bounded by Ursulines Avenue, Orchid, Crete and North White Streets. The municipal address is 2703 Ursulines Avenue. (ZBM C-13)

**Description:** The petitioned property is a rectangular shaped, corner lot measuring approximately thirty-six (36) feet in width by one hundred and forty (140) feet in depth. The lot measures approximately 5,040 square feet. It is within the Bayou St. John neighborhood which is within the Esplanade Ridge Historic District. The one story wooden structure is currently occupied and operating as a commercial use and has a history of commercial use. The property is an existing legal non-conforming grocery store and currently has a temporary ABO license, which was issued May 25, 2007. The 2,925 square foot building occupies most of the lot. To the rear of the property is a storage shed, a dumpster and an air conditioner unit. There is no off-street parking provided. The applicant is requesting a zoning change from an RD-2 Two-Family Residential District to a B-1 Neighborhood Business District and a Conditional Use to permit the sale of high content alcoholic beverages for consumption off premises.

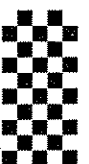
#### Why is City Planning Commission action required?

**Article 16, Section 16.2.3, Action on Zoning Amendments,** requires the City Planning Commission to conduct a public hearing and to make its recommendation to the City Council on all requests for zoning map changes.

**Article 16, Section 16.6.4, Procedures for Conditional Use Permits,** requires the City Planning Commission to conduct a public hearing and to make its recommendation to the City Council on all requests for Conditional Uses.

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ZD 85/07



**II. ANALYSIS**

**A. What is the existing land use & how are the surrounding areas used?**

The petitioned site is situated within the Esplanade Ridge Historic District within the Bayou St. John neighborhood at the corner of Ursulines Avenue and Crete Street. The site is located in an area zoned RD-2 Two-Family Residential District, a block away from an existing established B-1 Neighborhood Business District. The existing land use is commercial. The site is an existing legal non-conforming grocery store, which currently holds an Alcoholic Beverage License (ABO). The adjacent structures within the neighborhood consist of single and two-family residences and commercial businesses (i.e. restaurants, laundromat, auto repair shop, tax office, hair salon, medical facilities, and gas station).

**B. How has the property been used and how has it been zoned historically?**

**Zoning History:**

Zoning	
1944	A - One and Two Family Dwelling
1957	B - Two Family District
1970	RD-2 - Two-Family Residential District
Land Use	
1929	Commercial
1949	Commercial
1999	Residential - Single/Two-Family

**C. What is the zoning of the surrounding areas? Have there been any recent zoning changes in the area & if so do these changes indicate any particular pattern or trend as per land use?**

Zoning Docket 54/07 was a request for a Zoning Change from an RD-3 Two Family Residential District to an RO General Office District to permit a professional office in an existing structure. The municipal address is 2803 St. Philip St. The City Planning Commission recommended approval. The request was approved by the City Council. *The site is two blocks away from the petitioned site.*

Zoning Docket 60/06 was a request for a zoning change from an RD-3 Two Family Residential District to a B-1A Neighborhood Business District to permit a dance/exercise studio in an existing building. The municipal address is 2901-03 Orleans Avenue. The City Planning Commission recommended modified approval of the request. The request was approved by the City Council, subject to 2 waivers and 3 provisos. *The site is located approximately four blocks away from the petitioned site.*

Zoning Docket 66/02 was a request for a zoning change from an RD-3 Two Family Residential District to an RM-1 Multiple Family Residential District, to permit the renovation of a four-plex residential structure. The municipal address is 916-922 North Dorgenois Street. The City Planning Commission recommended modified approval of the request. The request was approved by the City Council. *The site is located approximately four blocks away from the petitioned site.*

These zoning changes do not represent a pattern or trend in this area which has a mix of residential and neighborhood business uses.

The petitioned site is currently within a RD-2 Two-Family Residential District. Within the RD-2 Two-Family Residential District, there are 33 squares. The RD-2 Two-Family Residential District is surrounded by two zoning districts. Directly to the north, east and south of the RD-2 Two-Family Residential District is an RD-3 Two-Family Residential District. To the west of the RD-2 Two-Family Residential District is a B-1 Neighborhood Residential District along Broad Avenue from St. Peter Street to Esplanade Avenue.

