

DEPARTMENT OF SAFETY AND PERMITS
CITY OF NEW ORLEANS

LATOYA CANTRELL
MAYOR

TAMMIE JACKSON
DIRECTOR

Determination of Legal Non-Conforming Status

DATE: **November 15, 2022**

TO: **Tammie Jackson, Director**

FROM: **Wheeler Manouchehri, Assistant Zoning Administrator**

RE: **Determination of Legal, Non-Conforming Status of the property located at
2038 Washington Avenue**

Zoning Designation: HU-RM1 (formerly zoned RM-4)

Current Use: Bar

Background

Owner is requesting verification of the legality of a bar use at this location. In the current HU-RM1 multi-family residential district, commercial/bar use is not permitted, but allowed only if Legal Non-Conforming Status can be determined. In the former RM-4 multi-family zoning district, commercial/bar uses were not permitted. In order to renovate a bar on the first floor, the applicant is seeking a determination that the bar has consistently been utilized and its legal non-conforming use hasn't lapsed.

Applicant's Position and Analysis of Documentation

This property consists of a single-story, commercial structure located on the corner of Washington Avenue and South Saratoga Street. The establishment has continuously operated since 11/02/1984 according to the Department of Finance Bureau of Revenue's records and ceased operation in May of 2020. The agent, on behalf of the property owner, has provided affidavits attesting to the long-term usage of the bar. In addition to affidavits from patrons of the bar, the agent submitted an affidavit by the owner of the video gaming devices at the location along with the video gaming device revenue from 2018-2020 as evidence.

Applicability of Louisiana Revised Statutes

The Zoning Division could identify only one violation related to working without a permit which was issued on 09/09/2020. The applicant subsequently applied for a building permit on 12/23/21 and was flagged by the Zoning Division to verify their legal non-conforming use. It is clear through submitted documentation and internal investigation that the non-conformity has existed for greater than ten (10) years, as required by the Louisiana Revised Statutes for an historic district.

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In accordance with Article 25 of the CZO, legal non-conforming uses are those uses which have been verified to have not ceased operation for greater than 180 days. Act No. 699 of the 2022 Regular Session amends La. R.S. 33:4882 to stay the expiration of non-conforming uses during the period of March 11, 2020 through March 16, 2022. As a result of this legislation, the Department of Safety and Permits issued a Zoning Interpretation on June 27, 2022 which acknowledged that the 180 day clock set forth in the CZO was paused.

Analysis of Communications in Support of the Applicant's Position

No additional communications have been submitted in support of this application.

Analysis of Communications in Opposition to the Applicant's Position

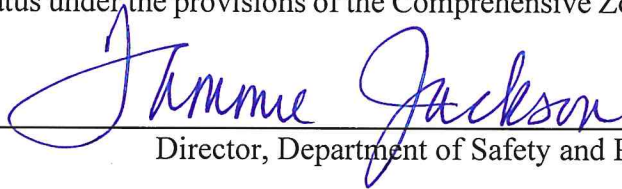
No additional communications have been submitted in opposition to this application.

Recommendation of the Assistant Zoning Administrator

Through the evidence submitted and internal investigation, the zoning division believes that the structure has operated continuously as a bar. Therefore, the Assistant Zoning Administrator believes the property HAS ATTAINED its legal, non-conforming status as a bar. For the establishment to continue to benefit from the non-conforming use and adjusting for the time in which the application was received, the use as a bar must be **re-established and operating no later than 12/25/22**.

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** legal, non-conforming status under the provisions of the Comprehensive Zoning Ordinance and/or applicable state statutes.



Director, Department of Safety and Permits

Date: 15 NOV 2022