TRANSFER OF DEVELOPMENT RIGHTS STUDY

City of New Orleans

City Planning Commission
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A. EXECUTIVE SUMMARY

The New Orleans City Council passed Motion M-19-195 on May 9, 2019. The motion directs the City Planning Commission (CPC) to conduct a study providing recommendations for a Transfer of Development Rights (TDR) mechanism in the Comprehensive Zoning Ordinance (CZO), as described in the 2018 Canal Street Study and again in the 2025 Canal Street Progress Report & Analysis of Current Conditions, to facilitate the renovation and maintenance of historic structures along Canal Street specifically between Claiborne Avenue and the Mississippi River.

CANAL STREET STUDY

City Council passed Motion M-18-200 on May 24, 2018, directing the CPC to conduct a study to research potential strategies for the improvement of Canal Street between Claiborne Avenue and the Mississippi River and to provide recommendations for incentivizing the use of unoccupied upper floors while discouraging the demolition of historic structures.

The Transfer of Development Rights Study (hereafter referred to as the "present study") was motivated by the 2018 Canal Street Study. One of the Study's key recommendations was as follows:

> The CPC staff recommends the City adopt a transfer of development rights mechanism to allow property owners along the historic portion of Canal Street to sell unused development rights if the earnings from these sales are invested into the maintenance and upper floor renovations of the historic structures. A more detailed look into a program like this would need to be completed, including the sites that are able to send and receive development rights and the legal processes that effectuate these transfers. [1]

The City Council introduced Motion M-24-500 in 2024, directing the City Planning Commission to revisit the 2018 Canal Street Study. Specifically, the Motion requested the City Planning Commission reexamine key recommendations, identify any new or ongoing gaps, determine the implementation status of the recommendations and address any barriers to implementation.

The 2024-2025 update to the Canal Street Study acknowledges that significant changes have occurred since completion of the 2018 Study, creating substantial new implications for Canal Street and, in turn, for any potential Transfer of Development Rights policy. These events include the collapse of the Hard Rock Hotel at 1031 Canal Street in October 2019, the COVID-19 pandemic and the terrorist attack on Bourbon Street on January 1, 2025.

Moreover, the retail ecosystem has experienced dramatic changes since the first study - in the wake of the COVID-19 Pandemic and the further rise of online shopping; the corridor lost nearly half of its retail between 2018 and 2024. "Canal Street is struggling to maintain basic services and is not competitive on the national level."

Allowing Commercial Short Term Rentals as a revitalization tool along the portion of Canal Street between the Mississippi River and Rampart Street was a recommendation in the 2018 Canal Street Study. This recommendation was subsequently codified in the Comprehensive Zoning Ordinance – permitting Commercial Short Term Rentals in the upper floors without a

[1] New Orleans City Planning Commission, "Canal Street Study," 2018. https://nola.gov/next/city-planning/topics/major-studies-projects/canal-street-study/

cap on the percentage of the structure they can occupy. This policy has improved upper floor vacancy in the years since its adoption.

The present study develops this key recommendation by delineating the mechanics and implementation of such a TDR Program.

WHAT IS TRANSFER OF DEVELOPMENT RIGHTS (TDR)?

Every lot of record has a zoning envelope. The zoning envelope is the maximum legal developable area of a structure on the lot. However, lots developed with historic structures - such as those fronting Canal Street - are often not developed to the limits of their zoning envelope, particularly as that envelope has increased with more permissive zoning regulations in the years after these historic structures were developed. The difference between a parcel's actual building envelope and its allowable zoning envelope constitutes its unused development rights.

A TDR program creates the infrastructure for unused development rights to be transferred from "sending sites" to "receiving sites." In this quid pro quo arrangement, the owner of the sending site relinquishes some development rights, and the owner of the receiving site gains these rights to develop beyond the receiving site's original zoning envelope. TDR is a market-based mechanism. However, by designating sending and receiving sites, jurisdictions can use TDR to direct growth according to principles that may not be considered by private parties.

Often, the development potential of historic structures is limited by regulations or structural considerations, rendering their development rights perpetually under-actualized. A TDR program that designates historic properties as sending sites can tap into those unused development rights and coordinate them with development demand of receiving sites. Jurisdictions can require that all or some of the sending site's profits are reinvested into the historic structure. Conversely, the additional development rights purchased by receiving sites can sometimes make a development's pro forma viable.

TDR ON CANAL STREET AND WITHIN THE CBD

TDR allows jurisdictions to manage conflicts between historic preservation and development pressure more efficiently. A TDR program could be instrumental in preserving historic structures on Canal Street by allowing property owners to monetize and sell their unused development rights while requiring that profits be reinvested back into the historic property. TDR may also uniquely appeal to developers because it is less political and unpredictable than other types of land use entitlement processes.

The Canal Street corridor suffers from numerous vacancies and underutilized space above ground floor commercial uses. These upper stories could be rehabilitated through the sale of development rights. Designated receiving sites in the CBDs could then develop more easily by making use of those rights to expand a site's building envelope beyond what is permitted by its base zoning district.

The identified need for additional tools to contribute to revitalization of structures along the Canal Street corridor could be generalized to other historic structures in the CBDs. Therefore, it is staff's recommendation to include any Historic Landmark Structure within the CBD, and any significant or contributing structure that is located within the Canal Street Historic District, Picayune Place, Lafayette Square or Warehouse District to be a potential sending site.

ELEMENTS OF A SUCCESSFUL TDR PROGRAM

Although administrative and legal details of TDR programs are highly diverse, successful TDR programs typically have the same fundamental elements:

- Clear regulations,
- Simple formulas,
- Market demand for development in the designated receiving sites, and
- Coordination between the development community, buyers, sellers, and the entity tasked with administering the TDR program.

Further, the basic mechanics of TDR are similar across programs, regardless of those programs' policy goals:

- Define the rights which are eligible for transferal,
- Supply a mechanism for the severance of those rights from the sending site,
- Transfer those severed rights, sometimes in monetary or credit form, to a designated receiving site,
- Apply those severed rights to the receiving site by a variance from the local zoning ordinance, and
- Enact long-term or permanent restrictions on the sending site to affect a policy goal such as preservation of a historic asset or conservation of land.

RECOMMENDATIONS

As identified in the Mandatory Inclusionary Zoning Market Feasibility Analysis completed in 2025, New Orleans' downtown market is weak. Despite this knowledge, Staff recommends **codifying a new TDR program** in two phases to allow for the potential transfer of developable rights in case it proves helpful both for the preservation of an existing significant historic structure and for a new project. Unlike the existing and previous tools, staff recommend including all significant and contributing historic structures designated in local historic districts and all landmark structures as sending sites within the CBD. Receiving sites may include any location within the CBD that lies outside local historic districts and is not a designated historic landmark.

The staff acknowledges a truly impactful TDR program would require a strong development market in the CBD. However, in the absence of a strong market, there may still be opportunities for specific sites to utilize a TDR policy. A weaker market should not preclude the implementation of a TDR program. In the interim period, the staff recommends basic policy that could be used in a TDR exchange as a Phase I implementation. The intention is to refine the policy after the City's market strengthens as a Phase II implementation.

To implement this recommendation, the CZO would need to incorporate a revised TDR framework that reflects best practices identified from successful programs. Staff further recommend forming a dedicated implementation team comprised of City agency staff and local nonprofit partners to develop program details, guide the program rollout, and ensure the program is clear, accessible, and usable for property owners and developers once the market strengthens and Phase II can be implemented.

NEXT STEPS

The CPC's study and recommendations shall be forwarded to the City Council for consideration. The City Council may choose to hold its own public hearing on the Study, though it is not required.

