

Semi-Monthly Planning Meeting
Tuesday, October 10, 2017

STAFF REPORT
2016-17 MASTER PLAN AMENDMENTS RECONSIDERATION

Date: October 13, 2017
To: City Planning Commission

Prepared by: City Planning Staff

CHAPTER 13: Land Use Plan

Reconsideration: Chapter 13 (Former 14), Item a. (Text 14-22)

What was the text amendment that is proposed for modification?

Consider modifying the recommendations in the “Administration of the Land Use Plan” section, relative to the “1. Administrators” subpart, located on page 3, to reexamine the appropriate authority of the Executive Director of the City Planning Commission, the City Planning Commission, and the City Council regarding interpretation appeals of the Master Plan.

What is the existing language recommended by the City Planning Commission?

Administration of the Land Use Plan

1. Administrators

The Executive Director of the City Planning Commission, or the Director’s designee, shall have the following authority, pursuant to this Master Plan:

- A. To make final decisions on minor map adjustments to the Future Land Use Map.**
- B. To make final decisions on interpretations of the Future Land Use Map**

The City Planning Commission shall have the following authority, pursuant to this Master Plan:

- A. To make final decisions on appeals of minor map adjustments to the Future Land Use Map by the Executive Director of the City Planning Commission.**
- B. To make final decisions on appeals of interpretations of the Future Land Use map by the Executive Director of the City Planning Commission.**

Appeals of the City Planning Commission’s review of the Executive Director’s decision on appeals of minor map adjustments to the Future Land Use Map and interpretations of the Future Land Use Map shall be under the jurisdiction of the Orleans Parish Civil District Court.

The City Council shall have the following authority pursuant to the City Charter:

- A. To make final decisions on amendments to the Master Plan**

2. Interpretation of Land Use Plan Language

As discussed above, the City Charter mandates that land use actions have the “force of law” – that they further, or at least not interfere with, the goals, policies, and guidelines of the Land Use Element, and that they be compatible with the proposed future land uses, densities, and intensities designated in the Land Use Element. Accordingly, the language of the Land Use Plan shall be interpreted in accordance with the “Interpretation of Laws” elements of the Louisiana Civil Code:

- When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the Legislature. La. Civ. Code Art. 9.
- When the language of a law is susceptible of different meanings, it must be interpreted as having the meaning that best conforms to the purpose of the law. La. Civ. Code Art. 10.
- The words of a law must be given their generally prevailing meaning. Words of art and technical terms must be given their technical meaning when the law involves a technical matter. La. Civ. Code Art. 11.
- When the words of a law are ambiguous, their meaning must be sought by examining the context in which they occur and the text of the law as a whole. La. Civ. Code Art. 12.
- Laws on the same subject matter must be interpreted in reference to each other. La. Civ. Code Art. 13.

3. “Force of Law” Consistency Determinations

Louisiana Civil Code Article 13 – providing that laws on the same subject matter must be interpreted in reference to each other – is especially important with respect to consistency determinations. It may be tempting to pull out isolated passages from the Land Use Element in arguing that a particular proposal is consistent with the Master Plan. However, Article 13 makes clear that in order to be deemed consistent, a proposal must be evaluated against all of the relevant language of the Land Use Element. For example, relying on broad, non-specific language describing a land use goal cannot be sufficient to establish consistency if the proposal is not compatible with the specific language describing the Future Land Use Category that applies to the site.

In this respect, the Future Land Use Category descriptions – found in Section C of this Chapter – are probably the most important language in the Land Use Element for consistency determinations because they speak directly to the specific places in which projects will be proposed. Unlike the other provisions of the Land Use Element, the Future Land Use Category descriptions establish specific land use goals for each part of the city, delineate the specific uses permitted in these areas, and define the desired development character for each category. In short, the Future Land Use Category descriptions essentially define what consistency means for each category. As a general rule of thumb, if a proposal is not compatible with the Future Land Use Category description for a specific location, the proposal is not consistent with the Master Plan.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

The issues raised concerning the potential impacts of the City Planning Commission’s original recommendation include whether or not the City Charter authorizes the proposed interpretation authority as recommended. The City Council motion asks that the “Administrators” subsection be reconsidered and does not propose any alternative language. Upon further discussions with the Law Department, the staff believes that the language in the Administrators subsection does not further anything that is not already dictated by the Comprehensive Zoning Ordinance. **Article 4, Section 4.7** of the CZO provides for a process for minor map adjustments to the Official Zoning Map or Future Land Use Map of the Master Plan. Additionally, interpretations of the Future Land Use Map are generally determined upon the consideration by the City Planning Commission of an application for a land use action. This interpretation becomes part of the City Planning Commission’s recommendation to the City Council. The City Council then ultimately determines legal consistency upon acting on an application. The staff recommends deleting the subsection “1. Administrators” and renumbering the subsequent sections accordingly.

The staff proposes to modify the original recommended language with new text shown in **bold underlined** font and deleted text in ~~strikethrough~~.

Staff Recommendation:

The staff recommends **MODIFIED APPROVAL** of text amendment reconsideration Chapter 13 (Former 14) (a.) to read as follows:

Administration of the Land Use Plan

4. Administrators

~~The Executive Director of the City Planning Commission, or the Director’s designee, shall have the following authority, pursuant to this Master Plan:~~

- ~~A. To make final decisions on minor map adjustments to the Future Land Use Map.~~
- ~~B. To make final decisions on interpretations of the Future Land Use Map~~

~~The City Planning Commission shall have the following authority, pursuant to this Master Plan:~~

- ~~A. To make final decisions on appeals of minor map adjustments to the Future Land Use Map by the Executive Director of the City Planning Commission.~~
- ~~B. To make final decisions on appeals of interpretations of the Future Land Use map~~

by the Executive Director of the City Planning Commission.

Appeals of the City Planning Commission's review of the Executive Director's decision on appeals of minor map adjustments to the Future Land Use Map and interpretations of the Future Land Use Map shall be under the jurisdiction of the Orleans Parish Civil District Court.

The City Council shall have the following authority pursuant to the City Charter:

A. To make final decisions on amendments to the Master Plan

5. 1. Interpretation of Land Use Plan Language

As discussed above, †The City Charter mandates that land use actions have the “force of law” – that they further, or at least not interfere with, the goals, policies, and guidelines of the Land Use Element, and that they be compatible with the proposed future land uses, densities, and intensities designated in the Land Use Element. Accordingly, the language of the Land Use Plan shall be interpreted in accordance with the “Interpretation of Laws” elements of the Louisiana Civil Code:

- When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the Legislature. La. Civ. Code Art. 9.
- When the language of a law is susceptible of different meanings, it must be interpreted as having the meaning that best conforms to the purpose of the law. La. Civ. Code Art. 10.
- The words of a law must be given their generally prevailing meaning. Words of art and technical terms must be given their technical meaning when the law involves a technical matter. La. Civ. Code Art. 11.
- When the words of a law are ambiguous, their meaning must be sought by examining the context in which they occur and the text of the law as a whole. La. Civ. Code Art. 12.
- Laws on the same subject matter must be interpreted in reference to each other. La. Civ. Code Art. 13.

6. 2. “Force of Law” Consistency Determinations

Louisiana Civil Code Article 13 – providing that laws on the same subject matter must be interpreted in reference to each other – is especially important with respect to consistency determinations. It may be tempting to pull out isolated passages from the Land Use Element in arguing that a particular proposal is consistent with the Master Plan. However, Article 13 makes clear that in order to be deemed consistent, a proposal must be evaluated against all of the relevant language of the Land Use Element. For example, relying on broad, non-specific language describing a land use goal cannot be sufficient to establish consistency if the proposal is not compatible with the specific language describing the Future Land Use Category that applies to the site.

In this respect, the Future Land Use Category descriptions – found in Section C of this Chapter – are probably the most important language in the Land Use Element for consistency determinations because they speak directly to the specific places in which projects will be proposed. Unlike the other provisions of the Land Use Element, the Future Land Use Category descriptions establish specific land use goals for each part of the city, delineate the specific uses permitted in these areas, and define the desired development character for each category. In short, the Future Land Use Category descriptions essentially define what consistency means for each category. As a general rule of thumb, if a proposal is not compatible with the Future Land Use Category description for a specific location, the proposal is not consistent with the Master Plan.

Reasons for Recommendation:

1. The staff believes that the language in the Administrators subsection does not further anything that is not already dictated by the Comprehensive Zoning Ordinance.
2. A process for Minor Map Adjustments is already in **Article 4** of the CZO, and consistency determinations for the Master Plan are made with every application for land use action, making the addition of the original proposed language unnecessary and potentially confusing.