**D. What are the comments from the design review staff?**

The subject site is an existing 2,925 square foot convenience store on a thirty six (36) foot wide by one hundred forty (140) foot deep corner lot. The structure appears to have been constructed as a corner commercial development in the early 1900's. A canopy of approximately three (3) feet in depth wraps around the front portion and entrance of the structure. There have been no apparent improvements to the exterior of the structure, other than the boarding up of what may have been store front windows at one time. In the rear yard (36'x 40') is located a small storage shed and a trash dumpster. No off-street parking is available on the site.

The interior layout of the proposed business indicates a typical convenience grocery store arrangement with check-out counter, retail shelving, deli counter, beverage coolers, and storage area. The store currently sells low-content alcoholic beverages for consumption off-premises and is seeking approval to sell high-content alcoholic beverages. With regard to any alcoholic beverage sales, the staff recommends the following:

- All alcoholic beverages shall be packaged for consumption off-premises. The consumption of alcoholic beverages in the store or in the area adjacent to the store shall be prohibited.

The rear yard is surrounded by an opaque wood fence on the street and rear sides that appears to be leaning and is missing several boards. The interior side lot line is fenced with a chain link fence from the rear wood fence to the front of the property. The staff is concerned with the dilapidated look and security of the fence, since it is in the rear yard that the trash dumpster and other storage is located. The staff recommends that the applicant replace/restore the opaque wood fence to a minimum of six (6) feet in height,

surrounding the entire rear yard and along the interior side lot line. The rear yard should have operational latching gates so that the dumpster is securely screened from view of the street right-of-way. Any items stored in the rear yard should not extend above the upper limit of the fence so that it can be viewed from the street right-of-way.

- The applicant shall maintain a continuous minimum six (6) foot high screen in the form of an opaque wooden fence around the entire rear yard and along the interior side lot line. The fenced area shall be fitted with operational latching gate(s). At no time shall the trash or any other storage, including bread and milk crates, be visible from the public rights-of-way. Evidence of such enclosure (photographs, drawings) and its location shall be submitted to City Planning staff prior to final approval.
- The applicant shall provide a litter abatement letter inclusive of the location and method of trash storage out of the public right-of-way, the frequency of trash pickup, the clearing of all litter from the sidewalks and street rights-of-way, and the periodic hosing of the sidewalks. The name and phone number of the owner/operator of the grocery store shall be kept on file in case of any violations.

Further, the staff noted that the street curb on the Crete Street side extends less than half way down the length of the site to a storm catch basin. The sidewalk area currently consists of old brick and grass and is often used for parking. It is the responsibility of a property owner to restore and maintain a curb and sidewalk along the perimeter of the property. The staff recommends that the applicant restore the curb and sidewalk along the Crete Street side of the property. The applicant should also plant a minimum of four (4) street trees along the same side of the property. The front of the property currently has a large mature live oak tree near the left side property line.

- The applicant shall restore the curb and sidewalk along the Crete Street side of the property, subject to the standards of the Department of Public Works.
- The applicant shall plant a minimum of four (4) street trees, at a minimum height of 10 to 12 feet, along the Crete Street side of the property. Planting in the public right-a-way shall be subject to the review and approval of the Department of Parks and Parkways.

The submitted photographs of the subject site indicate existing signage for the grocery store that appears to be excessive in nature. According to **Article 5, Section 5.4.6 Permitted Signs** of the CZO, flat signs are limited in area to three square feet per lineal foot of building frontage or fifteen percent of the wall area on which the business has its main entrance, whichever is greater. With one hundred thirty (130) lineal feet of building frontage, three hundred ninety (390) square feet of signage would be permitted. In order to display a more cohesive and organized signage arrangement, the staff recommends that the applicant limit the signage specifically to that of the store's name and general offerings and not that of specific products or brands. With regard to

signage, if this request is approved the staff recommends:

- All exterior signage shall be subject to **Article 5, Section 5.4.6 Permitted Signs** of the CZO. No alcoholic beverage promotional signage shall be permitted. Existing signage shall be removed and proposed signage should be limited specifically to that of the store's name and general offerings and not that of specific products or brands.

**E. What is the potential traffic impact? What are the off-street parking requirements? Can they be provided on site? If not, is a waiver required?**

According to the Transportation Master Plan<sup>1</sup>, Ursulines Avenue, Orchid, Crete and North White Streets are classified as collector and local streets. Ursulines Avenue is a two (2) lane thoroughfare, divided by a neutral ground, with one (1) lane of traffic in each direction that accommodates a moderate volume of traffic. Orchid and North White Streets are two (2) lane thoroughfares with one (1) lane of traffic in each direction that accommodates a low volume of traffic. Crete Street is a one (1) lane thoroughfare with one lane of traffic headed in the northeast bound direction. The petitioned property is a corner lot, which sits one (1) block from an established B-1 Neighborhood Business District at the corner of Ursulines Avenue and Crete Street.

