

ST. PETERSBURG CITY COUNCIL

Meeting of June 4, 2009

- TO:** The Honorable Jeff Danner, Chair, and Members of City Council
- SUBJECT:** **City File LDR-2009-03:** Amending City Code Chapter 16, Land Development Regulations.
- REQUEST:** Ordinance _____ amending the Height Restrictions Map designation for the Progress Energy Center for the Arts property from “A” (Above 300-feet) to “D” (200-feet).

A detailed analysis is provided in the attached staff report prepared for the Development Review Commission (DRC).

RECOMMENDATION:

Administration: The Administration recommends APPROVAL.

Development Review Commission: In Executive Action on May 6, 2009 the Development Review Commission (DRC) voted 4 to 3 to recommend DENIAL of the proposed amendment.

In their deliberation of this amendment, the DRC expressed concern that a recommendation to reduce the maximum allowable building height on the Progress Energy Center for the Arts property was not consistent with the stated intention of the height regulations to “step-down” maximum height away from the downtown. City staff explained the background of public and City Council discussion about height on the adjacent Al Lang site and the process underway to rezone the Al Lang site to DC-P (Downtown Center-Park) and the related City Code amendments.

Citizen Input: No input has been received, to date, from the public.

Recommended City Council Action: 1) CONDUCT the first reading of the proposed ordinance; AND 2) SET the second reading and public hearing for June 18, 2009.

Attachments: Proposed Ordinance, Staff Report, Housing Affordability Impact Statement

AN ORDINANCE OF THE CITY OF ST. PETERSBURG AMENDING SECTION 16.20.120.7.1 OF THE ST. PETERSBURG CITY CODE, TITLED "MAXIMUM BUILDING HEIGHT," TO AMEND THE HEIGHT RESTRICTIONS MAP DESIGNATION FOR THE PROPERTY KNOWN AS THE PROGRESS ENERGY CENTER FOR THE ARTS, GENERALLY LOCATED NORTH OF DALI BOULEVARD / BAYSHORE DRIVE SE BETWEEN 1ST STREET SOUTH AND BAYSHORE DRIVE SE, FROM AREA "A" TO AREA "D," REDUCING THE MAXIMUM BASE HEIGHT FROM 300 FEET TO 125 FEET, UP TO 200 FEET AFTER PUBLIC HEARING; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF ST. PETERSBURG, FLORIDA DOES ORDAIN:

Section One. In Section 16.20.120.7.1 of the St. Petersburg City Code, the Height Restrictions Map designation for the Progress Energy Center for the Arts is hereby amended to change the designation from Area "A" to Area "D"

Property

19/31/17/14362/001/0010 – Center for the Arts, Block 1, Lot 1
19/31/17/14362/001/0020 – Center for the Arts, Block 1, Lot 2
19/31/17/14362/001/0030 – Center for the Arts, Block 1, Lot 3
19/31/17/14362/001/0040 – Center for the Arts, Block 1, Lot 4
19/31/17/14362/001/0050 – Center for the Arts, Block 1, Lot 5
19/31/17/14362/001/0060 – Center for the Arts, Block 1, Lot 6
19/31/17/14362/001/0070 – Center for the Arts, Block 1, Lot 7
19/31/17/14362/001/0080 – Center for the Arts, Block 1, Lot 8
19/31/17/14362/001/0090 – Center for the Arts, Block 1, Lot 9

Section Two. The provisions of this ordinance shall be deemed to be severable. If any provision of this ordinance is determined unconstitutional or otherwise invalid, such determination shall not affect the validity of any other provisions of this ordinance.

Section Three. In the event this ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective after the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto the ordinance, in which case the ordinance shall take effect immediately upon filing such written notice with the City Clerk. In the event this ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

Approved as to form and content:

City File: LDR 2009-03



City Attorney (designee)



CITY OF ST. PETERSBURG
DEVELOPMENT REVIEW COMMISSION
PUBLIC HEARING
May 6, 2009

PUBLIC HEARING

Non Quasi-Judicial

Land Development Regulations (LDRs) Code Amendments

Derek Kilborn
893-7872

Agenda Item #7

Request: LDR 2009-01 It is requested that the Development Review Commission (DRC) review and recommend approval of a proposed ordinance amending Chapter 16 of the City Code of Ordinances, more commonly referred to as the Land Development Regulations. Specifically, this proposal relates to Section 16.10.020.1 titled "Matrix: Use Permissions and Parking Requirements" and shall amend the land-use type "office, general" from "nonconforming" to "accessory" within the Downtown Center-Park (DC-P) zoning classification.

