



Barrington (East & West)

Bel'Air East

Donna Villa

Eastover

Edgelake

Fauberg HOIA

Huntington Park

Kingswood

Kenilworth

Lake Barrington

Lake Bullard

Lake Carmel

Lake Forest Estates

Lake Willow HA

Maple Ridge

McKendall Estates

Melia

North Kenilworth HOA

Pressburg East HOA

Rosedale HOA

Sherwood Forest

Spring Lake NA

Village de l'Est

Villa-Sites/South Shores NA

Warwick East

Warwick West

Willowbrook NA

Wimbledon

October 4, 2024

Honorable Oliver M. Thomas, District E Representative
New Orleans City Council
City Hall, Room 2W60
1300 Perdido Street
New Orleans, Louisiana 70112

Honorable Eugene Green, District D Representative
New Orleans City Council
City Hall, Room 2W20
1300 Perdido Street
New Orleans, Louisiana 70112

Mr. Robert D. Rivers, Executive Director
New Orleans City Planning Commission
1300 Perdido Street, 7th Floor
New Orleans, LA 70112

RE: New Orleans City Council (Council) motions M-24-204 and M-24-392. CPC Zoning Docket 056/24

Dear Councilmembers Thomas and Green, and Mr. Rivers:

We are writing to bring to your attention certain fatal flaws in the process used to pass New Orleans City Council (Council) motions M-24-204 and M-24-392, as well as the New Orleans City Planning Commission's (CPC) consideration and disposition of Zoning Docket 056/24 outlined in the attached ENONAC Resolution No. 24-4. Because mandatory procedural elements, discussed in more detail below, do not appear to have been followed in consideration of the substantive proposals presented, the law mandates that the processes associated with consideration of the substantive proposal presented in motions M-24-204 and M-24-392, and Zoning Docket 056/24 be restarted in full compliance with all procedural requirements of state and local laws which assure transparency, fairness and confidence that the outcome has been reached in full consideration of the desires and concerns of the affected community.

These procedural flaws include a failure to provide formal notice to the East New Orleans Neighborhood Advisory Commission (ENONAC) as required by state law; impermissible vagueness in the geographic boundaries provided in notices to the public, such boundaries also impermissibly being changed during various stages the process without adequate public notice, remaining impermissibly vague and uncertain even in its current iteration; and that provisions of the City of New Orleans Comprehensive Zoning Code (CZO), which provide for both transparency in the application process and the opportunity of the community to engage with the applicant early in the process, were not satisfied. We discuss each procedural flaw in turn below.

These procedural flaws include a failure to provide formal notice to the East New Orleans Neighborhood Advisory Commission (ENONAC) as required by state law; impermissible vagueness in the geographic boundaries provided in notices to the public, such boundaries also impermissibly being changed during various stages the process without adequate public notice, remaining impermissibly vague and uncertain even in its current iteration; and that provisions of the City of New Orleans Comprehensive Zoning Code (CZO), which provide for both transparency in the application process and the opportunity of the community to engage with the applicant early in the process, were not satisfied. We discuss each procedural flaw in turn below.

First, La. Rev. Stat. 33:§9100.11 requires notice to ENONAC fifteen to thirty days in advance of hearings and decision-making on zoning matters, respectively. This requirement applies to both the Council and the CPC. These notices assure that the broad and numerous neighborhoods represented by ENONAC have a fair opportunity to voice their concerns in an orderly and transparent manner. The aforementioned statute also prescribes the manner in which such notice must be delivered to ENONAC. No such notice was provided to ENONAC prior to Council consideration of either of the aforementioned Council motions M-24-204 and M-24-392 respectively, nor was notice provided prior to CPC consideration of Zoning Docket 056/24. The failure to provide this required notice is likely fatal to the validity of the process and any results therefrom.

Second, the boundaries of the proposed action have always been vague. The initial advertisement described the area subject to the proposed CZO text amendment as being “an area between Interstate 510 and Downman Road.” This area would include a swath of land from Hayne Boulevard to the Mississippi River Gulf Outlet. Later, in the zoning docket, the area is described as “**a portion of New Orleans East** along Interstate 10, between Paris Road/(I-510) and Downman Road.” (Emphasis added). Instead of clarifying the boundaries of the proposed zoning change, CPC Zoning Docket 056/24 increases the uncertainty, where “a portion ... along the interstate” could range from a “spot zone” to an area still inclusive of the description in the initial advertisement. The notice provided regarding actions by the CPC and Council in this regard are impermissibly vague and fail to provide adequate notice to potentially affected communities.