Reconsideration: Chapter 13 (Former 14), Item b. (Text 14-01)

What was the text amendment that is proposed for modification?

Consider modifying the table titled “Summary of Land Use Strategies and Actions”, beginning on page 5, to create a new Goal of “Developing an Environmental Plan”, the Strategy of which is to “Create an inventory of waste disposal, waste incineration, or other known sites where environmental toxins exceed federally mandated safety standards.”, with Actions that include “Contemplate limiting certain types of developments/uses on contaminated sites to ensure that future uses will not negatively impact surrounding residents and citizens.”

What is the existing language recommended by the City Planning Commission?

The City Planning Commission recommended that similar language be placed in Chapter 12: Adapt to Thrive: Environmental Stewardship, Disaster Risk Reduction, and Climate Change. The adopted language is shown below:

GOAL	STRATEGY	Recommended Actions				
		How	Who	When	Resources	For More Information, See Page
6. Environmental quality and justice through targeted investments in natural resources and improved ecosystem services.	6.D. Identify, remediate, and redevelop contaminated sites and buildings	1: Identify and apply for federal, state, and other funding to remediate brownfields and other contaminated sites	ORS	Ongoing	Staff time, EPA	
		2: Provide increased funding and support for lead remediation initiatives for homes, schools, and gardens	Health Department, ORS, academic partners	First Five Years	Staff time, EPA, HUD	
		3: Pursue public engagement and education around environmental contamination and lead remediation	Health Department, Louisiana Department of Environmental Quality	First Five Years	Staff time, DEQ, EPA	

GOAL	STRATEGY	Recommended Actions				
		How	Who	When	Resources	For More Information, See Page
		4: Develop an inventory and map of all inactive, abandoned, or closed waste disposal and waste incineration sites	Sanitation, ITI	First Five Years	Staff time	
		5: Develop and establish standards for the use of sites formerly used for waste disposal or incineration and preventing new construction of residential, educational, or institutional facilities.	CPC, DSP	First Five Years	Staff time	
		6: Identify funding and resources to assist and support residents living in or near designated brownfields, superfund sites, or other areas with documented environmental justice issues	ORS, Mayor's Office, OCD	Medium Term	Staff time	

GOAL	STRATEGY	Recommended Actions				
		How	Who	When	Resources	For More Information, See Page
		7. Identify and apply for Federal, State, and other funding or resources to relocate residents of the Gordon Plaza Subdivision that was built on the Agriculture Street Landfill, a Superfund site.	Mayor's Office	First Five Years	Staff time, EPA, LDEQ	

Have any issues been raised relative to the potential impacts of the CPC's original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

No issues were raised relative to the potential impacts of the CPC's original recommendation. The City Council proposes a new Goal, Strategy, and Action to be placed in the Summary of Land Use Strategies and Actions table in Chapter 13 (Former 14). Under Text 14-01, the Residents of Gordon Plaza proposed actions that residential development and schools should not be constructed on sites of former waste disposal or waste incineration sites, an action to develop an inventory of these sites, and a third action for the City to assist with the identification of funding to relocate Gordon Plaza residents. The Residents of Gordon Plaza proposed a similar request for former Chapter 13 (now Chapter 12). The City Planning Commission's recommendation was that the requested actions would be best located in Chapter 13 (now Chapter 12) because that chapter contains all recommendations and actions related to environmental quality. The staff recommended a goal to achieve "Environmental quality and justice through targeted investments in natural resources and improved ecosystem services," and also recommended one strategy, and six actions to accomplish this goal. Those strategies include the development of an inventory of these environmentally damaged sites and the development of land use standards for the use of these sites. The CPC and the Department of Safety and Permits are the lead agencies responsible for developing these standards.

Additionally, City Council Motion M-17-440 directed the City Planning Commission to conduct a public hearing and study to develop an Environmental Plan, to create an inventory of waste disposal, waste incineration, or other known sites where environmental toxins exceed federally mandated safety standards, to contemplate limiting certain types of developments/uses on contaminated sites to ensure that future uses will not negatively impact surrounding residents and citizens. The City Council expects the study to be complete within six months of August 10,

2017, and the City Planning Commission to hold a public hearing within 90 days of that date. Due to the language that was adopted in Chapter 12, the adopted motion, and the current progress achieving those actions, the staff does not believe that these goals and strategies should be repeated in Chapter 13 of the Master Plan. The Environmental Study may recommend changes to land use allowances that will inform future amendments to this chapter.

Staff Recommendation:

The staff recommends retaining the original text recommended by the CPC

Reasons for Recommendation:

1. No issues were raised relative to the potential impacts of the CPC's original recommendation.
2. The staff believes that the language adopted in Chapter 12, the adopted motion, and the progress towards achieving those goals meets the purpose of the proposals under this reconsideration.

Reconsideration: Chapter 13 (Former 14), Item c. (Text 14-19)

What was the text amendment that is proposed for modification?

Consider modifying the recommendation on page 6, Goal 1, “Strategy” 1.D, “Actions” no. 5, to delete said action in its entirety.

What is the existing language recommended by the City Planning Commission?

GOAL	STRATEGY	ACTIONS
1. Promote smart growth land use patterns in New Orleans and the region.	1.D Preserve and protect environmentally sensitive land and coastal areas.	<u>5. Protect certain environmentally sensitive areas while still allowing limited residential, commercial or industrial uses with a review process.</u>

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

The City Council motion proposes to delete the action item completely. Presumably, the Council was concerned about limiting development opportunities in environmentally sensitive areas. The original amendment was submitted by the City Planning Commission in order to recognize the Planned Development Area FLUM category, which envisions that certain sensitive areas can be developed responsibly given certain construction techniques and other site considerations. One tool currently in the Comprehensive Zoning Ordinance that provides for environmentally sensitive development is the General Planned Development District. The purpose of this district is as follows:

7.1.E Purpose of the GPD General Planned Development District

“...to provide flexibility in the site design and development of land in order to promote its most environmentally sensitive use and to preserve the natural and scenic qualities of wetlands and other natural land features. The GPD District is intended to provide protection for environmentally sensitive areas and encourage development that avoids or minimizes negative impacts and allows for innovative development techniques and flexibility in the development of the site.”

This district allows for the development of a variety of residential, institutional, commercial, and industrial uses, all subject to the conditional use process. The conditional use process allows the staff to evaluate each development proposal on a case by case basis, something essential for review in environmentally sensitive areas. In addition, some properties might require further approvals from the State or the Federal government in order to proceed with development plans.

Due to the amount of review generally required in environmentally sensitive areas and the current provisions in the GPD General Planned Development District in the CZO, the staff continues to support this action item as originally proposed.

Staff Recommendation:

The staff recommends maintaining the existing text as recommended by the City Planning Commission.

Reasons for Recommendation:

1. No issues were raised relative to the potential impacts of the CPC's original recommendation.
2. The staff continues to support this action item as originally proposed due to the amount of review generally required in environmentally sensitive areas and the current provisions in the GPD General Planned Development District in the CZO.

Reconsideration: Chapter 13 (Former 14), Item d. (Text 14-19)

What was the text amendment that is proposed for modification?

Consider modifying the recommendation on page 6, Goal 1, “Strategy” 1.B, “Actions” no. 14, to retain the proposed deletion of the sentence “Diversify New Orleans’ housing stock in new residential developments.” This sentence should be retained, and the proposed new language should remain as an additional “Actions” item.

What is the existing language recommended by the City Planning Commission?

GOAL	STRATEGY	ACTIONS
1. Promote smart growth land use patterns in New Orleans and the region.	1.B Promote walkable, mixed-use environments and transit-oriented development.	14. Diversify New Orleans’ housing stock in new residential development. <u>Ensure that zoning districts provide an appropriate amount of land area and locations to accommodate housing of different types and affordability levels.</u>

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

No issues were raised relative to the potential impacts of the CPC’s original recommendation. The City Council motion proposes to retain the proposed deleted language and add the CPC proposed language as an additional action item. The original amendment was submitted by the City Planning Commission in order to better clarify how the CPC could work towards diversifying the city’s housing stock. The original action item was vague in its recommended action to “diversify the housing stock, and also specific only to “new residential development.” The staff’s proposed language specifically requests that the CPC ensure that zoning districts provide opportunities for a diverse housing stock in both types and affordability levels. The staff does not recommend retaining the language originally proposed for deletion because it would be redundant and not as specific as the proposed language. In this case, the specificity of the action item provides clear guidance to the CPC for how to accomplish the action.