Agenda Item #8

Request: LDR 2009-02 It is requested that the Development Review Commission (DRC) review and recommend approval of a proposed ordinance amending Chapter 16 of the City Code of Ordinances, more commonly referred to as the Land Development Regulations. This proposal relates to Section 16.20.120.7.1 titled "Maximum Building Height" and shall amend the maximum building height for the Progress Energy Park – Home of Al Lang Field. Specifically, the height district shall be reclassified from District A to District E effectively reducing the maximum building height from more than 300 feet to 75 feet.

Agenda Item #9

Request: LDR 2009-03 It is requested that the Development Review Commission (DRC) review and recommend approval of a proposed ordinance amending Chapter 16 of the City Code of Ordinances, more commonly referred to as the Land Development Regulations. This proposal relates to Section 16.20.120.7.1 titled "Maximum Building Height" and shall amend the maximum building height for the Progress Energy Center for the Arts. Specifically, the height district shall be reclassified from District A to District D effectively reducing the maximum building height from more than 300 feet to 200 feet.

Staff Presentation

Mr. Kilborn began his presentation, based on the staff report, by giving general background information and then talked specifically about the three requests:

Commissioner Eichler asked for an explanation of why one area has a proposed designation as Area A and another area proposed as Area D, and then commented that with Area D closer to the residential properties, it

should be lower not higher based on Mr. Kilborn's presentation. Ms. Weston replied that with City Council's meeting in November 2008, the original discussion was solely about the Al Lang property. At that time, an additional motion was made by Council to consider changing the height of the Center for the Arts portion of that site as well as the Al Lang property. Council had discussions about this because of their concern about height restrictions placed on the Dali site and how it will affect the lease; however, it did not receive the months of discussions by Council as the Al Lang property had received nor the significant public input.

Commissioner Eichler stated for clarification that the reason for the different height proposals was because of the existing buildings of the site and possible leases, to which Ms. Weston stated that was what Council expressed at their November meeting.

Commission Chair Punzak stated that he understands the proposed height restriction for the office site but thought it was unusual that the City would down-zone its own property. Ms. Weston explained that discussions were held during Council workshops and City meetings regarding how the downtown zoning would apply to the Al Lang property. The reason this property received the zoning designation that it did was because staff intended to change out the previous zoning (CBD-3) for the compatible new zoning designation (DC-3). In November 2008, Council's direction was that they wanted the zoning map change and these related text amendment changes that staff had pointed out to be brought back to them for their consideration.

Commissioner Kotaiche asked if a City-wide referendum is still required if they want to do any changes to these parks. Ms. Weston stated that physical changes in the park as opposed to the regulations they are talking about today could require a referendum depending on what the situation is; the sale or lease situations may require a referendum.

Commissioner Cravey asked if the zoning change had already occurred because typically this comes after the zoning change, not before. Ms. Weston replied, no, the zoning change had not already occurred. The zoning map change had already been reviewed by the Planning & Visioning Commission; however, it will be brought before City Council on June 18th for their final action. It is unusual in the downtown district to have a zoning district and uses and then separately having a maximum building height map. However, this was done during the LDRs to address the concerns regarding "uses" versus "land area" versus "height" in the pattern that was accepted by this community. The height change is really a text change in the LDRs and it was Council's request that they be able to consider all of these items at the same time.

Commission Chair Punzak asked what would happen if the DRC said no. Ms. Weston replied that the DRC's advisory recommendation with the details and reasons would be included in the staff report to Council for their consideration.

