

DEPARTMENT OF SAFETY AND PERMITS
CITY OF NEW ORLEANS

LATOYA CANTRELL
MAYOR

TAMMIE JACKSON
DIRECTOR

Determination of Legal, Non-Conforming Status

DATE: **July 19, 2022**

TO: **Tammie Jackson, Director**

FROM: **Nicholas Kindel, Zoning Administrator**

RE: **Determination of Legal, Non-Conforming Status of the property located at 1444 Japonica Street**

Zoning Designation: HU-RD2 (Former CZO: LI)

Current (or Immediately Previous) Licensed Use: Multi-Family Dwelling (6 units)

Background

The subject property is a 6-unit multi-family structure at 1444 Japonica Street. The applicant is seeking a non-conforming use determination to be able to get a permit to renovate this structure. The Department of Safety and Permits needs to verify that the rear structure has historically been a multi-family residential and that non-conforming use has been maintained. Prior to August 2015, the zoning was a LI Light Industrial District. In the current HU-RD2 District, multi-family dwellings are not a permitted use and can only be allowed if legal non-conforming use status is determined. If legal non-conforming use status is granted and the property is currently operating, then the property would be a permitted use as an Established Multi-Family Dwelling per Section 11.2, Table 11-1 and Section 20.3.W.1 of the CZO.

This property has only one address in LAMA, but the permit history indicates a history of multi-family residential use. The structure was likely built around 1954, as a classified ad in the Times-Picayune advertised “Newly Built Apartments” at 1444 Japonica. The 1994 Sanborn Maps indicate that this property is developed as a 6-unit multi-family dwelling. There is a 2003 building permit and a 2015 electrical permit that indicates multi-family residential use. There are 2004 electrical permits to rewire all of the dwelling units (A thru F). A July 2016 Code Enforcement inspection show that the building appears to be occupied at that time.

Google Streetview images show the follow number of electric meters on the following dates: April 2011 (5), November 2013 (6), July 2015 (6), April 2016 (6), August 2016 (6), April 2017 (6), December 2018 (6), and August 2019 (5). According to Entergy records, there is currently one active account (Apt C), with one account closed in 2021 (Apt D), two closed in 2019 (Apt A & B), one closed in 2018 (Apt F), and one closed in 2015 (Apt E). A Safety and Permits inspector



responded to a complaint of working without a permit on March 17, 2022. That inspection shows at least one unit under renovation. Some of the other units may have been occupied.

Applicant's Position and Analysis of Documentation

The applicant has several documents in support of this request. The applicant submitted an affidavit from the owner attesting that he purchased the property in February 2022 and retained the current tenant who current resides in Apartment C. That tenant, Richard Bell, has signed an affidavit that he has lived in Apartment C for 15 years. In addition, the applicant has submitted an Entergy bill and records for Apartment C between June 2020 and July 2022 that shows energy usage. The applicant submitted a Sewerage and Water Board bill that shows what usage and Sanitation charges for 6 units. Finally, the applicant submitted an affidavit from a neighbor that this property has always been multi-family and currently has two tenants residing there.

Applicability of Louisiana Revised Statutes

Under Louisiana Revised Statute 9:5625 the City has five years (ten years in a historic district) to bring an enforcement action to require compliance with a zoning regulation. The information in the City's records indicate that the structure is multi-family use was in place by at least 1994, potential as early as 1954, so the use was likely legally established. Therefore, the prescription period in LA RS 9:5625 does not apply in this case.

Analysis of Communications in Support of the Applicant's Position

No additional communications have been submitted for this application.

Analysis of Communications in Opposition to the Applicant's Position

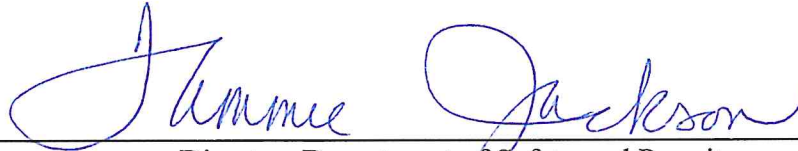
The Department has received a number of documents from neighbors regarding this request. A petition signed by approximately 25 neighbors state that they are concerned about the redevelopment of this property and that the non-conforming status should be reviewed narrowly. In addition, the Department received a letter from the next-door neighbors on N Roberson Street. This letter addresses a number of issues related to the nuisance this property has caused and related to the building permit for a proposed renovation. The issues related to this Non-Conforming Use determination where that the previous owner abandoned the property, was not collecting rent, that there were only 2 active meters, and any occupancy was intermittent by squatters and drug dealers.

Recommendation of the Zoning Administrator

Based on all of the evidence provided, it is clear that this building was historically a 6-unit multi-family dwelling, likely dating back to the 1950s. The question is if the non-conforming use has been maintained without 180 consecutive days of vacancy. It appears based on the submitted evidence from the applicant that at least one unit has been and currently is occupied based on the submission of utility records and affidavits from the tenant and owner. Occupancy of only one unit is required to maintain a non-conforming use. Therefore, the Zoning Administrator recommends that this property HAS ATTAINED/RETAINED its status as a legal non-conforming six-unit multi-family residential dwelling. In addition, with this approved NCU Determination, this property meets the use standards of an Established Multi-Family Dwelling and is a permitted use, in accordance with Section 20.3.W.1.d of the CZO.

Determination of the Director

Based on the information contained herein, it is the determination of the Director that the subject property has **ATTAINED/RETAINED** **NOT ATTAINED/NOT RETAINED** its status as a legal non-conforming multi-family residential dwelling under the provisions of the Comprehensive Zoning Ordinance and/or applicable state statutes. In addition, it is the determination of the Director that the subject property is a **PERMITTED USE** as an Established Multi-Family Dwelling in the HU-RD2 District in accordance with Section 11.2, Table 11-1 and Section 20.3.W.1.d of the CZO.



Director, Department of Safety and Permits

Date: 16 AUG 2022