In the case that the City Council seeks to implement a TDR program, the Council will adopt a Motion directing the CPC to docket the request and write a staff report with recommendations for the specifics of the program. The text amendment process includes an additional public hearing before the CPC. The CPC may choose to recommend text changes to the City Council with or without modification of the staff recommendations, or denial of the proposal. Next, the City Council would hold a public hearing before considering adoption of any text changes. The Council may adopt, adopt with modifications, or deny the recommendations of the CPC.

B. STATE ENABLING LEGISLATION AND LOCAL ZONING LAWS

STATE ENABLING LEGISLATION

In 1972, the State of Louisiana adopted legislation that allowed for a TDR program to be created in the city of New Orleans. The statute was revised in 1975, 1991, and 2011.[2] The state enabling legislation limits the location of a sending site to historic structures and those with "aesthetic interests" located within the CBD. Receiving sites must also be located in the CBD. The statute gives the City of New Orleans the right to put further limitations on the conditions of the transfer. The statute requires that regulations adopted by the municipality be uniform within each district, meaning that all properties within an individual zoning district must be regulated in the same way.

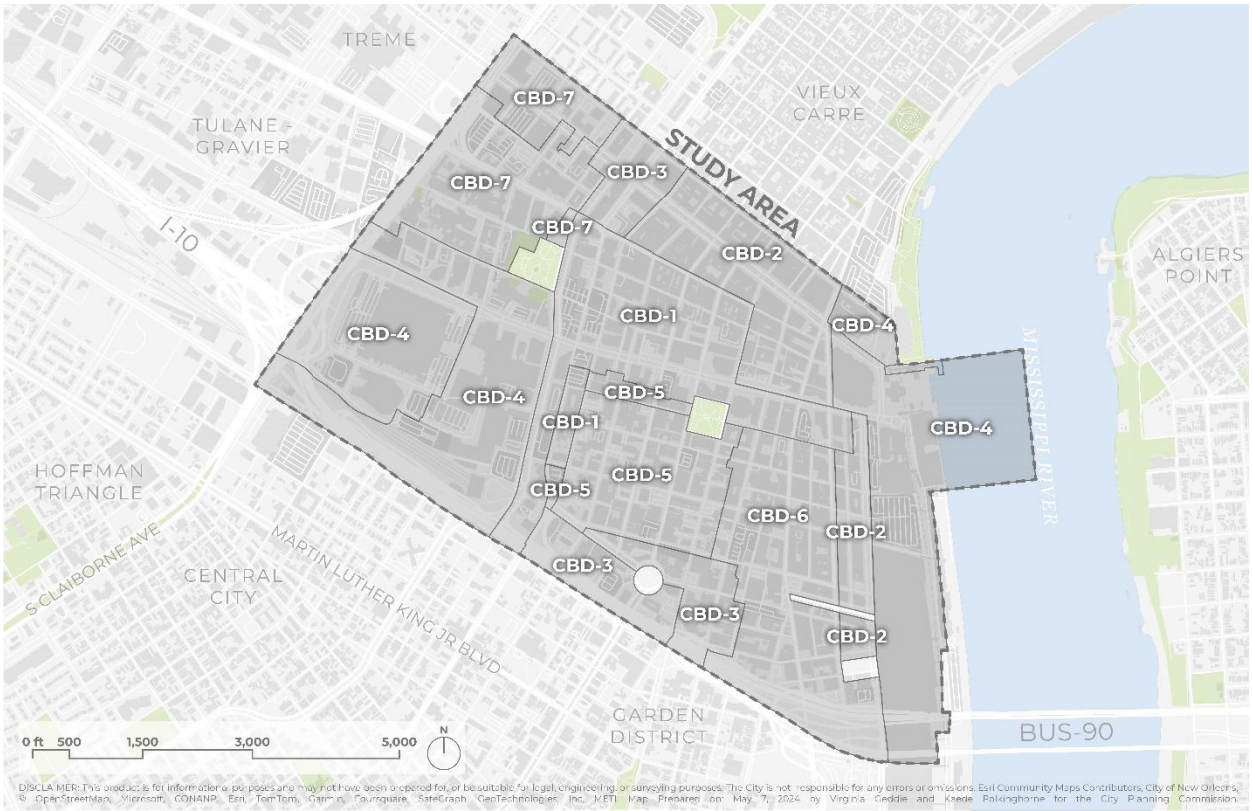

Figure 1. The state enabling legislation limits the location of a sending site to historic structures and those with "aesthetic interests" located within the CBD. Receiving sites must also be located in the CBD.

[2] Please see Appendix A for a full reproduction of the state enabling legislation.

TDR IN THE 1970 CZO

Based on the state enabling legislation passed in 1972, the City developed a TDR process that was eventually adopted into the 1970 CZO. The 1970 CZO more narrowly defined the areas that could send and receive development rights.[3] The former CZO's TDR process specifically targeted historic properties or those properties with "aesthetic interest" located in the CBD zoning districts. At the time, the CZO had nine CBDs which covered roughly the same geographic area as the CBDs today: the area bounded by Canal Street, the Pontchartrain Expressway, Interstate 10/Claiborne Avenue, and the Mississippi River.

The former CZO limited receiving sites to certain zoning districts: the CBD-1, CBD-2, and CBD-2B Districts. The CBD-1 District was intended to be the main office core of the city and allowed development of non-residential uses that are consistent with "downtown" business districts. The CBD-2 District was similar to the CBD-1 District but allowed development at slightly lower density. The CBD-2B District was intended to be the high-density residential counterpart of the CBD-1 and CBD-2 Districts.

All three districts promoted development at the highest densities allowed in the city, much of which was realized along the Poydras Street and Loyola Avenue corridors. The CBD-3 through CBD-9 Districts allowed less intense development to preserve the historic assets in these districts, which included Picayune Place, Lafayette Square, the Warehouse District, and the historic portions of lower Canal Street. The intent of the TDR program was to shift development rights from these historic neighborhoods towards areas where maximum development density was envisioned. This is a common goal of TDR programs and one that was again recommended in the 2018 Canal Street Study.

The former TDR application process required the same materials as a Conditional Use application, a report from the CBD Historic District Landmarks Commission (HDLC) and a plan for the continued maintenance of the sending site. Applications were initiated jointly by the owners of both the sending and receiving sites. TDR requests were required to meet the same approval criteria as Conditional Use requests, along with additional criteria ensuring that the transfer of rights would not negatively impact the area surrounding the site and that the sending site would be well-maintained. Each TDR request required a CPC staff report and recommendation, a CPC hearing and recommendation, and City Council approval.

Once a complete TDR application was received, CPC staff would evaluate the proposal against the appropriate standards in the CZO and make a recommendation to the Commission. The Commission would then make a recommendation to the City Council which would ultimately approve, approve with modifications, or deny the request. Approved requests required the applicants submit the recorded instrument of transfer and notice of restrictions to the City Council. The City Council was also authorized to require a surety bond to ensure compliance with the conditions of the approval.

In addition to the geographic limitations on the sending and receiving sites, the amount of development rights that could be transferred to one site was limited to 10 percent of the maximum floor area allowed in the underlying zoning district of the receiving site. This

[3] Please see Appendix B for a full reproduction of Section 16.8 of the 1970 CZO, which articulates the former TDR program.

provided for a relatively easy calculation because the three CBD districts permitted to receive development rights only restricted development by Floor Area Ratio (FAR)[4] – as opposed to height. If the zoning districts also had height or density maximums, the TDR program would need to account for 10 percent allowances for the height or density requirements as well.

The maximum amount of development rights that could be transferred from a site was equal to the difference between that site's maximum floor area allowed by its underlying zoning district and the total floor area of all buildings on that site. The receiving site could then increase the total floor area allowable by the underlying zoning district and any other CBD bonuses by 10 percent.

