

## **New Orleans' Development Process: A Guide for Advocates and Communities**

**By Sara Zimmerman**

How does the development process work in New Orleans, and how can residents get involved to ensure that development is good for the whole community? This guide provides a basic introduction to a very complex topic. It explains the importance of understanding the development process and contains an overview of the different kinds of approvals and waivers that may be necessary to build a new development in New Orleans. By advocating for community needs during the approval and waiver process, coalitions can work to get these needs met.

### **Why Is It Important to Understand the Development Process?**

Development can bring big benefits to a neighborhood by providing housing, quality jobs, new neighborhood services, and a community-friendly feel. But development can also have significant negative effects, by creating traffic and pollution, or displacing longtime local residents. Working to influence the development process requires a significant investment of time. Community groups must understand the development process, build relationships with public agencies and officials, and learn how to gain and use leverage. Understanding the development process is the first step toward ensuring that new developments benefit surrounding communities. This guide is intended to help community groups get started.

In New Orleans, as in most other American cities, many different types of approvals and permits may be necessary to develop a new building. Occasionally, a project may only require a simple building permit from the Department of Safety and Permits. But large-scale projects often require a variety of zoning changes, and frequently also need additional approvals or government financing.

By understanding the many different steps and approvals that are necessary to develop a project, community members can learn how to make their concerns known to city government and developers. This understanding enables community groups to:

- Have advance notice of public hearings, attend these hearings, and speak regarding community concerns, needs, and desires
- Get information about the project and find out what promises the developer has made, by looking at public filings for different approvals
- Monitor whether the city and its agencies seem to be complying with the laws in the approval processes and follow up if they are not
- Pressure elected representatives and other public bodies to consider community needs and to require community benefits as part of determining whether or not to grant approvals
- Work directly with the developer to make sure that community needs are reflected in the project

### **Overview of this Guide**

This guide contains:

(1) A description of the following types of approvals:

- Zoning waivers and approvals
- Historic district regulation
- Public financing approval processes
- Building permits
- Other types of approvals and assistance (for example, acquiring blighted property, obtaining infrastructure improvements from the city, business licenses, environmental regulations)

(2) An “In Practice” section that discusses the various opportunities for community intervention into the land use approval process by exploring approvals needed for a hypothetical development project.

(3) Appendices: Appendix 1 summarizes the process for obtaining different zoning approvals in a chart. Appendix 2 contains a more detailed description of the actual procedures and standards for obtaining various types of approvals in New Orleans. Appendix 3 lists the local and regional bodies that regulate land use in New Orleans.

**Note:** This guide is not intended as legal advice, but is provided as a general overview of some aspects of the development process in New Orleans. We cannot ensure that the information in this factsheet is current or that it applies to your situation. We recommend that individuals desiring accurate, up-to-date legal advice in this area consult with a local land-use attorney.

## **Types of Approvals**

This section provides a description of a variety of types of approvals, waivers, and permits, and public financing assistance commonly sought by developers.

### **A. Zoning**

**What Is Zoning?** Zoning is the way that a community regulates the use of land. Communities use zoning laws to control where different uses occur, and to spell out specific physical requirements for the buildings in different areas (for example, how close the building can be to the property lines). Ideally, a community's land-use regulations emerge from a comprehensive or master plan that describes a vision for each distinct area of town in some detail. The community's zoning law should then implement the master plan by laying out for each area the legal requirements and restrictions for future construction that will make that vision a reality. When this occurs, the specific requirements of the city's zoning law serve to carry out the broader vision of the master plan.

**How Does Zoning Work in New Orleans?** New Orleans does have a Master Plan, as well as a zoning law (the Comprehensive Zoning Ordinance). However, as in many other cities, the Comprehensive Zoning Ordinance is a powerful legal document while the Master Plan simply provides weak guidelines. New Orleans' Master Plan, which includes its 1999 Land Use Plan, is intended to guide future decision-making with regard to both public and private development of New Orleans by providing a big picture vision of the direction of the city. However, not all of the elements of the Master Plan have been adopted, and the Land Use Plan has been criticized as too descriptive and insufficiently detailed. As a result, the Master Plan is unlikely to ensure that development occurs in a deliberate and consistent way.

In contrast, development in New Orleans is closely regulated by New Orleans' Comprehensive Zoning Ordinance (CZO). The highly complex CZO, which predates the Master Plan and is inconsistent with that document in many ways, is carried out jointly by two city agencies: the City Planning Commission (also known as the Planning Commission) and the Department of Safety and Permits. The CZO divides the city into various types of districts. For each type of district the CZO spells out (1) physical requirements/limitations (such as limitations on building height, required number of parking spaces, set back from the street, signs, lot size); and (2) permitted and prohibited uses of the land.

