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Land Use Policy in Local Historic Districts and Incentives for Compliance in the Vieux Carré

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Land Use Policy in Local Historic Districts and Incentives for Compliance in the Vieux Carré

A Thesis

Submitted to the Graduate Faculty of the
University of New Orleans
in partial fulfillment of the
requirements for the degree of

Master of Urban and Regional Planning

by

Jane R. Dufour

B.A., College of Charleston, 2006

May 2010

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Abstract

The Vieux Carré in New Orleans is the second oldest locally designated historic district and serves as a prominent example of local historic preservation efforts; however, the Vieux Carré has a high vacancy rate. This thesis examines the effects of land use policy, including the Comprehensive Zoning Ordinance and the design review process in the Vieux Carré, on attempts to return vacant buildings to commerce. The author examines three cases of redevelopment attempts of vacant properties in the Vieux Carré. In two of the three cases, constrictions from the Zoning Ordinance not the design review process held up the redevelopment process. The other case identified owner negligence as the cause for failure in the redevelopment attempt.

Keywords: vacancy; historic preservation; return to commerce; local historic district; design review process; demolition by neglect; Vieux Carré; New Orleans, Louisiana; Vieux Carré Commission.

Prologue

The Vieux Carré or French Quarter in New Orleans has emerged as the seat of the tourism and convention oriented economy of the city. While tourism-oriented development over the second half of the Twentieth Century bolstered the image of the Vieux Carré as a Mecca for visitors, the residential population of the French Quarter has significantly dwindled (Souther, 2007: 808-809; Gotham, 2005: 1100; Campanella, 1999; CUPA, 1992: 2-3). The 1940 population of the Vieux Carré was 11,053 residents, while the 1990 population had decreased to only 3,991 residents (CUPA, 1992: 2-3). With the departure of the residential population, the 2000 vacancy rate in the French Quarter was significantly higher than that of the City of New Orleans as a whole (Census Data, 2000). A 1992 change to the Comprehensive Zoning Ordinance (CZ0) created a new Zoning District in the Vieux Carré, Vieux Carré Entertainment - 1, for the purpose of providing “entertainment places and restricted retail stores along Decatur and N. Peters Streets that attract and serve visitors and residents” (City of New Orleans, 2009: Sec. 8.8.1). This thesis will examine three vacant properties within or near the VCE-1 Zoning District whose property owners are attempting to return them to commerce.

There is a long history of activism and enthusiasm for historic preservation in the French Quarter of New Orleans. The Vieux Carré Commission was established by amendment to the Louisiana State Constitution in 1937 for the purpose of protecting and preserving the historic assets of the Vieux Carré, or old quarter, of New Orleans; however, the Vieux Carré Commission was initially ineffective in its mission (City of New Orleans, 2009: Sec. 166.1; Cannon, 1991: 36). This ineffectiveness was attributed to infrequent meetings and failure to oppose demolitions (Cannon, 1991: 36-37). The Vieux Carré Property Owner’s Association (VCPOA), known today as the Vieux Carré Property Owners, Residents and Associates, Inc (VCPORA), was created in

1938 “for the purpose of pushing the Vieux Carré Commission into performing its constitutional duties” (Cannon, 1991: 25). The primary purpose of the VCPOA was to hold the Vieux Carré Commission to their mission to preserve the historic structures and ambience of the French Quarter, but also to keep pressure on the Commission in the early days to fulfill its purpose (Cannon, 1991: 37). The VCPORA is still an active organization that retains its influence as a monitoring and enforcing body. VCPORA’s stated mission is “promoting greater public awareness of the cultural and historic values of the Vieux Carré and of the need to maintain a proper balance between commerce for tourists and the needs of residents” (VCPORA, 2010: Policies and Goals).

Research Questions

Research Question 1: With the additional protections afforded by the Vieux Carré Commission, which include the ability to require maintenance, why are so many properties in an area of such high demand vacant and in disrepair?

Research Question 2: Does the Vieux Carré Commission review process hinder the return of properties to commerce?

Research Question 3: Has the introduction of the Vieux Carré Entertainment -1 Zoning District had any effect on redevelopment of vacant properties in the area?

Content and Methodology

This thesis examines the effects, if any, the additional protections afforded by the Vieux Carré Commission, the regulatory authority governing the Vieux Carré, a local historic district, have had on the return of vacant properties to commerce. For the purposes of this thesis the term “vacant” is defined as a structure that is unoccupied; the term “return to commerce” is defined as

the occupation, in either a commercial or residential capacity, of a property that was previously vacant (Saia, 2010). Chapter 1 is a review of studies on the effects of historic district implementation along with a review of a comprehensive study of the Vieux Carré Commission's design review process completed in 1991 by a University of New Orleans student. Chapter 2 reviews the history of local historic districts and historic district ordinances in the United States, as well as provides background on the Vieux Carré. In Chapters 3 and 4, policies of the Vieux Carré Commission and the Zoning Ordinance for the Vieux Carré will be examined to explore what additional protections and requirements these ordinances afford.

Chapter 5 is a case study of three properties in the Vieux Carré. All three properties are within a 250 foot radius, located in commercial zones. The three properties were identified because they are all [at least partially] vacant; two are vacant, while one property is occupied by a restaurant on the first and second floors with the third and fourth floors vacant. Additionally, the properties were chosen because they represent differing levels of success navigating the Vieux Carré Commission regulatory process.

Chapter 6 revisits the research questions posed above, offers recommendations for facilitating the review process, and discusses potential future research.

Purpose Statement

The purpose of this thesis is to explore what effects, if any, additional protections afforded to the Vieux Carré in New Orleans have had on vacant properties in the district. The study examines the regulatory review process of three properties in the Vieux Carré, in or near the VCE-1 Zoning District, that are vacant and proposals have been submitted to return these properties to commerce. This study is intended to aid the Vieux Carré Commission, or another

historic district commission, in policy making decisions as well as to aid property owners navigating the regulatory process in local historic districts.

Chapter 1: Review of Literature

Conflicts have long existed between planners and preservationists regarding the benefits of implementing historic districts as a means of preservation. Implementation of local historic districts is a preservation technique that is “almost universally embraced by historic preservationists, while community planners are not as uniformly enthusiastic” (Gale, 1991). According to Gale, planners are forced to balance competing goals of preservation and other objectives, such as economic and community development (Gale, 1991). Gale contends, however, that many planners view the implementation of local historic districts not only as a “device for encouraging respect for the architectural and historic attributes of a neighborhood, but also as a means to stimulate property rehabilitation and community reinvestment in infrastructure” (Gale, 1991).

Critics of preservation ordinances have voiced concerns that a disparity is created for residents once a historic district, either local or national, is in place due to rising property taxes as a result of increased property values (Haughey and Basalo, 2000: 285). The federal Tax Reform Act of 1976, which “established important tax incentives for the preservation and rehabilitation of commercial and income-producing structures certified to be historic by the secretary of the interior [by placement on the National Register of Historic Places” (Murtagh, 1988: 211) expanded “the appeal and prestige of historic district status and spurred many communities, developers, and citizen groups to seek designation to realize the financial, as well as the preservation, benefits” (Gale, 1991). In the 1980s, controversy and protests from residents surrounded the implementation of historic district designation for fear of increased property taxes and displacement of residents (Gale, 1991). Many studies, including those discussed below, have analyzed the effects of historic district implementation on the value of properties and the

displacement of residents. The thesis by Cannon discussed below is a good example of a quantitative study examining procedural aspects of a local historic district commission, but there is a lack of literature nationally that examines the ability of a historic district commission to enforce regulations included in the preservation ordinance.

Lockard and Hinds – Historic Zoning Considerations

William E. Lockard, Jr., Ph.D. and Dudley S. Hinds completed a study, published in 1983, on the effects of designation of the Old and Historic District, the local historic district in Charleston, South Carolina, on properties in that district. Their study compared building permit information from a 16 year period in and outside of the Old and Historic District, extracting information regarding restoration activities, including painting, remodeling, and additions, to calculate a restoration rate. Additionally, the authors classified the properties according to historic significance and architectural quality. The authors see historic districts as an important public sector intervention to escape the Prisoner's Dilemma, or "investor's dilemma" (Lockard and Hinds, 1983: 486-487). The authors explain that if two property owners were to both invest in improvements in their homes, they would receive the benefit of increased property value. If only one owner were to invest in his home, his return on investment could be diminished due to the fact that the other property has not been improved, while the property owner who did nothing would receive the benefit of increased property value without having to expend money for reinvestment. Inaction as a result of both property owners, who are better served by the prospect of the other investing in his home, will result in disinvestment. The authors believe that the value of properties in older areas are contingent on investment or disinvestment, and that implementation of historic district protections act as a reinvestment mechanism, and, therefore, stimulate investment (Lockard and Hinds, 1983: 486-488).

Lockard and Hinds completed both a longitudinal and cross-sectional analysis of the Old and Historic District. First, in the cross-sectional analysis, the authors put forth the null hypothesis that “the probability of restoration of properties in the Old and Historic District was equal to the probability of restoration of properties outside the district” (Lockard and Hinds, 1983: 491). The authors were able to reject the null hypothesis but believe that there is a positive relationship between inclusion of residential properties in the historic district on the restoration rate. The longitudinal analysis proposed a second null hypothesis, that “the probability of restoration of structures of different quality was equal” (Lockard and Hinds, 1983: 491). The authors were unable to reject the null hypothesis but did find that there is a relationship between architectural quality and restoration rate. This study, published in 1983, draws the conclusion that implementation of local historic districts result in increased restoration activity in the area.

Haughey and Basolo – The Effects of Dual Designations

Another related study is an analysis of the effects of dual historic district designation, districts governed by both a local commission and on the National Register of Historic Places, which was published in 2000 by Drs. Patrick Haughey and Victoria Basolo. This study used real estate and Census data from an area comprising approximately 30% of the City of New Orleans “to examine the effect of dual designation on single family housing prices” (Haughey and Basolo, 2000: 283). Over a five year period from 1992 to 1996, the authors compared sale prices of single family homes in districts with only National Register Designation, districts with dual designation, and of properties outside of historic districts. The authors note that some local historic districts must meet strict requirements, stating that “generally, local historic districts compared to National Register districts have a more rigorous review process and more stringent controls for new development, demolition, and rehabilitation” (Haughey and Basolo, 2000: 283).

Results of the multiple regression model indicate that sale prices of single family homes in National Register historic districts “were 33.1% higher than in neighborhoods without historic district designation” (Haughey and Basolo, 2000: 284-289). More importantly, the authors found that sale prices of single family homes in National Register historic districts were 8% higher than those in dual-designated districts, which was attributed to the increased regulations and stringent controls in place as a result of the local design review process (Haughey and Basolo, 2000: 284-289). Haughey and Basolo effectively attribute lower property values in existence in local historic districts to the stringent design review process. Homes in national historic districts that do not have local historic district designation are able to qualify for national tax credits, but are not required to comply with the additional review step when applying for permitting to make changes to the exterior of the property.

Coulson and Leichenko – Historic Preservation and Neighborhood Change

This study, which focuses on the effects of historic district designation on the demographics of a neighborhood, was published in 2004 by N. Edward Coulson and Robin N. Leichenko. The authors questioned “whether historic district designation is associated with demographic change in neighborhoods,” noting that implementation of historic districts has been a means of economic development in many central cities, due in part to the fact that areas that are economically depressed often have older housing stock (Coulson and Leichenko, 2004: 1587). Coulson and Leichenko hypothesized that designation of an area or property as historic, either on the National Register of Historic Places or recognized on the Texas Historical Commission resulted in gentrification and neighborhood change. Their study analyzed changes in demographic and housing characteristics, using Census data from 1990 and 2000 based on five demographic indicators: growth rate of population; shifts in racial or ethnic composition;

change in residential vacancy; percent change in median income; and change in owner occupancy rate.

The authors discussed two models which could contribute to neighborhood change. The first is the “filtering model” (Coulson and Leichenko, 2004: 1587) which states that property is handed down from higher income groups to lower income groups as higher income groups depart to live or build elsewhere. The “tipping model” (Coulson and Leichenko, 2004: 1587) states that the racial composition or income level of a neighborhood is tipped due to the tendency of people to live in neighborhoods with those of the same race or income level, so as a neighborhood becomes less racially or economically diverse and more homogenous, the neighborhood is eventually tipped (Coulson and Leichenko, 2004: 1587). The authors theorize that for those using historic preservation as a tool for economic development, district designation would increase the median income of the neighborhood, and expected a positive correlation between implementation of historic districts and changes in district demographics and housing characteristics. However, the results of the analysis were insignificant, and the authors concluded that “historical designation does not lead to gentrification or any other neighborhood change” (Coulson and Leichenko, 2004: 1591, 1598).

Cannon – Design Guidelines for Historic Preservation

Jesse D. Cannon, Jr. analyzed the decision making procedures and policies of the Vieux Carré Commission in New Orleans, Louisiana prior to and after the development and adoption of design guidelines in 1986. This research is the primary example of analysis of the decision making processes and policies of the Vieux Carré Commission in New Orleans. Cannon found that a principal purpose of the development of design guidelines was the Vieux Carré Commission’s recognition of the need for guidelines that set a policy for enabling consistency

and efficiency for the “administration of similar applications” (1991: 52). Cannon categorized Vieux Carré Commission decisions, approvals or denials, by different application types and analyzed the decisions made from 1937 to 1990, segmenting decisions to pre and post guidelines adoption. Cannon found that despite the preconceived notion that the Vieux Carré Commission is often unpredictable, decisions made by the Vieux Carré Commission, both before and after the adoption of the design guidelines, were consistent by application type (1991: 90-94).

Cannon also interviewed members of the Design Guideline Committee and the Vieux Carré Commission in order to: seek insight on Commission policies and procedures; determine expectation of the design guidelines; and determine if the guidelines have resulted in policy improvements. Although responses varied, Cannon was able to conclude that the design guidelines have resulted in the following:

1. Standards for appropriate historic preservation were formalized.
2. The architectural integrity of buildings were assured through protective preservation policies and details of styles.
3. The Commission further reinforced its power to exercise regulations and laws to protect the environmental whole and aesthetic quality of the Vieux Carré.

(Cannon, 1991: 95, 120)

Cannon further concluded that guidelines offered no greater consistency in the decision making process and did not offer better management of the historic district, but instead served as a tool or mechanism for historic preservation (1991: 121-120). Based on the response from one interviewee that a lack of preservation experience amongst Commission members is a major deficiency in the decision making process, Cannon recommends “regular training of the Commission and Committee members on the use of design guidelines and historic preservation in general” (1991: 123-124). Cannon also recommended that the Commission define economic hardship, a frequent plea of applicants and the cause of some contradictory decision making by

the Commission (1991: 125). Finally, Cannon recommends workshops to educate the public, designers and owners, of Commission procedures and the importance of historically appropriate design (1991: 125-126). Cannon's study is important to this paper because it offers academic analysis of Vieux Carré Commission policies and procedures, the only academic work on the subject for this regulatory organization that the author found.

Summary

As mentioned above, there is a lack of literature that examines the effectiveness of the enforcement mechanisms included in preservation ordinances. Future research on best practices of enforcement of maintenance standards included in preservation ordinances could be helpful to the Vieux Carré Commission and other local historic district commissions nationwide in effecting their ordinances. Additionally, research on approaches to effectively educating the public on the requirements and advantages of local historic districts and ways to fund such education would also be helpful to the Vieux Carré Commission and other local historic district commissions nationwide.

Numerous studies have been written about the effects of historic district designation. The studies mentioned above were completed within approximately ten years of the inclusion of the properties analyzed in the historic districts, which allowed the authors to directly connect changes in the districts, such as restoration rates or increased property values, to the inclusion in a historic district. The Coulson and Leichenko study refutes the notion that the designation of areas as historic districts effects demographic shifts in those neighborhoods. Despite this, there have been gradual shifts in demographics and housing characteristics in the Vieux Carré of New Orleans over the second half of the Twentieth Century.

This paper, though not a statistical study of demographic and housing data for the district, will attempt to examine what effect, if any, the land use policy and the design review process of the Vieux Carré Commission, have had on the continued prevalence of vacancy through the case study of three properties in the Vieux Carré.

