CITY OF FORT LAUDERDALE

HISTORIC PRESERVATION BOARD
CITY OF FORT LAUDERDALE
Development Services Department
Main Lobby
700 NW 19th Ave
Fort Lauderdale, FL 33311
Monday, December 4, 2023 - 5:00 P.M.

		Cumulative Attendance 6/2023 through 5/2024	
Board Members	**Attendance**	**Present**	**Absent**
Arthur Marcus, Chair	P	7	0
Richard Bray	P	7	0
Allen Jones	P	7	0
Sonya Moste	P	2	0
Richard Rosa, Vice Chair	P	5	2
Tim Schiavone	A	5	2
Shane Taylor	P	2	0
Ashley Walker	P	5	1

City Staff
Shari Wallen, Assistant City Attorney
Trisha Logan, Principal Urban Planner
Simone Chin, Urban Planner II
Kailly Linares, Planning Assistant
Jamie Opperlee, Recording Secretary, Prototype Inc.

Guests
Jay Adams
Stephen Tilbrook, Esq., Akerman LLP
Robert Hely, Lochrie and Chakas, P.A.

Communication to the City Commission
Motion made by Ms. Moste, seconded by Mr. Bray, to write a Communication to the City Commission as follows:

1. To recommend the City Commission have the City Manager instruct staff to study or to obtain a consultant to study the Transfer of Development Rights (TDR) for the maximum potential number of units currently available and to look at best practices in Broward County to optimize the TDR program.
2. To evaluate the City's Land Use Plan and see if there is potential to increase units for the receiving sites for the TDR program.

In a voice vote, motion **passed 7-0.**

DRAFT

HISTORIC PRESERVATION BOARD
CITY OF FORT LAUDERDALE

Development Services Department
Main Lobby
700 NW 19th Ave
Fort Lauderdale, FL 33311
Monday, December 4, 2023 - 5:00 P.M.

		Cumulative Attendance 6/2023 through 5/2024	
Board Members	**Attendance**	**Present**	**Absent**
Arthur Marcus, Chair	P	7	0
Richard Bray	P	7	0
Allen Jones	P	7	0
Sonya Moste	P	2	0
Richard Rosa, Vice Chair	P	5	2
Tim Schiavone	A	5	2
Shane Taylor	P	2	0
Ashley Walker	P	5	1

City Staff
Shari Wallen, Assistant City Attorney
Trisha Logan, Principal Urban Planner
Simone Chin, Urban Planner II
Kailly Linares, Planning Assistant
Jamie Opperlee, Recording Secretary, Prototype Inc.

Guests
Jay Adams
Stephen Tilbrook, Esq., Akerman LLP
Robert Hely, Lochrie and Chakas, P.A.

Communication to the City Commission
Motion made by Ms. Moste, seconded by Mr. Bray, to write a Communication to the City Commission as follows:

1. To recommend the City Commission have the City Manager instruct staff to study or to obtain a consultant to study the Transfer of Development Rights (TDR) for the maximum potential number of units currently available and to look at best practices in Broward County to optimize the TDR program.
2. To evaluate the City's Land Use Plan and see if there is potential to increase units for the receiving sites for the TDR program.

In a voice vote, motion **passed 7-0.**

I. Call to Order/Pledge of Allegiance

The meeting of the Historic Preservation Board was called to order at 5:00 p.m. Roll was taken, and it was determined that a quorum was present.

II. Determination of Quorum/Approval of Minutes

a. Approval of Minutes: November 6, 2023

Mr. Bray asked that "initial funding for a consultant to do a revitalization plan" be added to the motion for Communication to the Commission made at the end of the November 6 meeting.

Motion made by Mr. Bray, seconded by Ms. Walker:
To amend the Communication to the City Commission in the November 6, 2023, minutes to include "initial funding for a consultant to do a revitalization plan."
In a voice vote, the motion **passed 7-0**.

Motion made by Mr. Bray, seconded by Ms. Walker:
To approve the minutes of the November 6, 2023, meeting as amended.
In a voice vote, the motion **passed 7-0**.

III. Public Sign-in/Swearing-In

All members of the public wishing to address the Board on any item were sworn in.

IV. Agenda Items

None.