**What are Zoning Waivers and Approvals?** The CZO also spells out the general rules for how a developer or property owner can get approval to build a desired development that would not otherwise be permitted due to some aspect of the current zoning status.

As described below, there are a number of common types of zoning approvals and waivers: zoning adjustments, zoning amendments, subdivision and resubdivision, and business-specific regulations (such as big-box store regulations). Many of these different types of zoning changes do not form logical or distinct categories, but instead have simply evolved into confusing and overlapping areas. Regardless of the logic behind specific types of waiver requirements, zoning waivers and approvals provide a key opportunity for community members to demand community-friendly development.

**1. Zoning Adjustments:** Zoning adjustments involve exemptions from some of the *physical requirements* of the zoning ordinance, but they cannot be used to permit an otherwise restricted *use* of the property. Zoning adjustments are broken down into variances (permission to construct/renovate in an otherwise prohibited manner where unnecessary hardship would otherwise take place) and special exceptions (exceptions to CZO with regard only to parking, yard size, height, or zoning district lines). They are under the jurisdiction of the Board of Zoning Adjustments (BZA). The CZO spells out certain conditions that may be attached to the authorization of a zoning adjustment.

**2. Zoning Amendments:** Zoning amendments can involve specific changes to the requirements for a specific property (such as a conditional use permit), or they can involve the establishment of new districts affecting the regulation of a number of plots of land (such as planned development districts, overlap zoning districts, or interim zoning districts). Although zoning amendments may occur when general changes to the CZO are initiated by the City Council (if, for example, the City Council redefines the uses permitted in a zoning district or moves the boundaries of a district), more pertinent for this guide are zoning amendment requests initiated by developers or property owners for changes to the permitted uses or physical requirements for a specific property.

Every zoning amendment is either a ***zoning text amendment***, which involves changes to the text of the CZO; or a ***zoning map amendment***, which involves changes to various aspects of the city's official zoning map (for example, changing the borders of existing zoning districts or imposing a new zoning district of one type or another upon a given area). Some types of zoning amendments, such as planned development districts, require both a text amendment and a map amendment.

The CZO provides for a number of specific types of zoning amendments to deal with specific types of land use needs.

**a. Conditional Use Permits:** Under the CZO, certain types of uses of properties are prohibited within certain districts. For example, industrial uses are generally prohibited in residential neighborhoods. However, if a conditional use permit is granted, a use that would ordinarily be prohibited within a district (such as a commercial use in a residential district) is determined to be acceptable for a particular property and is permitted.

**b. Overlay Zoning District:** An overlay zoning district is a zoning district that establishes regulations that combine with the regulations of the underlying zoning district. The overlay district may prohibit uses otherwise allowed in the underlying district, establish additional or different conditions for such uses, or authorize special uses not otherwise allowed in the underlying district. Creating a new overlay zoning district in a given area involves two steps: first, a zoning text amendment to create a new type of overlay zoning district (unless an appropriate type already exists), and second, a zoning map amendment to apply the new district to the proper area.

**c. Planned Development District:** In a planned development district, deviations from normal zoning requirements are permitted in order to allow an integrated, high-quality, high-intensity development. The land under development ultimately becomes a joined set of land use parcels. A planned development district allows flexibility of uses and development standards, but requires an integrated development plan.

**d. Interim Zoning District:** An interim zoning district is a temporary district, which is established despite the existence of an underlying zoning district, and is intended in part to prevent the establishment of uses that would be inconsistent with a longer-term or newly assessed vision of the area. Where there is a conflict between the requirements of the underlying district and those of the interim zoning district, the interim zoning district takes precedence. An interim zoning district may accomplish many of the same goals as an overlay zoning district, but exists for a limited time period. A waiver may be obtained for an individual property.

**3. Subdivision.** A subdivision involves the division or merging of individual parcels of land. Subdivision is required when a developer wishes to take a large parcel and divide it into small parcels for individual development and sale. Subdivision may also occur when a developer desires to merge individual lots in order to put a large development, such as a big box store or other large complex, onto a number of adjoining pieces of property (also sometimes known as resubdivision). Subdivisions are under the jurisdiction of the City Planning Commission, and are regulated by its August 1999 subdivision regulations.