Chapter 2: Background on Local Historic Districts

The reasons and methods for historic preservation have varied significantly over time. There has been a shift of focus from attributing a building's significance to a historic event or significant person to a focus on the significant architectural attributes of the building, and finally to the preservation of aspects of the historic urban environment attributed to qualities of historic areas, such as scale, set back, and mixed uses (Tipson, 2004: 290-291). Designation of an area as a local historic district is one of the primary means of implementing preservation protections in the United States, beginning with the legislation passed in Charleston, South Carolina in 1931 and in New Orleans, Louisiana in 1937 (Gale, 1991). The National Park Service highlights the City of Cambridge, Massachusetts' definition of a local historic district as:

Areas in which historic buildings and their settings are protected by public review. Historic district ordinances are local laws that are adopted by communities using powers granted by the state. Historic districts comprise the city's significant historic and architectural resources. Inclusion in a historic district signifies that a property contributes to an ensemble that is worth protecting by virtue of its historic importance or architectural quality (National Park Service, n.d.: Section B).

Cities such as Charleston and New Orleans were the first to implement local historic district ordinances, but the use of such ordinances became more widespread after the passage of national legislation which clarified the process for creating local historic districts. This led the way for states to create legislation giving municipalities the power to implement historic districts through their code of ordinances (Hall, 1991: 12).

Implementation of Local Historic Districts

The passage of The National Historic Preservation Act of 1966 established the word "district" as a legitimate unit of preservation "to justify grants made through the Secretary of the Interior for rehabilitation and exterior restoration in historic districts" (Murtagh, 1988: 66). Title

I of the legislation mandated the creation of the National Register of Historic Places, which was to be maintained by the National Park Service and was to include “sites, buildings, objects, districts, and structures” of local, state, or national historic significance (Murtagh, 1988: 66). Placement of a local district on the National Register of Historic Places serves an important means for property owners to receive tax credits of up to 20% of the qualifying renovation cost for the restoration of their historic property within the district (National Association of Realtors, n.d.). However, inclusion as a national historic district does not offer the full range of land use controls that a local historic district ordinance puts in place (National Park Service, n.d.: Section B). The National Historic Preservation Act also clarified the process for implementing local historic preservation ordinances (Murtagh, 1988: 66), and since the passage of the 1966 law, all of the states have passed enabling legislation, giving municipalities the authority to pass local historic preservation ordinances (Hall, 1991: 12).

Though national legislation has expanded funding and protections, local legislation, in the form of local historic preservation ordinances, remains the most effective legal means of protecting an entire district from a land use perspective. Hall contends that “the local historic preservation ordinance has ... evolved as the most important tool for protection of entire historic districts” (1991: 12). However, Tipson believes that the inclusiveness with which local historic preservation ordinances prescribe rules attempts to employ the same protections for all buildings, despite variances in their importance (2004: 292). Such a uniformed approach to preservation risks denying the evolution of history, architecture, and place. In order to be successful, local historic district commissions must take into account the continually evolving space with which they have been given the responsibility of protecting.

Tensions between Tourism and Historic Preservation

Often attributed to globalization and the increasing need for municipalities to redefine local industry, tourism has become a viable industry for many municipalities. Gotham argues that tourism is a global industry, “increasingly dominated by global hotel firms and entertainment companies... who have the ability to exploit a wide range of ‘brand synergies’ to transform locales into space for consumption” (2005: 1101). Many historic districts, such as the Vieux Carré in New Orleans, are marketed for their exotic and old-worldly appeal, and, therefore, many local historic districts have grappled with how to balance the dual purposes of preservation and economic development (Souther, 2007: 805-806). Of the integration of economic development in the purpose statements of local historic district ordinances, Tipson writes that such measures would mean “that a local review board would be legally required to favor tourist-drawing, property-value-raising preservation programs over historically rigorous ones” (2004: 200). Tipson further suggests that in order for the district to be successful, community history and the needs of residents need to be given priority over tourism and aesthetics, stating that “if historic districts are to overcome the ... problems that afflict them, a strong theory of preservation must cohere around the needs of the local community as distinct from those of tourists” (2004: 213). This struggle is exhibited in New Orleans through shifts in population and land uses in Vieux Carré over the past sixty years.

Beginning in the Post World War II years, New Orleans city officials “began devising strategies to increase tourist travel to enhance the economic prosperity and fiscal status of the central city” (Gotham, 2005: 1103). After the collapse of the oil industry in the 1980s, city leaders increasingly embraced tourism as a means for economic development, and in doing so reinforced the Vieux Carré, or “French Quarter” of New Orleans, as the center of that industry.

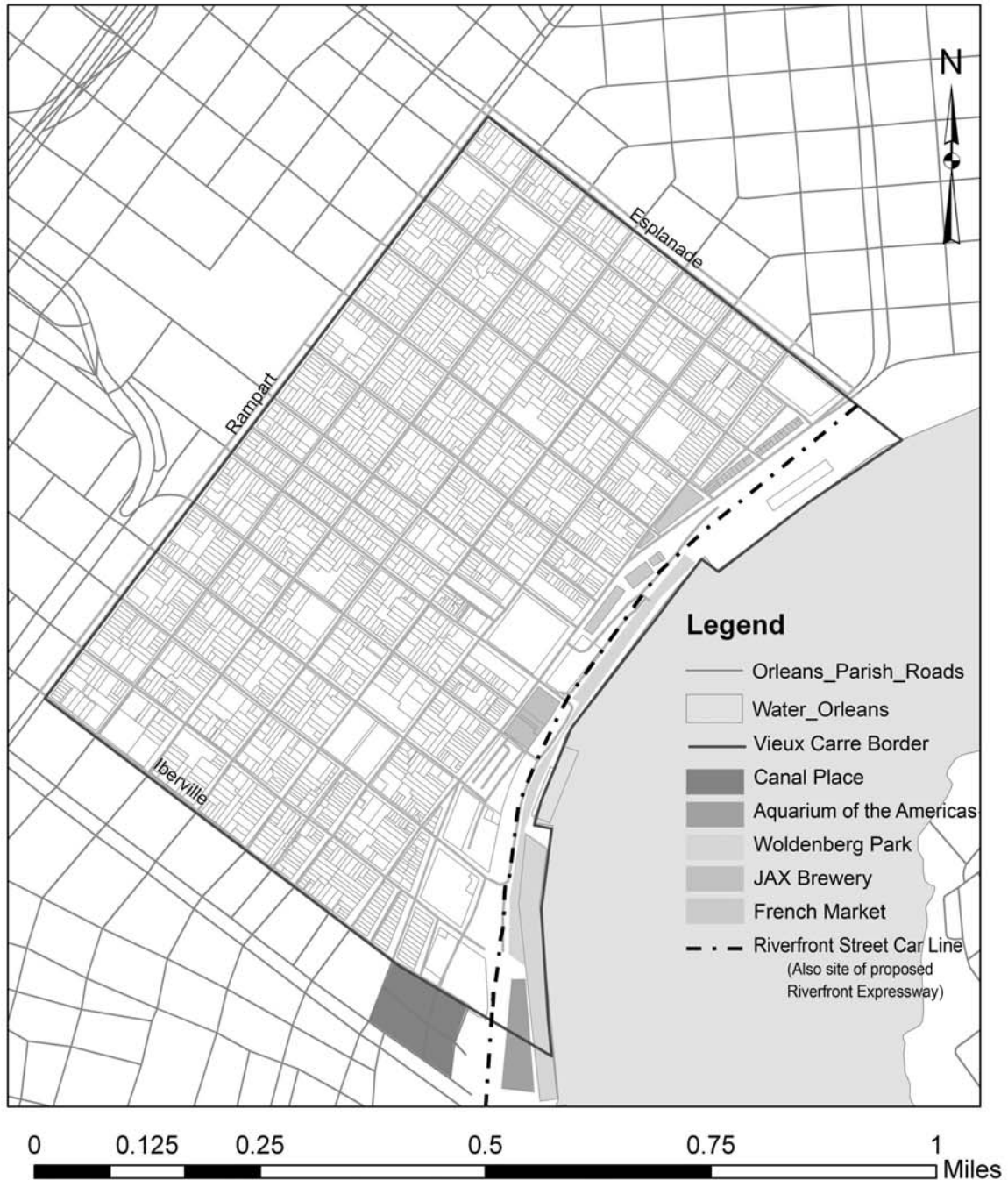
This took place while the population of the city, and that of the Vieux Carré, fell due to increasing crime and unemployment rates, as well as diminishing city services (CUPA, 1992: 1-2; Souther, 2007: 805-811; Foley, 2000: 225-226). Fainstein attributes the public sector response to the adjustments seen in local economies to deindustrialization and globalization and writes that “the lack of private business [in declining cities]... leaves only the public sector to offer a potential engine for stimulating new growth. For the public sector to do so means finding a new niche that the locality can occupy” (1990: 36). Local officials believed that the service industry jobs and increased tax base that come with an expansion of tourism in New Orleans would help the declining job market and loss of revenue in the city after the oil bust (Foley, 2000: 225-226). Additionally, the State of Louisiana passed legislation in 1974 that reduced the ability of municipalities in the state to tax income, making sales tax an important means of raising revenue and increasing the viability of tourism as a revenue producing industry for New Orleans (Gotham, 2005: 1103).

Tourism and Historic Preservation have forged an often strained relationship in the Vieux Carré. Preservationists, residents, and many other community groups successfully protested the proposed riverfront expressway, or Interstate Route 310, in the 1960s, which was intended to connect the Crescent City Connection with Interstate 10 at Elysian Fields (Souther, 2007: 808-809; Campanella, 1999: 35). Residents and preservationists also successfully pushed for a moratorium on new hotels in the French Quarter in 1969. But these groups were not always successful at opposing new development. Beginning in the 1970s, projects such as the renovation of the *French Market* and *Jax Brewery*, construction of *Canal Place*, the *Aquarium of the Americas* and *Woldenburg Riverfront Park*, and the riverfront streetcar line were major initiatives that specifically aimed to increase tourism in the French Quarter (see Figure 1 below)

and subsequently transformed the area into an entertainment district (Souther, 2007: 808-809; Gotham, 2005: 1100).

Figure 1 – Map of Tourism-oriented Development in the Vieux Carré, New Orleans, LA

Tourism-oriented Development in the Vieux Carré



Map of Recent Development in the Vieux Carré

LA GIC Data, dated 071306

Jane Dufour - 020210

For the purpose of Graduate Thesis

In his book, New Orleans: Then and Now, Richard Campanella discusses the changing landscape of the riverfront area of the Vieux Carré, which he attributes to “the shift of land use in this area from industrial infrastructure to infrastructure of the tourism and convention trade: hotels and parking lots” (1999: 33). Campanella illustrates this with a series of photographs documenting such change in that area including Figures 2 and 3 below, which are a circa 1906 view of the French Quarter from the riverfront and the same view in 1998, illustrating the loss of many industrial structures, which have been replaced by parking lots, as well as showing improvements to *Woldenberg Riverfront Park* and the renovated *Jax Brewery*, which Campanella

Figure 2 – View of the French Quarter Riverfront, circa 1906



Figure 3 - Same view, 1998



Source [for both images]: New Orleans: Then and Now
Richard and Marina Campanella
Gretna, Louisiana: Pelican Publishing, 1999

notes “was modified in the mid-1980s from a local brewery to a theme mall” (1999: 35). At the same time, there has been a decrease in residential-oriented businesses, such as “barbers, department stores, shoe shops, small groceries and laundry services,” by more than 15% from 1950 to 1999 (Gotham, 2005: 1108). This “while tourist-oriented business, such t-shirt shops, poster shops, daiquiri shops, and commercial tourism information centres expanded by 32 [%]”

(Gotham, 2005: 1108). As a result, the once-residential character of the Vieux Carré changed dramatically.

Gotham characterizes such displacement of residents as “tourism gentrification” (Gotham, 2005). The union of modern “corporate gentrification,” led by developers, and the local push to draw a tourism-based economy put a strain on residents resulting in a dramatic decrease of permanent residents in the French Quarter (Gotham, 2005). Arefi and Triantafillou note that a gap exists between globalization and localization, creating a tension that “confuses individuals and prevents them from situating themselves in the world” (2005: 81).

This tension between residential interests and development interests may be reflected in the dramatic loss of the residential population in the French Quarter. Over a 50 year period, from 1940 to 1990, the overall population of the French Quarter decreased from 11,053 residents to 3,991 residents (CUPA, 1992: 2-3). In that same time period, the total population of the City of New Orleans declined at a much slower rate (CUPA, 1992: 2-3). Additionally, the Vieux Carré was losing population during the citywide growth periods of the 1950s and 60s. The College of Urban and Public Affairs’ study *Changing Land Use in the Vieux Carré: Managing Growth to Preserve a National Landmark District* attributes this change to outward migration due to development (1992: 2-8). This population loss has had a seemingly long lasting effect on occupancy of Vieux Carré properties. According to 2000 Census data, the Vieux Carré had a residential vacancy rate of approximately 37% compared to 13% citywide in the same time period. Some of this can be attributed to the existence of many residential time shares and condominiums which house a transient population. A 2000 survey of 198 condos in the French Quarter found that “full-time residents occupied only 38% of the units, while part-time residents owned 54%. The remaining 8% sat vacant” (Clanton, 2000).

Historic Preservation and Place

The Vieux Carré is one of the greatest resources that the City of New Orleans has in attracting visitors to the city. A survey of tourists visiting New Orleans conducted between 1994 and 1995 found that “at least 87% of [those] tourists visited the French Quarter” (Kitada, 1999: 13). In developing its prized historic district to the point of losing the integrity of place, a city like New Orleans risks losing the very industry that the development was intended to promote. Resident-diverting problems in the French Quarter, such as “congestion, noise pollution, and higher costs of living[,]... have caused the loss of neighborhood quality” and subsequently the loss of “historic ambiance” (Kitada, 1999: 46). Despite the protections to the physical integrity of the French Quarter, afforded by the Vieux Carré Commission, insufficient plans and policies are in place to protect the Vieux Carré from the negative impacts of tourism. Kitada recommends that these protections be integrated into zoning regulations which could preserve the “historical ambiance of place” that is recognized as an important component of what draws people to the French Quarter (Kitada, 1999: 46, 51-52).

Attorney David F. Tipson wrote an article, published in *The Urban Lawyer* in 2004, which questioned whether the reasons and methods for preservation that are currently in use, including the implementation of local historic districts, accurately promote the purpose that many ordinances espouse. Tipson reviewed the policies and attributes of preservation ordinances of six cities, including Charleston and New Orleans, based on the following variables: Purpose Statement, Design Guidelines, Paint Color and Roofing Material Restrictions, Demolition Controls, and Review Board Composition (2004: 292-299). The reasons for historic preservation are varied: a focus on a significant historic site, preserving the integrity of the built environment, and the preservation of “aspects of the urban environment,” such as scale, setback,

and uses (Tipson, 2004: 290-291). This suggests that often local preservation ordinances and guidelines fail to “differentiate between the various reasons for preservation” (Tipson, 2004: 290-291, 309). Concluding that historic districts must develop “a strong theory of preservation [which] must cohere around the needs of the local community as distinct from those of tourists,” Tipson, like Kitada, suggests preserving the sense of place that is valued in local historic districts by addressing scale and massing in the zoning ordinance rather than in a preservation ordinance (2004, 313-314). As will be detailed in the following chapters, both the zoning ordinance for the Vieux Carré and the design review process of the Vieux Carré Commission address the preservation of place mentioned by Tipson.