V. Communication to the City Commission Index

Motion made by Ms. Moste, seconded by Mr. Bray, to write a Communication to the City Commission as follows:

1. To recommend the City Commission have the City Manager instruct staff to study or to obtain a consultant to study the Transfer of Development Rights (TDR) for the maximum potential number of units currently available and to look at best practices in Broward County to optimize the TDR program.
2. To evaluate the City's Land Use Plan and see if there is potential to increase units for the receiving sites for the TDR program.

In a voice vote, motion **passed 7-0.**

VI. For the Good of the City of Fort Lauderdale Index

a. Continued Board Discussion of Historic Preservation Incentives

Ms. Logan distributed a document outlining existing incentives for historic preservation and noted the information is available on the City website. She reviewed the incentives and the implementation process briefly.

Chair Marcus asked about Federal tax incentives. Ms. Logan stated there is an application process for the Federal tax incentives, and noted the property had to be income-producing and on the National Register of Historic Places.

Ms. Moste asked for clarification on the County incentives listed. Ms. Logan explained.

Mr. Jones inquired as to how often the tax exemptions are utilized. Ms. Logan stated there had not been any applications for the 10-year tax exemption in the time she had been with the City.

Ms. Logan reviewed the availability of waivers for setbacks and distance separation.

Chair Marcus asked whether there were height-related waivers. Ms. Logan explained the zoning district has overall height limits. Discussion continued.

Ms. Logan continued the review of incentives with an explanation of Transfer of Development Rights (TDR) and the associated criteria. She noted the interactive maps on the City website.

Ms. Moste asked how often the TDR had been used. Ms. Logan advised that the incentive was adopted relatively recently in 2021, and Jay Adams was the first to apply for and receive the certificate of eligibility. She stated Mr. Adams was currently exploring options for the transfer and was present at the meeting.

Ms. Logan discussed the parking reduction and exemption, noting this applied to a lot of businesses in the Himmarshee (H-1) Historic District.

Mr. Bray asked whether the Police Station had used the parking reduction or exemption. Ms. Logan stated they were not eligible for the exemption as new construction, but she was not aware of whether they had gone through the separate parking reduction process.

Mr. Adams asked for clarification on the parking incentives. Ms. Logan explained. Discussion ensued briefly regarding adaptive reuse and parking requirements.

Mr. Adams shared details of his attempt to utilize the historic preservation incentives. He noted property assessments do not reflect that a site is historic, and the building cannot be sold for what it is assessed for because costs are high. He stated he wished there was more tax credit.

Chair Marcus asked whether the City has control over the tax credits. Attorney Wallen advised the City is preempted by State Statute, and they would have to lobby the Florida Legislature to have the Statute amended.

Chair Marcus asked Mr. Adams what else he would suggest after having gone through the process. Mr. Adams advised he would hope the (Broward County Property Appraiser) could assess historic properties at a lower level, as in his opinion the credit ultimately is a 15 percent reduction in taxes.

Chair Marcus highlighted the zoning incentives such as decreased setbacks. Mr. Adams stated the historic buildings already exist and it is difficult to do anything to change them.

Ms. Walker noted Mr. Adams was the only person to have applied for the TDR program, and stated people she had spoken with told her the program was set up in a way that was not advantageous. She asked Mr. Adams to share more of his experience and feedback.

Mr. Adams shared that it is complicated and not cheap. He stated he has to get updated plans and surveys and go through the application process, and then Broward County does not have residential units available.

Stephen Tilbrook, Akerman LLP, land use counsel for Mr. Adams, explained the concept is set up to allow historic properties to transfer certain rights which they cannot use because they are historic, for development rights over and above what is existing on another site. He reviewed the process for application and transfer. He noted that density and building area for floor area ratio are the two major benefits of that process and asked that the Board consider inquiring about the concept of units. He outlined the difference between limitations on density and units and noted there is currently scarcity in the units assigned to Fort Lauderdale by Broward County. He advised that the reason Mr. Adams cannot find a receiving site for his transfer is because the transfer does not include units.

Chair Marcus asked for clarification on the calculation of density. Mr. Tilbrook explained.

Mr. Tilbrook challenged the Board to consider asking whether the Code could be amended to also transfer units and eliminate or increase the restriction of 10 units per acre that can be received on the other side of the transfer. He stated these changes would create more value in the TDR.