**4. Big-Box Business Requirements.** The CZO contains specific additional requirements for various types of businesses. Big-box businesses (defined as retail uses with a floor area greater than 25,000 square feet) are subject to numerous detailed requirements under the CZO, covering the following general areas:

- Improvements to the streetscape, potentially including trees, decorative fencing, street furniture, and other pedestrian friendly features, are required. The perimeter of the site must comply with landscaping requirements, including adequate shade trees. Public spaces, nearby bus stops, and pedestrian ways must be enhanced. Signs are limited in size and number.

- Building design requirements are included. Multiple entrances are required; entrances must be pedestrian friendly and landscaped.
- Service areas must be concealed by landscaping, set back, etc.
- Parking lots and driveways must contain a minimum amount of landscaped area, feature pedestrian walkways and bike parking, provide minimum and maximum numbers of parking spaces, and must be divided into several smaller lots where possible. A traffic impact analysis must be performed by the developer, and mitigation measures may be required.

## **B. Development in Historic Districts**

One step in maintaining New Orleans' distinctive and historic neighborhoods has been the establishment of rigorous codes requiring adherence to historic styles. Prior to building or renovating in designated historic districts, permission must be obtained from the proper historic commission. Three separate commissions regulate different geographic areas.

- The Vieux Carre Commission (VCC) regulates construction, renovation, and demolition so as to preserve the "quaint and distinctive character" of the French Quarter (the Vieux Carre).
- The Central Business District Historic District Landmarks Commission (CBD HDLC) regulates four historic districts in the Central Business District (Canal Street, Lafayette Square, Picayune Place, and the Warehouse District).
- The Historic District Landmarks Commission (HDLC) regulates the remaining historic districts in New Orleans (Algiers Point, Bywater, Esplanade Ridge, Faubourg Marigny, Holy Cross, Irish Channel, Lower Garden District, St. Charles Avenue, Tremé).

**1. Vieux Carre Commission (VCC):** This commission came into being in the 1920s and 30s. The VCC regulates construction, renovation, and demolition, with the goal of preserving the "quaint and distinctive character" of the French Quarter. VCC approval is required for construction or alterations to any property, and also for operation of any new business in the French Quarter.

**2. Central Business District Historic District Landmarks Commission and Historic District Landmarks Commission:** Like the VCC, these more recent commissions regulate construction, renovation, and demolition of buildings within their jurisdiction. These commissions regulate only the exterior of buildings, not their interiors or uses. Without a "certificate of appropriateness" from the appropriate commission, the DSP will not issue a building permit. In order to qualify, the modifications must comply with strict guidelines regarding materials, colors, signage, and historical authenticity. Variances are available.

The commissions can also name landmarks.

## **C. Bonds and Financing**

Financing is a key aspect of major development projects. Although many projects are funded solely through private financing, developers also often rely upon funding through bonds, loan or tax credit programs, or other types of public subsidies. Community members can wield particular power in demanding that developers provide concrete community benefits in return for receipt of public financing.

**1. Industrial Development Board of the City of New Orleans (IDB):** The IDB is a nonprofit public corporation which functions as an economic development entity for the City of New Orleans. The IDB was created by the New Orleans City Council and is made up of 15 board members, two appointed by each City Council Member and one by the mayor.

**Types of Benefits for Developers:** Developers can obtain significant benefits through the IDB's bond financing system, primarily through an exemption from property taxes. Upon approval of IDB bond financing, the IDB actually takes title to the developer's property and then leases that property back to the developer pursuant to a written lease. The IDB is exempt from paying property taxes and, by taking title to the developer's property, effectively exempts the developer from property taxes. In exchange for this property tax exemption, the developer pays rent each month to the IDB. These rental payments are also called PILOTs, "payments in lieu of taxes." The developer regains title to the land at the close of the financing period.

Assistance is provided through the issuance of long-term, fixed-asset, tax-exempt revenue bonds generally from \$500,000 to \$10,000,000 to acquire land, to construct, purchase or renovate buildings, and to acquire and install machinery and equipment. Financing projects by the Board can usually be accomplished at lower interest rates than those obtainable for conventional financing.

## **2. Loan Programs**

- **The Small Business Administration 504 Loan Program:** A federal loan program offering low down-payment, low fixed-rate long term financing for land, equipment, leasehold improvements, construction, and building acquisitions. The maximum loan amount is \$1,500,000 to \$4,000,000. Recipients must meet job creation criteria or other public policy goals. (The Small Business Administration also operates additional loan and financing programs.)
- **HUD-CDBG or EDA-RLF Loan Programs:** Two special federally-sponsored loan programs offering low fixed-rate financing for new or expanding businesses. Funds may be used for working capital, inventory, equipment, real estate and other business uses. Loans range from \$25,000 to \$250,000. Projects funded with HUD grants or loans are subject to HUD's "Section 3" requirements,

mandating that business and employment opportunities be targeted to local residents to the “greatest extent feasible.”