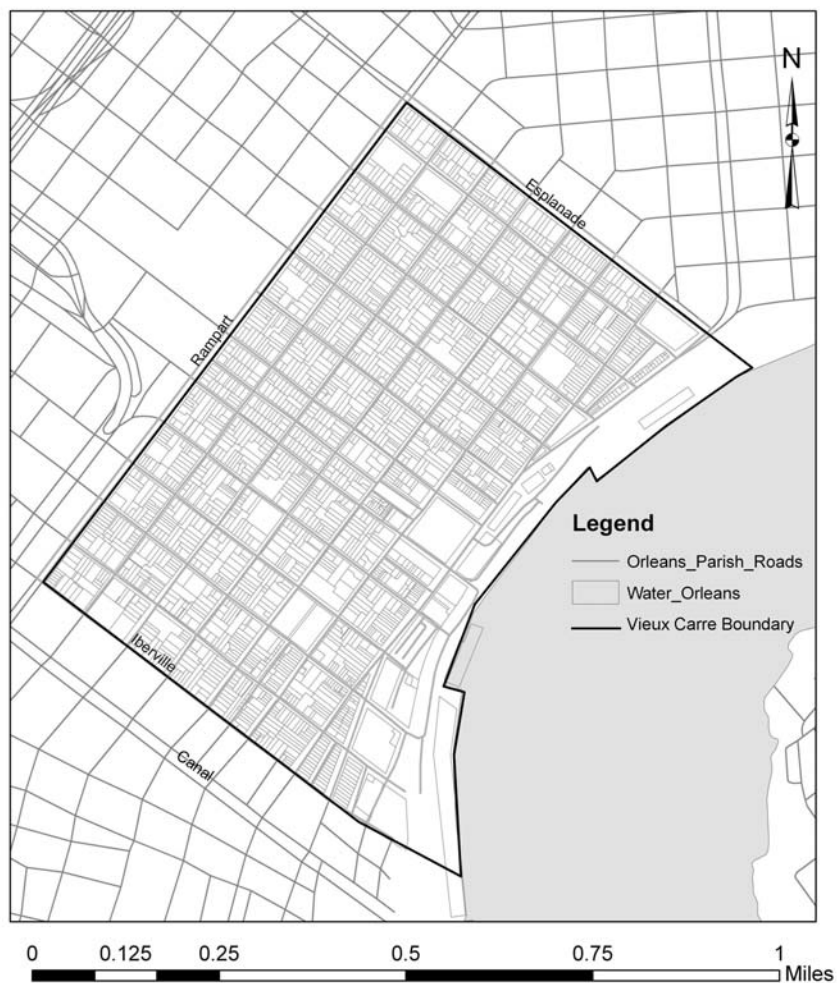
As noted, the residential population of the French Quarter has dwindled over the second half of the Twenty-First Century and the residential vacancy rate has increased. The Vieux Carré is marketed as a destination for tourists, who enjoy the district’s character and sense of place. However, should the population exodus continue, the French Quarter risks losing the qualities that make it a magnet for tourists. The City of New Orleans, as a whole, benefits from the draw of the French Quarter, and as such, the city would benefit from policy that would protect the residential qualities of the French Quarter.

Chapter 3: Vieux Carré Commission Policy Analysis

The Vieux Carré Commission was originally established in 1937 as an amendment to the Louisiana State Legislature that granted the newly founded nine-member commission “a reasonable degree of control... over the architecture of private and semi private buildings” in the Vieux Carré (Kitada, 1999: 16). The Vieux Carré’s boundaries are defined as “the river, uptown side of Esplanade Avenue, the riverside of Rampart Street and the lower side of Iberville Street” (City of New Orleans, 2008: Sec. 166-2). It is important to note that the ten blocks between Canal and Iberville, though considered the French Quarter, are not regulated by the Vieux Carré

Figure 4 – Boundaries of the Vieux Carré Historic District as defined in Code of Ordinances, 2008: Section 166-2

Boundaries of the Vieux Carré Historic District



Boundaries of the Vieux Carré as defined in City of New Orleans, Code of Ordinances
LA GIC Data, dated 071306
Jane Dufour - 020210
For the purpose of Graduate Thesis

Commission. The structure and controls of the Vieux Carré Commission have been strengthened since their original inception. Approval of alterations to the exterior of a building in the district by the Vieux Carré Commission is now a mandatory step in the City of New Orleans permitting process. The City of New Orleans, Code of Ordinances mandates that:

Before the commencement of any work in the erection of any new building or in the alteration or addition to, or painting or repainting or demolishing of any existing building, where any portion of the exterior of the building is in the Vieux Carré section, application by the owner for a permit therefor shall be made to the Vieux Carré Commission, accompanied by the full plans and specifications thereof so far as they relate to the proposed appearance, color, texture of materials and architectural design of the exterior, including the front, sides, rear and roof of such building, alteration or addition or of any out building, party wall, courtyard, fence or other dependency thereof (2008: Sec. 166-35).

Though other regulatory agencies, such as the Office of Safety and Permits, the City Planning Commission, and the City Council, have decision making authority in the Vieux Carré, approval from the commission is an important first step for property owner's attempting to make improvements to the exterior of the building or changes to the building's use.

Purpose Statement of the Vieux Carré Commission

The stated purpose of the Vieux Carré Commission is “the preservation of such buildings in the Vieux Carré section of the city... [that] shall have architectural and historical value and which should be preserved for the benefit of the people of the city and state” (City of New Orleans, 2009: Sec. 166.1). As noted by Tipson, the stated purpose of a local historic district commission, codified in the local code of ordinances, should reflect the commission's intended approach to preservation (2004: 300). In the case of the Vieux Carré, the purpose statement is open to broad interpretation. According to the purpose statement, the Vieux Carré Commission is given the authority to determine what buildings in the Vieux Carré have “architectural and

historic value” (City of New Orleans, 2009: Sec. 166.1). Additionally, the purpose statement mentions benefits of such preservation to “the people of the city and state” (City of New Orleans, 2009: Sec. 166.1) which has been an important component in upholding the decision making authority of the Vieux Carré Commission against legal challenges, as will be discussed later.

Regulatory Controls

As mentioned above, application for approval from the Vieux Carré Commission is the first step in the permitting process for properties within the Vieux Carré boundaries. Additionally, the Vieux Carré Commission has the power to issue a “stop work order”. The City of New Orleans, Code of Ordinances states that:

The director of the Vieux Carré Commission shall promptly stop any work attempted to be done without or contrary to a permit issued under this chapter and shall promptly prosecute any person responsible for such a violation of this chapter or engaged in such violation. Any officer or authorized agent of the commission shall exercise concurrent or independent powers with the director in prosecuting violations (2008: Sec. 166-21).

The “stop work order” is accomplished by the submission of a letter from the director to the owner, see Appendix “A” for example. Additionally, the staff of the Vieux Carré Commission charged with inspection of properties is given authority to issue citations “for the purposes of obtaining compliance” (City of New Orleans, 2008: Sec. 166-38). Chapter 6 of the Code of Ordinances regarding Administrative procedures notes that enforcement officers have the power to: “Order violators to correct violations within a stipulated time” (City of New Orleans, 2008: Sec. 6-36).

Demolition by Neglect

Directly related to the Vieux Carré Commission’s ability to enforce maintenance in the French Quarter is the commission’s ability to cite “demolition by neglect.” The Code of

Ordinances defines demolition by neglect as “[t]he deterioration of a building to the extent that it creates or permits a hazardous or unsafe condition as determined by the department of safety and permits” or the deterioration of a building characterized by one or more of the following:

- a. Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property.
- b. Deteriorated or inadequate foundation.
- c. Defective or deteriorated floor supports or floor supports insufficient to carry imposed loads with safety.
- d. Members of walls, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.
- e. Members of walls or other vertical supports that are insufficient to carry imposed loads with safety.
- f. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.
- g. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety.
- h. Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
- i. Any fault, defect, or condition in the building which renders the building structurally unsafe or not properly watertight.

(City of New Orleans, 2008: Sec. 84-218).

Guidelines set forth in the Code of Ordinances state that:

If the commission determines that a building or landmark is being demolished by neglect, the owner of record shall be notified of this preliminary finding, stating the reasons therefor, and the owner of record shall be given 30 days from the date of notice in which to commence work rectifying the specifics provided by the commission.

(City of New Orleans, 2008: Sec. 84-218).

Included in Appendix “B” is a letter from the Vieux Carré Commission to a property owner in the Vieux Carré, dated March 15, 1994, in which the director, Stephen B. Hand, cites that “a condition of demolition by neglect exists” (Hand, 1994). Hand continues that the tongue and groove flooring on the balconies “has deteriorated due to neglect and must be replaced and repainted to match existing” (1994). Hand urges the owner to contact him within seven (7) days in order to “work with you to remedy this demolition by neglect condition (1994). If the owner

does not contact the Vieux Carré Commission within thirty (30) days, Hand states that the Vieux Carré Commission will be forced to initiate court proceedings” (Hand, 1994).

Current ordinances for the city note that failure to rectify the condition of demolition by neglect in a historic district will result in the placement of a lien on the property and a fine of “not less than \$100.00 not more than \$500.00 per day for each day that the violation continues” (City of New Orleans, 2008: Sec. 84-218). The institution of fines on a property for failure to comply with maintenance standards is often not enforced throughout the city (Warner, 2007). In City of New Orleans budget hearings in 2007, Mayor Ray Nagin proposed enhanced efforts to enforce fines for “demolition by neglect” violations in local historic districts as a means of increasing revenue for the city. Articles in The Times-Picayune indicate that fine initiation and enforcement for demolition by neglect have been underutilized over the past decade (Eggler, 2008; Eggler, 2007; Warner 1997).

Legal Challenges

The authority of the Vieux Carré Commission has, on multiple occasions, faced legal challenge over the Commission’s ability to control design standards and permitting. As a “first generation” historic district, early cases such as the 1941 case of *City of New Orleans v. Pergament* tested the powers of the Vieux Carré and, in the end, upheld the validity of the Commission’s design and demolition controls (Mandelker, 2005: 908). Marcus Pergament was the owner of a gas station who was served a notice from the Vieux Carré Commission that he was in violation of the signage regulations. In the State of Louisiana, Supreme Court hearing, Pergament contended that “the only purpose of [the] amendment [to the city ordinance giving the Vieux Carré controls] was to enable the municipal council to preserve for the public the architectural and historical worth of the ancient buildings in the Vieux Carré, and his place of

business, being a modern structure, having no architectural or historical worth, is not a subject to the provisions of the constitutional amendment” (*City of New Orleans v. Pergament*, 1941). The trial court initially sided with Pergament, but the City of New Orleans appealed to the Louisiana Supreme Court, which sided with the Commission and defined the purpose of the Commission as "preserv[ing] the antiquity of the whole French and Spanish Quarter, the tout ensemble, so to speak, by defending this relic [the Vieux Carré] against iconoclasm or vandalism" (*Maher v. City of New Orleans*, 1975). The Louisiana Supreme Court additionally stated that the “aesthetic component of the [French] Quarter sustained the commercial value of the Vieux Carré,” concluding that the prohibition of “eyesores” was within the police power of the city and the Vieux Carré Commission (Kitada, 1999: 20). The phrase “tout ensemble,” first used in this case, has come to define the approach that the Vieux Carré Commission has taken to preservation of the French Quarter, that of preservation of the whole district as a unified entity (Kitada, 1999: 20).

The 1975 case of *Maher v. The City of New Orleans* yet again tested the validity of the Commission’s power when, Morris G. Maher, brought suit against the City of New Orleans, citing violation of the Fifth and Fourteenth Amendments, after the Vieux Carré Commission refused to issue a demolition permit for a historic property that Maher wanted to tear down in order to build more lucrative apartments (*Maher v. City of New Orleans*, 1975). In the U.S. Court of Appeals ruling, the court explained that there is substantial precedent for “the appropriate balancing of interests where an ordinance diminishes the freedom of an individual owner to dispose of his property in the name of what the lawmaker deems the greater public benefit” (*Maher v. City of New Orleans*, 1975). In stating this, the court affirms that the legislature has the ability to legislate for the good of the public, even if that diminishes the full

exploitation of that property by the property owner. The court then mentions that cultural and economic development, being that the Vieux Carré is a tourist district, have been upheld by the courts as serving a valid public interest. The court noted that the “elaborate decision-making and appeal[s] process” established in the ordinance acts as a sufficient check on “any potential for arbitrariness that might exist,” and states that the Vieux Carré Commission does not have “unfettered authority” but rather, “the legislature has provided adequate structure and guidelines to that administrative body” (*Maher v. City of New Orleans*, 1975).

The court ruled in favor of the City, upholding the validity of the city ordinance and the Vieux Carré Commission. However, the one weakness that court found in the ordinance was the requirement of property owners to maintain their properties. The court states:

In holding that the ordinance provision necessitating reasonable maintenance is constitutional, we do not conclude that every application of such an ordinance would be beyond constitutional assault... It may be that, in some set of circumstances, the expense of maintenance under the Ordinance – were the city to exact compliance – would be so unreasonable as to constitute a taking (*Maher v. City of New Orleans*, 1975).

The court upholds the validity of the Vieux Carré Commission and their provisions but states that proactive measures by the city to require maintenance of properties could possibly constitute a taking, the appropriation of private property for public use without proper compensation (Blume and Ritchie, 2005). The court acknowledged that the Vieux Carré Commission has the power to require property owners to renovate within their design standards when the Commission is approached for a permit for changes to the exterior of a property. However, the court emphasizes that the Commission may not, in every circumstance, have the authority to seek out property owners and require them to make changes to the exterior of the structure according to their standards should the rigidity of the provisions and the economic impact of such a regulation diminish the owner’s use of their property to the point of constituting a taking.

Design Guidelines

In order to better set forth standards for the preservation of the historic building stock, the Vieux Carré Commission formed a special committee to develop Design Guidelines in 1984 that include a detailed description of the elements that make up the historic architecture of the Vieux Carré, segmented by time period (Vieux Carré Commission, n.d.: Preface). Throughout the text, the Commission encourages restoration and preservation of architecture according to the time period that the structure was built, emphasizing that features should never be added that predate the construction of the building in an attempt to make a building feel old. Instead the Commission recommends that new construction and additions reflect contemporary design but that those designs “must be compatible with the distinctive character of the district and related to neighboring historic buildings in size, scale, materials, and site plan” (Vieux Carré Commission, 1986, 57). To reflect the broad historical context of the district architecture, the Vieux Carré Commission has created a color-coded architectural rating system, which delineates structures by historic importance and architectural significance:

Table 1 – Vieux Carré Commission Architectural and Historical Ratings

Purple	Of National Architectural or Historical Importance.
Blue	Of Major Architectural or Historical Importance.
Green	Of Local Architectural or Historical Importance.
Pink	Of Local or Major Architectural or Historical Importance That Has Been Detrimentially Altered (but, if properly restored, could be upgraded to Blue or Green).
Yellow	Contributes to the Character of the District.
Orange	Unrated 20th Century Construction
Brown	Objectionable or of no Architectural or Historical Importance

Vieux Carré Commission, 1986: xlv

This rating system is intended to be used as a delineator in determining “the architectural and historical value” as mentioned in Section 166.1 of the City of New Orleans, Code of Ordinances.

Tipson noted that the restrictiveness of a local historic district commission is often reflected in the level of required adherence to paint color and roofing material restrictions. In the case of New Orleans, Tipson finds the Vieux Carré Commission to be moderate in its approach to this aspect of the design review process which he attributes to the “greater tolerance of diversity” exhibited in the city in general (2004: 305). More importantly, the design guidelines for paint color and roofing restrictions might be considered moderate when compared to other districts because the architectural and historical rating system is taken into account when mandating these two attributes. For the specification of roofing materials, the Design Guidelines note that:

1. Existing Slate roofs on all Purple and Blue rated buildings shall be maintained or replaced with slate.
2. Existing slate roofs on all Green and Pink rated buildings shall be maintained or replaced with slate or cement, slate-type shingles.
3. Existing slate roofs on all Yellow, Brown, and Orange rated buildings may be replaced with slate, cement slate-type shingles, Dutch-lap cement shingles, or American traditional shingles.
4. All clay tile roofs shall be maintained or replaced with comparable clay tiles.
(Vieux Carré Commission, 1986, 40)

The Guidelines state that for roofs composed of materials besides slate or tile, “replacement shall be of at least comparable quality to the material replaced” (Vieux Carré Commission, 1986, 40).