The staff did not find any evidence that the former TDR system had been used, and the system was not adopted with the current CZO that was adopted in 2015. It is unclear why the former system was never actualized, but one possible reason is the number of other bonus allowances available to developers in the CBD Districts under the 1970 CZO. Many developments received floor area bonuses for incorporating components like arcades and residential uses. Securing these bonuses would have been much easier, and possibly cheaper, than coordinating with a separate property owner to apply for a TDR.

Another reason that the TDR process outlined by the 1970 CZO may not have been actualized is a lack of unused development rights held by designated sending sites at the time it was available. Looking at the historic blocks of Canal Street (loosely the former CBD-3 District), the height limit was 70 feet under the 1970 CZO, as compared to today's 120-foot limit. Similarly, the former FAR was only 6:1, meaning that a structure built over an entire lot only had the right to build up to six floors. Most historic buildings on Canal Street stand between 55 and 70 feet. Therefore, the amount of unused development rights held by each sending site may have been seen as negligible to potential receiving sites. Likewise, the profit sending sites would make from selling those rights may have also been uncompelling.

The CBD-2 District, which encompasses much of the study area, now has a 120-foot height limit in the current CZO. The increase of height allowance from the former to the current CZO created a significant amount of unused development rights in that area. These development rights could be meaningful to receiving sites under an updated TDR process.

[4] FAR is defined as the gross floor area of a structure on a lot divided by the area of the lot.

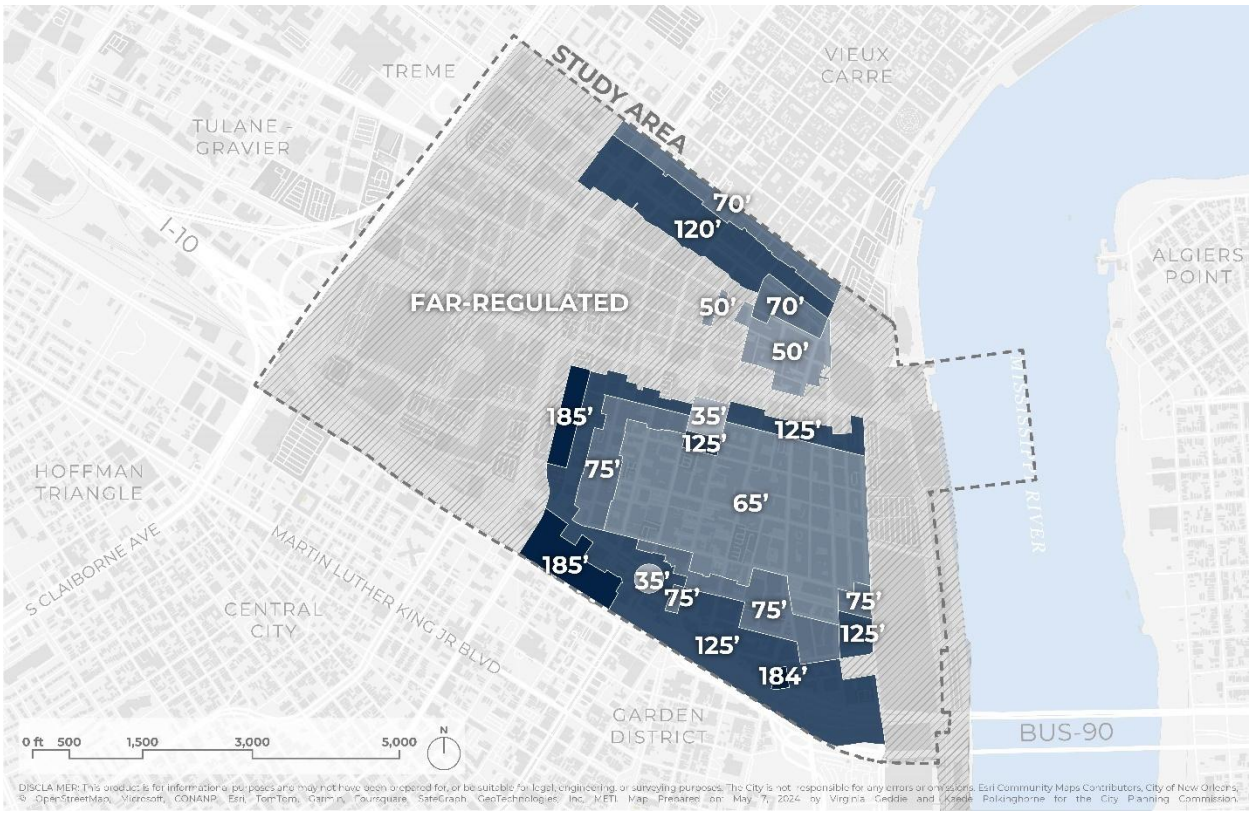

Figure 2. Building height limits in the current CZO's CBDs

LANDMARK PRESERVATION IN THE CURRENT CZO

Article 17, Section 17.5 of the Comprehensive Zoning Ordinance contains a Public Benefit Floor Area Ratio (FAR) Bonus Provisions section. This section outlines several ways in which to increase FAR in exchange for public benefit. One way is known as the Landmark Preservation Financial Contributions Standards which outlines a process with noticeable similarities to a TDR program that aims to preserve historic structures.[5]

The Landmark Preservation Public Benefit Formula provides for "floor area bonuses for financial contributions to the restoration of existing or proposed landmark structures," and outlines the following requirements:

- The financial contributions required for each square foot of bonus floor area shall be equal to 80 percent of the median cost of one square foot of land in the CBDs.
- The cost of land in the CBDs shall be determined based on average sale prices over the five preceding years.
- The maximum bonus that may be obtained is equal to 20 percent of a site's base zoning district's FAR.

The Landmark Preservation Standards and Guidelines provide further context for the Landmark Preservation Public Benefit Formula:

[5] Please see Appendix C for a full reproduction of Sections 17.5.E.1 and 17.5.E.2 of the current CZO.

- Landmark structures must be identified on HDLC's list of historic landmarks or on the National Register of Historic Places.
- Restoration projects shall adhere to HDLC guidelines and be subject to the approval of the Division of Historic Preservation of the State of Louisiana if the site is not located in a local historic district or on HDLC's list of historic landmarks.
- Proposed new landmarks shall be identified and certified by HDLC and/or the National Park Service.
- Funds garnered from the formula shall be used to renovate historic landmarks beyond routine maintenance and renovations must be visible from a public street or within a portion of the interior that is open to the public.

There are eight (8) historic landmarks along Canal Street and roughly 50 in the downtown/CBD area. To date, no developer has utilized the new Landmark Preservation bonus provisions. The regulations of this policy are unclear; the CZO does not specify the regulatory process by which financial contributions are made, nor by which bonuses are granted. Further, while section 17.5.E.2 provides some details on which sites can receive financial contributions, no detail is provided regarding which sites are able to make financial contributions and receive floor area bonuses. The program does not specify the amount of financial contribution required to trigger the FAR bonus other than the "funds shall be used for substantial interior or exterior rehabilitations or restoration." Nonetheless, the text is clearly aligned with the goals of the contemplated TDR program and should either be incorporated into the text that codifies such a program or removed entirely.

C. EXISTING CONDITIONS

The segment of Canal Street between the Mississippi River and Claiborne Avenue (contemplated by the present study as part of the sending area for an updated TDR process) is a highly trafficked, multi-modal corridor and a centuries-old commercial destination. Bordered on one side by the French Quarter and on the other by the CBD, Canal Street is a critical component of New Orleans' urban fabric and cultural identity.[6]

HISTORIC CONTEXT

Following the Louisiana Purchase, Canal Street's 171-foot width served as a "neutral ground" between Creole neighborhoods down river and the growing American Sector, where the CBDs exist today. Throughout the nineteenth century, Canal Street became increasingly commercial, with residential development moving Uptown.