- **Specialty Business and Industrial Development Corporation (SBIDCO):** SBIDCO is a private for-profit community development financial institution formed to provide capital to small and medium-sized businesses. Funds can be used for land, equipment, inventory, working capital, franchise fees, leveraged buy-outs and business acquisitions. Loans range from \$25,000 to \$450,000.
- **Neighborhood Commercial Revitalization:** The Neighborhood Commercial Revitalization (NCR) Program and Regional Loan Corporation (RLC) provide loan funds and services to businesses and property owners in targeted neighborhoods. Low interest fixed rate loans are available to small businesses in designated NCR zones who otherwise would not meet lending standards of traditional lenders like banks. The loan funds may be used for working capital, renovations, inventory, land and building acquisitions, and equipment. The maximum loan amount is usually \$25,000.
- **GO Zone Bonds:** GO Zone Bonds are aimed at encouraging business investment post-hurricane, and may be issued by the State of Louisiana or any of its political subdivisions, including statewide issuers and local public trusts or industrial development boards. They are a loan of the proceeds of the tax-exempt bonds to a borrower.

### 3. Other Types of Public Financing/Financial Assistance

- **Tax Credits:** Tax credits are provided through special laws that result in a reduction in the tax liabilities that would otherwise be due in exchange for a developer creating jobs, investing in a targeted area, etc. Tax credits reduce the actual amount of tax owed. Available tax credit programs include the following:
  - New Market Tax Credits
  - Renewal zone credits
  - Enterprise zone credits and rebates
  - GO Zone tax credits
  - Research and Development Credit
  - Film industry/digital media credits
- **Additional programs:**
  - Quality Jobs Program
  - See [http://www.cityofno.com/resources/portal36/business\\_guide.pdf](http://www.cityofno.com/resources/portal36/business_guide.pdf)



## **D. Building Permits**

After securing all other necessary approvals, the final step prior to beginning construction is obtaining a building permit. Building permits are required in order to build or alter any building or structure, as well as for electrical or mechanical work. The point of a building permit is to ensure that a building will actually be built safely and in compliance with code. Except for small residential projects, applicants for building permits must also have obtained approval by the state fire marshal.

## **E. Other Possible Approvals**

In addition to the various types of approvals described above, there are many other types of assistance and approvals that a developer might need or want. Each one of these processes provides an opportunity for community groups to make their needs known to the developer. A non-comprehensive list of common approvals of this type follows.

### **1. Acquiring Blighted or Government-Owned Property**

- *New Orleans Redevelopment Agency (NORA)*: New Orleans' redevelopment agency, NORA, has the power to acquire blighted property as well as property sold to the government through the Road Home Program. It can assemble and package such property, and it can sell, lease or contract with developers regarding the development of the property. Various approval processes may be involved with developers' attempts to obtain and develop these properties. See [www.noraworks.org](http://www.noraworks.org) for more information.
- Blighted, dilapidated, tax-delinquent, or adjudicated property may also be obtained through other processes. See link at <http://www.noraworks.org/acquisition.htm>.

### **2. Physical Assistance by the City**

- City Council approval of selling interior streets/public right of way to developer.
- City Council approval of city alterations to nearby streets/etc.
- Approval of other infrastructure improvements by city.
- NORA may provide similar types of physical assistance within its jurisdiction.

### **3. Business Licenses**

- Many types of new businesses require state or local licensing permits (e.g. hotels, child care centers, healthcare establishments).

#### **4. Approvals for Physical Integration into the Site**

- Approval for curb cuts from the Department of Public Works (DPW) and/or the Louisiana Department of Transportation and Development.
- Approval for plantings and other alterations in the public right of way by the Department of Parks and Parkway (DPP).

#### **5. Environmental Requirements**

- State or federal regulations may influence some projects. For example, the Army Corps of Engineers and Louisiana Department of Natural Resources oversee development affecting wetlands.

## **In Practice**

How does this process work in practice? Let's look at an example. A developer wants to build a mixed-use development with retail, office space, and a big-box store in a historic neighborhood such as the Lower Garden District or Treme. The community wants to ensure that jobs created go to local residents and that the project is integrated in the community, rather than built in a fortress-like manner. How can the community convince the developer to respect its needs?