The overall unity or “tout ensemble” of the architecture and streetscapes in the French Quarter is an important aspect of what the Vieux Carré Commission deems the “quaint and distinctive character of the Vieux Carré” (Vieux Carré Commission, 1986, 2). Vieux Carré Commission guidelines, adopted in 1986, attempt to better explain the “quaint and distinctive character” of the French Quarter, a term often cited in the design review process, noting that the Vieux Carré Commission “recognizes the following as the major physical components of the distinctiveness and uses them in evaluating the appropriateness of all physical changes proposed

within the district” (Vieux Carré Commission, n.d.: Major Components of Vieux Carré Distinctiveness). Those attributes are: historic street pattern, scale of the district, texture of typical street scene, typical building site plan, and liaison to the river (Vieux Carré Commission, n.d.: Major Components of Vieux Carré Distinctiveness). These attributes are similar to what Tipson mentions as the preservation of aspects of the historic urban environment: scale, setback, a mix of uses (2004: 290-291). Characteristics such as the texture of typical street scene, which would be attributed to the “pattern created by wall openings, shutters, balconies, galleries, ironwork, cornices, etc” (Vieux Carré Commission, n.d.: Major Components of Vieux Carré Distinctiveness) are cited frequently in the design review process (Vieux Carré Commission: Property Reports).

The Vieux Carré Commission notes that the guidelines are not precise regulations nor do they dictate rules that ensure Commission approval but instead are recommendations (Vieux Carré Commission, n.d.: Summary). The issue over whether design guidelines are suggestions or requirements is often a source of problems for local historic districts. The National Park Service maintains that:

Design guidelines are not, in and of themselves, mandatory like the ordinance and should not be confused with the ordinance. In most cases, guidelines are just that – helpful, interpretive, explanatory recommendations. Consisting of written and graphic information in a printed, book format, they are key support materials for administering design review and may be used to advantage of commissions, boards, and applicants alike in the review process (n.d.: Section C).

Although guidelines are very important in the review process, there is a limit to the purpose that guidelines serve. As the National Park Service notes, guidelines cannot: “Serve the same legal purpose as the design review provisions of the ordinance... Control how space within a building is used... Guarantee that all new construction will be compatible with a historic area... Guarantee ‘high quality’ construction” (n.d.: Section C). Though the Vieux Carré Commission

maintains that their guidelines are recommendations and not requirements, the design provisions for applicants often reflect standards noted in the Design Guidelines. Cannon contends that the adoption of the Design Guidelines in 1986 set precedent for the Vieux Carré Commission in maintaining consistency in the application and review process, giving the commission greater legal standing (1991: 7-8).

Review Board Composition

The Vieux Carré Commission is composed of nine (9) members from the community who act as a decision making authority assistance from Commission staff and the Architectural Committee (Vieux Carré Commission, 1986: xli-xliv). The Code of Ordinances stipulates the following criteria for those appointed to the Vieux Carré Commission: “the Vieux Carré Commission shall consist of nine members, all of whom shall be citizens of the city” who are appointed by the mayor with the “advice and consent of the council” (City of New Orleans, 2008: Sec. 166-31). The mayor appoints members to the Commission as follows:

[O]ne from a list of two persons recommended by the Louisiana Historical Society; one from a list of two persons recommended by the Louisiana State Museum Board; one from a list of two persons recommended by the chamber of commerce of the city; three qualified architects from a list of six qualified architects recommended by the New Orleans Chapter of the American Institute of Architects and three at large (City of New Orleans, 2008: Sec. 166-31).

Additionally, the three American Institute of Architects recommended Architects, along with one ad hoc member, serve on the Architectural Committee (Shutt, February 2010). As mentioned above, the City Council has consent of all appointments. Each member serves one (1) four-year term. When that term is complete, the mayor appoints a successor according to the stipulations above (City of New Orleans, 2008: Sec. 166-31).

The appointed commissioners are not involved in every permit granted. The staff is authorized to review submissions and issue permits for painting and minor repairs for properties that are not of national importance. Additionally, the staff is authorized to review submissions and issue permits for minor modifications to the exterior of buildings listed as either yellow, properties that contribute to the character of the district; orange, unrated 20th Century construction; or brown, objectionable or of no architectural or historical importance. The staff is also authorized to issue permits for all properties for millwork restoration and replacement of slate roofs “as per Vieux Carré Commission policy” (Vieux Carré Commission, 1986: xli). The Architectural Committee is a sub-committee of the Vieux Carré Commission authorized to issue permits for modifications to buildings of more historic or architectural significance than those that the staff is authorized to review. The Architectural Committee also hears appeals of denial from the staff for issuance of permits and makes recommendations to the Vieux Carré Commission “on major architectural modifications” to yellow, orange, or brown rated structures and “on significant modifications” of green, of local architectural and historical importance; and pink, of local architectural or historical importance that has been detrimentally altered (Vieux Carré Commission, 1986: xli-xlii). The Architectural Committee also makes recommendation to the Vieux Carré Commission regarding new construction and demolition.

Finally, the members of the Vieux Carré Commission meet only to review the following and make recommendations to the appropriate governing bodies: variances to the Zoning Ordinance; changes to the Comprehensive Zoning Ordinance; new construction and capital projects of the City of New Orleans; appeals of Architectural Committee decisions; major modifications to all structures, regardless of rating; and policy determinations (Vieux Carré Commission, 1986: xlii-xliii). Commissioners are not required to attend every meeting and

there is no schedule set forth for which commissioners attend which meeting (Shutt, February 2010). This can result in inconsistencies in the review process when commissioners in attendance of one meeting give preliminary approval of a proposed project only to have it overturned by a different set of commissioners as the project moves forward. The lack of schedule of Commission members can also limit the chance of project approval by the Commission since a five vote majority is necessary to grant approval (Board of Zoning Adjustments, 2010: BZA Docket 240-09). In regards to setting policy precedents, the Code of Ordinances states that “The Vieux Carré Commission shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs not inconsistent with the laws of the city and state” (City of New Orleans, 2008: Sec. 166-33). In essence, the Vieux Carré Commission acts as a self-governing agent, so long as their policies do not conflict with the laws of the city and the state. The Vieux Carré Commission essentially sets precedent for its own proceedings with little oversight from other city agencies.

Appeals Process

The Vieux Carré Commission does have in place an appeals process in order to ensure that residents can appeal to the City Council if they feel that the Commission’s recommendations unfairly burden the property owner. The appeals process for the Vieux Carré Commission, as laid out in Section 166-37 the Code of Ordinances for the City of New Orleans, is as follows:

If the applicant for a permit shall refuse to accede to reasonable changes or decisions by the Vieux Carré Commission, according to its guidelines, the applicant may then appeal such a decision or recommendation to the council. The appeal shall be filed within 30 days of the date that the Vieux Carré Commission notifies, in writing, the applicant of its changes or decision. The notice shall be by ordinary mail sent to the address of record of the applicant (2008).

The Code of Ordinances notes that “recommendations may be made by the council to the commission at any time” (City of New Orleans, 2008: Sec. 166-33), meaning that a decision does not have to be appealed before the City Council can make recommendations regarding action.

As mentioned above, the Vieux Carré Commission has had a significant amount of freedom and self-governance when it comes to creation and implementation of policy. A letter, dated March 3, 1970, see Appendix “C”, from Assistant City Attorney, Jackson P. McNeely, to then Vieux Carré Commission Director, Fred P. Wholford, demonstrates this freedom. In the letter, McNeely recommends to Wohlford the implementation of an internal appeals process, providing appeals from commission decisions “only when new evidence is submitted which was not previously considered and which, in the commission’s opinion, would tend to re-evaluate a past decision” (McNeely, 1970). McNeely made the recommendation that the Vieux Carré Commission adopt that policy, just as a previous “commission” had done on March 31, 1964 (McNeely, 1970), indicating that at that time each incoming “commission” was creating and adopting their own sets of policies and guidelines, which undoubtedly created inconsistencies. Though the process has since been streamlined, inconsistencies in the Vieux Carré Commission’s operations still exist, most notably in the lack of requirement or schedule of meeting attendance. As noted above, decisions made at one commission meeting may be overturned at the next due to different composition of committee members in attendance.

Chapter 4: Zoning in the Vieux Carré and Future Land Use Plans

The City of New Orleans has also set forth specific Zoning and Land Use requirements for the Vieux Carré which govern use, scale, and density in the French Quarter. This chapter reviews the Comprehensive Zoning Ordinance and the *New Orleans 2030* Master Plan.

Comprehensive Zoning Ordinance for the Vieux Carré

There are currently nine zoning classifications set forth in the Comprehensive Zoning Ordinance (CZO) of the City of New Orleans. Those classifications are: VCR-1, Vieux Carré Residential District; VCR-2, Vieux Carré Residential District; VCC-1, Vieux Carré Commercial District; VCC-2, Vieux Carré Commercial District; VCS, Vieux Carré Service District; VCS-1, Vieux Carré Service District; VCE, Vieux Carré Entertainment District; VCE-1, Vieux Carré Entertainment District; VCP, Vieux Carré Park District. Figure 5 below is a map of zoning districts in the Vieux Carré. There is a 50 foot height limit in the Vieux Carré (City of New Orleans, 2009: Tables 8.A, 8.B, 8.C, 8.D, 8.E, 8.F, 8.G). Table 2 below details various requirements for each zoning classification.

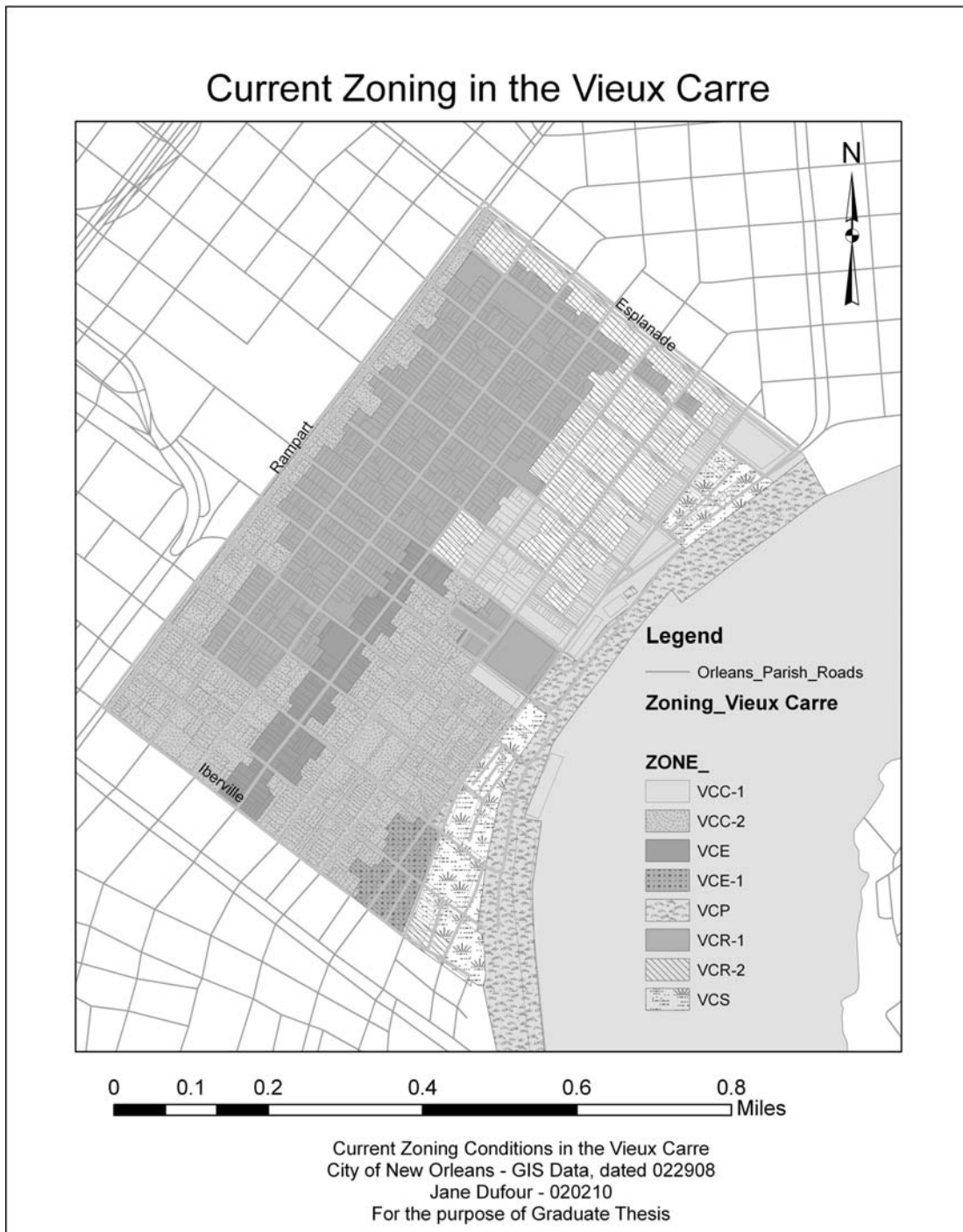
Table 2 – Zoning Requirements in the Vieux Carré

Requirements	VCR-1	VCR-2	VCC-1 VCC-2	VCS VCS-1	VCE VCE-1	VCP
Minimum lot area per dwelling unit						
One-family	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf	1,500 sf
Two-family	1,200 sf	1,000 sf	1,000 sf	1,000 sf	1,000 sf	1,000 sf
Three-or-more-family	900 sf	800 sf	800 sf	800 sf	800 sf	800 sf
Four-or-more-family	N/A	600 sf	600 sf	600 sf	600 sf	600 sf
Maximum height from grade	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.
Minimum depth of front yard	none	none	none	none	none	none
Minimum width of side yard	none	none	none	none	none	none
Minimum depth of rear yard	none	none	none	none	none	none
Minimum Open Space Ratio						
corner lots	20%	20%	20%	20%	20%	20%
interior lots	30%	30%	30%	30%	30%	30%

City of New Orleans, 2009: Article 8

The procedures section of Article 8 of the CZO, Vieux Carré Historic Districts, notes that no permit shall be issued from Safety and Permits, prior to review and approval from the Vieux Carré Commission, except when there will be no change to the exterior of the building (City of New Orleans, 2009: Sec. 8.1).

Figure 5 – Current Zoning Conditions in the Vieux Carré, New Orleans, LA



The noted purpose of the Vieux Carré Residential Districts is to “protect existing residential development and to maintain a desirable character of such development within the historic Vieux Carré. Incompatible uses should be excluded from this residential district and rehabilitation and maintenance should be encouraged” (City of New Orleans, 2009: Sec. 8.2.1). Emphasis on protecting residential uses and maintaining desirable residential character for these two districts which covers approximately half of the French Quarter (see Figure 5 below) is important to maintaining the diminishing residential population of the French Quarter. Expressly prohibited in the CZO for VCR-1 and 2 is the existence of time shares and transient vacation rentals, which do exist and partly account for the high vacancy rate that the French Quarter now experiences (U.S. Census Bureau, 1990 and 2000; Warner, 1995).

Another zoning classification that has an effect on residential versus commercial development in the Vieux Carré is the Vieux Carré Entertainment District, VCE and VCE-1. VCE is a classification which dictates zoning regulations along the Bourbon Street Corridor. VCE-1 is a classification which was introduced into the CZO by city planners in 1992 and includes the development along the riverfront (see Figure 5 above) (Gotham, 2005: 1109). The stated purpose of the VCE-1 District is “to provide for entertainment places and restricted retail stores along Decatur and N. Peters Streets that attract and serve visitors and residents” (City of New Orleans, 2009: Sec. 8.8.1). Developments in the district since the change in zoning include the *Aquarium of the Americas* and *Jax Brewery* (see Figure 1). Gotham included the creation of the special Vieux Carré Entertainment District along the riverfront, as one of the three local developments that he believes have been key to the shift of the French Quarter from primarily residential to primarily commercial over the past 30 to 40 years. Gotham stated that the creation

of the Vieux Carré Entertainment District along the riverfront was “a move meant to spur redevelopment of several vacant commercial properties and create an anchor of commercial revitalization that could have spillover effects into surrounding areas,” (2005: 1109). The zoning change from Vieux Carré Commercial classification to the VCE-1 classification in 1992 provided for greater development along the riverfront. The VCE-1 classification provides for many of the same uses as the VCC-1 classification but allows for, among other things, additional types of restaurants, liquor stores, and infrastructure and utility components necessary for larger-scale development (City of New Orleans, 2009: Sec. 8.8.1). The three case studies explored below are located in or near the VCE-1 Zoning District. Two of the properties have been vacant or partially vacant for nearly fifty years and the zoning change seems to have had little effect on them.