The proposed zoning change will have a minimal impact on the adjacent transportation system. The grocery store at the site has existed as a legal non-conforming grocery store since 1983. There is no expansion or conversion request for the site. It will function as it is currently. The only addition to this site will be the sale of high content liquor. There is on-street parking adjacent to the neighborhood grocery store. Currently vehicles park on the sidewalk area. This is not permitted. A proviso has been recommended in the Design Review Section which will require the restoration of the sidewalk and curb along Crete Street.

According to **Article 15, Section 15.2.1 Table 15.A Off-Street Parking Regulations for All Districts, Except the CBD District and Vieux Carré Districts**, one (1) space per 200 square feet of floor area, with a minimum of three (3) spaces, are required for a retail store or personal service establishment, health club or similar use and banks in low and medium density districts. The total square footage of the grocery store measures 2,925 square feet.

Retail stores should meet the minimum off-street parking requirement of one (1) space per 200 square feet of floor area. With a floor area of 2,925 total square feet this results in a requirement of 15 off-street parking spaces. Due to the use being a non-conforming grocery store previously, fifteen (15) spaces were required with zero (0) provided therefore fifteen (15) spaces have been grandfathered to the site. The petitioned site meets its off-street parking requirements for the fifteen (15) required parking spaces.

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<sup>1</sup> New Century New Orleans Master Plan, City Planning Commission, March 2004, Maps 2 and 3.

**F. Comments from other agencies/departments/committees.**

The proposal was considered by the Planning Advisory Committee at their meeting on August 22, 2007. The applicant, Mr. Ricky Soprano, 2703 Ursulines Avenue, stated his name and that he was available to answer any questions from the PAC members. The Zoning Administrator inquired whether or not the building was an existing non-conforming grocery store with an alcoholic license. The applicant stated yes, the store has a beer license currently and now would like to upgrade to a liquor and wine license.

The representative from the Department of Public Works inquired whether or not the site is required to have handicap parking. The Zoning Administrator replied that the site doesn't have any parking at all. The representative from the Department of Public Works turned attention to the site plan which indicates that there is parking area for four (4) handicapped, two (2) standard, & two (2) compact vehicles along the grassy portion adjacent to the site along Crete Street. The representative stated that the applicant can not permit parking in the grassy area adjacent to the building.

The representative from the City Planning Commission inquired where the high content liquor would be located. The applicant stated that the high content liquor will be located behind the counter, enclosed.

The committee agreed to a motion of no objection subject to further review of the conditional use request by the City Planning Commission.

**G. What is the purpose of the proposed rezoning, and what effect would it have on the adjacent land uses?**

The purpose of the proposed rezoning is to allow the applicant the opportunity sell high content liquor and wine. The RD-2 Two-Family Residential District does not allow for the permitted or conditional use of the sale of high content liquor and wine at this site, which is currently an existing legal non-conforming grocery store. The zoning change request will allow for the property to lose its non-conforming status within the RD-2 Two-Family Residential District allowing it to become a conditional use with the B-1 Neighborhood Business District. The proposed map change would allow this and any of the other uses permitted in the B-1 Neighborhood Business District. These uses include businesses such as the one proposed and the following:

Any use permitted in the RM-1 Multiple-Family Residential District
Automatic ice distribution station or other drive-in automatic vending machine station
Banks without drive-in facilities
Banks with drive-in facilities
Bakeries with less than 2,500 square feet of floor area
Barbershops, beauty parlors, chiropody, or similar personal service shops, except massage parlors
Bicycle sales and repair shops
Car wash or automobile laundry
Catering and delicatessen business
Clinics with less than 2,500 square feet of floor area
Custom dressmaking, millinery, tailoring, or similar retail trades occupying not more than 2,500 square feet of floor area
Dry cleaning shops occupying not more than 2,500 square feet of floor area and using no cleaning fluid whose base is petroleum or one of its derivatives
Gasoline Service Station
Flower shop and greenhouses incidental thereto.
Laundromats.
Laundries occupying not more than 2,500 square feet of floor area
Locksmith shops
Messenger and telegraph service stations
Offices, general business or professional
Parking lots, parking spaces and parking areas
Photographers' studios
Standard and cafeteria restaurants
Fast food and drive-in restaurants
Shoe repairing shops occupying not more than 2,500 square feet of floor area
Repair shops for electrical and radio equipment with less than 2,500 square feet of floor area
Stores or shops for the conduct of a retail business occupying not more than 5,000 square feet of gross floor area, except automobile/vehicular parts sales/non-service, and pawnshops
Dance studios
Hospital or clinic for small animals, dogs, cats, birds, and the like