Staff Recommendation:

The staff recommends maintaining the deletion of old text, keeping the new text as recommended by the City Planning Commission and not adding the additional text.

Reasons for Recommendation:

1. No issues were raised relative to the potential impacts of the CPC’s original recommendation.

2. The staff continues to support this action item as originally proposed because retaining the existing language and adding new language would be redundant.

Reconsideration: Chapter 13 (Former 14), Item e. (Text 14-19)

What was the text amendment that is proposed for modification?

Consider modifying the recommendation on page 8, Goal 2, “Strategy” 2.D, “Actions” no. 11, to clarify the proposed language to ensure the desired intent is clear and understandable.

What is the existing language recommended by the City Planning Commission?

GOAL	STRATEGY	ACTIONS
2. Promote development that can strengthen the city's tax and job base while serving citizen needs and preserving city character.	2.D. Make downtown a vibrant 24-hour neighborhood and commercial/entertainment district.	<u>11. Create a modern wayfinding systems that enhances the ability of visitors to find their way around downtown design in a way that can be easily expanded throughout the city.</u>

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

The Council motion indicates that the recommended text is not clear. The City Council motion did not propose specific language for this reconsideration, but did instruct the CPC to consider clarifying the language so the intent is clear and understandable. The intent of the action item is for the development of a wayfinding system that can be initially introduced in the downtown area, and eventually be expanded to other parts of the city with a consistent design. The intent is unclear to the City Council because of a grammatical error in the proposed item.

The staff proposes correcting the language of the proposed action item and proposes to modify the originally recommended language as new text is shown in **bold underlined** font and deleted text in ~~strikethrough~~.

Recommendation:

The staff recommends **APPROVAL** of text amendment reconsideration Chapter 13 (Former 14) (e.) and proposes that Action Item 2.D.11 be corrected to read as follows:

GOAL	STRATEGY	ACTIONS
2. Promote development that can strengthen the city's tax and job base while serving	2.D. Make downtown a vibrant 24-hour neighborhood and	<u>11. Create a modern wayfinding systems that enhances the ability of visitors to find their way around downtown and is designed in a way</u>

citizen needs and preserving city character.	commercial/entertainment district.	<u>that can be easily expanded throughout the city.</u>
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Reasons for Recommendation:

1. The City Council motion was to reconsider language of a proposed action item that was grammatically incorrect.
2. The staff proposed changes will correct those errors and should clarify the intent of the action item.

Reconsideration: Chapter 13 (Former 14), Item f. (Text 14-08, #8)

What was the text amendment that is proposed for modification?

Consider modifying the recommendation on page 8, Goal 3, “Strategy” 3.A, “Actions” no. 11, to delete the proposed revision in its entirety.

What is the existing language recommended by the City Planning Commission?

GOAL	STRATEGY	ACTIONS
3. Strengthen the city's public realm and urban design character.	3.A. Provide guidance on desired characteristics of new development to property owners and the public.	<u>11. Using DDD's Lafayette Square/Upper CBD refined height study as a guide, adopt clear and predictable building height limits for that portion of the Central Business District as part of the new Comprehensive Zoning Ordinance. Ensure compatibility of land use regulations in the places established by the Master Plan.</u>

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

No issues were raised relative to the potential impacts of the CPC’s original recommendation. The City Council motion proposed that the proposed language be removed entirely. The language was originally proposed as a result of the evaluation of part of the Louisiana Landmarks Society’s Master Plan Amendment application. The original request asked that a definition for “tout ensemble” be developed that would ensure compatibility in historic neighborhoods. The staff responded that zoning district regulations apply fairly across the board for all structures within the same district. Therefore, compatibility is ensured through consistent application of the zoning regulations. For particular building plans that are subject to design review, compatibility is consistently a criterion. From this analysis, the staff recommended the action item: “Ensure compatibility of land use regulations in the places established by the Master Plan.”

Staff Recommendation:

The staff recommends retaining the revision as recommended by the City Planning Commission.

Reasons for Recommendation:

1. No issues were raised relative to the potential impacts of the CPC’s original recommendation.
2. The staff continues to support the original recommendation which aims to ensure compatibility of land uses through place-based zoning in the city’s neighborhoods.

Reconsideration: Chapter 13, item g

What was the text amendment that is proposed for modification?

Consider modifying the recommendations regarding the Future Land Use Category “**Residential Single Family Pre-War**” on page 12, to consider modifying the “Range of Uses” therein as follows:

1. Modify the sentence “Neighborhood-serving businesses and traditional corner stores may be allowed where current or former commercial use is verified” to read: “Neighborhood-serving businesses and traditional corner stores may be allowed in existing structures where current or former commercial use is verified.”
2. Modify the sentence “Conversion to multifamily and neighborhood-serving commercial uses may be allowed for certain existing historical non-residential buildings” to read: “Conversion to multifamily, commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.”

What is the existing language recommended by the City Planning Commission?

Range of Uses: Single-family dwellings, agricultural, stormwater management, and supporting public recreational and community facilities allowed (e.g., schools and places of worship). Neighborhood-serving businesses and traditional corner stores may be allowed where current or former commercial use is verified. Conversion to multifamily and neighborhood-serving commercial uses may be allowed for certain existing historical non-residential buildings.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

1. The concern is that the Future Land Use Map category should not allow the re-establishment of commercial uses based only on the commercial history of the site. Since New Orleans has a long history, there is concern that historic commercial uses beyond modern history would be used as justification. Additionally, one of the main incentives for allowing commercial use re-establishment in a residential area is the preservation of the historic building in its original context. The Motion’s text would specify that the structure must still exist.

City Planning staff has long interpreted the original text as requiring that the historic structure still exist. However, both the City Planning Commission and the City Council have at times granted zoning changes based on the site’s use when the structure that was used commercially no longer exists. The text for reconsideration

would make clear that the historic commercial structure must still exist for the site to be re-established as commercial.

Since the Council's proposed modification would add clarity and is consistent with the way the staff has interpreted the Master Plan for years, the staff recommends approval. It is important that the City Planning Commission and City Council understand they will have less flexibility in these situations in order to promote the intent of the Master Plan.

2. The concern raised relative to #2 is that by only specifying commercial and multi-family uses as acceptable for adaptive reuse of historic non-residential structures in residential areas, that mixed use would not be allowed. While the staff would interpret mixed use as allowed when both commercial and multi-family are mentioned, the staff agrees the additional clarity could be helpful. However, the staff recommends adding the words "neighborhood-serving" to describe the allowed commercial uses in an adaptive reuse, since this is a residential FLUM category.

Staff Recommendation: Modified Approval

RESIDENTIAL SINGLE FAMILY PRE WAR

Range of Uses: Single-family dwellings, agricultural, stormwater management, and supporting public recreational and community facilities allowed (e.g. schools and places of worship). **Neighborhood-serving businesses and traditional corner stores may be allowed in existing structures where current or former commercial use is verified. Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential structures.**

Reasons for Recommendation:

1. The proposed changes add clarity to the text of the FLUM category.
2. The changes support the most common interpretation of FLUM text by CPC staff.

Reconsideration: Chapter 13, item h

What was the text amendment that is proposed for modification?

Consider modifying the recommendations regarding the Future Land Use Category “Residential Single Family Post-War” on pages 12-13, to consider modifying the “Range of Uses” therein as follows:

1. Modify the sentence “Neighborhood-serving businesses and traditional corner stores may be allowed where current or former commercial use is verified” to read: "Neighborhood-serving businesses and traditional corner stores may be allowed in existing structures where current or former commercial use is verified."
2. Modify the sentence “Conversion to multifamily and neighborhood-serving commercial uses may be allowed for certain existing historical institutional or other non-residential buildings” to read: "Conversion to multifamily, commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings."

What is the existing language recommended by the City Planning Commission?

Range of Uses: Single-family dwellings, agricultural, stormwater management and supporting public recreational and community facilities allowed (e.g., schools and places of worship). Neighborhood-serving businesses may be allowed where current or former commercial use is verified. Conversion to multifamily and neighborhood serving commercial uses may be allowed for certain existing historical institutional or other non-residential buildings.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

1. Yes. The concern is that the Future Land Use Map category should not allow the re-establishment of commercial uses based only on the commercial history of the site. Since New Orleans has a long history, there is concern that historic commercial uses beyond modern history would be used as justification. Additionally, one of the main incentives for allowing commercial use re-establishment in a residential area is the preservation of the historic building in its original context. The Motion’s text would specify that the structure must still exist.