Commissioner Silverman asked what the benefit of limiting the height is because it could be restricting options that may benefit the community. Ms. Weston stated that the proposed height is perceived to be more consistent with the requested zoning designation of DC-P. In every other part of the City, the height regulations are part of the zoning district; however, the downtown area is separated for reasons that are unique to St. Petersburg and the waterfront character along Beach Drive.

Commission Chair Punzak asked why the lower height restriction on the property closer to downtown and then going up on the Mahaffey Theater property. Ms. Weston stated that more discussions had occurred about the Al Lang site than about the Center of the Arts, which was discussed at the November City Council meeting.

Ms. Weston went on to say that if this is part of DRC’s recommendation, she will include this observation in the analysis of the staff report to Council.

Commissioner Kotaiche asked if the properties adjacent these parks would be subject to the proposed height limits, to which Ms. Weston replied, no.

Commissioner Vickstrom stated that she feels the zoning designation should be changed first so it can support the height change and is very hesitant to approve or support the two proposed height restriction items.

Commissioner Silverman stated her agreement with Commissioner Vickstrom, and went on to say that placing one height restriction on the Al Lang location and a higher height restriction on the southern property is counter intuitive and does not follow the vision of the City. Commissioner Silverman went on to say that it appears to her that these proposals are fashioned to the buildings that are currently there and not thinking about if these buildings were torn down and replaced in the future.

Commission Chair Punzak stated that he has no problem with the first request regarding the Matrix but the two height restriction requests do not make sense to him because of the reasons already stated.

Commissioner Kotaiche stated that these are public parks and restricting the height would help ensure that they would remain as such. Ms. Weston stated that this property has a series of layers of regulations such as charter restrictions and the zoning is just one piece of it.

Executive Session

Agenda Item #7 - LDR 2009-01

MOTION: *Commissioner Canerday and Commissioner Eichler seconded to approve the request in accordance with the staff report.*

VOTE: *YES – Eichler, Canerday, Vickstrom, Silverman, Kotaiche, Cravey, Punzak
NO - None*

Motion was approved by unanimous vote of 7 – 0.

Agenda Item #8 - LDR 2009-02

MOTION: *Commissioner Canerday and Commissioner Eichler seconded to approve the request in accordance with the staff report.*

Commissioner Canerday stated that anytime he has the opportunity to vote to reduce the height along the waterfront, he will do it.

Commissioner Eichler stated that the property along the waterfront being of a lower height balances out the extreme height along Beach Drive, and should remain an open public space. It is one of the best features of downtown and should be preserved.

Commission Chair Punzak stated his agreement with Commissioner Eichler but did not like the manner in which it was presented to them.

VOTE: *YES – Eichler, Canerday, Kotaiche*
 NO - Vickstrom, Silverman, Cravey, Punzak

Motion was denied by a vote 3 - 4.

Agenda Item #9 - LDR 2009-03

MOTION: *Commissioner Canerday and Commissioner Eichler seconded to approve the request in accordance with the staff report.*

Commissioner Silverman stated that the higher allowance in Area D makes sense to her because of the existing Mahaffey Theater, Dali Museum as well as the property being adjacent to the airport.

VOTE: *YES – Eichler, Canerday, Kotaiche*
 NO - Vickstrom, Silverman, Cravey, Punzak

Motion was denied by a vote 3 - 4.



EXECUTIVE ACTION

Staff Report to the St. Petersburg Development Review Commission
Prepared by the Development Services Department,
Urban Planning, Design and Historic Preservation Division

For Executive Action on May 6, 2009
at 2:00 p.m. in the City Council Chambers, City Hall,
175 Fifth Street North, St. Petersburg, Florida.

Subject: City File LDR 2009-03: Amendments to the Land Development Regulations (LDRs), Chapter 16, City Code of Ordinances.

Request: This application relates to Section 16.20.120.7.1 titled "Maximum Building Height" and shall amend the Height Restrictions Map designation for the Progress Energy Center for the Arts property from "A" (300-feet) to "D" (200-feet).

Authority: Pursuant to Section 16.80.020.1 of the City Code of Ordinances, the DRC, acting as the Land Development Regulation Commission (LDRC), is responsible for reviewing and making a recommendation to the City Council on all proposed LDR amendments.

