

City Planning Commission Meeting
Tuesday, January 13, 2015

CPC Deadline: 02/27/15
CC Deadline: 03/06/15
Council Districts: All

PRELIMINARY STAFF REPORT

To: City Planning Commission
Zoning Docket: 003/15

Prepared by: Stephen Kroll
Date: December 22, 2014

I. GENERAL INFORMATION

Applicant: City Council Motion M-14-478

Request: Text Amendment to **Article 2, Section 2.2.17** of the Comprehensive Zoning Ordinance to redefine “Bed and Breakfast Accommodation” as “an owner-occupied residential structure, originally constructed as either a single-family or a two-family structure that is easily converted to a single-family structure or a former institutional or commercial structure that is easily converted into a single-family structure, which provides sleeping rooms for overnight paid occupancy of up to seven (7) nights. Common bathroom facilities may be provided rather than private baths for each room. Proof of owner occupancy shall be established by submission of proof of a homestead exemption. If more than one building is existing on a lot of record or a site (meaning two (2) or more contiguous lots historically acquired together), and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.”

Location: The proposed text amendment would affect regulations that are applied to all properties citywide.

Why is City Planning Commission action required?

The City Planning Commission is required to make a recommendation on all amendments to the text of the Comprehensive Zoning Ordinance prior to City Council action, in accordance with **Article 16, Section 16.2.3.2 *Planning Commission Recommendation*** of the Comprehensive Zoning Ordinance.

II. ANALYSIS

A. What is the reason for the text amendment? What area would be affected by the text amendment?

Reason for text amendment

The staff of the City Planning Commission believes that it may be advisable for the City Council to modify the definition of “bed and breakfast accommodation” in **Article 2, Section 2.2** of the Comprehensive Zoning Ordinance to allow historic institutional and commercial structures, in addition to single- and two-family residences, to potentially be used as bed and breakfast accommodations. Currently, the “bed and breakfast accommodation” definition allows only structures originally constructed as single-family residences or two-family residences which can be easily converted to single-family residences to be used as bed and breakfast accommodations. (This bed and breakfast accommodation use includes four sub-types of accommodations, “bed and breakfast family homes,” which contain no more than 2 guest rooms; “bed and breakfast guest homes,” which contain 3 to 5 guest rooms; “bed and breakfast historic homes,” which are in approved historic structures containing 3-9 guest rooms; and “bed and breakfast inns,” which contain up to 9 guest rooms.)

The problem the staff has identified with this existing definition is that by limiting bed and breakfasts to residential structures, it precludes the adaptive re-use of vacant, historic institutional and commercial buildings as bed and breakfasts, though such use may be desirable in some instances. The specific example motivating this text amendment proposal is an effort to use the vacant, architecturally significant circa 1903 Police Jail and Patrol Station structure at 2552 Saint Philip Street as a bed and breakfast historic home, which is being considered concurrently with this application¹. While the use of the Police Jail and Patrol Station as a bed and breakfast would ensure its preservation and also be inoffensive to the residential part of Tremé in which it is located, it is precluded by the existing definition.

In addition to this site, in the future there may be vacant small, historic institutional buildings (possibly including churches, fire stations, small libraries, and small schools) and commercial buildings (such as corner store-style structures and other historic storefronts) elsewhere in the city that could be preserved by adapting them for use as bed and breakfasts. These structures are often located in otherwise low-density residential neighborhoods, but due to their physical characteristics (such as building size, floor layout, etc.), their conversion to low-density residential use is often highly impractical. However, these structures can be well-suited for use as bed and breakfasts, which are often appropriate in such otherwise residential neighborhoods.

¹ See Zoning Docket 004/15, which considers a request for a conditional use to allow the Police Jail and Patrol Station to be used as a bed and breakfast historic home..

Affected area

The text amendment would alter a zoning definition that is applied city-wide.