The earlier that the community organizes, and the more time and resources that can be devoted to the project, the better. This process demands a significant investment of time and energy, and can require technical expertise. First, groups should come together and form a coalition in which they agree to work together and support each other's goals. Next, groups identify each point at which the developer needs approvals. In this example, the developer might need:

- *An overlay zoning district:* An overlay zoning district text amendment will specify the uses that will be permitted in the area under development (for example, if the project will contain more retail than would be permitted in this area, the text amendment could specify that excess retail is permitted within the overlay zoning district), and a map amendment will apply the new district to an area on the map. The overlay zoning district can work together with the planned development district to make a project such as this possible. The City Council can create a new overlay zoning district following a recommendation from the Planning Commission.
- *A planned development district:* Because the parcels of land are being jointly developed as a mixed-use development, with a somewhat unusual integrated design, approval by the Planning Commission of a planned development district is necessary in order to allow flexibility of development standards.
- *Resubdivision:* The developer will need approval from the Planning Commission to merge the formerly separate parcels of land in order to develop them jointly.
- *Big-box requirements:* If the developer wishes to waive or modify any of the requirements of the big-box ordinance, the City Council must grant the request.
- *Historic District Landmarks Commission:* If the project falls within the jurisdiction of the Historic District Landmarks Commission, the developer must obtain a certificate of appropriateness from the commission.
- *Financing:* The developer may go to the industrial development board in hopes of getting exemption from property taxes, or look for other avenues to obtain public financing of the project.
- *Additional physical issues:* The developer may need to purchase city streets if the new development encompasses the street. The developer is also likely to request infrastructure assistance from the city. Approval of such requests rests with the City Council. In order to integrate the new project into the existing street and

sidewalk, the developer may need to get approval from the Department of Public Works and Louisiana Department of Transportation and Development.

- *Building permit:* As a final step before construction, the developer must obtain a permit from the Department of Safety and Permits permitting construction to go forward.

Each hearing and approval process provides an opportunity for the community to meet with decision makers and speak publicly to voice the community's vision. By encouraging decision makers to make approval decisions in light of the community's needs and interests, the developer will come to see that community support for the project is important.

### **Conclusion**

This overview of the steps and approvals required for development in New Orleans provides an initial introduction to the confusing barrage of laws, regulations, and procedures involved in land-use decision making. By using this knowledge regarding the different steps and approvals that developers must seek, community members can make development responsive to community concerns and obtain lasting community benefits from development projects.

**Appendix 1: Chart Showing Approval Process for Different Land Use Changes**

Type of Action	Main Agency	Public Hearing Requirements	Recommending Body	Decisionmaker	Appeal	Notes
<b>Zoning Adjustments</b> (Variance and Special Exceptions)	BZA	Yes (at BZA)	No separate recommendation	BZA	Civil District Court	
<b>Zoning Amendments</b> Generally (text and map)	CPC	Yes (at CPC and at CC)	CPC	CC	Civil District Court	
Interim Zoning District	CPC	Yes (at CPC and at CC)	CPC	CC	Civil District Court	same process as general zoning amendments
Interim Zoning District Appeal or Wavier	CPC receives			BZA or CC, per ordinance establishing the district		For appeals by individual owners of application of IZD
Overlay Zoning District	CPC	Yes (at CPC and at CC)	CPC	CC	Civil District Court	same process as general zoning amendments
Conditional Use Permits	CPC	Yes (at CPC and at CC). CPC may hold add'l hearings if appropriate.	ED makes recommendation to CPC, then CPC makes recommendation to CC	CC	Civil District Court	
Big Box Waivers/ Variances	CPC		CPC	CC	Civil District Court	

Type of Action	Main Agency	Public Hearing Requirements	Recommending Body	Decisionmaker	Appeal	Notes
<b>Planned Development Districts</b> Map Amendment (actual location)	CPC	Yes (at CPC and at CC). CPC may hold add'l hearings if appropriate.	CPC	CC	Civil District Court	Must be accompanied by concept plan
<b>Planned Development Districts</b> Text Amendment (establishing new type of PDD)	CPC		CPC	CC	Civil District Court	
<b>Planned Development Districts</b> Development Plan	CPC		none	CPC	CC	
<b>Subdivisions</b>	CPC	Yes (for Major Subdivisions and appeals)	none	CPC	CC	