Third, it is unclear whether this zoning application was in proper form with regard to the applicable fees required by the City Planning Commission for processing the application. CZO §4.2.D.1(b) provides that “[i]f it is the City Council’s intent to waive the fee, the **waiver and the fee amount shall be stated in the motion** initiating the request.” (Emphasis added). Apparently, the intent of this law was to provide transparency in situations where a constituent requested that his councilmember apply for a zoning change by motion to avoid the application fees for the same. This requirement put into the CZO by the City Council provides transparency regarding the extent to which fees are being waived, for whom they are being waived, and why. This provision helps clarify the posture of the City Council vis-à-vis the different or competing interest surrounding the consideration of the matter before them. Neither council motion satisfies this requirement in violation the CZO.

Fourth, CZO §4.2.D.1(b) makes clear that the Neighborhood Participation Program (NPP) is still required unless there is good cause shown to the contrary. By providing that “[i]f it is the intent of the City Council to waive the NPP requirement, that should be stated in the motion initiating the request,” the provision requires that “good cause,” or “the intent of the City Council” for not requiring the NPP

process, be stated in the body of the motion. The absence of the stated “good cause” for and the “intent” of the Council to exempt the substantive matter presented in Council motions M-24-204 and M-24-392 do not appear to comply with the letter and spirit of CZO §4.2.D.1(b).

Lastly, in Motion M-24-204, the Council provided that:

In the course of review, the City Planning Commission should study regulations in similarly situated municipalities, including but not limited to nearby parishes in Southeast Louisiana, as well as applicable State regulations, to guide potential amendments.

The CPC staff did not provide any information relative to this mandate in their report or during the public CPC hearing of Zoning Docket 056/24, the very important purpose of which was “to guide potential amendments.” Therefore, any resulting decisions by the CPC and the Council would be made without any of the information the Council deemed necessary to guide its decision.

Given these numerous flaws and infirmities in the process, law and equity require that this process start over in full compliance with all procedural requirements provided by law so that a fair, transparent, and lawful result can be obtained. This is a reasonable expectation of elected and appointed leaders entrusted to be responsive to the communities they serve. We hope that further action is not necessary to ensure faithful adherence to these ministerial duties. Thank you for your consideration.

Sincerely,



Dawn Hebert

President

East New Orleans Neighborhood Advisory Commission

cc: Donesia D. Turner, City Attorney
Members of the New Orleans City Council
Members of the New Orleans City Planning Commission
State Senator James “Jimmy” Harris
State Senator Joseph Bouie
State Representative Candace Newell
State Representative Jason Hughes

RESOLUTION
ENONAC NO. R-24-4

ENONAC: October 3, 2024

BY: Commissioner Busby

SECONDED BY: Commissioner Jefferson

WHEREAS, Act 394 of the Louisiana State Legislature (R.S. 33:9100) was adopted during the Regular Session of 2009 for the purpose of creating the East New Orleans Neighborhood Advisory Commission (“ENONAC”), The boundaries of these are the Industrial Canal to the west, the Intracoastal Canal to the south, the St. Tammany Parish Line to the east, and Lake Pontchartrain to the north.

WHEREAS, ENONAC was created to advise the New Orleans City Council, the Mayor and all agencies under the purview of the aforementioned offices, and all independent agencies, boards and commissions of the government of the City of New Orleans and State of Louisiana with respect to all proposed matters, including but not limited to decisions regarding neighborhood planning, housing density, economic development, traffic, parking, recreation, street improvements, liquor licensing, zoning, police protection, sanitation and trash collection, social service programs, education, health, safety and budgetary issues that affect the area within ENONAC’s district.

WHEREAS, in accordance with the bylaws of the Commission, ENONAC may in addition to presenting its views, propose legislation that promotes the general welfare of the overall development of the area within its district and,

WHEREAS, East New Orleans Neighborhood Advisory Commission’s mission is to provide meticulous oversight for the development of our community, especially as it relates to promoting good business and good business relationships and,

WHEREAS, In May 2024 City Council Motion M-24-204 was moved by Councilman Oliver Thomas directing the City Planning Commission to Consider City Council Motion No. M-24-204 asks the City Planning Commission to consider an exemption of billboard standards under Article 24, Section 24.14. B.2b to allow the development of new billboards in New Orleans East between I-510 and **Downman Road**. The text amendment has been requested as certain portions of the proposed boundary area falls within the CT Corridor Transformation Design Overlay District, where new billboards would not be allowed, creating ZD-56/24.

WHEREAS, September 2024, City Council Motion M-24-392 was moved by Councilman Oliver Thomas to draft an ordinance to overturn the City Planning Commission's Recommendation of denial and allow for the installation and erecting of Billboard Signs for Outdoor Advertisement New Orleans East along the I10 Corridor between I-510 and Downman Road.

WHEREAS, Fatal flaws were discovered in the process used to pass New Orleans City Council (Council) motions M-24-204 and M-24-392 and the New Orleans City Planning Commission's (CPC) consideration and disposition of Zoning Docket 056/24.

WHEREAS, On September 30, the Executive Board members of ENOANC were polled and unanimously voted to hold a Special Meeting on Thursday, October 3, 2024, to consider a resolution to address the discovered flaws in the process, following the vetting process with ENONAC's Housing, Land Use, and Zoning Committee (HLUZ).