Background: From 1977 until 2007, the downtown area was zoned Central Business District (CBD) and subcategorized into five (5) zoning designations including CBD-Core, CBD-1, CBD-2, CBD-3 and CBD-4. On August 9, 2007 the downtown area was rezoned from CBD to Downtown Center (DC) and reorganized into five (5) zoning designations including DC-C, DC-1, DC-2, DC-3 and DC-P. These changes occurred as part of the implementation of the Vision 2020 Plan and update of the City's land development regulations or LDRs (Ordinance 704-Z, City File ZO-93-A).

Building height in the Downtown Center area is not regulated based on the zoning but by a separate section of the City Code (Section 16.20.120.7.1), which includes a Height Restrictions Map. The Downtown Center building height regulations and height map are designed to concentrate heights within the core area of the downtown, and then "step down" toward the surrounding neighborhoods.

At meetings and a workshop during the months of August, September and November 2008, the City Council discussed the fact that the maximum height for a structure on the subject property was 300-feet. On November 6, 2008 the City Council adopted Resolution 2008-559, initiating a change to the Height Restrictions Map designation for the subject property from "A" (300-feet) to "D" (200-feet).

This application includes two (2) companion applications resulting from the City Council meeting on November 6, 2008. The first application, LDR 2009-01, proposes to amend the land-use type "office, general" from "nonconforming" to "accessory" within the Downtown Center-Park (DC-P) zoning classification. The second application, LDR 2009-02, proposes to reduce the maximum building height for structures located within the Progress Energy Park - Home of Al Lang Field property.

Analysis:

This application relates to Section 16.20.120.7.1 titled "Maximum Building Height" and proposes to amend the Height Restrictions Map designation for the Progress Energy Center for the Arts property from "A" (300-feet) to "D" (200-feet).

The zoning designation for the subject area was Central Business District (CBD-3) from 1977 until 2007, when the area was rezoned to Downtown Center (DC-3) as part of the Vision 2020 Plan implementation and update of the City's LDRs. DC-3 replaced CBD-3 in the subject area and the allowable building heights remained unchanged.

According to the pre-existing CBD-3 zoning designation and the newly adopted Height Restrictions Map, the subject area had no maximum building height and was limited only by the airport height guidelines, which are regulated through the Federal Aviation Administration (FAA).

Moreover, the property's DC-3 zoning and allowable building height was consistent with the zoning and height regulations for all of the *developed property* located east of 1st Street, between 5th Avenue North and Bayshore Drive/Dali Boulevard SE.

Based on a discussion at the City Council workshop on September 25, 2008, the City initiated a zoning map amendment for the Progress Energy Park - Home of Al Lang Field property from DC-3 designation to Downtown Center - Park (DC-P). This amendment would change the future characteristics of the subject area from the high intensity development expected under DC-3 to the significantly reduced, park-like development expected under DC-P. Because of this zoning map amendment, the City Council also requested consideration of an amendment to the allowable building height that would recognize the lower intensity development expected within DC-P but also respect the approved building heights for the Mahaffey Theater and proposed Dali Museum.

If this application to amend Area "A" to Area "D" on the Height Restrictions Map is approved, the maximum building height allowed by right within Area "D" would be 125 feet. If future redevelopment requires additional height beyond 125 feet, the LDRs provide for a streamline approval process for "bonus" height approval in Area "D" up to a maximum building height of 150 feet and a public hearing process for "bonus" height approval more than 150 feet up to a maximum building height of 200 feet.

The existing Mahaffey Theater and the proposed Dali Museum will not be affected by this proposal. The proposed Dali Museum, which was approved by the DRC on April 2, 2008 (08-31000006), will measure approximately 87 feet Above Mean Sea Level (AMSL). Since the maximum building height allowed by right in Area "D" is 125 feet, these structures will remain conforming with respect to the Height Restrictions Map.

**Housing
Affordability
Impact
Statement:**

The proposed amendments will have a no impact on housing affordability, availability or accessibility. A Housing Affordability Impact Statement is attached.

