

6/17/2022

Dear Ms. Jackson,

On Monday, June 13th, we submitted a petition to you, the Director of Safety and Permits, expressing our neighborhood's opposition to the current plans to renovate the structure at 1444 Japonica St as a six-plex in an HU-RD2 zoned district.

We wanted to follow-up with some more specific details regarding our concerns as neighboring property owners directly adjacent to this property.

### **Summary**

- The property lost its nonconforming use status when the previous owner abandoned it in 2018. Documented illegal use and a lack of six functional electric meters back up this claim.
- The building is also a nonconforming structure and can only be restored in conformance with the CZO since it is damaged over 50% of its replacement value.
- Since the value of the work exceeds 50% the value of the structure, stamped plans and an elevation certificate should be required.
- Since the owner and the contractor are both LLC's owned by the same person, Joshua Rounds, we are concerned that the contract may attempt to underreport the cost estimate to try and restore legal nonconforming use and to circumvent important regulatory oversight like plan review and elevation certificate.
- If the owner wants to restore legal nonconforming use, they should go through the conditional use permit application to ensure transparency of the process, public notice, and an opportunity for public comment.
- As such, we respectfully request that you reject both the Non-Conforming Use Determination Application and the Non-Structural Building Permit Application. Please hold this developer accountable and require that he go through the proper channels to redevelop this property lawfully in conformance with the CZO and IBC.

### **Background**

We purchased our home at 4524 N Robertson St in June of 2018. Our property was a blighted four-plex and we went through the conditional use permitting process since it had lost its legal nonconforming status. We held NPP meetings and spoke with neighbors candidly about our intentions to bring it back as a four-plex: one unit as our primary residence, another as a small home-office/guest bedroom, and two long-term rental units. At our hearings, neighbors we met through this process spoke out in favor of our project. Ultimately the conditional use was granted with various provisos such as re-subdividing our double lot into one lot, providing two off-street parking spots, and having at least one entrance oriented toward the street.

Regarding the property at 1444 Japonica St, we can only speak to what has happened since June 2018, when we purchased our property, which is directly adjacent to 1444 Japonica St.

At that point the building was occupied by residents, but to the best of our knowledge, rent was not being collected. The property was adjudicated by the city for unpaid taxes. We attempted to reach the owner multiple times about various issues, but to no avail. Our certified mail to the owner's address listed on the city's property viewer came back undeliverable. The owner had abandoned the property and the residents were effectively squatting.

Sometime in late 2018 or early 2019, a man named Trey moved in to the building and began some very sketchy operations. He used the building as a base for various criminal activities. He was the ringleader and had other occupants do the actual criminal activities. One by one, most of the original residents moved out and Trey's criminal operatives moved in. He used Apartment F for dealing hard drugs. There was steady traffic of shady individuals and repeat clients going into this unit, leaving a few minutes later, and shooting up in their cars parked in front of our house. Needles started appearing in the gutter. Multiple people have overdosed. The FBI raided this unit twice in the last year with full tactical gear and made multiple arrests.

Trey and others also used the concrete-paved rear yard for working on cars. They were effectively operating as an unlicensed open-air auto mechanic garage. At all hours of the night, they would bring in cars, strip them of parts, repaint them, etc. It was an illegal chop shop operation. The noise, fumes, trash, and spilled oil wreaked havoc on our and our neighbors peace and wellbeing.

Trey also used one of the apartments and the concrete-paved rear yard to process stolen copper wiring. They would use boats to access the old Entergy Michoud Power Plant from the Industrial Canal and steal lengths of very thick copper wire. They first tried to boil the wire in big pots to melt away the insulation. Eventually they switched to power tools designed to strip wire. This went on for nearly two years between 2019 and 2021. We spoke with NOPD detectives Vinh Nguyen and William Pearson who confirmed that the individuals matched the description of individuals caught on Entergy's security cameras, but NOPD was ultimately unable to do anything to stop the copper wire theft.