WHEREAS, On October 1, 2024, ENONAC's HLuz met, discussed, and unanimously voted to bring to the attention of the City Council and the City Planning Commission the uncompliant process used to pass the motions and CPC's Zoning Docket 056/24.

WHEREAS, the Board of Commissioners of the ENONAC met on September 10, 2024, and adopted Resolution No. R-24-3,

THEREFORE, BE IT RESOLVED BY THE EAST NEW ORLEANS NEIGHBORHOOD ADVISORY COMMISSION OF THE CITY OF NEW ORLEANS, that:

SECTION I. La. Rev. Stat. 33:§9100.11 requires notice to ENONAC fifteen to thirty days in advance of hearings and decision-making on zoning matters, respectively. This requirement applies to both the Council and the CPC. These notices assure that the broad and numerous neighborhoods represented by ENONAC have a fair opportunity to voice their concerns in an orderly and transparent manner. The aforementioned statute also prescribes the manner in which such notice must be delivered to ENONAC. No such notice was provided to ENONAC prior to Council consideration of either of the aforementioned Council motions M-24-204 and M-24-392 respectively, nor was notice provided prior to CPC consideration of Zoning Docket 056/24. The failure to provide this required notice is likely fatal to the validity of the process and any results therefrom.

SECTION II. The boundaries of the proposed action have always been vague. The initial advertisement described the area subject to the proposed CZO text amendment as being “an area between Interstate 510 and Downman Road.” This area would include a swath of land from Hayne Boulevard to the Mississippi River Gulf Outlet. Later, in the zoning docket, the area is described as “a portion of New Orleans East along Interstate 10, between Paris Road/(I-510) and Downman Road.” CPC Zoning Docket 056/24, instead of clarifying the boundaries of the proposed zoning change, increases the uncertainty, where “a portion ... along the interstate” could range from a “spot zone” to an area still inclusive of the description in the initial advertisement. The notice provided regarding actions by the CPC and Council in this regard is impermissibly vague and fails to provide adequate notice to potentially affected communities.

SECTION III. It is unclear whether this zoning application was in proper form with regard to the applicable fees required by the City Planning Commission for processing the application. CZO §4.2.D.1(b) provides that “[i]f it is the City Council’s intent to waive the fee, the waiver and the fee amount shall be stated in the motion initiating the request.” (Emphasis added). Apparently, the intent of this law was to provide transparency in situations where a constituent requested that his councilmember apply for a zoning change by motion to avoid the application fees for the same. This requirement put into the CZO by the City Council provides transparency regarding the extent to which fees are being waived, for whom they are being waived, and why. This provision helps clarify the posture of the City Council vis-à-vis the different or competing interests surrounding the consideration of the matter before them. The council motion does not satisfy this requirement in violation of the CZO.

SECTION IV. CZO §4.2.D.1(b) makes clear that the Neighborhood Participation Program (NPP) is still

required unless there is good cause shown to the contrary. By providing that “[i]f it is the intent of the City Council to waive the NPP requirement, that should be stated in the motion initiating the request,” the provision requires that “good cause” or “the intent of the City Council” for not requiring the NPP process, be stated in the body of the motion. The absence of the stated “good cause” for and the “intent” of the Council to exempt the substantive matter presented in Council motions M-24-204 and M-24-392 do not appear to comply with the letter and spirit of CZO §4.2.D.1(b).

SECTION V. In Motion M-24-204, the Council provided that:

- In the course of review, the City Planning Commission should study regulations in similarly situated municipalities, including but not limited to nearby parishes in Southeast Louisiana, as well as applicable State regulations, to guide potential amendments.
- The CPC staff did not provide any information relative to this mandate in their report or during the public CPC hearing of Zoning Docket 056/24, the very important purpose of which was “to guide potential amendments.” Therefore, any resulting decisions by the CPC and the Council would be made without any of the information the Council deemed necessary to guide its decision.

THEREFORE, The East New Orleans Neighborhood Advisory Commission (ENONAC) strongly urges the Council and CPC to cure the numerous fatal flaws and infirmities in the processes used by the Council to approve motions M-24-204 and M-24-392 and by the CPC to consider and dispose of Zoning Docket 056/24 in the only way feasible, restarting this process in full compliance with all procedural requirements provided and required by law and equity so that a fair, transparent, and lawful result can be obtained.

THE ROLL WAS CALLED ON THE ADOPTION THEREOF AND RESULTED AS FOLLOWS:

YEAS: Commissioners Leon, Weaver, Busby, Celestand, Thompson, Landrum, Barbara Woods, Denesse, Williams, Jefferson, Frank, Woods, DeGrasse, Joseph, McWilliams, Sanders, Jackson

NAYS: None

AND THE RESOLUTION WAS ADOPTED.