

NEW ORLEANS
JUNE 2018



CITY HALL

From Answers to Action

Post-Election Policy Making: Land Use Planning

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BACKGROUND

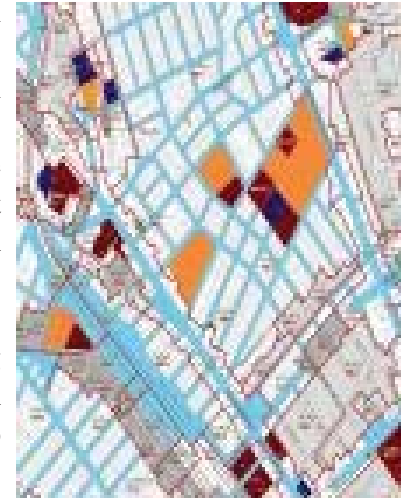
In 2008, voters approved a City charter amendment that, among other things, set forth the general contents of the City’s Master Plan and gave it the force of law.* The “force of law” basically means that certain laws and land use decisions must conform to the plan. However, it is not all-encompassing.

As BGR observed in a 2015 report, only actions that have a direct impact on the physical development of the city must be consistent with the Master Plan.** These include the City’s capital improvement plan, its capital budget, public projects, zoning laws, and land use actions, such as zoning map amendments, subdivisions or conditional uses. And land use actions must be consistent with only one element of the Master Plan: the land use element, which the Master Plan calls the Land Use Plan. Other elements of the Master Plan provide only a non-binding guide for City decision-makers on land use actions.

The Land Use Plan, by contrast, is not merely a guide. The City’s charter requires every land use action to “further, or at least not interfere with, the goals, policies and guidelines” in the Land Use Plan and to be “compatible with the proposed future land uses, densi-

ties and intensities” in the plan. This means that land use actions in general must be consistent with the Land Use Plan, or at the very least be neutral with regard to it.

Correctly interpreting and applying the Land Use Plan is critical to ensure clarity and predictability for public officials, developers and residents.



* For an analysis of the proposed charter amendment, see BGR, *On the Ballot: November 2008*, available at <http://www.bgr.org/reports/on-the-ballot-november-2008/>.

** BGR, *It’s the Law: Land Use Decision Making and the Master Plan*, October 28, 2015, available at <http://www.bgr.org/reports/its-the-law-land-use-decision-making-and-the-master-plan/>.

LAND USE PLANNING

BGR asked the council candidates how they would ensure their compliance with the force of law concept in regard to the Land Use Plan. BGR did not pose this question to the mayoral candidates because the mayor does not decide land use actions under the City’s Home Rule Charter.



As a council member, what would you do to ensure that you are complying with the force of law in the context of the Land Use Plan?

Councilmember At-Large Helena Moreno

Many decisions about land use will be led by the district councilmembers, but as Councilmember At-Large serving as president or vice-president of the Council, I intend to lead by example and ensure we respect the master plan and the force of law provisions to comply with the will of the neighborhoods and New Orleanians who participated in this long and fruitful planning process.

Councilmember At-Large Jason Williams

The charter is very clear about how the force of law applies to the master plan (although there was confusion). The Land Use Plan is the connection between the aspirations and vision for the city, and the CZO which is the technical/implementation.

The Master Plan (including LUP) is a living document, and will continue to evolve, continuously refined. The current ongoing amendment process is the first thorough review of changes since 2012, and demonstrates that a lot can change in a city in 5 years.

Amendments

Content included in the Land Use Plan must be carefully weighed – it must strike a balance between flexibility to accommodate some of the more unusual properties and situations, but rigid enough to be predictable, and prevent influential developers from steamrolling the voice of the people.

There are certain things we want for our city, but are aspirational (not prescriptive) and belong in the Master Plan but not the LUP. Likewise there are some parts that belong in the CZO but not the LUP. We are currently in the process of amending the Master Plan, and have given careful consideration to all proposed changes, and compatibility with the Land Use Plan.

Councilmember Joseph “Joe” Giarrusso, III (District A)

While every issue needs to be studied carefully, an automatic reversal of the City Planning Committee (“CPC”) is not warranted. We need to respect the force of law in the context of the Land Use Plan to ensure proper and established protocols are followed.

Councilmember Jay H. Banks (District B)

The citizens of New Orleans worked hard on this plan and I intend to honor their wishes for the sake of our neighborhoods.

Councilmember Kristin Gisleson Palmer (District C)

When an issue comes before the City, I would review what the plan states for this proposal and hold them accountable for complying with the Land Use Plan.

Councilmember Cyndi Nguyen (District E)

As a City Councilperson, I will work with the Planning Commission and interest community organizations to ensure compliance as it relates to the force of law in the context of the Land Use Plan.