City Planning staff has long interpreted the original text as requiring that the historic structure still exist. However, both the City Planning Commission and the City Council have at times granted zoning changes based on the site’s use when the structure that was used commercially no longer exists. The text for reconsideration would make clear that the historic commercial structure must still exist for the site to be re-established as commercial.

Since the Council’s proposed modification would add clarity and is consistent with the way the staff has interpreted the Master Plan for years, the staff recommends approval. It is important that the City Planning Commission and City Council understand they will have less flexibility in these situations in order to promote the intent of the Master Plan.

2. The concern raised relative to #2 is that by only specifying commercial and multi-family uses as acceptable for adaptive reuse of historic non-residential structures in residential areas, that mixed use would not be allowed. While the staff would interpret mixed use as allowed when both commercial and multi-family are mentioned, the staff agrees the additional clarity could be helpful. However, the staff recommends adding the words “neighborhood-serving” to describe the allowed commercial uses in an adaptive reuse, since this is a residential FLUM category.

Staff Recommendation: Modified Approval

RESIDENTIAL SINGLE FAMILY POST WAR

Range of Uses: Single-family dwellings, agricultural, stormwater management and supporting public recreational and community facilities allowed (e.g. schools and places of worship). **Neighborhood-serving businesses and traditional corner stores may be allowed in existing structures where current or former commercial use is verified. Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.**

Reasons for Recommendation:

1. The proposed changes add clarity to the text of the FLUM category.
2. The changes support the most common interpretation of FLUM text by CPC staff.

Reconsideration: Chapter 13, item i.

What was the text amendment that is proposed for modification?

Consider modifying the recommendations regarding the Future Land Use Category “**Residential Low Density Pre-War**” on page 13, to consider modifying the “Range of Uses” therein as follows:

1. Modify the second sentence regarding the preservation of existing multifamily buildings to make the following considerations of paramount importance: the historical and architectural significance of the existing building, its structural integrity, whether the structure is or can be made to be compliant with current building codes, and the scale and character of the building within the context of the surrounding neighborhood.
2. Modify the sentence that says “Businesses, traditional corner stores, and mixed use may be allowed on sites where current or former commercial use is verified.” to read: “Businesses, traditional corner stores, and mixed use may be allowed in existing structures where current or former commercial use is verified.”
3. Modify the sentence “Conversion to multifamily and commercial uses may be allowed for certain existing historical institutional, commercial or other non-residential buildings” to read: “Conversion to multifamily, commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.”

What is the existing language recommended by the City Planning Commission?

Range of Uses: New development generally limited to single, ~~or~~ two-family, or multi-family dwellings that are compatible with the scale and character of the surrounding residential neighborhood, especially when located in proximity to major transportation corridors.; ~~and~~ The preservation of existing multifamily buildings is also allowed. Businesses, ~~and~~ traditional corner stores, and mixed use may be allowed on sites where current or former commercial use is verified. Agricultural, stormwater management, and ~~S~~supporting public recreational and community facilities (e.g., schools and places of worship) also allowed. Conversion to multifamily and commercial uses may be allowed for certain existing historical institutional, commercial or other non-residential ~~uses~~buildings.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

1. The concern raised in the motion is that some existing multi-family structures are not appropriate for the neighborhood due to their significance, structural integrity, scale, or character. The Motion proposes criteria for determining whether the preservation of a multi-family building is appropriate. The CPC staff believes that it would be more

appropriate to include a portion of the proposed text in the first sentence along with the description of appropriate new multi-family development. Inserting criteria about the structural integrity of existing buildings are more appropriately handled by the Building Code and should be the same citywide.

2. The concern is that the Future Land Use Map category should not allow the re-establishment of commercial uses based only on the commercial history of the site. Since New Orleans has a long history, there is concern that historic commercial uses beyond modern history would be used as justification. Additionally, one of the main incentives for allowing commercial use re-establishment in a residential area is the preservation of the historic building in its original context. The Motion's text would specify that the structure must still exist.

City Planning staff has long interpreted the original text as requiring that the historic structure still exist. However, both the City Planning Commission and the City Council have at times granted zoning changes based on the site's use when the structure that was used commercially no longer exists. The text for reconsideration would make clear that the historic commercial structure must still exist for the site to be re-established as commercial.

Since the Council's proposed modification would add clarity and is consistent with the way the staff has interpreted the Master Plan for years, the staff recommends approval. It is important that the City Planning Commission and City Council understand they will have less flexibility in these situations.

3. The concern raised relative to #3 is that by only specifying commercial and multi-family uses as acceptable for adaptive reuse of historic non-residential structures in residential areas, that mixed use would not be allowed. While the staff would interpret mixed use as allowed when both commercial and multi-family are mentioned, the staff agrees the additional clarity could be helpful. However, the staff recommends adding the words "neighborhood-serving" to describe the allowed commercial uses in an adaptive reuse, since this is a residential FLUM category.

Staff Recommendation: Modified Approval

RESIDENTIAL LOW DENSITY PRE WAR

Range of Uses: New development generally limited to single, two-family, ~~or~~ **and new or existing** multi-family dwellings that are compatible with the scale and character of the surrounding residential neighborhood, especially when located in proximity to major transportation corridors. ~~The preservation of existing multifamily buildings is also allowed.~~ Businesses, traditional corner stores, **and mixed use** may be allowed **in existing structures** where current or former commercial use is verified. Agricultural, stormwater management, and ~~S~~supporting public recreational and community facilities (e.g., schools and places of worship)

also allowed. Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional, ~~commercial~~ or other non-residential buildings.

Reasons for Recommendation:

1. The proposed changes add clarity to the text of the FLUM category.
2. The changes support the most common interpretation of FLUM text by CPC staff.

Reconsideration: Chapter 13, item j

What was the text amendment that is proposed for modification?

Consider modifying the recommendations regarding the Future Land Use Category “**Residential Low Density Post-War**” on pages 13-14, to consider modifying the “Range of Uses” therein as follows:

1. Delete the ability for commercial developments to “expanded to adjacent lots” – proposed sentence should read “Commercial development may be allowed where it currently exists or formerly existed.”
2. Modify the sentence “Conversion to multifamily or commercial uses may be allowed for certain existing historical institutional, commercial or other non-residential buildings” to read: “Conversion to multifamily, commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.”

What is the existing language recommended by the City Planning Commission?

Range of Uses: New development ~~is generally limited to~~ includes single-family, ~~dwelling~~, ~~with~~ two-family, ~~and~~ town home, ~~and~~ multi-family dwelling that are compatible with the scale and character of the surrounding residential neighborhood, especially when located in proximity to major transportation corridors. Commercial development may be allowed where it currently exists or formerly existed and may be expanded to adjacent lots. Agricultural, stormwater management, and Supporting public recreational and community facilities (e.g., schools and places of worship) are also allowed. New two-family dwellings and town home developments may be allowed in planned communities. Conversion to multifamily or commercial uses may be allowed for certain existing historical institutional, commercial or other non-residential ~~uses~~ buildings.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

1. The concern is that it may be inappropriate to expand commercial development to adjacent lots in a residential FLUM category. This proposed amendment was part of a more broad amendment that was essentially withdrawn; however, the amendment had already been introduced in the Council’s Calendar Ordinance. Therefore, the CPC staff recommends deletion of the text.
2. The concern raised relative to #2 is that by only specifying commercial and multi-family uses as acceptable for adaptive reuse of historic non-residential structures in residential areas, that mixed use would not be allowed. While the staff would interpret mixed use as allowed when both commercial and multi-family are mentioned, the staff agrees the additional clarity could be helpful. However, the staff recommends the retention of the

words “neighborhood-serving” to describe the allowed commercial uses in an adaptive reuse, since this is a residential FLUM category.

Staff Recommendation: Modified Approval

RESIDENTIAL LOW DENSITY POST WAR

Range of Uses: New development includes single-family, two-family, town home, and multi-family dwellings that are compatible with the scale and character of the surrounding residential neighborhood especially when located in proximity to major transportation corridors. Commercial development may be allowed in existing buildings where it currently exists or formerly existed. Agricultural, stormwater management, and supporting public and community facilities (e.g., schools and places of worship) are also allowed. New two-family and town home developments may be allowed in planned communities. Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.

Reconsideration: Chapter 13, item k

What was the text amendment that is proposed for modification?