**Compliance
with the
Comprehensive
Plan:**

The following objectives and policies from the City's Comprehensive Plan are applicable to the attached proposed amendments:

Policy LU7.1: Pursuant to the requirements of Chapter 163.3202 F.S. and Chapter 9J-24 F.A.C. the land development regulations will be amended, as necessary, to ensure consistency with the goals, objectives and policies of the Comprehensive Plan.

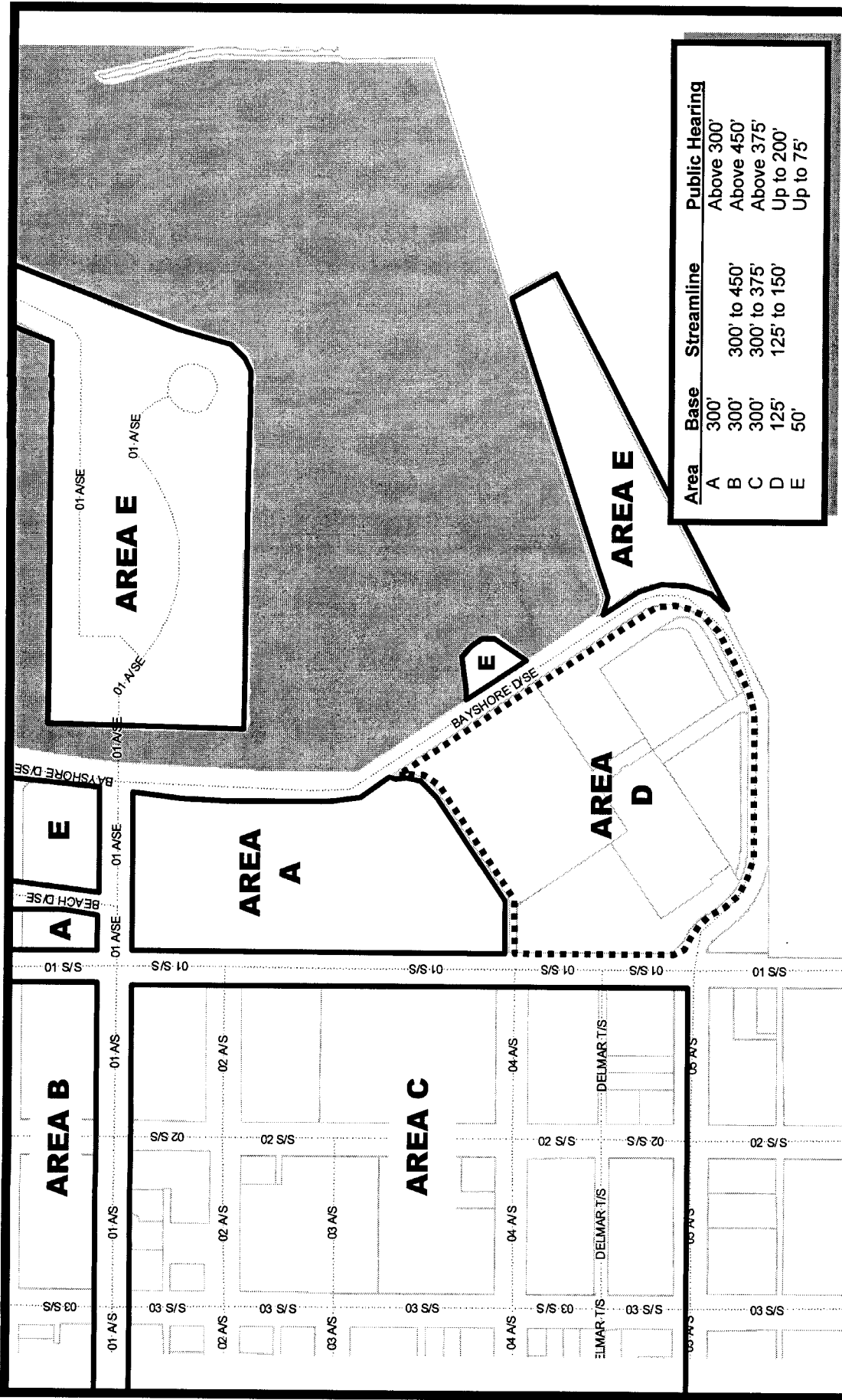
Objective LU20: The City shall, on an ongoing basis, review and consider for adoption, amendments to existing and/or new innovative land development regulations that can provide additional incentives for the achievement of Comprehensive Plan Objectives.