In the second half of the twentieth century, Canal Street suffered from ongoing disinvestment. The 1985 oil bust was compounded by the impact of white flight and suburbanization. Exacerbating disinvestment within the city was the development of large indoor shopping centers typically located in the suburban areas where wealthier residents flocked to.

The introduction of the automobile to the Canal streetscape also impacted the character of the corridor. What was once a pedestrian-focused boulevard became a bustling multi-lane thoroughfare. Canal Street is still a place for culture and ceremony but is no longer a regional retail destination.

The land that is now known as the CBD was held by private landowners until 1788, when Bertrand Gravier subdivided his land to create New Orleans' first officially incorporated neighborhood. By the 1830s, the area was generally known as the American Sector. Much like Canal Street itself, the CBD continued to thrive through the first half of the twentieth century but experienced a decline beginning in the 1950s and 1960s. Highway construction and real estate speculation motivated by the widening of Poydras Street in 1963 led developers and the City to raze much of the residential fabric of the neighborhood, making room for the Civic Center, office buildings, and parking lots.[7] The Central Business District Historic District Landmarks Commission (CBDHDLC) was established in 1978 to govern demolition and new construction.

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[6] The Canal Street Study, which motivated the present TDR Study, focuses on the current state of this stretch of Canal Street and is a resource for further information regarding the history and existing conditions of the area.

[7] Preservation Resource Center

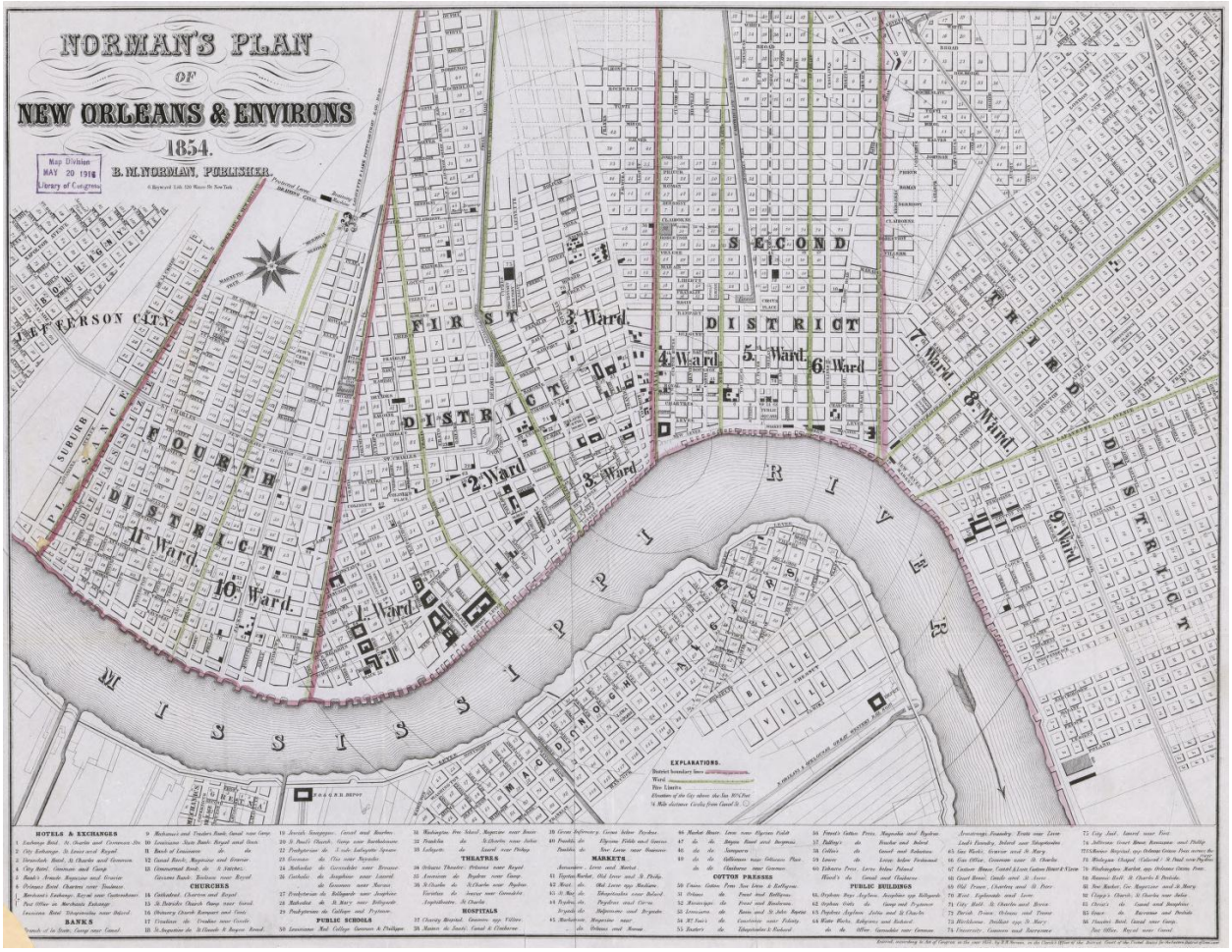

Figure 3. 1854 map of New Orleans illustrating the continuous fabric of the French Quarter, American Sector, and Uptown uninterrupted by freeways and prior to the expansion of auto-infrastructure on Poydras and Canal Streets. Image courtesy of the Library of Congress.

CANAL STREET ARCHITECTURE

Much of New Orleans is characterized by historic structures, and Canal Street is no exception. Preserving Canal Street's historic structures is a key component in achieving New Orleans' cultural and economic goals.

Many major structures that characterize Canal Street today occupy the former sites of equally significant historic buildings. For example, the Rivergate Exhibition Hall, which opened in 1968 as a midcentury modernist revitalization project, was demolished to make room for Harrah's Casino (since renamed Caesar's) in 1995.[8] Similarly, the Southern Railway Terminal at 1125 Canal Street was demolished in 1956 when passenger service was transferred to Union Passenger Terminal on Loyola Avenue.

[8] The Historic New Orleans Collection. Lost New Orleans Landmarks.

Figure 4. Rivergate Exhibition Hall opened in 1968 and was demolished in 1995 to make room for Caesar's Casino. Image courtesy of the Southeastern Architectural Archive, Special Collections Division, Tulane University Libraries.

Despite the demolition of historic structures throughout the 20th century, Canal Street retains exemplary architecture from a variety of 19th and 20th century styles, particularly between the Mississippi River and Claiborne Avenue. Preserving these structures is a priority for both the City and organizations that steward the corridor like the Preservation Resource Center (PRC) and the Downtown Development District (DDD).

One of the earliest architectural styles displayed along Canal Street is the highly ornamental Italianate style, particularly along the 600 block. Tall office buildings, like the Maison Blanche building at 901-921 Canal, were erected in the early 20th century. The Maison Blanche building is the largest historic commercial building on the corridor, and once held both a department store and office space. A series of historic theaters built throughout the mid twentieth century still stand, albeit in various conditions, including the Orpheum (1918), the Joy (1947) and the Loews State Palace (1926).[9]

As restated throughout the study, TDR is envisioned as a tool for promoting the historic preservation of architectural assets along Canal Street and bringing vacant upper floors of these buildings back into commerce. As such, TDR could have the added benefit of saving historic structures from demolition by neglect, fires, potential of a collapse and other acts of destruction that can result from prolonged vacancy and have already destroyed structures on Canal Street.

