



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 16-00318

City Council

1/12/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Brian Spencer

SUBJECT:

PUBLIC HEARING: PROPOSED AMENDMENT TO SECTION 12-12-5 (BUILDING PERMITS) OF THE LAND DEVELOPMENT CODE - HISTORIC BUILDING DEMOLITION REVIEW

RECOMMENDATION:

That City Council conduct the first of two public hearings on January 12, 2017 to consider an amendment to the Land Development Code, Section 12-12-5 (Building Permits), by including Historic Building Demolition Review.

AGENDA: Regular

HEARING REQUIRED: Public

SUMMARY:

Currently the Land Development Code (LDC) only affords an application and review process for the issuance of demolition permits for those areas within a historic district or other similarly designated areas requiring such review. Given the steep history throughout the City of Pensacola, a desire exists to provide a review process citywide regarding the issuance of demolition permits for historic structures as defined in the LDC.

In July of 2016, the City Council directed the Planning Board to review the LDC in this regard. Through a series of meetings and workshops, the Planning Board has provided a recommended amendment to the LDC, Section 12-12-5.

At the September 15, 2016 City Council Meeting, City Council passed, on 2nd reading an ordinance providing for a 180-day moratorium on the issuance of demolition permits for historic structures as defined in the LDC as well as any structure built in 1916 or prior, providing that nothing within the ordinance shall prohibit the Building Official from abating or ordering the demolition of any unsafe structure in accordance with International Property Maintenance Code as adopted by Section 14-1-139 of the Code of the City of Pensacola.

PRIOR ACTION:

July 14, 2016 - City Council referred to Planning Board for their review and recommendation a Historic Building Demolition Review Ordinance

PRIOR ACTION: (Cont'd)

August thru November - Planning Board discussed at regular meetings as well as workshops to provide a proposed amendment to the Land Development Code

September 15, 2016 - Ordinance No. 27-16 imposing a temporary moratorium on issuance of demolition permits for Historic Structures passed on 2nd reading

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Historic Building Demolition Review

PRESENTATION: No

12-12-5 - Building permits.**Sec. 12-12-5. - Building permits.**

This section is established to provide for building permits for review of compliance with the provisions of this land development code. A "building permit" means any building or construction permit required by Chapter 14-1.

(A) Application. Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the Standard Building Code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit for the work. All applications for building permit shall be accompanied by the following information and materials:

(a) Two (2) complete sets of building construction plans shall be required. In addition, a plot plan drawn to scale depicting the following information shall be required for residential and commercial building permits:

1. Lot dimensions, boundary lines, area of the lot, and its legal description.
2. The locations and dimensions of buildings, structures or additions, including all overhangs, eaves and porches.
3. The yard requirements indicating distance from all property lines to the proposed buildings, structures or additions in feet.
4. The existing and proposed uses of each building, structure or addition.
5. Access and parking layout, including driveway location. Where applicable, required loading and unloading spaces should be indicated.
6. Elevations showing architectural features of each side of the existing and proposed construction.
7. Where application is made to build upon a lot nonconforming in size or dimensions (lot of record), the application shall be accompanied by a recorded deed giving description of the property as of July 23, 1965.
8. For all plans except single-family or duplex dwellings a landscape plan is required pursuant to section 12-6-4.

(b) Proof of sewer tap from Escambia County Utilities Authority.

(c) Completed current Florida Model Energy Efficiency Code Building Construction.

One (1) copy of the plans shall be returned to the applicant by the building official after he has marked such copy either as approved or disapproved and attested same by his signature on such copy. The original, similarly marked, shall be retained by the building official.

(B) Issuance of building permits. No application for a building permit shall be approved by the building official for any building, structure, or addition on any lot in violation of this chapter or not in compliance with any provisions of this chapter, unless authorized under subsection 12-12-2(A)(2), Variances.

(C) Construction and occupancy to be as provided in applications. Building permits issued on the basis of plans and applications approved by the building official authorize only the occupancy, arrangement, and construction set forth in such approval plans and applications, and no other occupancy, arrangement, or construction. Occupancy, arrangement, or construction in variance with that authorized shall be deemed a violation of this chapter, unless such change is reviewed and approved by the building official.

(D) Expiration of building permits. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six (6) months after the time

the work is commenced; provided that, for cause, one or more extensions of time, for periods not exceeding ninety (90) days each, may be allowed, and such extensions shall be in writing by the building official.

(E) Demolition Review.

This section shall be known and cited as the City of Pensacola's Historic Building Demolition Review Ordinance. The purpose of this section is to establish a predictable process for reviewing requests to demolish certain buildings in order to establish an appropriate ~~waiting~~ review period during which the City and the Applicant can propose and consider alternatives to the demolition of a building of historical, architectural, cultural or urban design value to the City.

(1) Definitions.

For the purposes of this section only, the following words and phrases, whether or not capitalized, shall have the following meanings:

Applicant means the person or persons filing an application for review under this Section.

Application means a Demolition Permit application for review under this Section, filed with the City's Inspection Services Division.

Application filing date means the date on which the application was filed with the City's Inspection Services Division.

Planning Board means the City's Planning Board as advisors to the City Council.