B. What is the existing language of the Comprehensive Zoning Ordinance?

The City Council motion proposes revisions to the definition of “bed and breakfast accommodation” in **Article 2, Section 2.2.17** of the Comprehensive Zoning Ordinance. The existing definition is as follows:

Article 2, Section 2.2.17

Bed and Breakfast Accommodation. An owner-occupied residential structure, originally constructed as either a single-family or a two-family structure that is easily converted to a single-family structure, which provides sleeping rooms for overnight paid occupancy of up to seven (7) nights. Common bathroom facilities may be provided rather than private baths for each room. Proof of owner occupancy shall be established by submission of proof of a homestead exemption. If more than one building is existing on a lot of record or a site (meaning two (2) or more contiguous lots historically acquired together), and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.

This existing definition allows only structures originally constructed as single-family residences or two-family residences which can be easily converted to single-family residences to potentially be used as bed and breakfast accommodations. As such, any structures originally built for commercial or institutional use which have since been converted into a single-family residence or could be converted into a single-family residence in the future are not eligible for use as bed and breakfast accommodations.

C. What is the proposed language for amendment?

The City Council motion proposes that the “bed and breakfast accommodation” definition be revised so that former institutional or commercial structures that can easily be converted into single-family residences are eligible for use as bed and breakfast accommodations, in addition to single-family residences and two-family residences which are easily converted into single-family residences. The proposed revised definition is shown below with new language shown in **underlined, bold** text.

Article 2, Section 2.2.17

Bed and Breakfast Accommodation. An owner-occupied residential structure, originally constructed as either a single-family or a two-family structure that is easily converted to a single-family structure **or a former institutional or**

commercial structure that is easily converted into a single-family structure, which provides sleeping rooms for overnight paid occupancy of up to seven (7) nights. Common bathroom facilities may be provided rather than private baths for each room. Proof of owner occupancy shall be established by submission of proof of a homestead exemption. If more than one building is existing on a lot of record or a site (meaning two (2) or more contiguous lots historically acquired together), and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.”

D. Does the text amendment adequately answer the problem that is being addressed; if not, are other modifications necessary?

As noted above, the problem with the existing definition of “bed and breakfast accommodation” is that by allowing only single-family residences and two-family residences easily converted to single-family residences to potentially be bed and breakfasts, it precludes the adaptive re-use of vacant, historic institutional and commercial buildings as bed and breakfasts. In some instances, the adaptive reuse of historic institutional and commercial buildings as bed and breakfast accommodations is desirable because it allows those structures to be preserved and used in a manner that is inoffensive to the surrounding neighborhood. For example, there are some small former institutional buildings (such as the Police Jail and Patrol Station as well as small libraries, fire stations, and churches) and commercial buildings (such as historic storefronts) which might be appropriately be used as bed and breakfasts in the future. To allow the possibility for such use, the “bed and breakfast accommodation” definition should be modified to allow historic institutional and commercial buildings to potentially be allowed as bed and breakfast accommodations, just as single- and two-family residences are.

Suggested language

To allow the possible future use of these structures as bed and breakfasts, the staff believes that the “bed and breakfast accommodation” definition should be altered as proposed in the City Council motion to specify that former institutional and commercial structures that are easily converted into single-family residential structures are eligible for potential use as bed and breakfast accommodations. The suggested revised definition is shown below with new language shown in **underlined, bold** text.

Article 2, Section 2.2.17

Bed and Breakfast Accommodation. An owner-occupied residential structure, originally constructed as either a single-family or a two-family structure that is easily converted to a single-family structure **or a former institutional or commercial structure that is easily converted into a single-family structure,** which provides sleeping rooms for overnight paid occupancy of up to seven (7)

nights. Common bathroom facilities may be provided rather than private baths for each room. Proof of owner occupancy shall be established by submission of proof of a homestead exemption. If more than one building is existing on a lot of record or a site (meaning two (2) or more contiguous lots historically acquired together), and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.”