Although a significant number of structures along Canal Street are historic, there are also buildings that have been constructed within the last 50 years and would not be considered historic. Those that are historic are in varying conditions and contribute varying architectural value to the corridor. Which sites qualify to send development rights should be informed by their historic status and architectural value.

[9] New Orleans Historic District Landmarks Commission. HDLC Canal Street Historic District.

HDLC HISTORIC DISTRICTS

The Canal Street Historic District

The New Orleans Historic District Landmarks Commission regulates 14 districts, which include both “full control” and “partial control” areas. Areas that are full control must have the commission approve new construction and all exterior work to an existing building visible from the right-of-way. Conversely, oversight is limited to demolition and some building requirements for partial control areas

Designated in 1984, the Canal Street Historic District extends from S. Saratoga/Crozat Street on the lake side, down the center of Iberville Street to N. Peters/Tchoupitoulas Street on the river side. The district includes all lots fronting on the downriver and uptown sides of Canal Street except for the uptown lots between Camp and Magazine Streets.

The HDLC evaluates each structure within a district and determines their historic status, either: Significant, Contributing, or Non-contributing. Significant includes structures of national importance or major state, regional or local significance. A Contributing structure includes buildings which are integral components of the city because they are historically and architecturally significant, and Non-Contributing structures are not historically or architecturally significant. Prior to the three-tiered evaluation system, HDLC used color-coded maps that identified a building’s rating. The maps included seven colors: purple, blue, green, red, gold, gray and black. A purple or blue property now qualifies as “Significant,” a green, red or gold property qualifies as “Contributing” and, and grey or black are “Non-Contributing.” The HDLC relies on the older paper maps and in-person inspections and analysis to confirm a property’s rating. The maps are not digitized and the structures along Canal Street have not undergone a full investigation by HDLC to have their statuses determined. However, based on the evaluation schema, and the map provided by HDLC, there appears to be roughly 10 Significant buildings and roughly 99 Contributing buildings that could be sending sites along Canal Street.

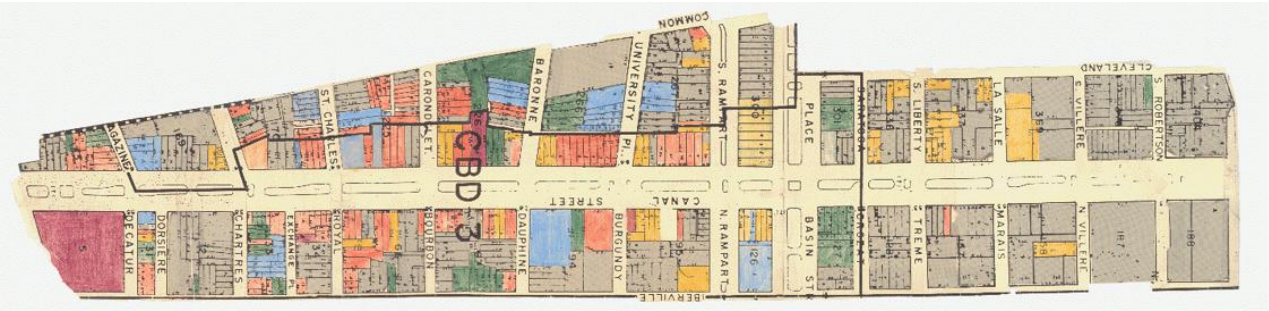

Figure 5. Contributing and noncontributing sites in the Canal Street Historic District. Photo courtesy of HDLC.

While there are protections in place to ensure that historic structures along Canal Street are not demolished, there are cases in which neglect leads to a structure’s demise. For example, in 2016 a man taking shelter in an alcove at 1016 Canal lit a fire to stay warm. The structure was quickly engulfed in flames, and it took firefighters more than eight hours to control the fire. 1016 Canal Street has since been redeveloped as commercial short term rental units, but cleaning out, stabilizing, and rebuilding took several years.

Figure 6. Damage from a fire at 1016 Canal Street in 2016 (left) and the rebuilt residential building currently operated at the address (right). Photo courtesy of Times-Picayune/NOLA.com.

Other CBDHDLC Historic Districts

The Canal Street Historic District is technically under the jurisdiction of the CBDHDLC, which shares a staff with the New Orleans HDLC. The CBDHDLC must approve demolition, renovation, and construction in downtown historic districts. Besides the Canal Street Historic District, there are three additional historic districts downtown over which the CBDHDLC presides: Picayune Place, Warehouse District, and Lafayette Square.

All four of the downtown historic districts are "full control," meaning that the CBDHDLC "has jurisdiction over any portion of a building or property that is visible from a public right-of-way" and that "all exterior work, excluding paint color and plantings, must be submitted to the HDLC for review and approval prior to commencing work."[10]

Approximately half of all sites in the CBDs fall under a full control historic district. As such, coordinating with the CBDHDLC is an additional regulatory process that must be undertaken to renovate sending sites or develop historic receiving sites. The CBDHDLC's necessary involvement in renovating sending sites is aligned with one of the TDR program's motivating goals - the preservation of historic structures along Canal Street.

Development along Canal Street in recent years has capitalized on the corridor's historic architecture to anchor a unique user experience. While razing historic structures was seen as a necessary sacrifice for commercial viability in the 1980s, today's developers are both amiable to the economic benefits of preserving Canal Street's historic storefronts and ornamental facades and, in many cases, are required to maintain their property as a cultural resource.

GENERAL DEVELOPMENT PATTERNS

Canal Street has been a major retail corridor for New Orleans since the mid-1800s. Today, Canal Street is still a place for culture and ceremony, but it is no longer a regional retail destination. The 2018 Canal Street Study identified that attracting diverse new ground floor retail tenants was a resounding goal of most planning efforts from the 1950s on, and similarly focuses heavily on retail in its analysis and recommendations.

Still, retail is the predominant ground floor use along Canal Street from Claiborne Avenue to the Mississippi River. As part of the 2018 Canal Street Study, the CPC conducted a land use

[10] New Orleans Historic District Landmarks Commission. HDLC Guidelines Introduction.

survey of the area and counted a total of 122 ground floor uses including vacant spaces. Retail continued to represent the largest group of ground floor uses at 35%. However, the use of ground floors as retail goods establishments is steadily decreasing. The updated Canal Street study states, "though the number of Occupational Licenses has decreased significantly over the past 12 years, nearly all of those losses are attributed to shuttered Retail Goods Establishments, which decreased by greater than half, from 64 to 31. Other uses in the study area have remained relatively stable or have increased in number in this timeframe. Hotels and Restaurants have both experienced growth with three new establishments each. Personal Service Establishments, which include spas, massage, and nail salons, saw an increase from 2012 to 2017, but then returned to baseline by 2025. These types of businesses were especially hard hit during the COVID-19 pandemic due to the nature of the businesses requiring contact with patrons, which was restricted for some time."

While the principal goal of TDR is to preserve historic structures, improving building conditions along Canal Street would make rental spaces inherently more attractive to retailers. Consequently, a TDR program that successfully supports the renovation of historic structures along Canal Street would support the corridor's commercial development.

One of the specific questions explored by the 2018 and updated Canal Street Study is upper floor occupancy along Canal Street. Historically, the two-to-four floors above ground floor retail uses were used for storage or showrooms and sometimes for shopkeeper residences. The studies found that today, many of the upper floors continue to be used for storage or are simply left vacant. However, the upper floors of a notable number of historic buildings, such as the Mayfair Hotel, the Giani Building, and the Rubenstein Hotel have been successfully redeveloped, and other structures have received occupational licenses for hotels, apartments and Commercial Short Term Rentals in recent years.