## **Appendix 2: Standards and Procedures for Land Use Approvals**

### **A. Zoning**

#### **1. Zoning Adjustments**

- **Requirements for Zoning Adjustments:**
  - **Variance:** The Board of Zoning Adjustments may grant a variance (permission to construct/renovate in an otherwise prohibited manner) within the specific and limiting guidelines specified in the CZO, where unnecessary hardship or practical difficulty would otherwise take place. A variance might, for example, grant permission for a side yard that was narrower than specified in the CZO if an unusual lot configuration made that practical.
  - **Special Exception:** The Board of Zoning Adjustments may grant a special exception only with regard to parking, yard size, height, or zoning district lines, and only if there is no substantial adverse effect upon neighboring properties and specific criteria are met.
- **Procedure:** Within 45 days of the application to the BZA through the Director of Safety and Permits, a public hearing on the application must be held. Authorization by the BZA requires the vote of four directors. A decision must be rendered within 45 days. An appeal of a decision may be made to Civil District Court of Orleans Parish within 30 days.

#### **2. Zoning Amendments**

**General Procedure:**<sup>1</sup> Although different types of zoning amendments require variations on the approval procedures, approval of most zoning amendments involves the following steps:

- First, an application for the desired type of zoning amendment is submitted to the Executive Director of the Planning Commission. (Map amendments require that the application be accompanied by the signatures of half the property owners of the area for which the amendment is requested.)
- If the Planning Commission will hold a public hearing, public notice of the hearing must be published in the official journal of record (once per week for three weeks) and for zoning map amendments must also be posted on this site in question for at least 10 days before the hearing. At the public hearing, neighborhood organizations receive an opportunity to speak, and general public testimony also takes place. Hearings may also be held on the possibility of developing a property in a less intense manner than applied for.<sup>2</sup>

---

<sup>1</sup> CZO §16.9.

<sup>2</sup> CZO §16.9.8.

- At the same time, Planning Commission staff reviews the project, oftentimes in consultation with the applicant, and writes up a report and recommendation.
- Next, a decision or recommendation to approve, approve with modifications, approve with conditions,<sup>3</sup> or deny the request is made. Depending upon the type of approval, (i) the decision will be made by the Executive Director or (ii) by the Planning Commission, or (iii) the Planning Commission may make a recommendation to the City Council.
- If the City Council is the ultimate decision-maker, the Council may hold a public hearing and then make a decision.
- Interested parties may appeal an unfavorable decision, from the Executive Director to the Planning Commission, from the Planning Commission to City Council, and from City Council to court.
- Although generally any subsequent changes to an approved zoning amendment must go back to the same approval process, there is an expedited process that applies to some amendments of planned development districts, conditional use permits, and transfers of development rights. This process includes potentially very significant exceptions for amendments desired by "destination resorts or entertainment centers."

**a. Conditional Use Permits:<sup>4</sup>**

- **Procedure:** The application for a conditional use permit, accompanied by a site plan, must be submitted to the Executive Director of the Planning Commission. The Executive Director makes a recommendation to the Planning Commission, which then makes a recommendation to the City Council, which then takes action. Where detrimental impacts of allowing the conditional use could be mitigated by the imposition of conditions, such conditions must be imposed by the City Council.
- **Standards:** In determining whether the conditional use permit should be approved, detrimental impacts on other properties must be considered, as well as whether such detrimental impact could be mitigated. If the appropriateness of the use cannot be assured, the application must be denied. Many other factors for consideration are also spelled out in the CZO.
- **Other points:** Where the property also requires a zoning amendment or subdivision approval, both approvals must be sought jointly. The conditional use permit shall not be effective until the subdivision application is approved. Also, although **zoning waivers** are supposed to be reserved to the Board of Zoning Adjustments, they are regularly included in conditional use packages granted by the City Council for certain developments.

<sup>3</sup> CZO §16.7.

<sup>4</sup> CZO §16.6.



**b. Overlay Zoning District Procedures:**<sup>5</sup> New overlay zoning districts are created by the City Council, upon recommendation from the Planning Commission. Overlay zoning districts require both text and map amendments.