New Orleans 2030 Master Plan

Beginning in the Fall of 2008, the City of New Orleans began a citywide comprehensive planning effort, charged with creating a vision for the city in the Twenty-First Century. A focus of Executive Summary of the *Plan for the 21st century: New Orleans 2030* states that there should be a focus on rehabilitation and redevelopment of vacant sites and a move from a ‘curatorial’ approach to historic preservation to one that views historic character as a valuable contributor to contemporary life and cultural heritage (City of New Orleans, 2010). Chapter Six of the Master Plan, “Historic Preservation,” strongly encourages the creation of “a community-based comprehensive citywide preservation plan,” that would, among other things develop principles and guidelines for contemporary design in historic areas and coordinate historic preservation and economic development (City of New Orleans, 2010: 6.8-6.11). Additionally, the plan advocates for the institution of a program to educate property owners on tax credit

programs in order to provide relief for renovation costs and to keep properties in good repair and in use (City of New Orleans, 2010: 6.8-6.11). Citing the success of green restoration projects done by the Preservation Resource Center in New Orleans, the Master Plan suggests the development of a “sustainable preservation” pilot program (City of New Orleans, 2010: 6.15). It is important to note that as of February 2010, the City Council of New Orleans has yet to adopt the *New Orleans 2030* Master Plan. However, if adopted, policy makers in the Vieux Carré should take some of the above-mentioned credos into consideration when moving forward with policy decisions in the Vieux Carré.

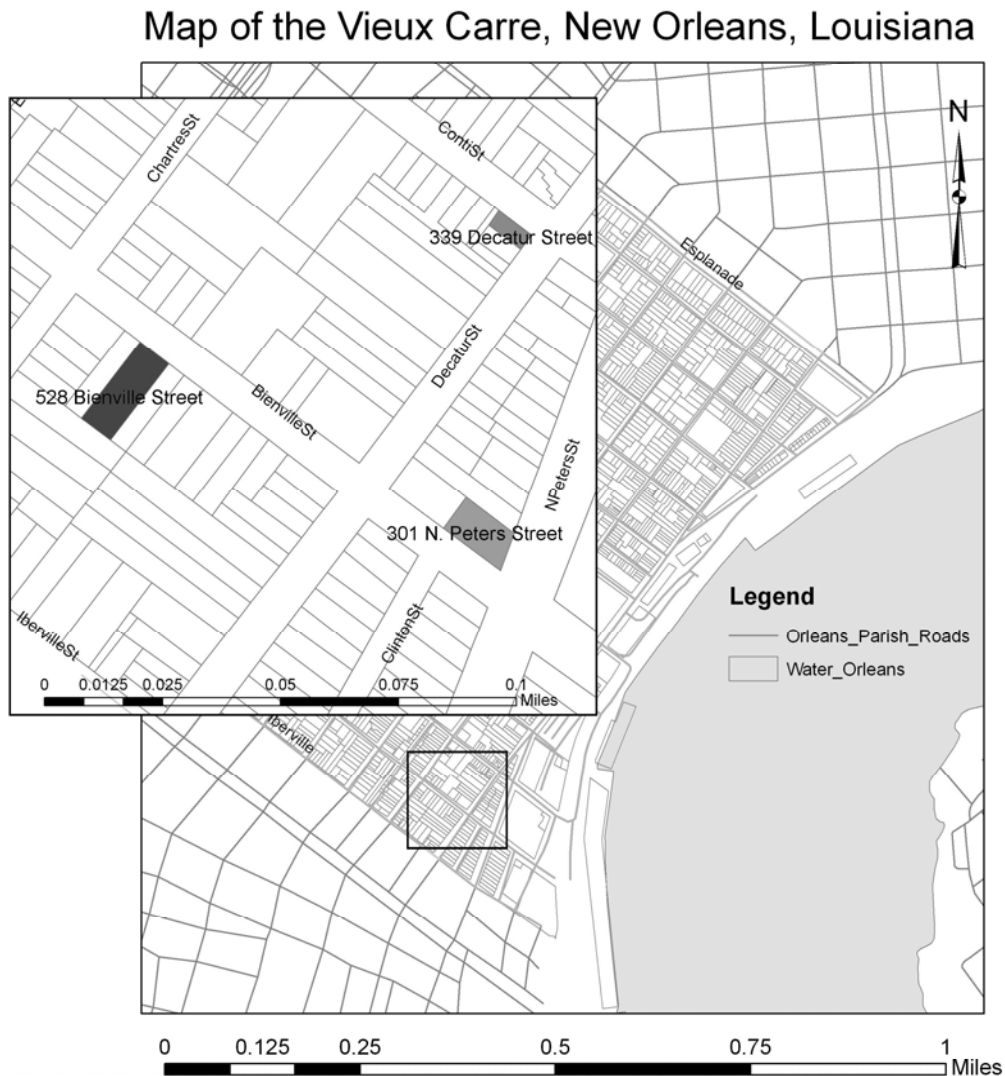
Chapter 14 of the *New Orleans 2030* Master Plan, “Land Use Plan,” notes as a main goal preservation of the prevailing residential character of neighborhoods “in terms of scale, massing, and density... so that infill development must be compatible with existing patters” of development (City of New Orleans, 2010: 14.2). The plan also advocates mixed land use designations “for greater flexibility in areas that would benefit,” including the French Quarter (City of New Orleans, 2010: 14.2). Advocating a mix of land uses and housing types in residential neighborhoods, Dover and King state that “an assortment of uses gives residents the ability to dwell, work, entertain themselves, exercise, shop, and find daily needs and services within walking distance” (Farr, 2008: 129). During the most recent pre-Katrina citywide planning effort, residents of the French Quarter and Central Business District suggested that the city “write ‘vertical zoning’ rules that help preserve the traditional pattern in historic buildings of devoting the ground floor to commerce and upper floors to residents” (Warner, 1998). This could ensure that traditional, dense land use patters are followed and that essential services, such as groceries, might be provided to residents. Incentives are needed in order to keep businesses in the French Quarter to serve the residential population of the French Quarter and not just the

tourists. This could be accomplished through the sale of existing vacant city-owned property for redevelopment with the potential owner working closely with City Planning in order to evaluate success of the proposed business, ensuring that the neighborhood has the density to support the business (City of New Orleans, Draft, 2009: 7). There also needs to be a variety of housing options available in order to lure residents of the French Quarter. Dover and King state that “an assortment of building types allows people with diverse lifestyles and incomes to live in the same neighborhood without diminishing of the character or quality of life” (Farr, 2008: 129). The focus on redevelopment of vacant properties and the move to a less curatorial approach to historic preservation should be important to policy makers of the Vieux Carré moving forward.

Chapter 5: Three Case Studies in the Vieux Carré

Examination of three properties in the Vieux Carré, which are vacant or partially vacant and whose owners over the past 12 months have attempted to return them to commerce in a residential or mixed-use capacity, offers the opportunity to explore the effects of land use regulations on real property. The three case studies, all located within a 250 foot radius (LA GIC Data, 2006), see Figure 6 below, demonstrate different approaches to rehabilitation and exhibit differing levels of success in navigating the regulatory process.

Figure 6 – Map of Location of Case Study Properties in the Vieux Carré



Location of Case Study Properties in Vieux Carre
LA GIC Data, dated 071306
Jane Dufour - 030210
For the purpose of GraduateThesis

All three case study properties are located in or, in the case of 528 Bienville Street, on the cusp of the Vieux Carré Entertainment - 1 Zoning District, created in 1992 to spur tourism-oriented development along the riverfront (Souther, 2007: 808-809). This is an area that has been substantially transformed over the second half of the Twentieth Century. Campanella illustrates this transformation through a series of aerial photographs of the Vieux Carré (see Figures 7 and 8 below). Campanella points out that development at and across Canal Street on

Figure 7 – 1952 Vieux Carré



Figure 8 - Same view, 1994



Source [for both images]: New Orleans: Then and Now
Richard and Marina Campanella
Gretna, Louisiana: Pelican Publishing, 1999

the left side of the photo has been particularly substantial over the half century. Campanella also notes that, since the Vieux Carré Commission “never had jurisdiction of the block[s] between Canal and Iberville” (1999: 39), there has been drastic changes in those blocks, including developments, namely high-rise hotels which Campanella deems “dedicated to the modern tourism industry” (1999: 39). These high-rises, as well as the *Aquarium* in the bottom left corner of Figure 8, demark the intense development that took place in “upper French Quarter” over the second half of the Twentieth Century (Campanella, 1999: 39). What is interesting for the purposes of this study is that despite this investment in the area, there is still vacancy and disinvestment nearby. Commercial investment alone does not equate to full

occupancy in the French Quarter. Without investment in residential interests, vacant properties still exist.

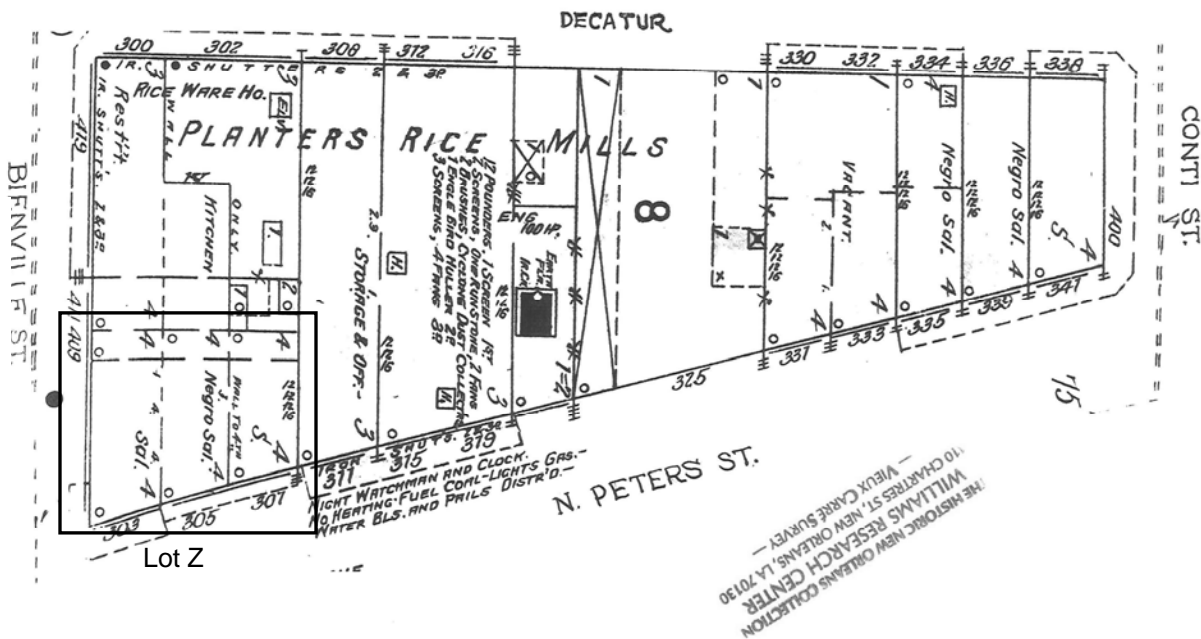
301 N. Peters Street

The property at 301 N. Peters Street was chosen because it represents what could be considered a successful transition from partially vacant to fully occupied.

Background and History

The property at 301 N. Peters Street is comprised of what was once three (3) parcels in Square 8 (see Figure 9 below). Between 1825 and 1833, Jean Baptiste Etienne Germain Musson acquired the three (3) parcels that comprise present-day lot Z. The lot was undeveloped

Figure 9 – 1896 Sanborn Insurance Map of Square 8 with Present-day Lot Z denoted



Source: [Vieux Carré Survey](#)
 The Historic New Orleans Collection, Williams Research Center
 Not to Scale | North Not Indicated

up to that point. Construction of 301 N. Peters Street, a four-story, six bay, masonry building, which sits on the 4,533 square foot lot, took place sometime between 1833, when the last parcel

was acquired by Musson, and 1835, when items began appearing in the *The Bee*, or *L'Abeille de la Nouvelle-Orléans*, a French speaking news paper of the period, regarding the impending opening of the North American Hotel which was to serve both borders and lodgers (Vieux Carré Commission Staff, Property Report: 301 N. Peters; Tulane School of Architecture, 1966).

Figure 10 – 1962 Photo of 301 N. Peters Street



Source: Vieux Carré Survey
The Historic New Orleans Collection, Williams Research Center

Figure 11 – 2010 Photo of 301 N. Peters Street



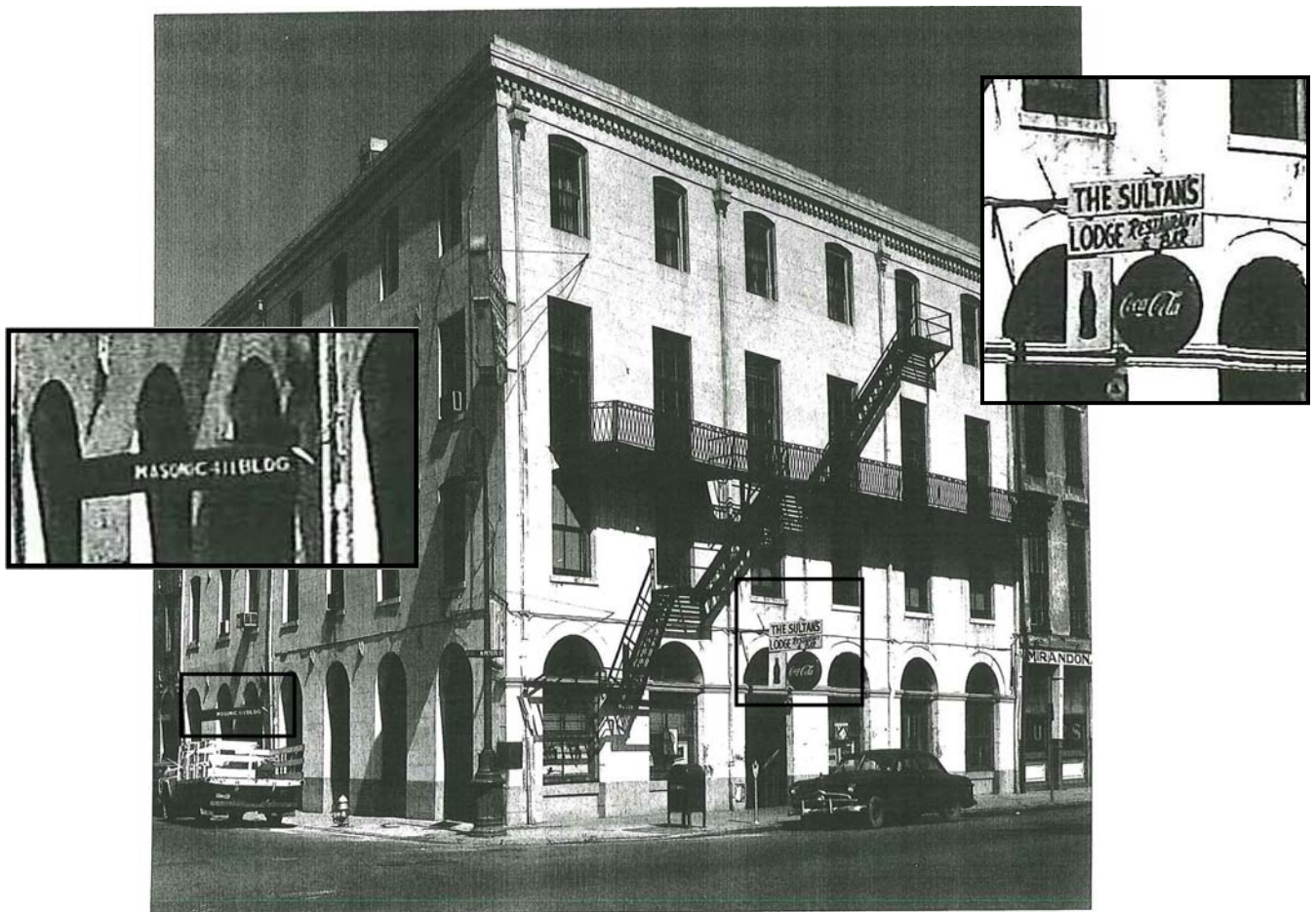
Source: Author's Own

Beginning in 1836, the property functioned as the North American Hotel, which was described by F. Le Bleux as “a delightful summer residence for Ladies and Gentlemen... Situated at the corner of Bienville Street, in the center of business and commanding a full view of all shipping and steamboats in the river” (Tulane School of Architecture, 1966). According to the Vieux Carré Survey records, the property functioned as a boarding house, still bearing the name the North American Hotel, at least through 1853 when the last of those records indicates that according to an article in *The Daily Picayune*, a fire began “in the boarding house and destroyed a part of the stores of the grocery [on that block], which were in the basement thereof”

(Tulane School of Architecture, 1966). Vieux Carré Commission Staff records indicate that the property was operated as the Hotel Desoto when the Musson family sold it in 1881 (Property Report: 301 N. Peters).

