

HPB RESPONSE TO THE PLANNING COMMISSION RE: PROPOSED SECTION 7 AND 1 TO THE LDR

The Historic Preservation Board (HPB) has been asked to respond to the Planning Commission's (PC) First Draft of Sections 7 and 1 to the Land Development Regulations (LDR). While there are specific recommendations we would make, there is an overriding question we have regarding why combining the HPB and the Architectural Review Board (ARB) is desirable or beneficial? What specifically are the problems associated with having the two boards, and how does the combining the Boards solve those problems? Was any analysis done concerning other possible solutions to the identified current problems? Our concern is that the HPB was never made aware of what the Planning Commission sees as the problems for which it seeks a solution. If we understood the issues as the Commission sees them, we believe we could have participated in finding answers to the problems, short of writing a new ordinance for a combined Board.

PREFACE

The HPB, with the assistance of the City's Manager of Historical Resources, spent many months in reviewing the preservation ordinances of more than 20 jurisdictions in Florida, and in drafting and honing a new proposed preservation ordinance. The proposed ordinance was submitted for informal review to the Florida Division of Historical Resources to insure it would meet the requirements of a Certified Local Government (CLG), a goal set by City Council, and included in the City's latest Comprehensive Plan (the City's current ordinance was deficient in several respects.) The proposed ordinance was submitted to the PC for its review and comment.

Rather than comment, the PC instead has proposed to abolish the HPB - as well as the Architectural Review Board (ARB) - and combine the functions of the two boards into one. The PC has also cobbled together its own idea of what a historic preservation ordinance ought to look like, and has invited HPB to review and comment on the proposal.

With respect, a more rational procedure would be for the PC to comment on HPB's draft ordinance and offer suggestions for improvements that could be made, rather than HPB commenting on a PC proposal. When the City's experts have presented what they believe to be an appropriate preservation ordinance, it's incongruous to be commenting on an incomplete proposal put forth by the Planning Commission.

Notwithstanding, we will attempt to address as best we can the ideas and deficiencies presented in the PC draft.

COMMENTS ON THE PC DRAFT

Sec. 7.1 -

This section fails to clearly state the ordinance's (LDR's) *public purpose*. Normally, Council would make "findings of fact" and "declarations" which would support Council's action, under the City's police powers, to take the action proposed. We refer you to section I.a. and b. of HPB's proposed ordinance which accomplishes that purpose. For examples of how other jurisdictions have dealt with this "public purpose" requirement, *see, e.g.*,

The PC Draft does not clearly address "Demolition by Neglect", or the responsibilities of property owners, or the duties of city officials, or the procedure by which the situation can be rectified. See, HBP draft, Sec. VI.

The PC Draft does not contain "Definitions" to make sense of the Section's provisions. We understood the plan was to put all definitions in an omnibus "Definitions" section applicable to all of the LDRs. The Definitions in Section 9, however, do not include any definition of any term used in Section 7. In any event, we believe, to be effective, the definitions used for preservation purposes should be included in the Preservation Section, for

clarity and ease of use. See our definitions section in the HPB draft at Sec. I.C.

The PC Draft is deficient, in that it does not include the provisions necessary to satisfy the requirements to be a CLG - a goal set by Council in the City's Comprehensive Plan. The Chairman of the PC has stated the draft is not intended to comply with CLG requirements, as he takes the position that the Comp Plan only says the City will "pursue" CLG status, but that doesn't mean the City would actually *achieve* that goal. Such sophistry is inexplicable in a commission charged with the responsibility of executing the Comp Plan.