Stakeholder meetings conducted as part of the TDR Study indicated that one of the main challenges to developing the upper floors of historic structures on Canal Street is their typically small floor plates. Building code requirements are difficult to meet without combining multiple adjacent structures. Even if multiple adjacent structures are owned by a single party, combining them introduces new challenges, such as uneven floor heights and significant structural renovation requirements. Rubenstein's Hotel is a recent and well-recorded example of a development that confronted and overcame these challenges and is explored in Appendix D. Additional exploration of upper floor occupancy along Canal Street can be found in the 2018 Canal Street Study and the updated Canal Street Study from 2025.

TDR was contemplated by both Canal Street Studies as a strategy to address upper floor occupancy challenges. The studies recommends that Canal Street property owners be required to reinvest profits from TDR into "the maintenance and upper floor renovations of the historic structures."[11]

TRANSIT-ORIENTED DEVELOPMENT

Canal Street is a major transportation corridor with automobile, streetcar, bus, and pedestrian facilities. People walk along the wide sidewalks of Canal Street to reach major destinations like the Saenger Theater, Harrah's Casino, the Canal Place Shopping Center, and the French Quarter. The City's major downtown transit hub is slated to be located at the intersection of

[11] New Orleans City Planning Commission. Canal Street Study.

Basin and Canal Streets, which already serves as a major transfer point for many bus lines and the Canal and Riverfront Streetcar lines.[12] The street itself is designed with three traffic lanes in each direction divided by a grade separated neutral ground that serves as a dedicated light rail lane in both directions for streetcars.

Significant effort on the part of the Downtown Development District and other stakeholders has resulted in some pedestrian-oriented design improvements along Canal Street in recent years, including the installation of palm trees throughout the corridor's neutral ground. The Regional Transit Authority's (RTA's) bus and transit routes in the study area are illustrated by Figure 9.

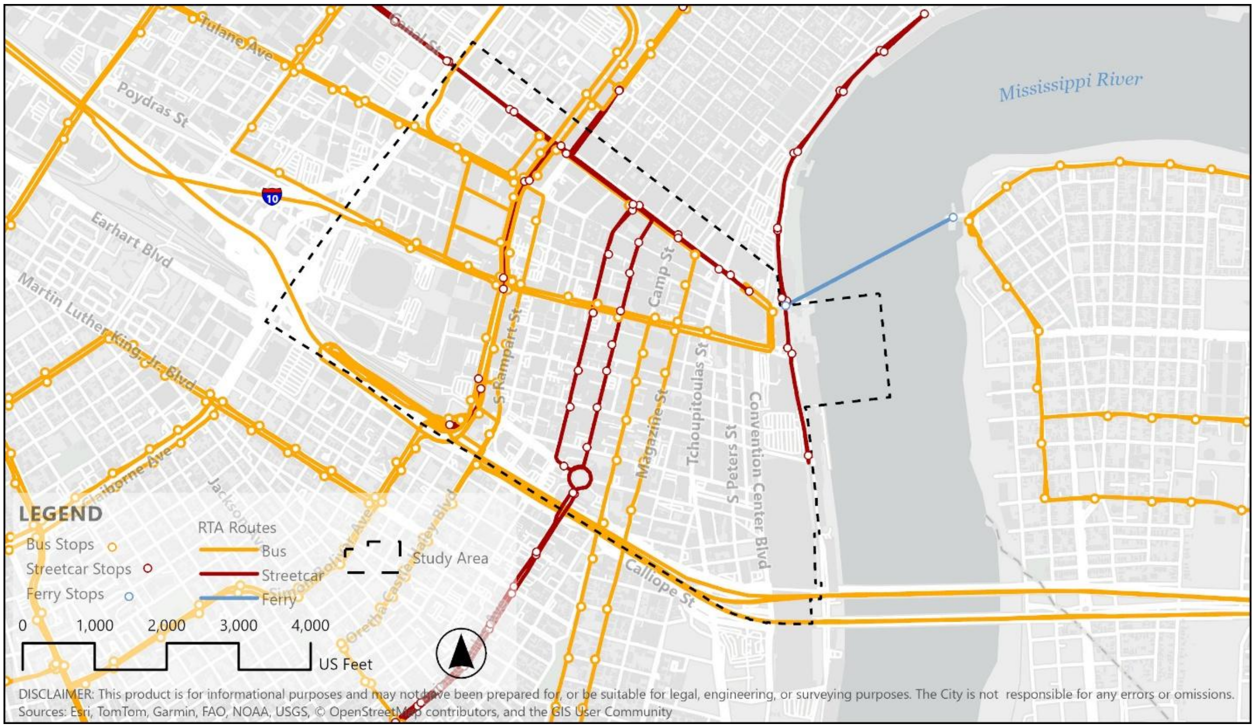

Figure 7. RTA bus, streetcar, and ferry routes

The CZO identifies key corridors in the CBDs that have designated streetcar, bicycle, or pedestrian facilities as Multi-Modal/Pedestrian corridors, and sets certain building design guidelines that are intended to improve the pedestrian, bicycle, and transit rider experience.[13] The design standards include increased transparency on the first floor, increased pedestrian passageways, prohibited parking access along the corridor, bicycle parking, etc. The corridors are shown in Figure 10. For a full list of the corridors as they appear in the CZO, please see appendix E.

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[12] New Orleans Regional Transit Authority - Downtown Transit Hub (norta.com)