In June, 1953 the property was purchased by United Most Worshipful St. John's Grand Lodge of Ancient free and Accepted Masons for the State of Louisiana. See enlargement of the signage in Figure 12 below. The 1962 picture shown below indicates that the First Floor was

Figure 12 – Enlargement of Signage in 1962 Photo of 301 N. Peters Street



Source: Vieux Carré Survey
The Historic New Orleans Collection, Williams Research Center
operated as a restaurant and bar (Polk City Directories, 1962). At that time, the Masons and various other trade councils and unions operated their organizations from the upper floors at 411 Bienville Street (Polk City Directories, 1962). Figure 12 shows the awning on Bienville Street

reads 411 [Bienville] and Masonic Building. 301 N. Peters Street was purchased in April, 1978 by The New Monteleone, Inc., which owned the property for 30 years (Tulane School of Architecture, 1966). The first floor of 301 N. Peters operated as Mable's Restaurant and Bar until the early 1980s when it was briefly vacant and then operated as a dry cleaners. The upper floors at 411 Bienville Street were either vacant or served as storage for most of The New Monteleone's tenure as owner (Polk City Directories, 1961-1994).

In 1992, Gibson, Greco & Wood Ltd. dba Hooters Restaurant sought to appeal the "moratorium on the issuance of alcoholic beverage permits in the area bounded by Canal Street, North Rampart Street, Esplanade Avenue, and the Mississippi River [the Vieux Carré]" which was put in place by Ordinance 8357 (City of New Orleans, 1992). Because a beverage permit in New Orleans is tied to the building not the business owner, Gibson, Greco & Wood Ltd. had to appeal the moratorium because when the alcoholic beverage moratorium was put in place, 301 N. Peters, though zoned for such use, was operating as a dry cleaners not as a restaurant/bar (Kamerick, 2002; Vieux Carré Commission Staff, Property Report: 301 N. Peters; Polk City Directories, 1992). A letter, dated December 9, 1992, see Appendix "D", from Stephen B. Hand, Director of the Vieux Carré Commission, to Emma J. Williams, Clerk of Council, City of New Orleans, stating that "it is of the opinion of this office that an exemption to the moratorium on the issuance of an alcoholic beverage permit should be granted" (Hand, 1992). Hand continues that:

The subject establishment is located in the VCE zoning district where a restaurant/bar is a permitted use.

There is one other establishment within a 200' radius that has an existing alcoholic beverage permit.

The granting of this exemption would not create any adverse effects upon other commercial or residential uses in the immediate vicinity (Hand 1992).

On December 10, 1992, the New Orleans City Council passed an ordinance granting “Gibson Greco and Wood Ltd. d/b/a Hooters Restaurant” an “exemption to the temporary moratorium on the issuance of alcoholic beverage permits” (City of New Orleans, 1992: Ordinance No. 15632). 301 N. Peters operated as a Hooters Restaurant until Hurricane Katrina hit in August, 2005 (Vieux Carré Commission Staff, Property Report: 301 N. Peters).

Current Project

301 N. Peters was vacant from August 2005 until it was it was purchased by BFST, LLC in April, 2008 (Vieux Carré Commission Staff, Property Report: 301 N. Peters; Orleans Parish Assessor’s Office, 2009). In October, 2008, BFST, LLC opened the first two floors of 301 N. Peters Street as *Filipe’s Taqueria*, the second *Filipe’s* to open in New Orleans, both owned by BFST, LLC (Anderson, 2008). In April 2008, after purchasing the property and while in the process of applying for a commercial construction permit from the City of New Orleans, Department of Safety and Permits, BFST, LLC applied to the Vieux Carré Commission for approval of work to the exterior of the property, such as relocation of HVAC condenser units from the courtyard to the roof, work that had previously been applied for and approved in 1996, and which the Vieux Carré Staff approved again in 2008 (Vieux Carré Commission Staff, Property Report: 301 N. Peters; Department of Safety and Permits, Permit 08COM-00724).

In October 2009, BFST, LLC applied for a permit from the Department of Safety and Permits for Commercial/Change of Use. In the application, the description of work includes “converting the 3rd & 4th floors of a mixed [use] building into condos as per plans” (Department of Safety and Permits, Permit 09COM-01257). The description of work also notes that all exterior work will require a separate permit [from the Vieux Carré Commission] (Department of

Safety and Permits, Permit 09COM-01257). The owner submitted a General Work Application to the Vieux Carré Commission, dated November 2, 2009, for changes to the exterior of the property and a change of use from “Commercial/Vacant 3rd and 4th Floors” to “Commercial/Residential 3rd and 4th Floors” (Vieux Carré Commission Staff, Property Report: 301 N. Peters).

The proposal of the owner to include eight (8) residential units on a 4,533 square foot lot required a waiver from the Board of Zoning Adjustments. According to the Comprehensive Zoning Ordinance, a lot that size could accommodate a maximum density of seven (7) units. A lot must be 4,800 square feet to accommodate eight (8) units with the CZO requiring 600 square feet per unit for “four-or-more-family buildings” (Vieux Carré Commission Staff, Property Report: 301 N. Peters; City of New Orleans, 2009: Table 8G). Meeting on November 17, 2009, the Vieux Carré Commission recommended approval of the change of use for the Third and Fourth Floors from vacant to residential and recommended support “of a waiver from the Board of Zoning Adjustments for the additional dwelling unit that exceeds the maximum density of seven (7) units for the property” (Vieux Carré Commission Staff, Property Report: 301 N. Peters). On February 8, 2010 the Board of Zoning Adjustment approved the request for variance to allow for an eighth unit on the lot. (Board of Zoning Adjustments, 2010: Notice: Disposition of Zoning Case – BZA Docket 023-10). This case represents a successful return of a building that has been partially vacant to full occupancy, serving both residents and visitors. This case also demonstrates a successful partnership between a property owner and the Vieux Carré Commission, where the Commission acted, both in the 1992 appeal for a liquor license and in the 2009 appeal for a waiver from the Board of Zoning Adjustments, as an instrumental supporter of those measures which were necessary to return the property to use and occupancy.

339 Decatur Street

The property at 339 Decatur Street was included as a case study because it is an example of a property whose owner resisted working within the parameters of the Vieux Carré Commission and other regulatory authorities, and, consequently, the property remains vacant.

Background and History

The building at 339 Decatur Street was constructed in the 1830s, designed by Gurlie and Guillot, and owned at the time by the Baron de Pontabla. The “Building Contract” between Gurlie and Guillot and the Baron de Pontabla, notarized on March 15, 1830, was in the amount of 19,500 [currency unknown] (Tulane School of Architecture, 1966; Vieux Carré Commission Staff, Property Report: 339 Decatur). A fifth floor addition to the structure was constructed

Figure 13 – 1962 Photo of 339 Decatur Street



Source: Vieux Carré Survey
The Historic New Orleans Collection, Williams Research Center

Figure 14 – 2010 Photo of 339 Decatur Street



Source: Author's Own

sometime between 1876 and 1896 (Vieux Carré Commission Staff, Property Report: 339 Decatur).

The property located at 339 Decatur Street, also identified as 500-504 Conti Street, is on Square 29, lot 11 and is a corner lot, approximately 1,050 square feet, with frontage on both Decatur and Conti Streets (Vieux Carré Commission Staff, Property Report: 339 Decatur; Orleans Parish Assessor's Office, 2009). The Orleans Parish Assessor's Office records and the Vieux Carré Survey records conflict regarding the Twentieth Century ownership of the building. The Orleans Parish Assessor's Office records indicate that the property was purchased by Charles C. Foti, the current owner, in March 1944 (Orleans Parish Assessor's Office, 2009). The Vieux Carré Survey records detail a number of transfers of the property between 1943 and the last entry in 1980, none of which involve the current owner, Charles C. Foti. Records in the Vieux Carré Survey seem to be detailing another property.

339 Decatur Street is currently zoned VCE-1, the zoning classification created in 1992 to spur entertainment activity in the vicinity of the riverfront and Canal Street (Vieux Carré Commission Staff, Property Report: 339 Decatur; Gotham, 2005: 1109; City of New Orleans, 2009: Sec. 8.8.1). 339 Decatur is on the same block as multiple restaurants as well as one block away from the *House of Blues*, located at 225 Decatur Street. Though the property was originally used in an industrial capacity as a warehouse and factory (Tulane School of Architecture, 1966), during Foti's tenure as owner, the first floor of 339 Decatur Street operated as a store up until 1969, from which time on it was vacant, and the upper floors operated intermittently as offices though those floors have also been vacant since the mid 1980s (Vieux Carré Commission Staff, Property Report: 339 Decatur; Polk City Directories, 1961-1994).

The Vieux Carré Commission records for 339 Decatur Street contain a number of citations beginning in the 1970s. A letter to Charles C. Foti, dated April 29, 1970, from J. H. Phillips, Vieux Carré Commission Inspector, indicates that the owner installed a “non-conforming door with a side panel of plywood without approval or permit from the Vieux Carré Commission and in violation of the City Ordinance for Vieux Carré Section” (Phillips, 1970). Phillips requests that the owner apply for a permit from the Vieux Carré Commission to install proper doors. Additionally, a letter from Katherine A. Bingler, Acting Director of the Vieux Carré Commission, dated July 18, 1979, addressed to Charles C. Foti, notes deficiencies to the exterior of the building “needing immediate attention”, and again urges the owner to contact the Vieux Carré Commission to rectify the problems (Bingler, July 1979). Another letter, dated August 16, 1979, from Katherine A. Bingler to Charles C. Foti, states that a letter had been sent previously “calling your attention to the deterioration of your building... [and requesting] your cooperation to meet with us to work out an amicable solution to preserve your building” (Bingler, August 1979). A permit was issued by the Vieux Carré Commission for repairs to the exterior of the building, such as repointing the brick and repairing the windows and doors facing Decatur Street, to commence on August 27, 1979 and to be completed on February 27, 1980. Additional notes on the permit indicate that as of March 8, 1980, the work was not completed and the permit had expired (Vieux Carré Commission Staff, Property Report: 339 Decatur).

The property records file for 339 Decatur Street contains similar correspondence in the late 1980s, including a letter from Michael A. Duplantier, attorney for the Vieux Carré Commission, advising the owner, Charles C. Foti, that “failure to commence the work [indicated in the letter as necessary] within 30 days of this letter shall be construed as willful non-compliance with this request and may subject the owners of the property to all civil and criminal

sanctions authorized by law” (Duplantier, 1988). This action seems to have prompted the owner to retain an Architect. A letter from L. Dow Oliver, A.I.A, to Michael A. Duplantier, dated March 9, 1989, references the letter mentioned above and requests an extension of two months to prepare (Oliver, 1989). The Vieux Carré Commission granted the extension (Hand, 1989) and a permit was issued to complete the work on May 9, 1989 (Vieux Carré Commission Staff, Property Report: 339 Decatur). The property records indicate a long history between this property owner and the Vieux Carré Commission, in which the Commission for many years is forced to incite the owner to take action through issuance of citations and infractions. Often threats from the Commission Director do not act as sufficient motivation for the property owner to take action to come into compliance.

Current Project

On December 2, 2009, Patrick Barnes of Crescent City Contractors, LLC, submitted a General Work Application for improvements to the exterior of 504 Conti Street [339 Decatur Street]. The Contractor lists the following as the proposed work: “repair damaged fire escape; replace window on Decatur Street side with garage door; refurbish and replace existing doors (exterior) 1st Floor; place shutters on existing doors exterior 1st Floor” (Vieux Carré Commission Staff, Property Report: 339 Decatur). Vieux Carré Staff Analysis of the application, dated January 26, 2010, notes that “the addition of a garage door onto the Decatur façade will detract from the quality of the streetscape” (Vieux Carré Commission Staff, Property Report: 339 Decatur). Additionally, the Staff Analysis notes that:

the reconfiguration of this façade to accommodate this door will only further distort the façade of this building beyond its original configuration with two architect openings on the ground floor. Additionally, this proposal would further separate it from the group of ten buildings that were construction on this corner

and down Conti Street around 1835 (Vieux Carré Commission Staff, Property Report: 339 Decatur).

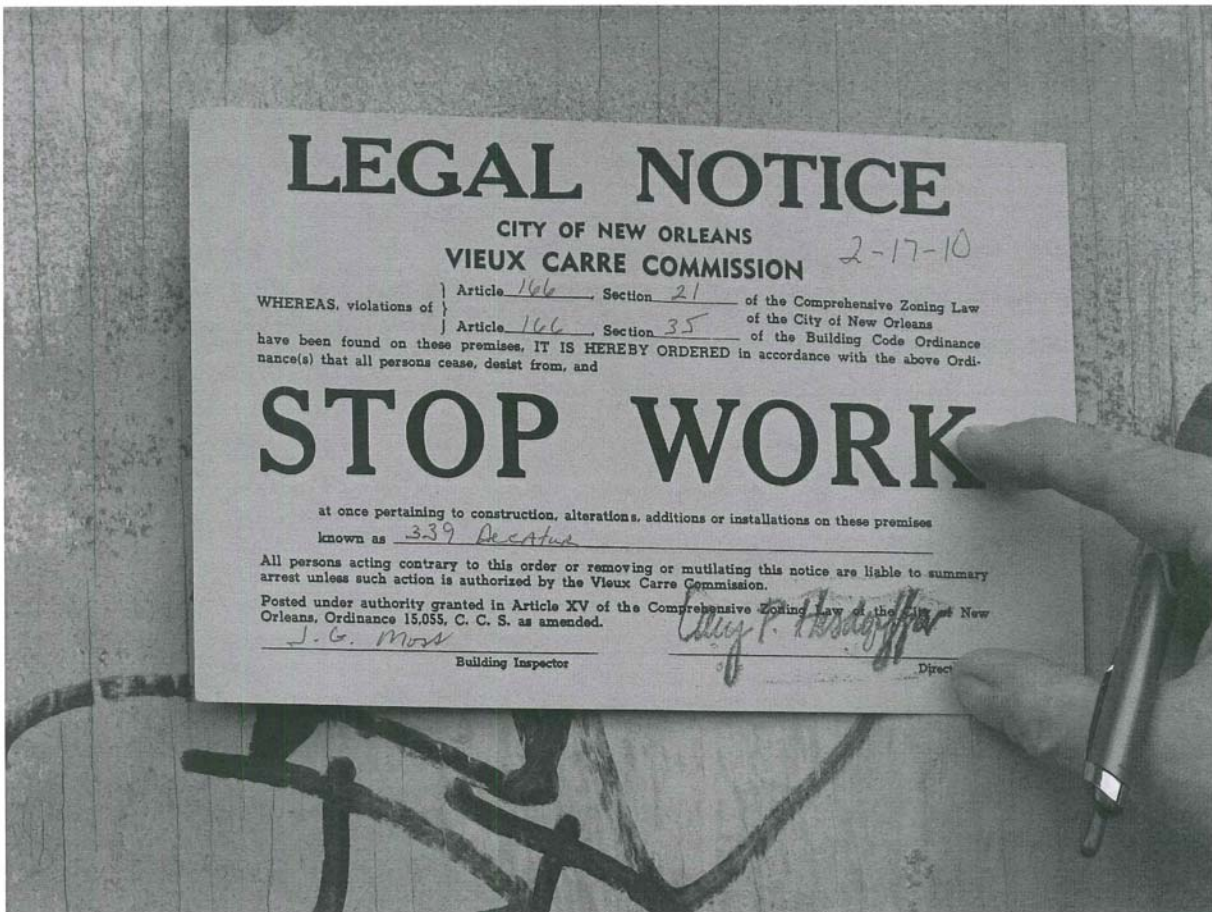
The staff recommended against the installation of the garage doors as proposed (Vieux Carré Commission Staff, Property Report: 339 Decatur).