Consider modifying the recommendations regarding the Future Land Use Category “Residential Medium Density Pre-War” on page 14, to consider modifying the “Range of Uses” therein as follows:

1. Modify the sentence “Businesses, traditional corner stores, and mixed use development may be allowed on sites where current or former commercial use is verified” to read: “Businesses, traditional corner stores, and mixed use development may be allowed in existing structures where current or former commercial use is verified.”
2. Modify the sentence “Conversion to multifamily and commercial uses may be allowed for certain existing historical institutional or other non-residential buildings.” to read: “Conversion to multifamily, commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.”

What is the existing language recommended by the City Planning Commission?

Range of Uses: Single- and two-family residences, townhomes and ~~small~~ multifamily dwellings that are compatible with the scale and character of the surrounding residential neighborhood, especially when located in proximity to major transportation corridors-structures. Businesses ~~and~~, traditional corner stores, and mixed use development may be allowed on sites where current or former commercial use is verified. Agricultural, stormwater management, and ~~S~~supporting public recreational and community facilities allowed (e.g., schools and places of worship). Conversion to multifamily and commercial uses may be allowed for certain existing historical institutional or other non-residential buildings.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

1. The concern is that the Future Land Use Map category should not allow the re-establishment of commercial uses based only on the commercial history of the site. Since New Orleans has a long history, there is concern that historic commercial uses beyond modern history would be used as justification. Additionally, one of the main incentives for allowing commercial use re-establishment in a residential area is the preservation of the historic building in its original context. The Motion’s text would specify that the structure must still exist.

City Planning staff has long interpreted the original text as requiring that the historic structure still exist. However, both the City Planning Commission and the City Council have at times granted zoning changes based on the site’s use when the structure that was

used commercially no longer exists. The text for reconsideration would make clear that the historic commercial structure must still exist for the site to be re-established as commercial.

Since the Council's proposed modification would add clarity and is consistent with the way the staff has interpreted the Master Plan for years, the staff recommends approval. It is important that the City Planning Commission and City Council understand they will have less flexibility in these situations in order to promote the intent of the Master Plan.

2. The concern raised relative to #2 is that by only specifying commercial and multi-family uses as acceptable for adaptive reuse of historic non-residential structures in residential areas, that mixed use would not be allowed. While the staff would interpret mixed use as allowed when both commercial and multi-family are mentioned, the staff agrees the additional clarity could be helpful. However, the staff recommends adding the words "neighborhood-serving" to describe the allowed commercial uses in an adaptive reuse, since this is a residential FLUM category.

Staff Recommendation: Modified Approval

RESIDENTIAL MEDIUM DENSITY PRE WAR

Range of Uses: Single and two-family residences, townhomes, and multifamily dwellings that are compatible with the scale and character of the surrounding residential neighborhoods, especially when located in proximity to major transportation corridors. Businesses, traditional corner stores, and mixed use development may be allowed in existing structures where current or former commercial use is verified. Agricultural, stormwater management, and supporting public recreational and community facilities allowed (e.g., schools and places of worship). Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.

Reconsideration: Chapter 13, item 1.

What was the text amendment that is proposed for modification?

Consider modifying the recommendations regarding the Future Land Use Category “**Residential Multifamily Pre-War**” on pages 14-15, to consider modifying the “Range of Uses” therein as follows:

1. Modify the sentence “Conversion to commercial uses may be allowed for certain existing historical institutional or other non-residential buildings.” to read: "Conversion to multifamily, commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.”

What is the existing language recommended by the City Planning Commission?

Range of Uses: Multifamily residential structures allowed. Limited neighborhood-serving commercial uses on the ground floor allowed. Agricultural, stormwater management, and supporting public recreational and community facilities allowed (e.g., schools and places of worship). Conversion to commercial uses may be allowed for certain existing historical institutional or other non-residential buildings.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

1. The concern raised is that by only specifying commercial uses as acceptable for adaptive reuse of historic non-residential structures in residential areas, that multifamily and mixed use would not be allowed. While the staff would interpret mixed use as allowed when both commercial and multi-family are mentioned in the range of uses, the staff agrees the additional clarity could be helpful. However, the staff recommends the addition of the words “neighborhood-serving” to describe the allowed commercial uses in an adaptive reuse, since this is a residential FLUM category.

Staff Recommendation: Modified Approval

RESIDENTIAL MULTIFAMILY PRE WAR

Range of Uses: Multifamily residential structures allowed. Limited neighborhood-serving commercial uses on the ground floor allowed. Agricultural, stormwater management, and supporting public recreational and community facilities allowed (e.g., schools and places of worship). Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.

Reconsideration: Chapter 13, item m.

What was the text amendment that is proposed for modification?

Consider modifying the recommendations regarding the Future Land Use Category “**Residential Multifamily Post-War**” on page 15, to consider modifying the “Range of Uses” therein as follows:

1. Modify the sentence “Conversion to commercial uses may be allowed for certain existing historical institutional or other non-residential buildings.” to read: “Conversion to multifamily, commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.”

What is the existing language recommended by the City Planning Commission?

Range of Uses: Mixed single- and two-family units, and multifamily residential structures allowed. Limited neighborhood-serving commercial uses on the ground floor allowed.

Agricultural, stormwater management, and supporting public recreational and community facilities allowed (e.g., schools and places of worship). Conversion to commercial uses may be allowed for certain existing historical institutional or other non-residential buildings.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

1. The concern raised is that by only specifying commercial uses as acceptable for adaptive reuse of historic non-residential structures in residential areas, that multifamily and mixed use would not be allowed. While the staff would interpret mixed use as allowed when both commercial and multi-family are mentioned in the range of uses, the staff agrees the additional clarity could be helpful. However, the staff recommends the addition of the words “neighborhood-serving” to describe the allowed commercial uses in an adaptive reuse, since this is a residential FLUM category.

Staff Recommendation: Modified Approval

RESIDENTIAL MULTIFAMILY POST WAR

Range of Uses: Mixed single- and two-family units, and multifamily residential structures allowed. Limited neighborhood-serving commercial uses on the ground floor allowed. Agricultural, stormwater management, and supporting recreational and community facilities allowed (e.g., schools and places of worship). Conversion to **multifamily, neighborhood-serving** commercial, **or mixed** use may be allowed for certain existing historical institutional or other non-residential buildings.

Reconsideration: Chapter 13, item n.

What was the text amendment that is proposed for modification?

Consider modifying the recommendations regarding the Future Land Use Category “**Residential Historic Core**” on page 15, to modify the “Range of Uses” therein as follows:

1. Modify the second sentence to read: "Neighborhood-serving businesses, traditional corner stores, and mixed-use developments may be allowed in existing structures where current or former commercial use is verified." (removing the reference to “businesses including those promoting New Orleans’ culture of food, music, and entertainment”
 - i. If this phrase is ultimately recommended for retention, include in the “Range of Uses” subpart language to provide clarity and specificity as to the meaning of “those [businesses] promoting New Orleans’ culture of food, music, and entertainment.”
 - ii. If this phrase is ultimately recommended for retention add the following additional language after the word “verified” - “and when deemed appropriate and consistent with the historic residential character of the neighborhood through a public review process.”
 - iii. If this phrase is ultimately recommended for retention, include in the “Range of Uses” subpart language to limit the circumstances and provide guidance as to the appropriate auspice, including: requiring a conditional use, limiting the number of such businesses within a city square (spacing restrictions); limit the size of such businesses; or providing a time period within which the former commercial use must have existed.
2. Modify the third sentence to read: "Conversion to multifamily, commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings"; and
3. Modify the fourth sentence to read: "Agricultural, storm water management, and supporting public recreational and community facilities may be allowed (e.g., schools and places of worship)."

What is the existing language recommended by the City Planning Commission?

Range of Uses: Single- and two-family residences, townhomes and small multifamily structures. Neighborhood-serving businesses including those promoting New Orleans’ culture of food, music, and entertainment, ~~and~~ traditional corner stores, mixed use developments may be allowed at sites where current or former commercial use is verified. Conversion to multi-

family and commercial uses may be allowed for certain existing historical institutional or other non-residential buildings. Agricultural, stormwater management, and Supporting public recreational and community facilities allowed (e.g., schools, cultural facilities, and places of worship).

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

1. The concerns related to the originally-recommended language “businesses promoting New Orleans’ culture of food, music, and entertainment” are outlined in the motion. The concerns are that the text is too vague, may allow uses inappropriate and inconsistent with the historic residential character, and may be allowed without a public review process. The Council motion proposes the deletion of the text, but if it is to be retained offers additional text to address those concerns. Number 1 also proposes specifying that neighborhood-serving businesses must be in an existing structure with a history of commercial use.