We tried everything in our power to have the city address these issues through the proper channels. We contacted our former Councilmember, Jared Brossett, who's office attempted to help but ultimately was unable to resolve any of these issues. We submitted a petition with dozens of signatures from our neighbors, which resulted in no change. When we spoke with Valerie Bouldin with the Mayor's office, she told us that the owner had died and that an enforcement action would require a title search to be able to properly notify any heirs. The only thing that the city ever did was to initiate a Chapter 66 on OneStop for "overgrown grass and rodents," but this was quickly closed by a city employee since overgrown grass was never an issue here.

Meanwhile the structure continued to deteriorate without any significant maintenance being performed to the point where it became a health and safety hazard. The structure's roof has no slope and leaks in multiple units, even before Hurricane Ida. The top plate of the walls and framing members of the roof are termite ridden and rotting away. Only two electrical meters appear to be functioning and the wiring is all exposed and extremely hazardous. Sewage in at least one unit seems backed up with residents dumping buckets of excrement directly into the storm drain. There are cracks in the concrete cinder block walls that indicate foundation issues and settlement. Doors and windows are all busted in.

## **New Ownership**

Since we were told by the city that the previous owner had died, we were surprised to learn earlier this year that Joshua Rounds had purchased the property.

Regardless, we were happy that Mr. Rounds had taken ownership of the property and were hopeful that he could provide us some relief from the above issues and redevelop the property as a positive contribution to the neighborhood. Since he evicted the squatters and put a temporary fence up around the property, our quality of life has improved dramatically.

Unfortunately, this hopefulness was short-lived and was quickly replaced with apprehension about his intentions.

In our first conversation with Mr. Rounds, he expressed interest in redeveloping the property as short-term rentals. Since this property is zoned HU-RD2 and requires it to be owner-occupied, this seemed unlikely and did not instill confidence.

He then started to work on the renovation without securing a building permit. While it's not uncommon for contractors to start work on tasks like demolition and staging while a building permit is pending, what was concerning was that his crew had started with replacing the fascia trim and eave soffits. To start with trim before addressing the roof leaks and rotten framing is backwards and led us to believe that he did not intend to fix the structural deficiencies, but rather intended a superficial covering-up of fundamental health and safety issues in order to maximize rent and minimize costs.

We do not believe the CZO allows for the structure to be restored as a six-plex. On top of that, we feel that the structure is inherently flawed with a tenement style floor plan and a finished floor elevation that is too low and prone to repetitive flooding.

After the city issued a stop work order for working without a permit, he applied for a non-structural building permit (Ref. F6E1NP). The details of his application on OneStop raised even more questions for us about his intentions.

### **Nonconforming Status**

His application shows that he intends to renovate the building as six units. However the property is only zoned for two units and it lost its legal nonconforming status when the previous owner abandoned the property in 2018. According to 25.3.C.1 of the CZO:

*"A particular use that is established as nonconforming is deemed abandoned when that particular nonconforming use is discontinued or becomes vacant or unoccupied for a continuous period of one-hundred eighty (180) days. An abandoned nonconforming use may not be re-established or resumed regardless of intent. Any subsequent occupancy shall comply with all regulations of the zoning district in which the land or structure is located."*

That it was occupied by squatters and drug dealers intermittently is insufficient to restore its legal nonconforming status. According to 25.3.C.4 of the CZO:

*"The casual, intermittent, temporary, or illegal use of land or structures is not sufficient to establish and maintain the existence of any nonconforming use, whether the use is a main or accessory use."*

We have never seen more than two active electric meters at this property even though there are six panels available for meters. Entergy records will likely back up our claim that this structure has not been occupied lawfully as a six-plex over the past six months or longer. At the end of this letter, we included a photo from Feb. 5, 2021 showing only two active electric meters.

## **Nonconforming Structure**

Additionally, the structure does not meet bulk regulations as a multifamily in an HU-RD2 district. Per table 11-2A in the CZO a multifamily property requires a minimum of 2000sf per dwelling unit. As such, a six-plex would require a minimum lot size of 12,000sf. Since this lot is only 3600sf, the property use is not only a nonconformity, but the structure itself is a nonconforming structure. According to 25.4.F.1 of the CZO:

*“In the event that any nonconforming structure is damaged or destroyed to the extent of fifty percent (50%) or more of its replacement value at that time, then the structure may not be restored or rebuilt unless the structure, including foundation, is made to conform to all regulations of the zoning district in which it is located.”*

The property also fails to meet many other regulations in the CZO. There is almost zero permeable open space on site. The structure's address is on Japonica St, but there is no entrance on Japonica St. All the entrances are on the N Robertson St. The front elevation is a blank wall facing the main street (CZO 11.3.B.1).