**c. Planned Development District:**<sup>6</sup>

- Like an overlay zoning district, a planned development district involves a text amendment and a map amendment. In fact, sometimes planned development districts are imposed by means of an overlay zoning district. A concept plan, which must include very detailed information regarding the proposed project, is required to accompany the application for a planned development district map amendment. The purpose of the concept plan is to enable evaluation of a proposed development's major impacts, to ensure that the project complies with the goals and policies embodied in the Master Plan and the requirements of these zoning regulations, and to identify any appropriate conditions of approval. If the application is approved, the concept plan is incorporated into the approval.
- A development plan is also required, in order to set forth the final plans for the development and ensure that construction proceeds in an orderly fashion and is consistent with the concept plan. The development plan may be submitted with the map amendment and concept plan, or may be submitted subsequently.
  - **Procedure:** The Planning Commission determines whether the development plan complies with the required conditions, and the party may appeal an unfavorable determination to City Council.
- Special provisions allow some relaxation of the usual standards to make some types of amendments.<sup>7</sup>

**d. Interim Zoning District:**<sup>8</sup> Interim zoning districts are usually initiated by the City Council, and are initially established for only one year, with possible renewals up to a total of three additional years. A waiver may be obtained for an individual property, either by appealing to Board of Zoning Adjustments or the City Council (depending upon the provisions of the interim zoning district ordinance in question).

**3. Subdivision.** Subdivision plans are submitted to the City Planning Commission for approval, and denials may be appealed to the City Council. Requests for approvals of minor subdivision proposals (subdivisions of five or fewer lots, not involving creation or closure of a street) go through a simpler process than those for major subdivision approvals. For major subdivisions, a tentative plan must first be submitted and a public

---

<sup>5</sup> CZO §16.3.

<sup>6</sup> CZO §16.5.

<sup>7</sup> CZO §§16.5.5; 16.9.10 (1).

<sup>8</sup> CZO §16.4.

hearing held. Next, an engineering plan must be submitted, and finally a final plan is submitted and the plan recorded.

#### **4. Big-Box Requirements.**

- **Procedure:** Where a developer wishes to waive one or more of the requirements of the big-box ordinance, the following procedure must be followed: First, the request is submitted to the Planning Commission for review and recommendation, accompanied by any site plans, drawing or data. Within 30 days, the Planning Commission makes a recommendation to the City Council. The City Council must advertise the request and allow discussion prior to making a decision. If the City Council does not act within 45 days, the request is deemed denied. Approval or denial of the request can be accomplished by City Council motion.
- **Standards:** In making a decision, the City Council shall consider the following factors:
  - The granting of the variance is not inconsistent with the general provisions, intent and design requirements.
  - Harmony and compatibility with adjacent land uses would not be adversely affected.
  - Special conditions and circumstances exist which are peculiar to the land, structures, or buildings and not to other land, structures, or buildings in the same district.
- **Other Use Standards:** Specific types of businesses, including restaurants, airports, parking lots, check cashing facilities, and bed and breakfasts, may be subject to certain other requirements under the CZO.<sup>9</sup>

#### **B. Historic Districts**

**Vieux Carre Commission (VCC):** Prior to any construction or alterations, an owner or his or her representative must apply to the VCC for a permit. The VCC may give conceptual approval prior to actual approval. The VCC has three levels of decision-making authority with regard to permit applications:

1. **Staff review, with no public review process:** for minor alterations on less historically significant buildings.
2. **Architectural review commission review, at a public meeting:** for significant changes to any building and minor changes to more historically important buildings, as well as appeals from staff denial.
3. **Full commission review, with public comment at public meeting:** Largely reserved for even minor changes to highly important buildings, demolition or other major changes to any building in the French Quarter, appeals of architectural review commission denials, variance requests, and zoning amendments).

---

<sup>9</sup> CZO §11.

An applicant may appeal a denial by the VCC to the City Council.

**Central Business District Historic District Landmarks Commission and Historic District Landmarks Commission:** To obtain a certificate of appropriateness, the following steps may be followed:

1. An applicant may have an optional preliminary conference with commission staff prior to drafting an application.
2. Next, the applicant submits an application for a certificate of appropriateness.
3. Unless the matter is fairly routine, a public hearing is scheduled.
4. The commission is required to issue an opinion within 45 days of the application's submission.
5. If the application is denied, an applicant may appeal to the City Council, and upon receipt of another denial may file suit in civil court.

**C. Industrial Development Board (IDB) Bond Financing Approval Procedure:**

Any developer wishing to take advantage of IDB bond financing must submit an application to the IDB. If the application is accepted, a community impact report is ordered by the IDB at the developer's expense. The IDB will then consider the community impact report in making its determination about whether to grant the application for bond financing. Before making a final decision regarding the application, the IDB must hold a public hearing and take any public comment regarding the project and the issuance of bond financing. However, the IDB can issue bonds without a public bond election or public sale of bonds. Upon approval of the financing by the IDB, the project proposal is presented to the secretary of the Louisiana Department of Economic Development and the Louisiana State Bond Commission for final approval.