Potential unintended consequences

One might fear that this definition change could result in the unintended consequence of institutional or commercial buildings that should not be used as bed and breakfasts becoming bed and breakfasts. The staff does not believe that this will happen. This is for two reasons. First, since bed and breakfasts must be easily converted into single-family residential structures and cannot contain more than 9 guest rooms, there is little likelihood of large institutional or commercial buildings being called bed and breakfasts but actually being used as hotels.

Second, since bed and breakfasts are conditional uses or are entirely prohibited in virtually all residential zoning districts except the HMR Historic Marigny/Tremé Residential Districts, the City Council would be able to evaluate most bed and breakfast proposals for residential neighborhoods on a case-by-case basis through the conditional use process. This conditional use process would also allow bed and breakfasts to be approved subject to standards (i.e., provisos) regulating their physical and operational characteristics to ensure their compatibility with surrounding properties.

The only areas where institutional and/or commercial buildings could be adaptively reused as bed and breakfasts as permitted uses are those zoning districts where single- and two-family residential structures are currently allowed to be bed and breakfasts as permitted uses. Aside from the HMR Historic Marigny/Tremé Residential Districts, these are commercial and industrial districts that are intended for commercial and industrial uses more intense than bed and breakfasts. Due to the overall intensity of these districts and the commercial and industrial uses they allow, the adaptive reuse of historic small institutional and commercial buildings as bed and breakfasts, which are less intense in nature than commercial and industrial uses, would be appropriate.

It should also be noted that aside from allowing former commercial and institutional buildings to potentially be used as bed and breakfasts, this definition change will not alter the way bed and breakfasts are regulated. All bed and breakfasts, be they in structures that were originally built for residential, commercial, or institutional use, will remain subject to all existing zoning restrictions, supplementary use standards, and other regulations contained within the Comprehensive Zoning Ordinance.

For these reasons, the staff does not believe the definition change will have unintended negative consequences. Therefore, no modifications to the language proposed in the City Council motion are needed to address such consequences.

III. **Are the proposed actions supported by or in conflict with the policies and strategies of the *Plan for the 21st Century*?**

In accordance with the Home Rule Charter of the City of New Orleans, all land use actions (including amendments to the Comprehensive Zoning Ordinance) shall be consistent with the *Plan for the 21st Century*, commonly known as the Master Plan. An action is considered if it furthers, or at least does not interfere with, the goals, policies, and guidelines in the Land Use Element of the Master Plan and is compatible with the uses, densities, and intensities of the designation of its site on the Future Land Use Map.

The Master Plan's Land Use Plan does not provide specific recommendations for zoning definitions for bed and breakfast accommodations. However, it does include general principles that are intended to aid in implementing the goals of the Master Plan through zoning, which are reproduced below for reference.

A Zoning Response to the Master Plan Theme: From Plan to Action²

2. Simplify and streamline the ordinance

- Clarify the administrative provisions to create a consistent, predictable and understandable process for Ordinance users whether they are a developer, City staff person or interested resident.
- Eliminate obstacles to development by deregulating routine matters, minimizing nonconformities, and eliminating unnecessary and redundant regulations.

The staff believes the proposed action is **consistent** with the *Plan for the 21st Century* because it would accomplish the goal of eliminating an obstacles to development by doing away with an unnecessary portion of the current definition that prevents historic institutional and commercial buildings from being used as bed and breakfast accommodations in all instances, including instances where such use is desirable.

IV. **SUMMARY**

Zoning Docket 003/15 considers a text amendment to the Comprehensive Zoning Ordinance to revise the definition of "Bed and Breakfast Accommodation". The current definition allows only structures originally constructed as single-family residences or two-family residences which can be easily converted to single-family residences to be used as bed and breakfast accommodations. This prevents buildings originally

² City of New Orleans, Plan for the 21st Century. Chapter 14: Land Use Plan, p. 14.34.

constructed for institutional or commercial use from ever being used as bed and breakfasts in any circumstances. The staff believes this is a flaw because there are some circumstances in which the adaptive re-use of such historic institutional and commercial buildings may be desirable. This flaw should be resolved by changing the bed and breakfast accommodation definition to allow institutional and commercial buildings that are easily converted into single-family residences to potentially be used as bed and breakfast accommodations. The language proposed in the City Council motion will appropriately accomplish this and no modifications to this proposed language are necessary.

