

DEPARTMENT OF SAFETY AND PERMITS  
**CITY OF NEW ORLEANS**

MITCHELL J. LANDRIEU  
MAYOR

JARED E. MUNSTER, PH.D.  
DIRECTOR

## ZONING INTERPRETATION MEMORANDUM

Memorandum Z-16-01

DATE: March 4, 2016

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

TO: Justin Schmidt, Adams and Reese, LLP

RE: Resubdivision Allowing Expansion of Non-Conforming Spatial Conditions

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Upon your request, Safety and Permits has evaluated the standards of Section 25.4.D of the Comprehensive Zoning Ordinance (CZO), specifically the language which states “[s]tructures which are nonconforming as to height ... may be enlarged (i.e., increased in cubical content), provided such enlargement does not further increase the extent of the nonconformity or permit an increase in the number of dwelling units.” While the Director believes this text speaks for itself, the specific question at hand is whether resubdivision of two adjoining structures onto a single lot of record would entitle both structures to the non-conforming height which currently exists on one of the two structures. It is the determination of the Director of Safety and Permits that such an expansion is impermissible.

The CZO clearly anticipates that the allowable expansions stated in Section 25.4.D of the Ordinance should be construed to allowing such expansions of existing structures. Section 25.4.A provides a definitional standard for non-conforming structures, which provides “[s]tructures that at one time conformed to applicable zoning regulations, but because of subsequent amendments to this Ordinance no longer conform to applicable yard, height, lot coverage, or other dimensional or bulk provisions of this Ordinance, are considered nonconforming structures.” There is no provision within the CZO which would allow for the combination of one structure with non-conforming height and a structure which conforms to the height restrictions of the underlying district to be combined to allow expansion in ways clearly not allowed by the standards of the base zoning district.

To accept an argument of resubdividing property to acquire a non-conformity would be against both the stated intent of the CZO (Sec. 1.3) and the standards of applicability (Sec. 1.4). Therefore, it is the Determination of the Director of Safety and Permits that two structures resubdivided onto a single lot of record, even if structurally altered to create a single structure, cannot be expanded in a manner that is inconsistent with the underlying district regulations. A variance through the Board of Zoning Adjustments would be required to make such an expansion permissible on the second structure where no non-conformity had previously existed.