Day means any day, including Saturdays, Sundays, and holidays.

Demolition means any act of pulling down, destroying, razing, or removing a building or significant portion of a building, or the commencement of such work with the intent to complete the same. Demolition includes the act of either demolishing or removing:

- (1) 25% or more of the roof area, measured in plan view, excepting "board for board replacement" or;
- (2) 25% or more of the exterior walls of the building measured around the building, or;
- (3) Any exterior wall facing a public street.

Demolition permit means a permit issued by the Inspection Services Division authorizing the demolition of a building pursuant to an application.

Historic property means an individual building, structure, site, object or work of art including the adjacent area necessary for the proper appreciation thereof listed in the "National Register of Historic Places".

Neighborhoods means all the areas of the City.

Significant building means a building with respect to which the Planning Board has made a determination, that further examination, including the public hearing required by this Section, is warranted to determine whether a delay in demolition should be required.

(2) Buildings Subject to Review.

The following buildings are subject to review by the Planning Board for the purpose of determining whether such buildings are significant:

Any building located in the Neighborhoods of the city of Pensacola if:

- (b) Such building, or the portion thereof to which the application relates, was built prior to 1940, or
- (c) Such building is listed on the City of Pensacola's "**Local Registry of Historic or Significant Buildings**", or
- (d) Such building or the portion thereof to which is determined to be a **significant building** pursuant to subsection (4) 3, herein.

(3) Enforcement.

1. **Issuance of Demolition Permit.** The requirements set forth in this Section are in addition to, and not in lieu of, the requirements of any other codes, ordinances, statutes, or regulations applicable to the demolition of buildings. The Building Official shall not issue any demolition permit relating to a building that is subject to review, unless:
 - (a) The Building Official deems that demolition is necessary.
 - (b) The Building Official: (i) has received a notice issued by the Planning Board, that the building is not subject to review under this section, or is not a significant building, or (ii) has not received such notice within the time period set forth in Section (5).A; or
 - (c) The Building Official: (i) has received a notice issued by the Planning Board that no demolition delay is required; or (ii) has not received such notice within the time period set forth in Section (5).A; or
 - (d) The Building Official has received a notice issued by the Planning Board that there is no feasible alternative to demolition; or
 - (e) The demolition delay period set forth in Section (5).A has expired.
2. **Required Demolition or Repair.**
 - (a) **Demolition.** Nothing in this section shall restrict the authority of the Building Official to order the building owner, or the City, to demolish a building at any time if the Building Official determines that the condition of a building or part thereof presents an imminent and substantial danger to the public health or safety.
 - (b) **Repair.** Nothing in this section shall restrict the Building Official to require the Applicant to take reasonable action to prevent the need for required demolition of a significant building, which may include securing the building and making it safe so that it does not present an imminent and substantial danger to the public.
3. **Issuance of Building, Use, or Occupancy Permit.** If the Planning Board has determined that a building is significant, per Section (2), the Building Official shall not issue any building permit for the erection of a new building on the site of such significant building before issuing a demolition permit for such significant building in compliance with this section.

(4) Procedure.

1. **Application.** An application for review under this section shall be made in the manner provided below. If the Applicant is not the owner of record of the building, the owner or owners of record shall co-sign the application.
 - a. **Time for Filing Application.** The Applicant (or building owner) is encouraged to apply for review under this section as early as possible, so that any necessary review, and any delay period required by this Section, may be completed prior to, or during, any other review to which the building or its site may be subject.

- b. **Application for Early Review.** At any time prior to filing an application for a demolition permit, the Applicant may apply for review under this Section by submitting a request in writing to the Planning Board.
 - c. **Informational evidence:** The Applicant must submit for review sufficient information to enable the Planning Board to make their determination, including a site plan showing the footprint, photos of the subject building and surrounding properties.
2. **Determination: Applicability of Review and Significance of Building.** After its receipt of an application from the Building Official, the Planning Board shall determine: (1) whether the building is subject to review under this Section, and (2) whether the building is a significant building. The Planning Board may seek the assistance of City staff or the University of West Florida's Historic Trust.

The Planning Board shall issue a notice of its determination within forty-five (45) days of the Board's initial meeting unless a longer or shorter period is specified. If the Planning Board determines that the building is significant, such notice shall:

- a. indicate that the Planning Board will hold a public hearing within the time period required by this Section; and
 - b. invite the Applicant to submit any information that the Applicant believes will assist the Planning Board in: (i) determining whether the building is subject to demolition delay according to the criteria set forth herein, and (ii) evaluating alternatives to demolition.
3. **Criteria for Determining Significance.** The Planning Board shall determine that the building to which the application relates is a significant building if:
- a. The building is historically or architecturally significant in terms of its period, style, method of building construction or use of indigenous materials; or
 - b. The building is a significant reminder of the cultural, or architectural history of the city, state or nation; or
 - c. The building is associated with a significant local, state or national event; or
 - d. The building is associated with one or more significant historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the city, state or nation; or
 - e. The building is a representative example of its period, style, or method of construction; or
 - f. The building is identified with a person who significantly contributed to the development of the city, state or nation; or
 - g. The building is identified as the work of a master builder, designer or architect whose individual work has influenced the development of the city, state or nation; or
 - h. The building value is recognized for the quality of its architecture, and it retains sufficient elements showing its architectural significance; or
 - i. The building character is in a geographically definable area possessing a significant concentration or continuity of buildings united in past events or aesthetically by plan or physical development; or
 - j. The building character is in an established and geographically definable neighborhood united in culture, architectural style or physical plan and development.
4. **Planning Board Hearing to Determine Whether Significant Building is Subject to Demolition Delay.**
- a. **Hearing Requirement; Time for Issuance of Determination.** If the Planning Board has determined that a building is significant, the Planning Board shall hold a public hearing to determine whether the building is subject to the demolition delay required herein. At such hearing, the Planning Board also may consider alternatives to demolition. The