[13] Article 17, Section 17.6 of the Comprehensive Zoning Ordinance

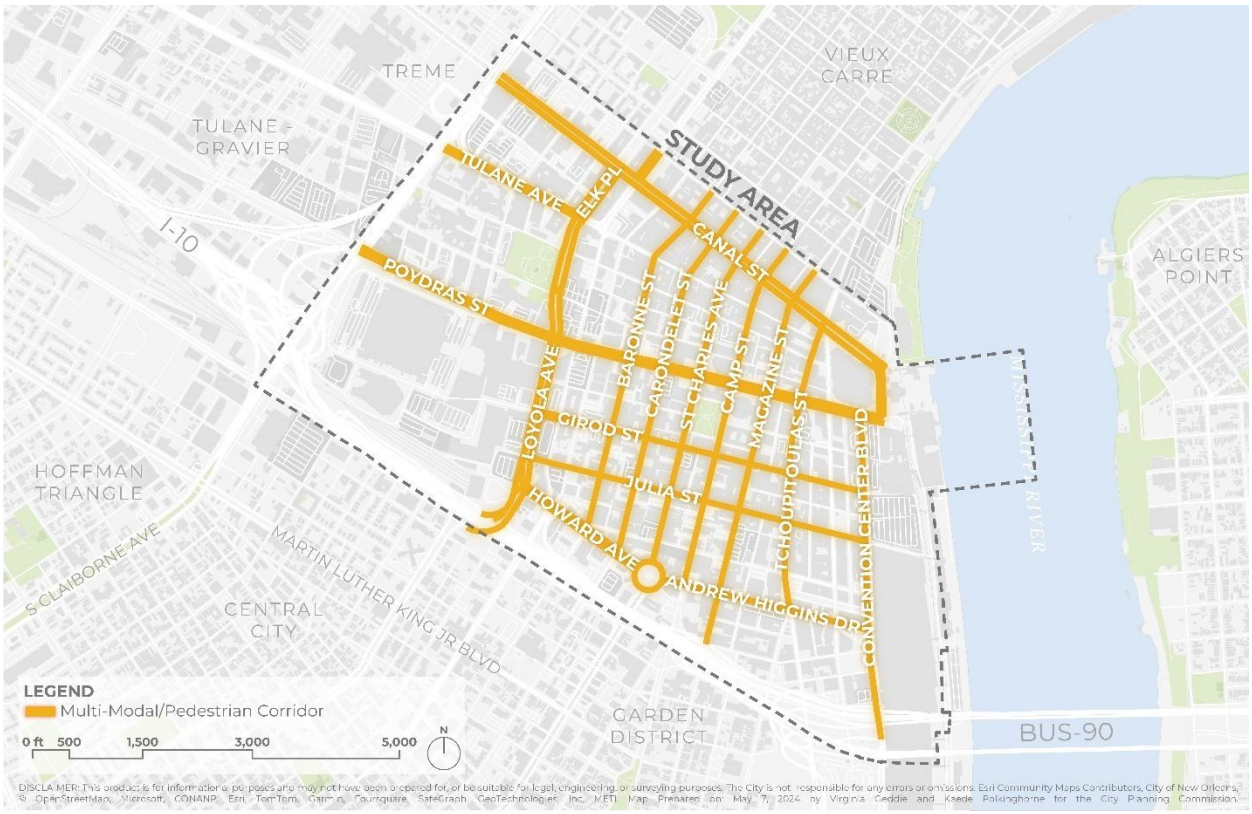

Figure 8. Multi-Modal/Pedestrian Corridors

While the principal goal of TDR is not transit-oriented development, any additional density above the base zoning will be secondarily advantageous for transit insofar as it increases residential and commercial density and potential ridership. Targeting these multi-modal corridors as receiving sites for additional development rights should be considered.

AFFORDABLE HOUSING DEVELOPMENT

In response to the housing crisis and the lack of affordable housing, the City has encouraged the development of new affordable housing units through various tools in recent years. The Mandatory Inclusionary Zoning (MIZ) Ordinance was passed in March of 2019 that identifies the entire CBD as a "Core" market area, the term designated to describe the strongest markets in the city. Any new residential developments with 10 or more housing units in a "core" market must set aside 10 percent of the total units as affordable (targeting renters earning no more than 60 percent AMI).

MIZ projects are automatically awarded a 30 percent density bonus that is realized as a 30 percent reduction in lot area per dwelling unit, or 30 percent increase in FAR, whichever is applicable. The MIZ regulations also include the French Quarter a "Core" market and designate some areas geographically adjacent to the Core Markets as "Strong" market areas, including: Tremé, Marigny, Bywater, and Lower Garden District neighborhoods. "Strong" markets can support a MIZ program to a lesser extent than the "core" markets. The "strong" market areas require a five percent set aside of affordable units. **Figure 11** illustrates MIZ areas relative to the study area.

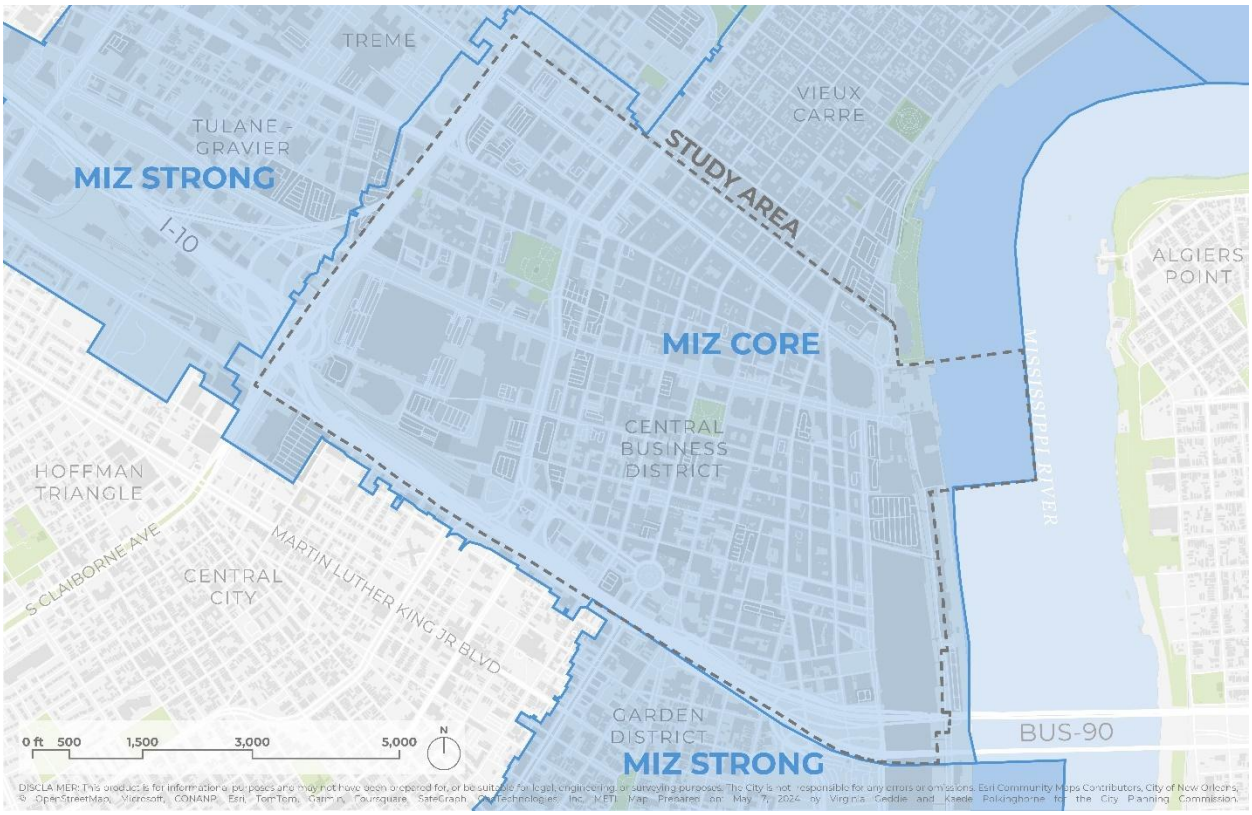

Figure 9. The study area falls within the Mandatory Inclusionary Zoning (MIZ) Core market area. Image: New Orleans CPC.

In 2025, the city conducted an MIZ Market Feasibility Analysis with HR&A Advisors (completed in November of 2025). The analysis found that no affordable units were created as a result of the MIZ mechanism since its inception. A TDR program could be leveraged to incentivize the development of affordable housing in the CBD by giving receiving sites additional height or FAR increases beyond what the TDR program would allow if the sites provided additional affordable housing units over the required ten percent set aside[14].

Other cities, specifically Seattle, allow TDR receiving sites that provide affordable housing up to a 75 percent increase in FAR beyond their base zoning regulations, while TDR receiving sites that do not provide affordable housing can receive a 25 percent FAR increase beyond their base zoning regulations. Any additional FAR/height granted by a TDR program in addition to the MIZ bonuses in the study area will have to be carefully implemented so that neighborhood character is not compromised by any additional development allowances. One strategy for mitigating incongruous development that may negatively impact the surrounding context is the implementation of a cap on how much FAR/height can be applied to a given site.

[14] CPC completed the MIZ Study in 2025 and changes to the MIZ policy could occur.

D. BEST PRACTICES

Existing TDR programs in New York City, Atlanta, and San Francisco can inform potential TDR regulations in New Orleans. While the context and goals of these programs vary, each offers lessons that can be implemented in New Orleans.

NEW YORK CITY, NEW YORK

The New York City TDR program is one of the longest-standing and most robust in the nation. Established in its earliest iteration following the adoption of New York City's first zoning ordinance in 1916, TDR has been a successful strategy for preserving historic landmarks and redirecting development pressure from culturally significant areas. Beyond solely preserving public benefits, the competitive nature of New York City's real estate market has made TDR an attractive mechanism for achieving flexibility within the zoning code and making large scale development projects more lucrative.