Recommendation:

The Development Services Department finds that the proposed amendment to Section 16.20.120.7.1, Chapter 16, City Code of Ordinances, is consistent with the Comprehensive Plan and recommends **APPROVAL**.

Attachments:

Proposed Ordinance
Housing Affordability Impact Statement



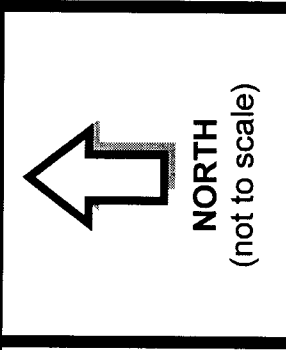
Area	Base	Streamline	Public Hearing
A	300'	300' to 450'	Above 300'
B	300'	300' to 375'	Above 450'
C	125'	125' to 150'	Above 375'
D	50'		Up to 200'
E			Up to 75'

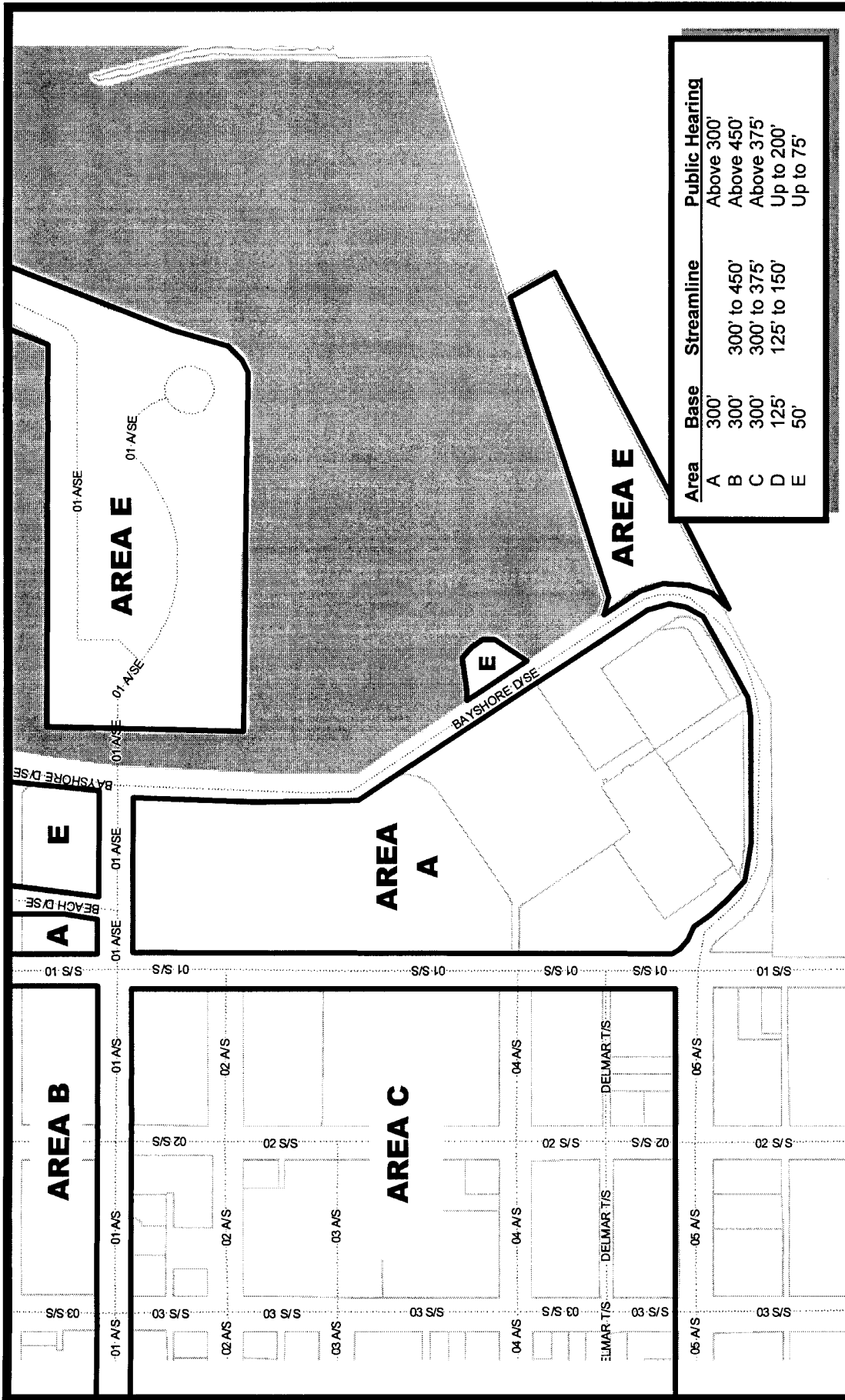


PROPOSED HEIGHT RESTRICTIONS MAP

Case No.: LDR 2009-03

City of St. Petersburg, FL
Development Services Department
Development Review Commission (DRC)

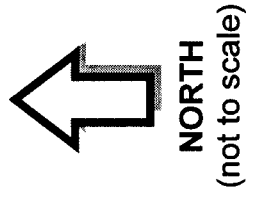




EXISTING HEIGHT RESTRICTIONS MAP

Case No.: LDR 2009-03

City of St. Petersburg, FL
 Development Services Department
 Development Review Commission (DRC)





City of St. Petersburg Housing Affordability Impact Statement

Each year, the City of St. Petersburg receives approximately \$2 million dollars in State Housing Initiative Partnership (SHIP) funds for its affordable housing programs. To receive these funds, the City is required to maintain an ongoing process for review of local policies, ordinances, resolutions, and plan provisions that **increase the cost of housing construction, or of housing redevelopment**, and to establish a tracking system to estimate the cumulative cost per housing unit from these actions for the period July 1 - June 30 annually. This form should be attached to all policies, ordinances, resolutions, and plan provisions which increase housing costs, and a copy of the completed form should be provided to the City's Housing and Community Development Department.

I. Initiating Department:

Development Services.

II. Policy, Procedure, Regulations, or Comprehensive Plan Amendment Under Consideration for adoption by Ordinance or Resolution:

See attached proposed ordinance (City File LDR-2009-03).