**D. Building Permits Procedure**

1. An application for a building permit is submitted to the Department of Safety and Permits. An application for a building permit is also deemed to be an application for a Certificate of Occupancy, which is required prior to the occupancy of a newly constructed or renovated building or structure. The Department of Safety and Permits will issue the building permit if other necessary approvals have been obtained and site plans are in compliance with the zoning ordinance and building code.
2. If a building permit is denied, the applicant may appeal to the BZA. Appeals must be made within 45 days of the denial. After provision of notice and a public hearing, the BZA must issue a decision within 45 days of the hearing.

### **Appendix 3: List of Relevant Land-Use Agencies in New Orleans**

- **City Planning Commission (CPC):** Commission responsible for comprehensive planning, zoning, and zoning adjustments. Nine-member advisory board.
  - **Board of Zoning Adjustments (BZA):** Considers applications for variances or special permits. Public hearings required. Attached to Planning Commission.
- **Department of Safety and Permits:** Administers and enforces standards for the use and construction of buildings and property by issuing building, electrical, and mechanical permits and inspecting buildings.
  - **Board of Building Standards and Appeals:** Appeals board attached to the Department of Safety and Permits. Upon appeal, considers denials of building permits by the Department of Safety and Permits.
- **Historic preservation boards:** There are a total of three commissions that regulate development and renovations in historic districts in New Orleans.
  - **Historic Districts Landmarks Commission (HDLC):** City's regulatory agency for historic districts outside of the French Quarter. Provides staff and office space for the two commissions named below, each of which has an architectural review committee. Powers of committees: Consider applications for certificates of appropriateness regarding alterations to exterior of buildings. Can name landmarks and grant or deny applications for certificates of appropriateness with regard to construction, renovation, or demolition affecting buildings' exteriors. Jurisdiction extends over all exteriors of buildings in New Orleans, including signs, gates, and surfacing. [Legislation is unclear whether all buildings or only in historic districts] No jurisdiction over uses or interiors.
    - **Central Business District Historic District Landmarks Commission:** 11 member commission with jurisdiction over four historic districts in CBD: Canal Street, Lafayette Square, Picayune Place, Warehouse District.
    - **Historic Districts Landmarks Commission:** Jurisdiction: Algiers Point, Bywater, Esplanade Ridge, Faubourg Marigny, Holy Cross, Irish Channel, Lower Garden District, St. Charles Avenue, Tremé
  - **Vieux Carre Commission (VCC):** Regulates construction, renovation, and demolition so as to preserve the "quaint and distinctive character" of the Vieux Carre (French Quarter). May cite violations. May give conceptual approval prior to actual approval. Three levels of decision-making authority: Staff approval, architectural review commission approval, and full commission approval (largely reserved for variance requests, zoning amendments, demolition, appeals of architectural review commission, and highly important buildings).<sup>10</sup>

---

<sup>10</sup> <http://www.cityofno.com/Portals/Portal59/portal.aspx?portal=59&tabid=1>

- **Industrial Development Board (IDB):** Works to retain, attract, and expand business through the issuance of bonds.
- **Neighborhood One (formerly the Division of Housing and Neighborhood Development):** Regulates blighted and neglected housing. Initiates expropriation or demolition. Responsible for enforcing the post Katrina gutting ordinance.
- **New Orleans Redevelopment Agency (NORA):** Following Hurricane Katrina, New Orleans' redevelopment agency was given new powers and reconfigured to be more effective. NORA has the power to acquire blighted property; assemble and package such property; and sell, lease or contract with developers regarding the development of the property. NORA has been tapped to act as a land bank and government leader in the development of all New Orleans property acquired by the government through the Road Home Program.
- **New Orleans Building Corporation (NOBC):** Clearinghouse to oversee the city's real estate; owns, leases, manages, develops property owned by the city of New Orleans.
- **Planning Advisory Committee:** An advisory technical committee made up of representatives of different city departments, which reviews all proposals regarding public land (such as the opening or closing of streets, and most major subdivisions) for compliance with existing regulations and makes recommendations to the Planning Commission.
- **Other city departments that may be involved:**
  - **Department of Streets**
  - **Department of Parks and Parkways**
  - **Department of Public Works**

### **Regional Entity**

- **The Regional Planning Commission for Jefferson, Orleans, Plaquemines, St. Bernard and St. Tammany Parishes** is a 26-member board of local elected officials and citizen members. It is a policy making body that makes legally binding decisions regarding the development of the entire region.  
<http://www.norpc.org/>