

DEPARTMENT OF SAFETY AND PERMITS
CITY OF NEW ORLEANS

MITCHELL J. LANDRIEU
MAYOR

JARED E. MUNSTER, PH.D.
DIRECTOR

ZONING INTERPRETATION MEMORANDUM

Memorandum Z-14-01

DATE: February 4, 2014

FROM: Jared E. Munster, Ph.D., Director 

TO: C. Elliott Perkins, Executive Director, Historic District Landmarks Commission

CC: Martha Griset, Real Estate Administrator, Department of Property Management

RE: Interpretation of the permissibility of development over property lines and public rights-of-way.

Pursuant to your request, the Department of Safety and Permits has evaluated the applicability of the Comprehensive Zoning Ordinance (CZO), ordinance 4,264 MCS, as amended, with respect to developing property over a property and on to an adjacent property, or onto the public right-of-way. It is the interpretation of the Director of the Department of Safety and Permits that such development results in a setback less than that contemplated by the CZO. Setbacks are subject to waiver by the Board of Zoning Adjustments or by the City Council through the Conditional Use process, in addition to any other processes which may be required for utilization of public property for private development purposes.

According to Article 1, Section 1.1.2, the purpose and objectives of the CZO are accomplished “by regulating and limiting or determining the height, bulk, and access to light and air of buildings and structures, the areas of yards and other open spaces and the density of the use;” these regulations having been “designed with reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses.”

Upon review of individual district regulations, many Districts specify setbacks required for development within the particular area. In other Districts, setbacks are only required for particular development types or apply the principle of reverse-setbacks, requiring spacing between certain existing use types and proposed uses. However, from a review of the construction of the Ordinance, it is clear that the absence of a setback requirement does not for projections of habitable space beyond the property line. Such projection would result in a negative setback; the negative setback being that portion of development that reduces the provided development setback to less than zero at the property line.

This negative setback, by its nature, being less than that contemplated by the CZO even when there is no setback requirement otherwise, may only be established by waiver through the mechanisms established for such action by Articles 14 and 16 of the CZO.