The CPC staff notes that neighborhood-serving businesses are already allowed in the range of uses, and recognizes that cultural businesses can certainly be neighborhood-serving. Specific uses and processes are more appropriately provided in the Comprehensive Zoning Ordinance. The zoning district regulations would need to be amended to add any new uses not already allowed. Processes already exist for how commercial uses may be re-established in residential areas where they have formerly existed; these include a zoning change, conditional use, the establishment of a Residential Diversity Overlay District, and/or the establishment of an Arts & Cultural Overlay District. Given the concerns and the staff’s belief that appropriate cultural businesses may already be considered neighborhood-serving businesses, the staff agrees that the text should be deleted.

City Planning staff has long interpreted the original text as requiring that the historic structure should still exist. However, both the City Planning Commission and the City Council have at times granted zoning changes based on the site’s use when the structure that was used commercially no longer exists. The text for reconsideration would make clear that the historic commercial structure must still exist for the site to be re-established as commercial.

Since the Council’s proposed modification would add clarity and is consistent with the way the staff has interpreted the Master Plan for years, the staff recommends approval. It is important that the City Planning Commission and City Council understand they will have less flexibility in these situations in order to promote the intent of the Master Plan.

2. The concern raised relative to #2 is that by only specifying commercial and multi-family uses as acceptable for adaptive reuse of historic non-residential structures in residential

areas, that mixed use would not be allowed. While the staff would interpret mixed use as allowed when both commercial and multi-family are mentioned, the staff agrees the additional clarity could be helpful. However, the staff recommends the addition of the words “neighborhood-serving” to describe the allowed commercial uses in an adaptive reuse, since this is a residential FLUM category.

3. The concerns related to #3 are presumably some of the same concerns as #1. In this case, the CPC staff notes that cultural facilities are defined by the Comprehensive Zoning Ordinance (CZO) and already allowed in residential districts. The CZO defines a cultural facility as “a use that is open to the public and provides cultural services and facilities including, but not limited to, libraries, museums, aquariums, zoos, botanical gardens, and historical societies.”

Staff Recommendations: 1. Approval; 2. Modified Approval; 3. Denial

RESIDENTIAL HISTORIC CORE

Range of Uses: Single- and two-family residences, townhomes and small multifamily structures, Neighborhood-serving businesses, traditional corner stores, mixed use developments may be allowed in existing structures where current or former commercial use is verified. Conversion to multifamily, neighborhood-serving commercial or mixed use may be allowed for certain existing historical institutional or other non-residential buildings. Agricultural, stormwater management, and supporting recreational and community facilities allowed (e.g., schools, cultural facilities, and places of worship).

Reconsideration: Chapter 13, item o.

What was the text amendment that is proposed for modification?

Consider modifying the recommendations regarding the Future Land Use Category “**Neighborhood Commercial**” on page 16, to modify the “Range of Uses” therein as follows:

1. Modify the sentence “Conversion to multifamily may be allowed for certain existing historical institutional, commercial or other non-residential buildings.” to read: “Conversion to multifamily, commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.”

What is the existing language recommended by the City Planning Commission?

Range of Uses: Retail and professional service establishments serving local neighborhood area residents. Single and two-family dwellings are allowed. Agricultural, stormwater management, and supporting public recreational and community facilities are allowed. Transit and transportation facilities are allowed. Common uses include small groceries, restaurants, barber shops/salons, clothing boutiques, banks, pharmacies, and small health professional offices. Conversion to multifamily may be allowed for certain existing historical institutional, commercial or other non-residential buildings ~~uses~~.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

1. As discussed in other FLUM categories, the concern is that by only stating adaptive reuse to multifamily residential is allowed, commercial or mixed use would not be allowed. City Planning staff believes it is obvious that neighborhood commercial uses would be allowed because that is stated in the first sentence. The staff also believes that since both multifamily and neighborhood commercial are mentioned in the range of uses, mixed use is also allowed. However, the staff agrees the additional clarity could be helpful and supports the change.

Staff Recommendation: Approval

NEIGHBORHOOD COMMERCIAL

Range of Uses: Retail and professional service establishments serving local neighborhood area residents. Single and two-family dwellings are allowed. Agricultural, stormwater management, and supporting public recreational and community facilities are allowed. Common uses include small groceries, restaurants, barber shops/salons, clothing boutiques, banks, pharmacies, and

small health professional offices. Conversion to multifamily, **commercial, or mixed** use may be allowed for certain existing historical institutional or other non-residential buildings.

Reconsideration: Chapter 13, item p.

What was the text amendment that is proposed for modification?

Consider modifying the recommendations regarding the Future Land Use Category “**General Commercial**” on page 16, to modify the “Goal” and “Range of Uses” therein as follows:

1. Modify the amendment recommended by the City Planning Commission within the portion labelled “Goal” to move the second and third sentences into the portion labelled “Range of Uses” to be consistent with the placement of those sentences within the other Future Land Use Categories.

What is the existing language recommended by the City Planning Commission?

Goal: Increase the availability of retail services and amenities (and increase retail tax base) within the City of New Orleans, especially in areas that are currently underserved by retail, with existing and new medium- and large-scale commercial establishments and shopping centers. Agricultural, stormwater management, and supporting public recreational and community facilities are allowed. Transit and transportation facilities are allowed.

Range of Uses: Larger commercial structures including shopping and entertainment centers typically anchored by large supermarkets, department stores or big-box style establishments with supportive ~~chain~~-retail, services, offices, and surface or structured parking, and limited dwellings above the ground floor.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

This concern is editorial in nature and the proposed change is warranted. The staff supports the modification.

Staff Recommendation: Approval

GENERAL COMMERCIAL

Goal: Increase the availability of retail services and amenities (and increase retail tax base) within the City of New Orleans, especially in areas that are currently underserved by retail, with existing and new medium- and large-scale commercial establishments and shopping centers. ~~Agricultural, stormwater management, and supporting public recreational and community facilities are allowed. Transit and transportation facilities are allowed.~~

Range of Uses: Larger commercial structures including shopping and entertainment centers typically anchored by large supermarkets, department stores or big-box style establishments

with supportive retail, services, offices, surface or structured parking, and limited dwellings above the ground floor. **Agricultural, stormwater management, and supporting public recreational and community facilities are allowed. Transit and transportation facilities are allowed.**

Reconsideration: Chapter 13 (Former 14), Item q. (Text 14-10)

What was the text amendment that is proposed for modification?

Consider modifying the recommendation on page 37, within the “Promote sustainability” heading, the first bullet point beginning with “Work with nature to enhance resilience”, to retain the deletion of “levees into the landscape”, so the sentence should read: “, managing stormwater to slow subsidence, integrating levees into the landscape, including both gray and green infrastructure strategies, and other ways of working with nature to protect the city from rising seas and more frequent storms.”

What is the existing language recommended by the City Planning Commission?

Promote sustainability:

- Work with nature to enhance resilience. No U.S. city is as conscious of the need to adapt to a changing environment as New Orleans. It can lead all American cities in exploring approaches to wetlands ~~reclamation~~ **restoration**, elevating and hardening buildings, managing storm water to slow subsidence, integrating ~~levees into the landscape~~ **gray and green infrastructure across the landscape**, and other ways of working with nature to protect the city from rising seas and more frequent storms.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

No issues were raised relative to the potential impacts of the CPC’s original recommendation. The City Council motion proposed that the phrase “levees into the landscape” not be deleted as the City Planning Commission recommended. This request was originally recommended with a number of amendments proposed by Greater New Orleans Water Collaborative. The recommended language was intended to broaden the original language and establish that both gray and green infrastructure should be used in order to manage stormwater. The City Council motion does not specifically state why the phrase should be kept, but the staff presumes that “levees into the landscape” could enhance this section by generally listing one recommendation of the Greater New Orleans Urban Water Plan. This plan recommends that certain levees and canals serve dual purposes: as parks and neighborhood amenities when dry, and as stormwater management features when wet. The staff support retaining this phrase and believes that it will enhance the “Promote Sustainability” section and provide a key link to the Water Plan.

The staff agrees with incorporating the content of the City Council’s request and proposes to modify the originally recommended language as new text is shown in **bold underlined** font and deleted text in ~~striketrough~~.