As a six-plex, the CZO would require it to provide six off-street parking spots. The structure does not currently provide any off-street parking and there is not enough room in the rear yard to satisfy the parking requirement and provide a minimum open space of 120sf per dwelling unit.

## **Non-structural Renovation?**

In addition to the CZO zoning issues highlighted above, we are concerned about Mr. Rounds application for a non-structural renovation building permit instead of a structural renovation or substantial improvement building permit.

While the construction value listed on his permit application is \$40,000, the construction value listed on his contract is \$50,000. Since the taxed assessed building value is \$91,000, the value of the work is greater than 50% the value of the structure. This should require a substantial improvement or structural renovation permit and necessitate the submission of an elevation certificate and stamped plans.

These requirements are important. This building repetitively floods. It is a slab-on-grade foundation at one of the lowest spots in the neighborhood. This intersection of N Robertson and Japonica floods so badly, the previous residents kept sand bags at their door thresholds year-round to try and keep the water out. The city should require this building be elevated to above the required elevation.

## **Non-Conforming Use Determination**

In addition to the non-structural building permit application, there is also an application for a non-conforming use determination that lists Zach Smith Consulting & Design as the applicant.

We assume that Mr. Rounds hired this consultant to help him clear the permitting process after he ran into trouble obtaining the permit due to the zoning review comments.

Because the application on OneStop does not provide much of a description as to what is being applied for, we can only assume that it is to confirm this structure's existing status as a legal non-conforming use as a six-plex in an HU-RD2 zoned district.

As we described earlier, this property has lost its non-conforming use status when the previous owner abandoned the property in 2018. Again, no rent was collected, no taxes were paid, only two electric meters were operational, and the structure was used primarily by vagrants and criminals for over three years with multiple FBI raids. Residents were forced to dump buckets of excrement in the storm drain. The owner clearly abandoned the property.

Even if non-conforming use is granted, the structure is still a non-conforming structure that is clearly over 50% damaged, thus requiring it to be restored as conforming to its HU-RD2 zoning.

We also take issue with this process by which this zoning determination is being sought. We feel that this process is not transparent and infringes on our rights to notification on zoning matters and our rights to voice our concerns in a public forum.

### **Affordable Housing**

When we spoke with Zach about this last week, he mentioned that the city has a lack of affordable housing and that multifamily properties like 1444 Japonica can help fill that need.

We wholeheartedly agree that affordable housing is a crisis that needs to be addressed in this city. It threatens to widen the racial wealth gap and erode our city's rich cultural fabric. As an architect, the majority of Jiayi's work at the moment is affordable housing projects.

But this project, in its current form, does not adequately fill that need. This project is a slum. Our city needs affordable housing that is safe and healthy, not a flood prone concrete box. It would be unjust and unsafe to allow slums to be permitted under the guise of affordable housing.

### **Conclusion**

The CZO exists to "encourage and promote, in accordance with present and future needs, the public health, safety, and welfare of the citizens of the City of New Orleans." If the CZO is enforced, there is no path for this structure to be redeveloped as is. We fear the applicant is attempting to circumvent the CZO in order to maximize profit at the expense of our community. If permitted, it will result in a structure that is unsafe and will quickly fall back into ruin.

We respectfully request that you reject both the Non-Conforming Use Determination Application and the Non-Structural Building Permit Application. Please hold this developer accountable and require that he go through the proper channels to redevelop this property lawfully.