III. Impact Analysis:

- A. Will the proposed policy, procedure, regulation, or plan amendment (being adopted by ordinance or resolution) increase the cost of housing development? (i.e. more landscaping, larger lot sizes, increase fee, require more infrastructure costs up from, etc.)

No (No further explanation required)

Yes Explanation:

If yes, the **per unit cost increase** associated with this proposed policy change is estimated to by \$_____.

- B. Will the proposed policy, procedure, regulation, plan amendment, etc. increase the time needed for housing development approvals?

No (No Further explanation required)

Yes Explanation:

IV. Certification

It is important that new local laws which could counteract or negate local, state and federal reforms and incentives created for the housing construction industry receive due consideration. If the adoption of the proposed regulation is imperative to protect the public health, safety and welfare and, therefore, its purpose outweighs the need to continue the community's ability to provide affordable housing, please explain below:

CHECK ONE:

- The proposed regulation, policy, procedure, or comprehensive plan amendment will **not** result in an increase to the cost of housing development or redevelopment in the City of St. Petersburg and no further action is required. (Please attach this Impact Statement to City Council Material, and provide a copy to Housing and Community Development Department.)

Richard W. MacAulay, Manager
Department Director (signature)

4/27/09
Date

OR

- The proposed regulation, policy, procedure, or comprehensive plan amendment being proposed by resolution or ordinance *will increase housing costs* in the City of St. Petersburg. (Please attach this Impact Statement to City Council Material, and provide a copy to Housing and Community Development Department.)

Department Director (signature)

Date

Copies to: Eva Andujar, City Clerk
 Joshua A. Johnson, Director of Housing & Community Development