The Owner indicated that parking accommodations were necessary in order to bring this property back into commerce. The Vieux Carré Commission staff did not outright deny the installation of a garage door on the Decatur Street side of the property, but instead took issue with the design of the proposed garage door and the effect that the garage door would have on the “texture of typical street scene” which is one of the attributes listed as a “Major Component of Vieux Carré Distinctiveness” mentioned in Chapter 2 (Vieux Carré Commission Staff, Property Report: 339 Decatur; Vieux Carré Commission, n.d.: Major Components of Vieux Carré Distinctiveness). The delay in time between the submission of the application on December 2, 2009 and the issuance of the Staff Recommendation on January 26, 2010 is attributed to requests by the staff to the owner to submit more detailed drawings regarding the garage door proposed. The original drawing lacked dimensions, details, and specifications. In their requests to get better drawings, there is evidence that the Vieux Carré Commission staff was working with the owner and not outright denying the concept of a garage entry (Vieux Carré Commission Staff, Property Report: 339 Decatur). There is a degree of financial hardship imposed on property owners who must have professional drawings for any proposed changes to their property. However, construction drawings are required by the City of New Orleans, Department of Safety and Permits in order to receive a permit, so this hardship is not specific to property owners in the Vieux Carré.

During the process of negotiating with the Vieux Carré Commission, the owner proceeded with work on the exterior of the property, including removal of all windows and

millwork from the Fifth Floor of the Conti Street side, without a City of New Orleans construction permit or approval from the Vieux Carré Commission. The property was inspected on February 17, 2010, and the Vieux Carré Commission Inspector posted a Stop Work order, see Figure 17 below (Vieux Carré Commission Staff, Property Report: 339 Decatur). When the

Figure 15 – Stop Work Order for 339 Decatur Street



Vieux Carré Commission. Stop Work Order. February 17, 2010.

author photographed the property on March 7, 2010, this work had yet to be resolved. However, the author's own inspection of the property further illuminated the disinvestment of the property and begs the question of how does a property in a prosperous, active block end up in such poor condition, and what can be done to get this property into compliance with Vieux Carré standards? In the case of 339 Decatur Street, the owner has systematically refused to work

within the parameters of the regulatory system, and consequently the owner, not the preservation ordinance, acts as a suppressor of progress.

528 Bienville Street

The property at 528 Bienville was chosen as a case study property because it is a property that has been vacant for over 50 years and in the past three years, two attempts have been made to redevelop the property in an area that has a large number of vacant properties (Polk City Directories, 1961-1994; Vieux Carré Commission Staff, Property Report: 528 Bienville). The property is in the Vieux Carré Commercial (VCC-2) Zoning District.

Background and History

The structure at 528 Bienville Street was constructed sometime 1908, when a fire demolished or damaged 43 buildings in Square 30, where the property is located, and three surrounding blocks (Vieux Carré Commission Staff, Property Report: 528 Bienville; Times-Picayune, 1966). Vieux Carré Survey records indicate that the building at one point served as a trade organization meeting place, owned by the Brotherhood of Electrical Workers until May, 1964 when it was purchased by Henry L. Granet (International Association of Bridge, Structural, and Ornamental Iron Workers, 1939; Tulane School of Architecture, 1966; Polk City Directories, 1961-1994). The property has been vacant since that time (Polk City Directories, 1961-1994). In the mid 1990s, two warehouses at 510-516 Bienville and 518-520 Bienville, immediately down the block from 528 Bienville, were converted to offices. The restorations received commendation from the Vieux Carré Commission and demonstrate successful revitalization efforts in the area (Warner, 1995).

There have been previous attempts to convert 528 Bienville into a mixed-use development. In 2008, Daniel Taylor & Associates submitted an application on behalf of prospective buyer Meg Land Development for a “complete renovation and conversion of vacant building to commercial and residential spaces” (Vieux Carré Commission Staff, Property Report: 528 Bienville). The work included “addition of street balconies to the façade; removal and replacement of all front elevation windows and doors; [the] addition of a private roof deck; and the cutting out of the building into new rear terrace decks at the rear” (Vieux Carré Commission Staff, Property Report: 528 Bienville). Staff Analysis of the application noted that the

Figure 16 – 1962 Photo of 528 Bienville Street



Source: Vieux Carré Survey
The Historic New Orleans Collection
Williams Research Center

Figure 17 – 2010 Photo of 528 Bienville Street



Source: Author's Own

applicants request to remove all millwork would remove original fabric and that the request to put balconies on the front façade of the building would not be historically accurate since the building was originally used as a factory. The staff was also concerned about the structural integrity of the building should portions of the rear of the building be cut into a step configuration, offering residents of each floor access to outdoor space (Vieux Carré Commission Staff, Property Report: 528 Bienville). The staff recommended conceptual approval of the change of use and the addition of the rooftop terrace. Additionally, the staff recommended denial of the proposal to install balconies on the front of the façade and denial of the proposal to remove and replace the windows and doors from the front façade (Vieux Carré Commission Staff, Property Report: 528 Bienville).

The Architectural Committee reviewed the proposed plans and photographs and noted structural and waterproofing concerns over the exterior changes in the rear and concern over the removal of the existing doors and windows, approved the change of use and addition of the rooftop terrace, but denied the removal of portions of the rear of the building. The applicant submitted two (2) revised proposals thereafter. The staff reviewed each supporting the change in use and creation of a rooftop terrace. Upon second review, the Architectural Committee took issue with the removal of portions of the rear of the building. In the third analysis of the proposal, the staff noted that “as many of these warehouses [on the block] remain vacant, the conversion of 528 [Bienville] would further establish a trend promoting a quieter ‘neighborhood’ quality on this block” (Vieux Carré Commission Staff, Property Report: 528 Bienville). The application was not reviewed by the Architectural Committee for a third time because the potential owner withdrew the application (Vieux Carré Commission Staff, Property Report: 528 Bienville). In this case, the applicant had proposed actions that were potentially harmful to the

structure, and, though the staff and Architectural Committee were open to reassessing the revisions to the plans and by the end of the process particularly enthusiastic about a proposed change from vacant to mixed use, the applicant was unwilling to abandon what they deemed a necessary amenity [the private terraces on each level] and, therefore, abandoned the project.

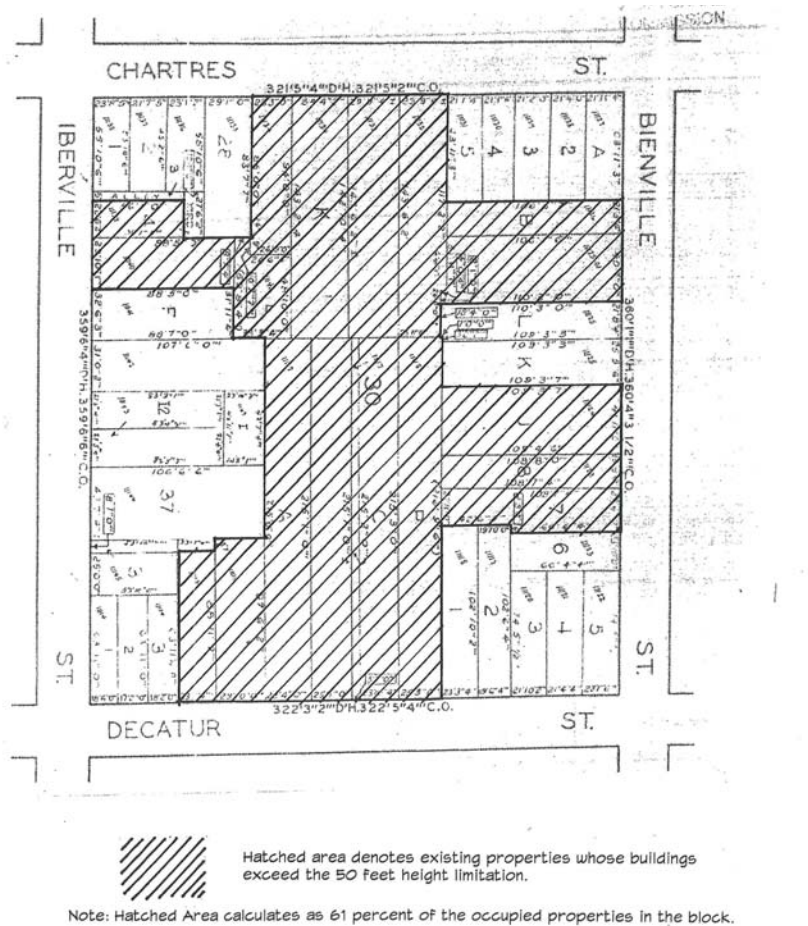
Current Project

In April 2009, 528 Bienville Group, LLC purchased the property for the sum of \$1,125,000 (Orleans Parish Assessor's Office, 2009). In August, 2009, Architect James M. Farr submitted an application on behalf of the owners to change the use of the building from vacant to residential. The proposal included the installation of seven (7) residential units on the 4,317 square foot lot. The applicant proposed to remove the fire escapes from the front façade, along with metal window canopies on upper floors and window a/c units; create a curb cut at one of the three (3) bays to accommodate a driveway entrance to access the seven (7) parking spaces provided on the interior of the ground floor. The vehicular access would require modifications to the millwork on ground floor at the entry point. The applicant also proposed the "installation of several sections of decking, stairs, elevator, mechanical equipment & other structures on the flat roof" (Vieux Carré Commission Staff, Property Report: 528 Bienville).

The Staff Analysis of this proposal again approved the change of use from vacant warehouse to residential. The staff further noted that the curb cut would not have a negative impact on the neighborhood and would have to be approved by Public Works, and that the use of the ground floor as seven (7) parking spaces conforms to zoning requirements. The staff approved of the design work for the proposed modifications to the façade and the use of portions of the roof for a rooftop terrace, but noted that "the existing building is 62' high, well above the 50' limitation dictated by zoning for this historic district. The proposed addition would increase

the height by at least 8’” (Vieux Carré Commission Staff, Property Report: 528 Bienville). The Architectural Committee reviewed the Staff Analysis and sent the application to the Vieux Carré Commission “with a recommendation of conceptual approval of the proposed modifications and support for the applicant in his quest to obtain a waiver from the Board of Zoning Adjustments (BZA) for increasing the height of the building above the 50’ maximum allowed by the zoning” (Vieux Carré Commission Staff, Property Report: 528 Bienville). According to Vieux Carré Commission records, 61% of the occupied properties on the block exceed the 50’ height limit. Figure 18 is a map of Square 30 and the hatch marks denotes buildings that exceed the 50’ height limit.

Figure 18 – Buildings Exceeding 50’ Height Limit in Vieux Carré Square 30



Source: Vieux Carré Commission, 2009
 Property Report: 528 Bienville Street, New Orleans, Louisiana.

Prior to the September 15, 2009 Vieux Carré Commission meeting, the Vieux Carré Property Owners, Residents and Associates, Inc. (VCPORA), with the support of many French Quarter residents, began a grassroots campaign to support the 50' height limit in the French Quarter, urging residents to oppose the approval of a height increase at 528 Bienville Street and encouraging residents to email comments to Vieux Carré Commission Director Larry Hesdorffer (Vieux Carré Property Owners, Residents and Associates Inc., 2009). Though the majority of the comments emailed to the Vieux Carré Commission opposed the height waiver, there was one French Quarter resident who noted that “as a French Quarter resident and property owner I wholeheartedly support this waiver. Granting this waiver will allow developers to move forward with plans to put this building back into commerce as a viable residential building” (Vieux Carré resident, 2009).

The Vieux Carré Commission met on September 15, 2009 and granted conceptual approval of the proposal, including the addition of the rooftop structure that would require a waiver from the Board of Zoning Adjustments. Some commissioners felt that this would set precedent for other property owners to seek waivers to the 50' height limit. Commissioners on the Architectural Committee emphasized that this was a case where the property had been out of use for over 50 years and the design of the addition was well executed and appropriate to the building. The measure was passed five votes to three (Vieux Carré Commission Staff, Property Report: 528 Bienville). According to the Vieux Carré Commission guidelines:

Conceptual approval given by the Vieux Carré Commission means the sanctioning or holding in favorable regard a general idea or non-specific notion of some proposed work. Conceptual approval by the Architectural Committee or the Vieux Carré Commission does not automatically guarantee final approval of any subsequent submission. A conceptual approval of any project may be limited or further defined in any manner the Commission members may wish, so that any addition or lack of detail may be recognized as being omitted from said approval.

Conceptual approval is understood to limit a proposal in terms of its general size, scale, materials and use. Any particular details shown in such a preliminary proposal need not be considered approved or denied unless specifically noted. With each conceptual approval granted by the Vieux Carré Commission, unless specific approval authority is granted to the Architectural Committee or Staff, the final proposal, with details, shall be reviewed by the full Commission before the issuance of a permit for execution of the work. Therefore, the Vieux Carré Commission may retain final approval over each project.

(Vieux Carré Commission, n.d: Administrative Procedures)

The Commission noted in the minutes that this was only conceptual approval, and that “the proposal should not be recommend to the Board of Zoning Adjustments until the entire design package had been approved by the VCC so that the Commission will not find itself in the position where an otherwise undefined height waiver has been recommend before an actual building design has been approved (Vieux Carré Commission Staff, Property Report: 528 Bienville).

Upon the request of the applicant who deferred review by the Commission at the October and November meetings, the Vieux Carré Commission met again regarding the revised proposal on December 15, 2009. In the meeting, the Commission discussed concern over the phrasing of the addition as a penthouse, in that the owner might try to make the addition an eighth residential unit. The applicant denied the claim, emphasizing that the addition was intended to give residents greater access and use of the rooftop and upon the suggestion of the Vieux Carré Commission offered to implement a covenant that would be connected to the property that would state that the rooftop addition would never be used as a residential unit (Hesdorffer, 2009). VCPORA and other members of the community stated their opposition to the proposal, due to the increase in height. The measure to approve the proposed addition failed “on a vote of three to two, five votes being necessary for approval” (Board of Zoning Adjustments, 2010: BZA Docket 240-09). Since commissioners are not scheduled to attend meetings to ensure that

sufficient members are present for votes, every commissioner present at the December 15, 2009 meeting would have had to vote to approve the measure.

The Board of Zoning Adjustments met on the matter on January 11, 2010. Among items considered were past precedent for granting waivers to the height restriction in the VCC-2 Zoning District. Of five (5) noted waiver requests, the Board had granted disposition of three (3) of the requests and the results of the other two (2) requests are unknown (Board of Zoning Adjustments, 2010: BZA Docket 240-09). Another consideration was whether or not adherence to the property regulations would result in demonstrable hardship upon the owner, to which the staff determined “No... The property could still be used as a common outdoor area without the enclosed entertaining area” (Board of Zoning Adjustments, 2010: BZA Docket 240-09). The staff recommended denial of the proposal. The variance requested was denied without prejudice by the Board, meaning that the applicants could re-apply for the waiver “at any time in the future” (Shutt, April 2010; Board of Zoning Adjustments, 2010: Notice of Disposition, BZA Docket 240-09).