Chair Marcus asked whether units of density was a County issue. Mr. Tilbrook stated that was a good question that he did not have an answer to, but there are ways around it.

Attorney Wallen clarified that density is defined as units in the City Code, and explained how the pool of development units works. She stated this type of change would need to come from Broward County.

Mr. Bray asked whether the Board could ask the City Commission, then the City Commission ask the County. Mr. Tilbrook advised that there are instances where Broward County creates exemptions from units for Regional Activity Centers. He used the affordable housing buy-down as an example. He stated they could do this for historic properties, as well.

Mr. Bray asked if the Broward County Historic Preservation Board (HPB) would be a more appropriate place to start this conversation. Mr. Tilbrook stated that he believed the Broward County HPB was tasked with different things. He commented that the limitation on density on a site is a City Code and would be within the City's discretion for change. Ms. Logan advised the number was based on the Broward County Land Use Plan and the maximum densities within the Comprehensive Plan. She noted there are a number of overlapping factors.

Mr. Tilbrook asserted the TDR was a good idea that was not working well due to the limitations.

Mr. Adams added that they had spoken with people involved in a program in Washington State, including land use attorneys and others. Discussion ensued regarding density, contributing factors to determining density, allotment of units, and the level of City discretion involved.

Mr. Tilbrook clarified that his issue is that the TDR grants density, but the density has no value unless there are units available.

Chair Marcus asked whether the request would be better made to the City Commission. Mr. Tilbrook advised that they wanted to start with the HPB because they wanted the Board and staff to hear what the challenges are, and the reasons the TDR program had had limited success.

Mr. Rosa inquired as to why the TDR had only been implemented for historic properties. Ms. Logan stated it is a new incentive. She noted the Broward County Land Use Plan allows for other types of TDR programs if a city wanted to implement that into their Code.

Mr. Rosa stated the program was intended to be monetization of density so it could be traded, and developers are hitting a road block. He noted the program is approaching its third year, and asked what could be done to create a clearer path.

Mr. Bray asserted it was not an incentive, as future property owners lose the right to develop and would not see the benefit. Discussion continued.

Ms. Moste asked if there could be a listing site where people could list what they want to sell.

Ms. Walker explained that everyone she had spoken with about the TDR had told her that it was nonfunctional and could not actually be made into a development deal.

Mr. Rosa provided an example, and asked how an aggregation could take place. Ms. Logan advised the way the Code is written those are private transactions and the City does not get involved with negotiation or making the connection. She noted if a developer contacted the City, a list of historic properties that have applied for a Certificate of Eligibility could be shared.

Mr. Bray stated the dilemma was that with each of these incentives, the Board is hearing that there is no value because it is a time-consuming process or not something that can be used. Ms. Logan advised that the TDR can be a benefit. She pointed out that there are other cities where similar programs function and stated it may require some time to get started. She stated the Code is clear on what needs to happen step-by-step.

Chair Marcus asked whether staff had recommendations for other incentives which could be added. Ms. Logan stated staff had done a lot of research on things they had the power to add. She commented that direct funding is one of the few things left, and that is challenging.

Mr. Taylor asked for clarification as to whether the TDR was a transfer with respect to density and not a unit. Attorney Wallen provided additional details.

Discussion continued. Ms. Logan stated she did not think there was an issue with the sending site, but there are restrictions for the receiving site under the Broward County Land Use Plan which the City has to follow in evaluation of any new development.

Mr. Rosa asked what the total number of properties on the survey is, noting they could discuss a zoning overlay district, or they may be talking about a pool that is so limited it does not make sense to pursue. Discussion continued regarding looking at the historic district holistically, incentives and associated market values, as well as the total properties on the architectural resource survey and their designations.

Chair Marcus suggested a future discussion where the Board could look at the list of properties and map together to better understand. Ms. Logan stated a motion could be made to add that discussion as a future agenda item.

Chair Marcus asked how people are made aware of the incentives if they do not bring an attorney with them to speak with the City. Ms. Logan stated if there is something that would apply, staff provides the information during the application process.