As an apparent afterthought, the PC now suggests the "cost" to the City of compliance with CLG would exceed any grant monies the City might get from participation in the grants available from the State and Federal governments. Yet, the PC has no data as to a cost/benefit analysis of CLG membership. (It's significant that none of the 77 governmental entities that are CLGs, including Sarasota City and Sarasota County, has found participation in the program so burdensome as to cause them to withdraw from membership.) There are no *direct* costs in being a CLG - no membership fees, no assessments, no dues. We have to assume the "costs" referred to are indirect costs; for ourselves, we believe the administrative costs of compliance, such as forwarding minutes of monthly meetings of the HPB to the State and an annual report of activities are negligible and can be easily absorbed by the City's existing Division of Historic Resources. The CLG merely requires a "provision" for Board members to attend pertinent informational or education meetings, workshops and conferences; this can be satisfied with a declaration merely that "*persons serving on the board are encouraged to attend educational meetings or workshops.*" (See CLG Ordinance Internal Checklist, Item B.2.j), from the Florida Division of Historical Resources, attached hereto).. In any event, any "cost" of education of board members can be avoided or minimized by the utilization of on-line seminars and regional training programs. If any concern remains about the proposed hortatory language in our Draft Ordinance at III.b.vii., we will withdraw it.

Section 7.4.C. is not complete.

The language in Sec. 7.9. is garbled and confusing concerning the existing Historic Venice (HV) district. Suggest our language at V.a.ii.1. Sec. 7.9.1 A. language requiring alterations to existing structures to be made in the Venice Historic Precedent Style would be inappropriate for structures within the HV District that are not originally built in that style. It would also be inappropriate for alterations to other existing historic structures, as changes or modifications to those structures should be in accordance with the Secretary of the Interior's Standards for Preservation, Restoration and Rehabilitation of Historic Structures.

Section 7.6. A., Local Historic Districts, imposes an overly restrictive requirement for a super-majority of property owners in a new proposed historic district to concur. A simple majority requirement would satisfy any reasonable consent requirement. The requirement that all contributing property owners give written consent to being designated a contributing property is nonsensical, and misapprehends the meaning of a "contributing structure." Whether a structure is "contributing" or not is determined by the characteristics of the property, not the wishes of the owner. The question is: was the property present during the period of significance, does it possess historic integrity reflecting its character at that time or is it capable of yielding important information about the period (see Appendices, Section V, Comp Plan). The owner's consent, or lack thereof, does not alter this determination.

CLARIFICATIONS

In the course of PC meetings, several comments by Commission members have been made and repeated that reveal a misunderstanding of the purposes and operation of the HPB's proposed ordinance, or the PC's preservation section, for that matter. The Chairman on more than one occasion has declared, "The City Council needs to decide what's important,

and what needs to be saved.” That’s certainly true - but this LDR does not do that - nor is it intended to. Other than incorporating the existing design districts created forty years ago, the Section makes NO determination as to what should be saved/preserved. Rather, the Section sets the process by which City Council will ultimately decide that question. IT IS EMPHATICALLY NOT for the HPB or the PC to recommend, or Council to determine, at this time.

Also heard at PC meetings are fears that if the oversight jurisdiction of the HPB extends to the city limits (as provided for in the CLG guidelines), all properties within the city limits 50 years old and older will be declared “historic”, and thus protected. (The “fifty year rule” is merely the **First** step in a much longer inquiry in determining which properties should be protected; also to be considered are the factors listed in the HPB Draft: see Sec. IV. b.) Of course, this is nonsense. Only the *City Council* can place a structure on the Local Register, or create a new historic district. The prospect of a board running amuck and declaring things “historic” is a figment of the fevered imagination.

Also heard were declarations that “It’s just not right” or that “It’s just wrong” that a property owner be told he can’t demolish a historic structure if he chooses to. It is difficult to square such declarations with the PC’s acknowledged role in telling property owners, through Council’s adoption of zoning regulations and other LDRs, what they can and cannot do with their property. The same authority under which a home rule city may make regulations for the general welfare of the community permits City Council to create historic districts that would regulate what can be done with historic structures - just as regulations concerning setbacks, building heights, and permitted uses of property are within that authority.

CONCLUSION

We strongly urge the Planning Commission to withdraw its proposed merger of the HPB and the ARB, and adopt the comprehensive draft ordinance previously submitted by this Board. We would welcome any proposal by which the draft might be improved or clarified.

On Behalf of the Historic Preservation Board:

Jean Trammell, Chair