Staff Recommendation: Approval

Promote Sustainability:

- Work with nature to enhance resilience. No U.S. city is as conscious of the need to adapt to a changing environment as New Orleans. It can lead all American cities in exploring approaches to wetlands ~~reclamation~~ **restoration**, elevating and hardening buildings, managing storm water to slow subsidence, integrating levees into the landscape, **including both gray and green infrastructure strategies** ~~across the landscape~~, and other ways of working with nature to protect the city from rising seas and more frequent storms.

Reasons for Recommendation:

1. The proposed reconsideration would retain the CPC recommended language and would add previously deleted language specific to integrating levees into the landscape.
2. The additional language will enhance the “Promoting Sustainability” section of Chapter 13.

Reconsideration: Chapter 13, Item r.

What was the text amendment that is proposed for modification?

Consider modifying denial of request number Text 14-12 of the City Planning Commission's Staff Report to modify denial as requested by applicant. The original request was to "allow urban mixed use development within the Industrial FLUM category."

What is the existing language recommended by the City Planning Commission?

INDUSTRIAL

Goal: Retain land to further strengthen port activity, maritime-related activities, manufacturing and other uses that provide jobs and opportunities for New Orleans' residents.

Range of Uses: Heavy manufacturing, maritime uses, water treatment and transfer, ~~and~~ large warehousing/distribution facilities, stormwater management, and limited commercial uses are allowed. Transit and transportation facilities are allowed.

Development Character: Often located near rail and highway infrastructure, massing and bulk will vary depending on location, however, proper buffers/standards required, particularly when abutting residential neighborhoods. Incorporate risk reduction and adaptation strategies in the built environment.

Have any issues been raised relative to the potential impacts of the CPC's original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

The motion does not identify any new concerns. Therefore, the CPC staff again considered the applicant's original text that proposed allowing "vacant or underutilized, industrial property that is adjacent to open space and recreation future land use categories, residential future land use categories, or mixed use future land use categories to be developed into mixed use and/or residential use. Include 'urban, mixed-use activities' in the Range of Uses."

The original staff analysis, which was accepted by the City Planning Commission, is still relevant:

Industrial uses are separated from residential uses to protect each from the impacts of the other. Noise, vibration, dust, and truck traffic conflict with residential quality of life. Complaints from nearby residents about such impacts can also cause difficulties for industrial operations. Some areas designated as Industrial may indeed become appropriate for mixed or residential use in the future. The appropriate way to handle the need for such a change is through Master Plan Future Land Use Map amendment and then a zoning change. The applicant has essentially specified conditions under which the zoning for industrial property could be changed to a zoning district that is not currently consistent

with the Master Plan. This circumvents the City Charter's force of law framework by allowing land use changes without Future Land Use Map changes. This end use may be acceptable if as specified, the site is adjacent to open space, residential, or mixed use categories. However, residential uses should not be allowed in Industrial Districts to avoid the conflicts described earlier. Like with all other permanent changes to the "place types" envisioned by the Mater Plan, the mechanism to achieve this conversion of land use is through a Master Plan Future Land Use Map amendment.

Staff Recommendation: Maintain the CPC's original recommendation of Denial

Reasons for Recommendation:

1. Industrial uses should be separated from residential uses to protect each from the impacts of the other.
2. The proper mechanism to achieve the described conversion of land use is through a Master Plan Future Land Use Map amendment.

Reconsideration: Chapter 13, item s. (original amendment number Text 14-13)

What was the text amendment that is proposed for modification?

Consider modifying denial of request number Text 14-13 of the City Planning Commission’s Staff Report to modify denial as requested by the applicant. The applicant’s proposal was: “Under the first strategy of Goal 1 “Promote walkable, mixed-use environments and transit-oriented development,” add new text: “Allow vacant or underutilized, industrial property that is adjacent to open space and recreation future land use categories, residential future land use categories, or mixed-use future land use categories to be developed into mixed-use and/or residential uses.” Under the second bullet point “Design mixed-use neighborhood centers on large sites, such as underutilized or vacant retail or industrial sites by...” add new text: “Allowing vacant or underutilized, industrial property that is adjacent to open space and recreation future land use categories, residential future land use categories, or mixed-use future land use categories to be developed into mixed-use and/or residential uses.”

What is the existing language recommended by the City Planning Commission?

The proposal is entirely new text for addition to the strategy below. There is no existing language that would be replaced by the proposed text.

GOAL	STRATEGY	ACTIONS
1. Promote smart growth land use patterns in New Orleans and the region.	1.B. Promote walkable, mixed-use environments and transit-oriented development.	<ol style="list-style-type: none"> 1. Create land use categories that allow for a mixture of uses, including residential, retail, and office uses. (See Mixed-Use land use category descriptions and the Future Land Use map.) 2. Create zoning districts for mixed-use development of various scales from lower- to higher-density development. 3. Preserve successful existing mixed-use commercial areas. 4. Convert suburban-style commercial strips and malls into walkable mixed-use centers. 5. Locate mixed-use neighborhood centers with higher-density housing, retail, and other uses on neighborhood edges to draw customers within walking and biking distance of residences. 6. Locate higher-density uses at existing and proposed transit stations and hubs for critical mass; locate new transit service to serve higher-density areas. 7. Design mixed-use neighborhood centers on large sites, such as underutilized or vacant retail or industrial parcels. 8. Integrate large mixed-use sites into the surrounding street grid. 9. Establish transitions in scale and density from surrounding areas. 10. Provide areas with clusters of ground-floor retail and service uses with residential uses above in mixed-use centers. 11. For large mixed-use sites, create development-specific design guidelines that address building appearance, streetscape, signage and utilities, parking design, landscape, sustainability, and materials. 12. Provide usable and well-designed open space in mixed-use areas. 13. Take advantage of opportunities for high density uses in developing vacant land on higher ground, and in areas where building can be flood resistant. 14. Ensure that zoning districts provide an appropriate amount of land area and locations to accommodate housing of different types and affordability levels.

Have any issues been raised relative to the potential impacts of the CPC’s original recommendation? Does the Council motion include a text modification or were any issues raised that may change or modify the analysis and recommendation? If not, would any further modification be warranted to address the issues?

The motion does not identify any new concerns. Therefore, the CPC staff again considered the applicant’s original proposed text as described above. This proposed amendment is a companion to the other reconsideration listed in the Motion as “Chapter 13, item r. (original amendment Text 14-12) and provides further descriptions of the envisioned scenarios. Both of these proposed amendments should be treated the same. The staff maintains its original position, supported by the City Planning Commission, that it is inappropriate to allow new residential uses within the Industrial FLUM category.

Staff Recommendation: Maintain the CPC’s original recommendation of Denial

Reasons for Recommendation:

1. Industrial uses should be separated from residential uses to protect each from the impacts of the other.
2. The proper mechanism to achieve the described conversion of land use is through a Master Plan Future Land Use Map amendment.

City Planning Commission Public Hearing (October 10, 2017):

The Planning Administrator and Assistant Planning Administrator each summarized sections of the Chapter 13 Land Use Plan amendments for reconsideration and the staff recommendations.

Two speakers supported the Council motion’s reconsideration of items r. and s. concerning the allowance of residential and mixed use under certain circumstances in the Industrial Future Land Use category.

One speaker supported the staff’s recommendations for a number a Future Land Use categories and expressed concern about an original proposal regarding culture-serving businesses in the Residential Historic Core category.

Commissioner Wedberg made a motion to accept the staff recommendations for Chapter 13, all items. The motion was seconded by Commissioner Stewart and unanimously adopted.

Motion:

BE IT MOVED BY THE CITY PLANNING COMMISSION THAT CHAPTER 13 AMENDMENT ITEMS A., G., H., I., J., K., L., M., AND N.2. ARE RECOMMENDED FOR MODIFIED APPROVAL, ITEMS E., N.1, O., P., AND Q. ARE RECOMMENDED FOR APPROVAL, AND ITEMS B., F., N.3., R., AND S. ARE RECOMMENDED TO RETAIN THE ORIGINAL CPC RECOMMENDED TEXT. BE IT FURTHER MOVED THE THAT

EXECUTIVE DIRECTOR IS AUTHORIZED TO NOTIFY THE CITY COUNCIL OF SAID ACTIONS.

Administration of the Land Use Plan

7. Administrators

The Executive Director of the City Planning Commission, or the Director's designee, shall have the following authority, pursuant to this Master Plan:

C. To make final decisions on minor map adjustments to the Future Land Use Map.

D. To make final decisions on interpretations of the Future Land Use Map

The City Planning Commission shall have the following authority, pursuant to this Master Plan:

C. To make final decisions on appeals of minor map adjustments to the Future Land Use Map by the Executive Director of the City Planning Commission.

