

**COUNCIL AGENDA  
NEW BUSINESS ITEM**

TO: **Members of City Council**

DATE: **March 12, 2009**

COUNCIL

DATE: **April 2, 2009**

RE: ***Referral to the Public Services & Infrastructure Committee  
Proposal to Strengthen Land Development Regulations  
as they relate to Historic Preservation***

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**ACTION DESIRED:**

Respectfully request to refer to the Public Services & Infrastructure Committee a proposal to strengthen Land Development Regulations as they relate to historic preservation.

Jamie Bennett, Council Member  
District 5

## **Saint Petersburg Preservation**

### **Proposal to Strengthen Land Development Regulations As They Relate to Historic Preservation**

#### **Background**

Approximately 18 months ago the City adopted the "new" Land Development Regulations ("LDR's"). These LDR's provide applicant/developers with a means of increasing new development intensity (FAR's) above base levels specified for in the various zoning districts by use of "bonuses". The bonus options include (sec. 16.20.120.6.2):

- Ø Financial support of the City's Streetscape Program.
- Ø Financial support of the City's Downtown Mass Transit Service Program.
- Ø Financial support to the City's Housing Capital Improvements Projects (HCIP) Trust Fund.
- Ø Purchase of Development Rights from the owners of a locally designated historic structure (historic TDR's).

The City is to be commended for including the historic TDR provision in the new LDR's. It is a concept which has the potential for providing an effective incentive for the protection of historic resources and is a concept which is finding greater use among local governments.

Use of the historic TDR means an applicant/developer would purchase what is commonly thought of as "air rights." When the owner of an historic property sells his development or air rights the ability of the landowner to construct a new building larger than the landmark building is restricted and, thus, the incentive to sell and demolish the landmark is effectively removed. Funds obtained from the sale of development rights is intended to be available to make needed repairs on the landmark. Remaining funds could be used at the owner's discretion.

To establish historic TDR's, the historic building must be designated as a landmark and an application made to the City Community Preservation Commission to have the number of TDR's available for sale (number of square feet) certified. After "certification", the landmark owner may offer for sale the historic development rights. When a sale of those rights occurs, a restriction is placed upon the landmark property limiting future development accordingly, and greatly increasing the likelihood that the landmark will remain for the future. The new LDR's only provide for the sale and purchase of historic TDR's in the "private" market and not by the City.

#### **Limitations of Historic Development Rights (TDR's)**

While provision for the historic TDR bonus was well intended its ease of use is quite complicated. In being more complicated to use than the other FAR bonus options, the historic TDR bonus is unlikely to receive much, if any, use. Unlike the historic TDR, for several of the other FAR bonus options, the bonus requirement is fulfilled by simply writing a check to a designated City fund in an amount specified in the Code (based up a percentage of construction costs). The difficulties of using the historic TDR's was amply illustrated in the recent Liberty Group Hotel project. In that case, despite the fact that the project was negatively affecting historic resources and the Downtown National Register Historic District, the developer elected to simply write a check to one of the city's funds to gain the necessary FAR bonus rather than to attempt to negotiate the purchase of historic development rights.

### **Recommendations**

The "new" LDRs provide that a developer seeking to construct a project above the base FAR shall obtain the first additional 0.5 FAR by meeting the workforce housing bonus and the second additional 0.5 FAR by either meeting the workforce housing, historic preservation, or downtown transit bonus. In a recent communication to SPP (February 17, 2009) City staff proposed modifying this provision to also include the purchase of historic TDR's as an option for the first 0.5 FAR. While this is a step in the right direction such a change would not remedy the fundamental deficiencies of the current system. It would still be far easier for an applicant/developer to contribute to the HCIP then to negotiate the purchase of historic TDR's. Thus, even with the change suggested by staff, the historic TDR bonus option would likely see little use.

Saint Petersburg Preservation makes the following three recommendations:

First, use of the historic TDR should be as "**user friendly**" as the other "bonus" options available to an applicant/developer. To make the historic TDR as "user friendly" as the other bonus options the applicant/developer should be able to receive an FAR bonus either by providing financial support to the City's Historic Grant's Preservation Fund (or similar fund) or by purchasing historic TDR's from the private market as presently provided for in the Code. Allowing financial support to a city preservation fund would be similar to the present code provisions (i.e., just as "user friendly") that allow financial support to the Downtown Mass Transit Service Program, the City's Streetscape Improvement Program or to the City's Housing Capital Improvements Projects (HCIP) Trust Fund.

It should be noted that the LDRs provide for a City Historic Grants Preservation Fund. Presently, the Code provides that owners of landmarks that in fact sell their development rights are required to contribute 50 cents per square

foot sold to the Fund. With the change suggested above, use of the Fund will need to be specified/clarified and procedures for how the City will decide which historic TDR's to purchase with Fund monies will need to be adopted.

Second, SPP recommends that proposed development that will impact historic resources and need to utilize FAR bonuses be required to utilize the historic TDR bonus option. Such a requirement would be consistent with the concept that the FAR bonus requirement is intended to mitigate the secondary impacts associated with the development rights being granted.