Planning Board shall issue its determination pursuant to such hearing within forty-five days (45) of the Public Hearing unless a shorter or longer period is specified.

- b. **Criteria for Requiring Demolition Delay.** The Planning Board shall make its determination concerning the requirement of demolition delay according to the criteria set forth herein. The Applicant is encouraged to present any information the Applicant believes will assist the Planning Board in making its determination.
 - c. **Early Determination of No Feasible Alternative.** At the hearing, the Applicant may present any information the Applicant believes will assist the Planning Board in evaluating alternatives to demolition. If, at such hearing, the Planning Board finds that demolition delay is required, and also finds that the information presented at such hearing is sufficient for the Board to issue a determination that there is no feasible alternative to demolition, the Board shall issue such determination within the time period set forth in this subsection for the issuance of the Planning Board's hearing determination.
 - d. **Hearing Notice and Procedure.** Except where otherwise specified in this Section, the conduct of any public hearing held, including public notices, hearing procedures, votes, records, and the like, shall be governed by the rules and procedures established by the Planning Board through its duly adopted regulations and by-laws.
 - e. **Notice of Determination.** Any determination issued shall specify the reasons for such determination. Such determination shall state whether or not demolition delay is required. If such demolition delay is required, and the Planning Board has not determined that there is no feasible alternative to demolition, such determination shall specify the date on which such delay period will expire.
5. **Criteria for Determination that Building is Subject to Demolition Delay.** To determine that a significant building is subject to the demolition delay, the Planning board must find that, in the public interest, it is preferable that the building be preserved or rehabilitated rather than demolished. In making such finding, the Planning Board shall consider the criteria for determining significance.
6. **Demolition Delay.**
- a. **Delay Period.** If the Planning Board has issued a determination, that a significant building is subject to demolition delay, the Building Official shall not issue a demolition permit until one hundred and twenty (120) days have elapsed following the close of the public hearing. Upon expiration of the delay period, the Planning Board shall issue a notice in writing stating that such delay period has expired, and the date of such expiration, unless the Planning Board has issued a determination that there is no feasible alternative to demolition.

A demolition delay decision by the Planning Board is not transferrable to a new owner of the property. If the property is sold during the demo delay period, then the demo delay will restart at the date of closing. Once a demo delay has expired, but before a demolition permit is issued by the Building Official, and the property is sold to a new owner, the demolition delay application process begins again.

- b. **Invitation to Consider Alternatives.** If the Planning Board has determined that a significant building is subject to demolition delay, and has not determined, at the hearing that there is no feasible alternative to demolition, the Planning Board shall invite the Applicant (or the owner of record, if different from the Applicant) to participate in an investigation of alternatives to demolition. The Planning Board also may invite the participation, on an advisory basis, of City Staff, as well as any individual or representative

of any group whose participation the Applicant (or owner) requests, to assist in considering alternatives.

7. **Evaluation of Alternatives to Demolition.** In evaluating alternatives to demolition per this Section, the Planning Board may consider such possibilities as: the incorporation of the building into the future development of the site; the adaptive re-use of the building; the use of financial or tax incentives for the rehabilitation of the building; the removal of the building and relocation to another site; and, with the owner's consent, the search for a new owner willing to purchase the building and preserve, restore, or rehabilitate it.
In evaluating alternatives to demolition of a structure, the Planning Board shall consider, and shall invite the Applicant to present, the following information:
 - (a) The cost of stabilizing, repairing, rehabilitating, or re-using the building;
 - (b) A schematic, conceptual design drawing; attestation of regulatory compliance with the Northwest Florida Storm Water Management Regulations as well as compliance with the City of Pensacola Tree Ordinance;
 - (c) Any conditions the Applicant proposes to accept for the redevelopment of the site that would mitigate the loss of the building; and
 - (d) The availability of other sites for the Applicant's intended purpose or use.
8. **Determination of No Feasible Alternative.** If, based on its evaluation of alternatives to demolition, the Planning Board is satisfied that there is no feasible alternative to demolition, the Planning Board may issue a determination prior to the expiration of the delay period, authorizing the building official to issue a demolition permit.
9. **Notice.** Any determination or notice issued by the Planning Board or its staff shall be transmitted in writing to the Applicant, with copies to the building official and, where applicable, to any individual or group that the Planning Board has invited to participate in an exploration of alternatives to demolition.