D. To make final decisions on appeals of interpretations of the Future Land Use map by the Executive Director of the City Planning Commission.

Appeals of the City Planning Commission's review of the Executive Director's decision on appeals of minor map adjustments to the Future Land Use Map and interpretations of the Future Land Use Map shall be under the jurisdiction of the Orleans Parish Civil District Court.

The City Council shall have the following authority pursuant to the City Charter:

B. To make final decisions on amendments to the Master Plan

1. Interpretation of Land Use Plan Language

As discussed above, the City Charter mandates that land use actions have the "force of law" – that they further, or at least not interfere with, the goals, policies, and guidelines of the Land Use Element, and that they be compatible with the proposed future land uses, densities, and intensities designated in the Land Use Element. Accordingly, the language of the Land Use Plan shall be interpreted in accordance with the "Interpretation of Laws" elements of the Louisiana Civil Code:

- When a law is clear and unambiguous and its application does not lead to absurd consequences, the law shall be applied as written and no further interpretation may be made in search of the intent of the Legislature. La. Civ. Code Art. 9.
- When the language of a law is susceptible of different meanings, it must be interpreted as having the meaning that best conforms to the purpose of the law. La. Civ. Code Art. 10.
- The words of a law must be given their generally prevailing meaning. Words of art and technical terms must be given their technical meaning when the law involves a technical matter. La. Civ. Code Art. 11.

- When the words of a law are ambiguous, their meaning must be sought by examining the context in which they occur and the text of the law as a whole. La. Civ. Code Art. 12.
- Laws on the same subject matter must be interpreted in reference to each other. La. Civ. Code Art. 13.

2. “Force of Law” Consistency Determinations

Louisiana Civil Code Article 13 – providing that laws on the same subject matter must be interpreted in reference to each other – is especially important with respect to consistency determinations. It may be tempting to pull out isolated passages from the Land Use Element in arguing that a particular proposal is consistent with the Master Plan. However, Article 13 makes clear that in order to be deemed consistent, a proposal must be evaluated against all of the relevant language of the Land Use Element. For example, relying on broad, non-specific language describing a land use goal cannot be sufficient to establish consistency if the proposal is not compatible with the specific language describing the Future Land Use Category that applies to the site.

In this respect, the Future Land Use Category descriptions – found in Section C of this Chapter – are probably the most important language in the Land Use Element for consistency determinations because they speak directly to the specific places in which projects will be proposed. Unlike the other provisions of the Land Use Element, the Future Land Use Category descriptions establish specific land use goals for each part of the city, delineate the specific uses permitted in these areas, and define the desired development character for each category. In short, the Future Land Use Category descriptions essentially define what consistency means for each category. As a general rule of thumb, if a proposal is not compatible with the Future Land Use Category description for a specific location, the proposal is not consistent with the Master Plan.

GOAL	STRATEGY	ACTIONS
2. Promote development that can strengthen the city's tax and job base while serving citizen needs and preserving city character.	2.D. Make downtown a vibrant 24-hour neighborhood and commercial/entertainment district.	<u>11. Create a modern wayfinding systems that enhances the ability of visitors to find their way around downtown and is designed in a way that can be easily expanded throughout the city.</u>

RESIDENTIAL SINGLE FAMILY PRE WAR

Range of Uses: Single-family dwellings, agricultural, stormwater management, and supporting public recreational and community facilities allowed (e.g. schools and places of worship).

Neighborhood-serving businesses and traditional corner stores may be allowed in existing structures where current or former commercial use is verified. Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential structures.

RESIDENTIAL SINGLE FAMILY POST WAR

Range of Uses: Single-family dwellings, agricultural, stormwater management and supporting public recreational and community facilities allowed (e.g. schools and places of worship).

Neighborhood-serving businesses and traditional corner stores may be allowed in existing structures where current or former commercial use is verified. Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.

RESIDENTIAL LOW DENSITY PRE WAR

Range of Uses: New development generally limited to single, two-family, ~~or~~ **and new or existing** multi-family dwellings that are compatible with the scale and character of the surrounding residential neighborhood, especially when located in proximity to major transportation corridors. ~~The preservation of existing multifamily buildings is also allowed.~~ Businesses, traditional corner stores, **and mixed use** may be allowed **in existing structures** where current or former commercial use is verified. Agricultural, stormwater management, and supporting public recreational and community facilities (e.g., schools and places of worship) also allowed. Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional, ~~commercial~~ or other non-residential buildings.

RESIDENTIAL LOW DENSITY POST WAR

Range of Uses: New development includes single-family, two-family, town home, and multi-family dwellings that are compatible with the scale and character of the surrounding residential neighborhood especially when located in proximity to major transportation corridors. Commercial development may be allowed in existing buildings where it currently exists or formerly existed. Agricultural, stormwater management, and supporting public and community facilities (e.g., schools and places of worship) are also allowed. New two-family and town home developments may be allowed in planned communities. Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.

RESIDENTIAL MEDIUM DENSITY PRE WAR

Range of Uses: Single and two-family residences, townhomes, and multifamily dwellings that are compatible with the scale and character of the surrounding residential neighborhoods, especially when located in proximity to major transportation corridors. Businesses, traditional corner stores, and mixed use development may be allowed in existing structures where current or former commercial use is verified. Agricultural, stormwater management, and supporting public recreational and community facilities allowed (e.g., schools and places of worship). Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.

RESIDENTIAL MULTIFAMILY PRE WAR

Range of Uses: Multifamily residential structures allowed. Limited neighborhood-serving commercial uses on the ground floor allowed. Agricultural, stormwater management, and supporting public recreational and community facilities allowed (e.g., schools and places of worship). Conversion to multifamily, neighborhood-serving commercial, or mixed use may be allowed for certain existing historical institutional or other non-residential buildings.

RESIDENTIAL MULTIFAMILY POST WAR

Range of Uses: Mixed single- and two-family units, and multifamily residential structures allowed. Limited neighborhood-serving commercial uses on the ground floor allowed. Agricultural, stormwater management, and supporting recreational and community facilities allowed (e.g., schools and places of worship). Conversion to **multifamily, neighborhood-serving** commercial, **or mixed** use may be allowed for certain existing historical institutional or other non-residential buildings.

RESIDENTIAL HISTORIC CORE

Range of Uses: Single- and two-family residences, townhomes and small multifamily structures, Neighborhood-serving businesses, traditional corner stores, mixed use developments may be allowed **in existing structures** where current or former commercial use is verified. Conversion to multifamily, **neighborhood-serving** commercial **or mixed use** may be allowed for certain existing historical institutional or other non-residential buildings. Agricultural, stormwater management, and supporting recreational and community facilities allowed (e.g., schools, **cultural facilities**, and places of worship).

NEIGHBORHOOD COMMERCIAL

Range of Uses: Retail and professional service establishments serving local neighborhood area residents. Single and two-family dwellings are allowed. Agricultural, stormwater management, and supporting public recreational and community facilities are allowed. Common uses include small groceries, restaurants, barber shops/salons, clothing boutiques, banks, pharmacies, and small health professional offices. Conversion to multifamily, **commercial, or mixed** use may be allowed for certain existing historical institutional or other non-residential buildings.

GENERAL COMMERCIAL

Goal: Increase the availability of retail services and amenities (and increase retail tax base) within the City of New Orleans, especially in areas that are currently underserved by retail, with existing and new medium- and large-scale commercial establishments and shopping centers: ~~Agricultural, stormwater management, and supporting public recreational and community facilities are allowed. Transit and transportation facilities are allowed.~~

Range of Uses: Larger commercial structures including shopping and entertainment centers typically anchored by large supermarkets, department stores or big-box style establishments with supportive retail, services, offices, surface or structured parking, and limited dwellings above the ground floor. **Agricultural, stormwater management, and supporting public recreational and community facilities are allowed. Transit and transportation facilities are allowed.**

Promote Sustainability:

- Work with nature to enhance resilience. No U.S. city is as conscious of the need to adapt to a changing environment as New Orleans. It can lead all American cities in exploring approaches to wetlands ~~reclamation~~ **restoration**, elevating and hardening buildings, managing storm water to slow subsidence, integrating levees into the landscape, **including both gray and green infrastructure strategies** ~~across the landscape~~, and other ways of working with nature to protect the city from rising seas and more frequent storms.

YEAS: DUPLESSIS, GREEN, HUGHES, STEWART, WEDBERG

NAYS: NONE

ABSENT: BROWN, ISAACSON, MITCHELL, STEEG