V. PRELIMINARY STAFF RECOMMENDATION³

The staff recommends **approval** of Zoning Docket 003/15 with the following zoning text change. Additions to the Comprehensive Zoning Ordinance are shown below as **underlined, bold** text and deletions are shown in ~~strikethrough~~ text:

Article 2, Section 2.2.17

Bed and Breakfast Accommodation. An owner-occupied residential structure, originally constructed as either a single-family or a two-family structure that is easily converted to a single-family structure **or a former institutional or commercial structure that is easily converted into a single-family structure,** which provides sleeping rooms for overnight paid occupancy of up to seven (7) nights. Common bathroom facilities may be provided rather than private baths for each room. Proof of owner occupancy shall be established by submission of proof of a homestead exemption. If more than one building is existing on a lot of record or a site (meaning two (2) or more contiguous lots historically acquired together), and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.”

VI. REASONS FOR RECOMMENDATION

1. In some instances, it may be appropriate for a structure originally built for institutional or commercial use to be used as a bed and breakfast accommodation, just as it is sometimes appropriate for structures originally built for single- or two-family residential use to be used as bed and breakfast accommodations. This use of institutional and commercial buildings as bed and breakfasts is precluded by the existing definition of “Bed and Breakfast Accommodation” in the Comprehensive Zoning Ordinance, which allows only structures originally built for single- and two-family residential use to potentially be used as bed and breakfast accommodations. To resolve this flaw with the “Bed and Breakfast

³ Subject to modification by the City Planning Commission

Accommodation” definition, the definition should be revised as proposed in the City Council motion, allowing structures built for institutional and commercial purposes which are easily converted into single-family residences to potentially be used as bed and breakfast accommodations.

2. The text amendment would not have unintended negative consequences. The definition would allow for only small institutional and commercial buildings to potentially be used as bed and breakfasts, as those structures must be capable of being converted into single-family residences. Additionally, the text amendment will not affect the other regulations applied to bed and breakfast accommodations in the Comprehensive Zoning Ordinance, such zoning districts in which they are allowed as permitted and conditional uses and the supplementary use standards to which they are subject.

MOTION

NO. M-14-478

CITY HALL: November 6, 2014

BY: COUNCILMEMBER ~~BROSSETT~~

SECONDED BY:

BE IT MOVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the City Planning Commission is hereby directed to conduct a public hearing to consider an amendment to Ordinance No. 4264 M.C.S., as amended, the Comprehensive Zoning Ordinance of the City of New Orleans, to amend Article 2, Section 2.2 "*Definitions*," Number 17 "*Bed and Breakfast Accommodation*," to read as follows:

~~An owner-occupied residential structure, originally constructed as either a single-family~~
or a two-family structure that is easily converted to a single-family structure or a **former institutional or commercial structure that is easily converted into a single-family structure**, which provides sleeping rooms for overnight paid occupancy of up to seven (7) nights. Common bathroom facilities may be provided rather than private baths for each room. Proof of owner occupancy shall be established by submission of proof of a homestead exemption. If more than one building is existing on a lot of record or a site (meaning two (2) or more contiguous lots historically acquired together), and the second building was originally constructed and has been used for habitable space, as defined by the Building Code, at least five (5) years prior to the establishment of the bed and breakfast, then it may be included in the operation of the bed and breakfast.

THE FOREGOING MOTION WAS READ IN FULL, THE ROLL WAS CALLED
ON THE ADOPTION THEREOF AND RESULTED AS FOLLOWS:

YEAS:

NAYS:

ABSENT:

AND THE MOTION WAS ADOPTED.