Chapter 6: Conclusion

This thesis was intended to examine the effects of additional regulatory controls, namely the design review process of the Vieux Carré Commission and the Zoning Ordinance for the Vieux Carré, on the proliferation of vacancy in the Vieux Carré historic district. Insufficient data was available to fully address the research questions posed in the prologue.

The case studies demonstrate some of the obstacles for those interested in redeveloping vacant properties in the French Quarter. The case of 528 Bienville Street is the most telling of the three as two redevelopment attempts were made in the last three years. The first was unsuccessful because the potential owners would not compromise the concept of the stepped terraces in the rear of the building, which the Architects on the Vieux Carré Commission believed to be structurally unsound thereby compromising the building's structural integrity. The most recent redevelopment attempt is in limbo after the Board of Zoning Adjustments denied the waiver for the 50' height limit. As mentioned in the Staff Report to the Board, it is possible for the owner to redevelop the property without the addition of the rooftop structure, and it remains to be seen if the project proceeds.

The property located at 339 Decatur Street is a case that demonstrates the difficulties some owners have in navigating the regulatory process. The recent proposal to modify the exterior of the building was stalled due to the request from the Vieux Carré Commission for more developed and specific plans to review in better detail the proposed changes. In violation of Section 166-35 of the City of New Orleans, Code of Ordinances, the owners began work on the property without a construction permit and without Vieux Carré Commission approval, which would have been required to receive a permit. An owner, like the owner of 339 Decatur Street, could benefit from a workshop seminar for property owners, designers, and contractors on

the design review process in the Vieux Carré, offering insight both on what Vieux Carré Commission procedures entail and the importance of historically appropriate design. This educational component was one of Cannon's recommendations in his analysis of the Vieux Carré Commission design review process (1991).

The property located at 301 N. Peters is a case that illustrates a long-standing successful partnership between various property owners and the Vieux Carré Commission. The Commission's backing of an ordinance to appeal the moratorium on beverage permits and grant a liquor license to the Hooter's Restaurant that was seeking to occupy the building in 1992 was instrumental in the passing of that ordinance and the return of that property to commerce. Again in 2009, the Commission backed the property owner in their request for a waiver from the Board of Zoning Adjustments to allow eight (8) residential units in the property, which has allowed the property to become a mixed-use development that will serve both residents and visitors.

In response to the research questions posed in the Prologue:

Research Question 1: With the additional protections afforded by the Vieux Carré Commission, which include the ability to require maintenance, why are so many properties in an area of such high demand vacant and in disrepair?

Answer: In order to fully address this question additional data and an approach that was beyond the scope of this thesis would be needed. This data would include a survey of vacant properties; an examination of all properties that have been cited for demolition by neglects; and an evaluation of city records for code violations and tax delinquency.

However, insight gained from the case studies in Chapter 5 demonstrates that some property owners, like the owner of 339 Decatur Street, disregard the authority of the Vieux Carré Commission. The Commission may want to explore options for greater

enforcement of existing policies, such as fining property owners who are not in compliance as well as the concept of introducing some sort of educational component for property owners, prospective owners, contractors and designers.

Research Question 2: Does the Vieux Carré Commission review process hinder the return of properties to commerce?

Answer: The additional step required to begin work may inhibit some property owners, like the owner of 339 Decatur Street. The exhaustive meeting schedule and delays for continuances may not be the most cost effective and efficient means of promoting historic preservation. However, as demonstrated with 528 Bienville Street, it was not the design review process but the 50' height limit included in the Zoning Ordinance that has hindered the property's redevelopment. Literature on historic preservation and historic districts, like the articles by Tipson and Kitada reviewed in Chapter 2, suggest that the best mechanism for maintaining the character of a local historic district is in the zoning ordinance not through a design review board. Additional research would be necessary to determine if the same outcomes of the design review process could be accomplished through a zoning ordinance.

Research Question 3: Has the introduction of the Vieux Carré Entertainment -1 Zoning District had any effect on redevelopment of vacant properties in the area?

Answer: Additional data would be needed to determine if the introduction of the Vieux Carré Entertainment -1 Zoning District has had a positive or negative effect on the area. 301 N. Peters Street is two (2) blocks away from *Jax Brewery* and a hub of other activity promoted in the Zoning Ordinance, and, therefore, it could be said that the change of

zoning classification to VCE-1 has been a positive one for making this property attractive for the entrepreneurs who have brought their business to that location.

Recommendations

As mentioned above, the Vieux Carré Commission should consider the implementation of an educational component that would provide information to property owners, prospective owners, contractors and designers on the procedures of the Vieux Carré Commission and the importance of historically appropriate design in preservation. In addition to the concept of a seminar-type component, potential education and outreach by the Vieux Carré Commission could include presentations at neighborhood and civic association meetings; an informational pamphlet; and outreach to direct potential applicants to the *Secretary of the Interior's Standards for Rehabilitation* and to the Preservation Resource Center of New Orleans as a resource early in the design process.

Additionally, the Commission should further explore means to incentivize compliance with the Code of Ordinances governing the Vieux Carré. This may include better enforcement of fines from demolition by neglect citations with a portion of those fines going to funding that office, and, therefore, providing funding for continued enforcement. The Commission may also want to consider implementing a schedule for attendance of commissioners to monthly meetings in order to ensure that a sufficient number of commissioners are present for votes, so that requests, like the request for design approval at 528 Bienville, are not denied simply because with only five commissioners present, every member present would have had to approve the proposal. When the Comprehensive Zoning Ordinance for the City of New Orleans is modified, after the approval of the *New Orleans 2030* Master Plan, zoning measures that would promote

the needs of residents in the French Quarter, such as parking and noise pollution, should be considered.

Future Research

The three case studies examined in this thesis identify hindrances of the redevelopment process of vacant properties in the French Quarter. One hindrance is the time intensiveness of the design review process, should proposed changes be beyond the scope of staff approval. The design review process is a slow one by necessity. Future research that could analyze success of local historic districts that were able to eliminate the design review process by incorporating design provisions into the Comprehensive Zoning Ordinance could be beneficial to cities interested in streamlining the process. Additionally, research on best practices for education/outreach and enforcement could be useful to the Vieux Carré Commission and other historic district commissions nationally.

Additional research to analyze revenue generation and investment in the VCE-1 entertainment district could be performed to identify what impact the zoning change and ensuing development has had on the population exodus and on residential development. This research would have to take into consideration the “spill-over effects” of additional development such as *Canal Place* and the *Aquarium of the Americas* which coincided with development in the lower French Quarter but is outside of the Vieux Carré Commission’s authority. Also, additional research is needed to accurately capture the vacancy rate in the French Quarter. Population has decreased dramatically, but the 2000 Census vacancy numbers do not take into account whether a residential unit is occupied some of the time as would be the case of timeshares, condominiums, and rentals that have become increasingly popular in the French Quarter. In order to capture an accurate vacancy rate, a survey of French Quarter properties could be done

after the 2010 Census data is released to come up with some sort of multiplier to identify the Census vacancy rate versus the actual vacancy rate. Additionally, an examination of all properties that have been cited for demolition by neglects and an evaluation of city records for code violations and tax delinquency would help identify reasons for vacancy and disrepair.

The design review process of the Vieux Carré Commission and the additional regulatory requirements in place to protect the historic attributes of the Vieux Carré are strong mechanisms that effectively protect the historic character of the French Quarter. However, the Vieux Carré Commission and other commissions nationwide would be remiss to not periodically reevaluate the methods used in promoting and effecting preservation for risk of losing sight of their mission and purpose.

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LEGAL NOTICE

CITY OF NEW ORLEANS
VIEUX CARRE COMMISSION

2-17-10

WHEREAS, violations of } Article 166, Section 21 of the Comprehensive Zoning Law
} Article 166, Section 35 of the City of New Orleans
have been found on these premises, IT IS HEREBY ORDERED in accordance with the above Ordinance(s) that all persons cease, desist from, and

STOP WORK

at once pertaining to construction, alterations, additions or installations on these premises known as 339 Decatur

All persons acting contrary to this order or removing or mutilating this notice are liable to summary arrest unless such action is authorized by the Vieux Carre Commission.

Posted under authority granted in Article XV of the Comprehensive Zoning Law of the City of New Orleans, Ordinance 15,055, C. C. S. as amended.

J. G. Moran

Building Inspector

Colley P. Thompson

Director



**CITY OF NEW ORLEANS
VIEUX CARRE COMMISSION**



March 15, 1994

Mike LaLa
739 Conti Street
New Orleans, LA 70130

RE: 739 Conti Street ✓

Dear Mr. LaLa:

We have noted that the above referenced property is deteriorating to the extent that a condition of demolition by neglect exists. Specifically, it was noted that Tongue and Groove flooring on balconies has deteriorated due to neglect and must be replaced and repainted to match existing.

The Vieux Carré Commission was established in 1936 to safeguard the Architectural Heritage of the City's French Quarter. In accordance with City Ordinance 828 M.C.S., as amended, Chapter 65, Article III, Section 65-36 through 65-40, all properties in the Vieux Carré shall be preserved against deterioration and decay and maintained for structural defects.

Therefore, it is imperative that you contact our office within seven (7) days of the above date so that we can work with you to remedy this demolition by neglect condition. If you fail to contact us within this period or remedy this condition within the next thirty (30) days, we will be forced to initiate court proceedings.

Thank you in advance for your cooperation in this matter. Only through your cooperation can we continue the preservation of the Vieux Carré. If you have any questions regarding this matter, please contact our Building Inspector, Hector Pineda.

Sincerely,


Stephen B. Hand
DIRECTOR

SBH/hpb

SIDNEY J. BARTHELEMY,
MAYOR

COMMISSIONERS

STEPHEN A. MOSES,
CHAIRMAN

JESSE D. CANNON, JR.
VICE CHAIRMAN

CYNTHIA KING BEAULIEU
MALCOLM HEARD, JR.
PETER A. MAYER
GEORGE MONTGOMERY
BRUNS D. REDMOND
GINA M. TILLMAN
ERNEST E. "CHIP" VERGES, II

STEPHEN B. HAND,
DIRECTOR



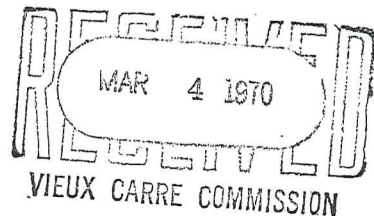
LAW DEPARTMENT
CITY OF NEW ORLEANS

ALVIN J. LISKA
CITY ATTORNEY

CITY HALL

March 3, 1970

Mr. Fred P. Wohlford, Director
Vieux Carre Commission
630 Chartres Street
New Orleans, Louisiana 70130



Re: 737-39 Conti Street

Dear Mr. Wohlford:

This is to acknowledge receipt of your letter of February 18, 1970, in re the above. I have reviewed the letter, the attached minutes and correspondence as well as the up-dated guidelines procedures, and criteria which the Vieux Carre Commission adopted in October of 1969. In the guidelines there does not appear to be any provision for appeal, however, a previous commission adopted some guidelines on March 31, 1964, which provided that appeals from a commission decision shall be granted only when new evidence is submitted which was not previously considered and which, in the commission's opinion, would tend to re-evaluate a past decision.

According to the minutes of the meeting on January 20, 1970, Mr. Freeman pointed out that this building has been designated as one of those buildings that should remain unless unusual and compelling requirements dictate replacement. Mr. Trufant stated that a courtyard is one of the most attractive features of the Vieux Carre tout ensemble. From the minutes there is also indicated some concern relative to precedent.

First, it appears from the commission's rules that an appeal would not be considered except as hereinabove set forth.

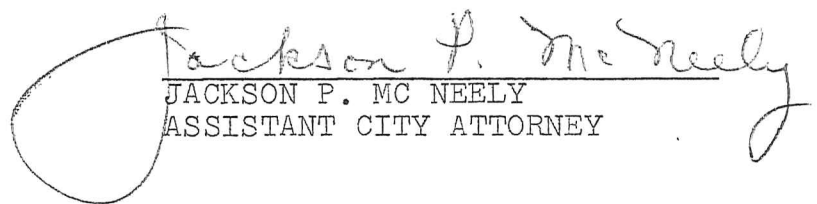
Mr. Fred Wohlford, Director
March 3, 1970
Page No. 2

Second, every action the commission will serve as a precedent for any other identical or very similar matters that may come before the commission. As you know, the commission's duty is to preserve the quaint and unique architecture of the quarter and not to permit any changes which would injuriously or adversely effect the adjoining areas.

In any event, unless the commission wishes to handle this as an appeal as provided by the commission's guidelines of 1964, it will appear that the applicant has exhausted his remedy before the commission and must appeal to the Council.

If you have any further questions please let me know.

Yours very truly,


JACKSON P. MC NEELY
ASSISTANT CITY ATTORNEY

JPM/sg
cc: All V. C. C. Members



**CITY OF NEW ORLEANS
VIEUX CARRE COMMISSION**



SIDNEY J. BARTHELEMY,
MAYOR

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JEAN F. WASHINGTON

December 9, 1992

Mrs. Emma J. Williams
Clerk of Council
Room 1E04, City Hall
1300 Perdido Street
New Orleans, Louisiana 70112

STEPHEN B. HAND,
DIRECTOR

RE: Appeal-Liquor License Moratorium
Gibson Greco and Wood Ltd.
dba Hooters Restaurant
301 N. Peters Street ✓

Dear Mrs. Williams:

With reference to the above captioned property, it is the opinion of this office that an exemption to the moratorium on the issuance of an alcoholic beverage permit should be granted.

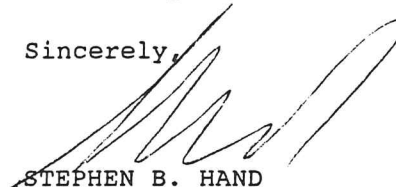
The recommendation to grant this exemption is based upon the following:

1. The proposed operation will be a standard restaurant and alcoholic beverages will be served only in conjunction with the consumption of food. All food dishes will be prepared on the premises and served to the customers on china plates. Silverware and glassware will be provided.
2. There are full kitchen facilities in existence on the premises.
3. The subject establishment is located in the VCE-1 zoning district where a restaurant/bar is a permitted use.
4. There is one other establishment within a 200' radius that has an existing alcoholic beverage permit.
5. The granting of this exemption would not create any adverse effects upon other commercial or residential uses in the immediate vicinity.

It is recommended that if the Council grants a waiver to the moratorium for the subject establishment, the ordinance of exemption should include the following provisos:

1. The specific exemption is granted to the applicant at the time of adoption of the ordinance and shall not be transferred to any heirs or assignees without an amendment to the ordinance.
2. The sale of alcoholic beverages shall be for consumption on the premises only in conjunction with the consumption of food. Alcoholic beverages shall not be sold as packaged liquor or on a "take-out" basis.
3. The sale of food must constitute not less than fifty (50%) of the monthly gross sales of the business.
4. Any licenses or permits issued by the City in connection with this establishment shall have this ordinance and the restrictions contained herein attached and made a part of the license or permit. A copy of this ordinance shall be posted in the establishment adjacent to permits or licenses on display.
5. Failure to comply with any of the above provisions shall constitute grounds for the immediate revocation of the permit.

Sincerely,



STEPHEN B. HAND
Director

SBH/lrb

cc: Mr. Joel N. Wood
Councilmember Jacquelyn Clarkson
Mr. Jon Eckert
Mr. Johnny George
Ms. Cindy M. Connick
Mr. Paul May

Attachments

Vita

Jane Read Dufour was born in New Orleans, Louisiana. She graduated from St. Mary's Dominican High School in New Orleans in 2002. After graduating from the College of Charleston in Charleston, South Carolina in May 2006 with a Bachelor of Arts in Historic Preservation and Community Planning, she returned to New Orleans to live and work. In January 2008, she began the Master of Urban and Regional Planning program at the University of New Orleans with a concentration in Land Use and Environmental Planning. Upon graduating from the University of New Orleans, she plans to remain in New Orleans.