Sincerely,

Michael Biros & Jiayi Hong

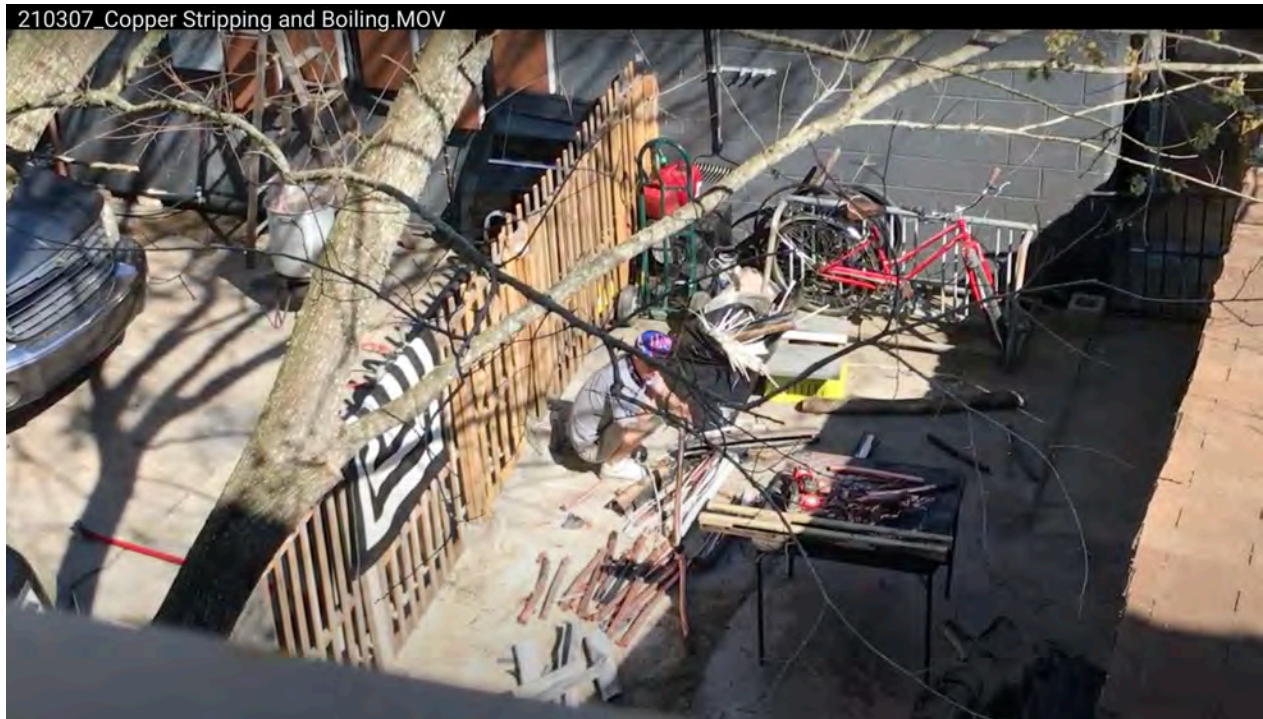
4524 N Robertson St  
New Orleans, LA 70117



Flooding at 1444 Japonica St. Photo taken on 6/10/2022.



Only two functional electrical meters. Photo taken on 2/5/2021.



Video still showing a man boiling and stripping industrial wire of copper. Video from 3/7/2021.



Video still showing the truck and boat they would use to steal the copper wire from the Michoud Power Plant via the Industrial Canal and bring to 1444 Japonica St to strip the casing off. Video from 9/29/2021.



Illegal auto shop at 1444 Japonica. Car parts. Photo taken on 8/30/2020.



Illegal auto shop at 1444 Japonica. Motor oil in kiddie pool. Photo taken on 3/18/2021.



Illegal auto shop at 1444 Japonica. Stolen cars. Photo taken on 12/19/2021.



New eave and fascia covering up rotten roof. Photo taken 6/17/22.



Cracked structural walls attempted to be fixed with caulk. Photo taken 6/17/22.



Dangerously exposed wires and again only two functioning electric meters. Photo taken 6/17/22.



Cracked structural walls and rotten top plate next to new eave and fascia. Photo taken 6/17/22.





Video still showing street flooding at 1444 Japonica St. Video from 8/3/2021.



Video still showing FBI executing a search warrant at 1444 Japonica St. Video from 8/18/2021.