Cablecasting studios and distribution or switching centers
Public/private elementary schools
Public/private junior high or senior high schools
Child care facilities
Adult day care centers
Bed and breakfast family homes

As stated in Section 4.5.1 of the Comprehensive Zoning Ordinance (CZO), "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, as well as in the outlying areas of the City. This development may be mixed with single-family dwellings, together with such churches; recreational facilities and accessory uses as may be necessary or are normally compatible with residential surroundings."

As stated in Section 5.4.1 of the Comprehensive Zoning Ordinance (CZO), "the purpose of the B-1 Neighborhood Business District is to provide primarily for retail shopping and personal service uses, to be developed either as a unit or in individual parcels, to serve the needs of a relatively small area, primarily nearby, low-density residential neighborhoods. To enhance the general character of the district and its compatibility with its residential surroundings, signs are limited to those accessory to businesses conducted on the premises and the number, area, and types of signs are limited."

The B-1 Neighborhood Business District is one of the least intense of the City's business and commercial zoning districts, and is intended to provide for commercial uses that can exist harmoniously with adjacent and nearby low-density residential uses. To mitigate the impacts which may occur as a result of adding alcoholic beverage sales to a restaurant, the CPC staff recommends that the pay phone at the exterior of the grocery store be removed. The existence of a pay telephone, at the exterior of some ABO outlets, can be a contributable factor for undesirable and criminal activity. Therefore, the following proviso is also recommended:

- The existing payphone shall be removed and future payphones shall be prohibited on the exterior of the building or the site.

Both the building overhang and the commercial ice chest freezer lie upon city right of way. The applicant should contact Real Estate and Records to attain a lease of servitude for the existing encroachment.

- The applicant shall procure a lease of servitude from the Department of Property Management Division of Real Estate and Records for any encroachments over the public right of way including ice storage, newspaper box, overhangs and signage.



**H. Can the request be considered a spot zone? Does it fall within the Historic Non-Conforming Use Policy?**

The petitioned property is located on the southeastern corner of the square at the corner of Ursulines Avenue and Crete Street. It has a long-standing existing commercial use on the property and it is located one lot away from an established B-1 Neighborhood Business District.

"As a policy, the City Planning Commission will look with favor upon all requests for amendments to the Zoning Ordinance wherein such request may constitute the singling out of a lot or other relatively small tracts of land for such different treatment of classification is effected either in regard of questions of need, value to the environment, harmony with a land use plan (wherein such a plan is compatible with the historical development of the neighborhood) or in relation to surrounding neighborhood."<sup>2</sup>

The request falls within the Historic Non-Conforming Use Policy. Generally, it is consistent with the character of the surrounding neighborhood; it serves a neighborhood need; and it is in harmony with the historic character of the surrounding neighborhood. Also, the property has been used commercially prior to 1929 as indicated in the Land Use History section of this report.

Specifically, the property forms the corner of two minor residential streets; it is pedestrian oriented, in a pedestrian oriented neighborhood; the building is built to the sidewalk, facing the corner of Ursulines Avenue and Crete Street; the entrance of the building is visible from both thoroughfares; the building has an overhang over the sidewalk; also the building is not a conversion from a residential main use. However, the building does not have display windows.

The requested map change would single out the petitioned property within a larger RD-2 Two-Family Residential District for treatment inconsistent with that generally afforded to similar residential districts throughout the City. There are both physical and historical characteristics of this lot that would justify the singling out of this lot. As such, the requested map change is considered a spot zone.

**I. Is the proposed action supported by or in conflict with the policies and strategies of the *New Century New Orleans Master Policy Plan*?**

The proposed action is supported by the following sections of the *New Century New Orleans Master Policy Plan*:

Neighborhood Commercial Services, Sec. 1.0: Promote businesses that have a commitment to their neighborhoods and enhance the neighborhood setting. (p. 15)

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<sup>2</sup> Administrative Rules, Policies and Procedures for the New Orleans City Planning Commission, p. 33-34

Neighborhood Commercial Services, Sec. 2.1: Identify criteria for compatible neighborhood business. Include performance standards as well as traditional regulation such as use, size, parking, signage and hours of operation. (p. 15)