Ms. Walker stated the Board sees a lot of homeowners who face financial burdens with complying with the regulations, and the conversation came about because the Board had asked about how to provide incentive for people to preserve historic properties. She asserted that the conversation had highlighted for her that what had spurred the discussion was a valid point.

Mr. Bray stated it appears the key financial incentives are based on income-producing properties and not private residential properties. He noted if it is adaptive reuse or they provide for mixed use, there are opportunities for incentives. He suggested a special purpose district to open it up to everybody in the historic district or specific zoning changes to allow for more opportunities, and noted that would be an issue of zoning, not historic preservation. He stated there may also be mentoring programs or workshops which could be put in place to help property owners and real estate agents to inform them of the process.

Chair Marcus asked whether there were any other fees that could be reduced. Ms. Logan stated there are not any fees for most residential Certificate of Appropriateness applications, except for demolition and relocation.

Chair Marcus inquired as to whether expedited permit review could be offered. Ms. Logan advised that is already done, to an extent.

Mr. Bray asked if there were loan programs that could be implemented to help property owners. Attorney Wallen stated there may be options related to disasters, but simply being a historic property, she has not found legal authority for loans or grants.

Ms. Moste asked whether the County has a system that would recognize that someone had sold their rights under the TDR and value the property less. Ms. Logan stated the documents would be ultimately recorded with the County to be on record for the future.

Ms. Moste asserted it would improve the incentive for homeowners to receive money for selling their rights and then also have their property value decreased to reflect it. She stated she thought there was potential for the TDR, and a feasibility study may be beneficial to determine whether something should be done to optimize the program in Sailboat Bend.

Ms. Logan pointed out there are more than 60 landmarks designated in the City outside of the historic district, and a lot of those would also qualify for the program. Discussion ensued regarding examples of privately-owned landmarks.

Mr. Rosa stated the marketplace is opaque, and it would be useful to have some mechanism to aggregate it and have a call for offers on the rights.

Ms. Moste suggested there could be a request for proposals, and there may be a private entity interested in managing it. She noted her experience in Atlanta and stated they could look to other cities for best practices.

Ms. Logan stated once the development rights are sold, they are sold to a particular property in perpetuity. Discussion continued regarding the potential to hire a consultant and a Communication to the City Commission related to incentives.

Attorney Wallen advised that the Board should make their ask of the City very specific. She stated for example, the City does not handle the property assessment, and Florida Statutes apply to the tax incentives.

Ms. Moste stated she believed two things the City could do would be to do a study to determine the potential, including how many units they are talking about, and look at best practices to create a marketplace. Attorney Wallen pointed out that the City's Land Use Plan must be consistent with Broward County's Land Use Plan, so something that was successful in Miami or Pensacola would not apply the same way in Fort Lauderdale.

Mr. Rosa asked Mr. Adams whether he was trying to acquire TDRs or sell them. Mr. Adams responded that he was trying to sell them. He stated the intent of the incentives was to preserve historic buildings, and noted if someone is thinking about designating their property, money to compensate for the headache is a big deal.

Mr. Rosa stated it appeared what was missing was an aggregator. Mr. Adams referenced Attorney Wallen's previous comments that some places have banks, but Fort Lauderdale is not set up that way. He stated it must go directly to the developers and there is an 18-month expiration. Discussion ensued as to the appropriate language for a motion.

Motion made by Ms. Moste, seconded by Mr. Bray, to write a Communication to the City Commission as follows:

1. To recommend the City Commission have the City Manager instruct staff to study or to obtain a consultant to study the Transfer of Development Rights (TDR) for the maximum potential number of units currently available and to look at best practices in Broward County to optimize the TDR program.
2. To evaluate the City's Land Use Plan and see if there is potential to increase units for the receiving sites for the TDR program.

In a voice vote, motion **passed 7-0.**

Adjournment

There being no further business to come before the Board, the meeting was adjourned at 6:40 p.m. The next regular meeting of the HPB is scheduled for Monday, January 2, 2024.

Attest: Chairman:

_____ _____

Prototype Inc. Recording Secretary Arthur Marcus, Chair

The City of Fort Lauderdale maintains a website for the Historic Preservation Board Meeting Agendas and Results:

http://www.fortlauderdale.gov/departments/city-clerk-s-office/board-and-committee-agendas-and-minutes/historic-preservation-board

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.