Neighborhood Commercial Services, Sec. 3.1: Coordinate economic development and land use regulations to encourage appropriate neighborhood anchor business and deject commercial use that is inappropriate in scale, activity or hours of operation. (p. 15)

Commercial Centers and Neighborhoods, Sec. 1.0: Promote economic development that fosters the growth of compatible and appropriate small businesses. Maintaining strong, stable, neighborhoods must complement this effort. (p. 20)

Creating Economic Development Assets, Sec. 1.0: Focus on creating and supporting inner-city businesses. (p. 21)

#### *1999 Land Use Plan*

The proposed action is **not supported** by the proposed *1999 Land Use Plan*, which recommends "Residential - Single and Two Family" for the petitioned property. However, the Land Use Plan is not lot specific and did not acknowledge this legal non-conforming grocery store, which has been in existence since 1983, when the Land Use Plan was prepared.

### III. SUMMARY

Zoning Docket 85/07 is a request for a Zoning Change from an RD-2 Two-Family Residential District to a B-1 Neighborhood Business District and a Conditional Use to permit the sale of alcoholic beverages for consumption off premises at a neighborhood grocery store. Currently the grocery store sells low content alcohol. The grocery store is a legal non-conforming use. However to sell high content alcohol, which would be considered on expansion of a legal non-conforming use, it is necessary to change the zoning and obtain a conditional use permit. The site is one block away from an established B-1 Neighborhood Business District along North Broad Street. The request as is it proposed is a spot zone; however it does fall within the Historic Non-Conforming Use Policy. The request is supported by the New Century New Orleans Master Policy Plan. While the sale of alcoholic beverages can generate additional negative impacts on surrounding neighborhoods, staff believes the neighborhood grocery store can coexist with the residential and commercial uses in the area when the recommended provisos are approved and implemented. The proposed provisos will mitigate the negative impacts of the existing legal non-conforming commercial use and retrofit it into a more attractive business which will be more compatible with its neighboring residential uses nearby.

#### IV. PRELIMINARY STAFF RECOMMENDATION<sup>3</sup>

The staff recommends approval of Zoning Docket 85/07, is a request for a Zoning Change from an RD-2 Two-Family Residential District to a B-1 Neighborhood Business District and a Conditional Use to permit the sale of alcoholic beverages for consumption off premises, subject to eight (8) provisos.

Provisos:

1. All alcoholic beverages shall be packaged for consumption off-premises. The consumption of alcoholic beverages in the store or in the area adjacent to the store shall be prohibited.
2. The applicant shall maintain a continuous minimum six (6) foot high screen in the form of an opaque wooden fence around the entire rear yard and along the interior side lot line. The fenced area shall be fitted with operational latching gate(s). At no time shall the trash or any other storage, including bread and milk crates, be visible from the public rights-of-way. Evidence of such enclosure (photographs, drawings) and its location shall be submitted to City Planning staff prior to final approval.
3. The applicant shall provide a litter abatement letter inclusive of the location and method of trash storage out of the public right-of-way, the frequency of trash pickup, the clearing of all litter from the sidewalks and street rights-of-way, and the periodic hosing of the sidewalks. The name and phone number of the owner/operator of the grocery store shall be kept on file in case of any violations.
4. The applicant shall restore the curb and sidewalk along the Crete Street side of the property, subject to the standards of the Department of Public Works.
5. The applicant shall plant a minimum of four (4) street trees, at a minimum height of 10 to 12 feet, along the Crete Street side of the property. Planting in the public right-of-way shall be subject to the review and approval of the Department of Parks and Parkways.
6. All exterior signage shall be subject to **Article 5, Section 5.4.6 Permitted Signs** of the CZO. No alcoholic beverage promotional signage shall be permitted. Existing signage shall be removed and proposed signage should be limited specifically to that of the store's name and general offerings and not that of specific products or brands.
7. The existing payphone shall be removed and future payphones shall be prohibited on the exterior of the building or the site.

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<sup>3</sup> Subject to modification by the City Planning Commission

8. The applicant shall procure a lease of servitude from the Department of Property Management Division of Real Estate and Records for any encroachments over the public right of way including ice storage, newspaper box, overhangs and signage.

**V. REASONS FOR RECOMMENDATION**

1. The proposed B-1 Neighborhood Business District is intended to provide for commercial uses that will exist harmoniously with nearby residential uses.
2. Potential impacts created by the grocery store can be mitigated with the recommended provisos.
3. The request is supported by the New Century New Orleans Master Policy Plan.