The New York City Department of City Planning completed a survey of TDR mechanisms in use throughout their jurisdiction in 2015. They characterized four distinct mechanisms as falling under the TDR umbrella: Zoning Lot Mergers (ZLMs), Landmark Transfers, Special District Transfers, and Large-Scale Development Plans (LSDPs). ZLMs allow the transfer of unused floor area between adjacent tax lots through the dissolution of lot lines and redistribution of allowable floor area within the merged lot. While not technically a transfer of development rights, ZLMs were the precedent for New York City's subsequent TDR mechanisms. ZLMs will be explored more generally in the Complementary Strategies section of the present study.

This case study will focus on Landmark Transfers and Special District Transfers, as these are the most relevant mechanisms to New Orleans' contemplated TDR program.

Landmark Transfers

Established in 1968 through City Code Section 74-79, landmark transfers created a special permit that enabled landmark owners to sell unused development rights to adjacent properties. The program has been used 11 times in total, and only twice since 2001. However, it represents New York City's first effort to use TDR as a means of preserving historic and culturally significant structures.

New York's City of Yes program, implemented at the end of 2023, makes this transfer easier. Five applications have been filed in the past year seeking these rights under the updated policy. Special permits are no longer required and approval is administrative, reducing the review time by up to two years. The new policy also expands the number of potential receiving sites by allowing transfers to lots on the same block, directly across the street from the sending site or at the next intersection, not just lots that are directly adjacent to the sending site.[15] In 1964, New Yorkers were in uproar over the potential demolition of the Old Penn Station – an iconic building that represented the glamor of New York's gilded age, even as its pink granite

[15] New York City Department of City Planning, *City of Yes for Housing Opportunity: Zoning Text Amendment* (New York: NYC Department of City Planning, 2023); Office of the Mayor of New York City, "Most Pro-Housing Administration in City History: Mayor Adams, City Officials Mark One-Year Milestone of City of Yes for Housing Opportunity," press release, January 3, 2026.

walls turned grey with neglect. Largely in response to the decline and ultimate demolition of Penn Station, the Landmarks Preservation Commission (LPC) was created a year later to "[protect] New York City's architecturally, historically, and culturally significant buildings and sites by granting them landmark or historic district status, and [regulate] them after designation."[16]

The LPC's landmark designation restricts properties well beyond the usual zoning and land use regulations, which has long been interpreted by property owners as the City "taking away" the value embedded in their landmark property's development rights. In 1968, City Code Section 74-79 was passed to provide the owners and would-be developers of these sites with a means of profiting from unused development rights. City Code Section 74-79 permits the transfer of development rights "to adjacent lots from lots occupied by landmark buildings or other structures." Transfers of this kind are known as landmark transfers.

Figure 10. Outroar from residents, such as the pictured Action Group for Better Architecture in New York, motivated the creation of the Landmarks Preservation Commission (LPC). Image: Eddie Hausner/The New York Times[17]

In 1968, five years after the demolition of the Old Penn Station and two years after the creation of the LPC, Penn Central Transportation Co. leased the new Penn Central Station to a developer. The developer planned to increase the station's income by building a 50-plus foot skyscraper on top of the terminal. The LPC denied building permits for the project, and Penn

[16] New York City Landmarks Preservation Commission. About LPC.
[17] Dunlap, David W. "Longing for the Old Penn Station? In the End, It Wasn't So Great." New York Times, 30 December 2015.

Central sought compensation from the City "equal to the fair market value of the property's air rights."[18]

In 1978, Penn Central Transportation Co. v. City of New York was heard by the Supreme Court. The Court ruled that "the restrictions imposed are substantially related to the promotion of the general welfare," and the case is remembered as being one that enshrined municipal governments' right to limit the development of landmark sites. However, their Court's opinion further stated that "the law [...] sought to insure [sic] that the owners of the City's [...] designated landmarks received a "reasonable return" on their investments. Owners of landmark sites were thus given opportunities to transfer development rights to other parcels."[19] In other words, the transfer of development rights from landmark properties to developable properties is baked into the legality of the LPC.

The Landmarks program requires that a 'sending site' be both identified as a contributing historic or cultural landmark by the LPC. By opting into the program, the owner enters into a binding agreement with the City to maintain the landmark.

Receiving areas must be within the same block as the subject property or share the same block face or intersection. There is a 20% FAR cap on the amount of density that can be transferred to any receiving site. These regulations narrow the number of landmarks which can feasibly participate in the program. Further, many of the City's landmarks are located in residential districts where the allowable building envelope is smaller, reducing the amount of rights that can be transferred.

Prior to the updated regulations in New York's City of Yes policy, landmark transfers entailed rigorous permitting and approval requirements. Previously, owners who wished to transfer development rights needed a Special Permit from the City. Obtaining the permit required a public review process called a Uniform Land Use Review Procedure (ULURP), which requires approval from City Planning, citizen and Borough review committees, and City Council.[20] This process is now administrative under the new policy, significantly reducing uncertainty and time to obtain approval.

Under the former policy, only individual landmarks outside historic districts were eligible to transfer unused development rights (§74-79), and then only to a limited set of receiving lots through a City Planning Commission special permit, resulting in a limited number of transfers since its inception in 1968. Under the new policy, all individual landmarks, regardless of their zoning district, can be a sending site, expanding both eligibility and feasibility of the program.

Special District Transfers

Special district transfers became a means of facilitating more targeted development in key areas of the city beginning in the 1960s. Special Districts are typically established to address a specific development scenario, such as the effort to save South Street Seaport or preserve historic theaters along Broadway Avenue.

In special district transfers, unused development rights are contained within the same area, or "subdistrict." Limiting sending and receiving sites to a defined subdistrict ensures that

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[18] Planning and Law Division of the American Planning Association, Foundational Land Use Law Cases
[19] Princeton University American Constitutional Interpretation, Penn Central Trans. Co. v. New York City: 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2D 631 (1978)
[20] New York City Planning Department, Uniform Land Use Review Procedure, (New York City: 2024).

potential impacts of additional height and density are shared by both properties, because they are located near to one another. However, the subdistrict also allows for more liberal transfers than the more typical one-square or one-block radius.

The administrative process for Special District transfers varies district-by-district. In some Special Districts like the Highline or Theater Subdistrict, transfers are administratively approvable. In others, transfers require varying levels of public engagement and approval by governing bodies. Requirements for sending and receiving sites are similarly variable.

The practices that govern the Theater Subdistrict appear particularly relevant to New Orleans' contemplated TDR program. The Theater Subdistrict, as it operates today, was established in 1998, after two unsuccessful efforts to create a development mechanism that would preserve the area's character and architectural assets in 1967 and 1982.

Sending sites are a specific set of 45 theaters that have been identified as significant and receiving sites must be located within the subdistrict's boundary. As of its final amendment in 1998, each TDR receiving site in the Theater Subdistrict pays to purchase development rights from a particular sending site, and contributes ten dollars per square foot of development rights to a special theater stewardship fund managed by the City. Over 470,000 square feet of development rights have been transferred through the Theater District TDR program since 1998 and 10 theaters have participated.

Many failed landmark transfers have deferred to the ZLM mechanism, which is often permitted by-right. While the Theater Subdistrict breaks out of this pattern, TDR's success in the area can in part be contributed to the unlimited demand for real-estate and the generous zoning envelope that makes unused development rights by the district's 45 sending sites significant. Therefore, the policy improvements made to the program in 1998 alone cannot be fully credited with the TDR's success in the Theater Subdistrict.

Figure 11. The Theater Subdistrict was implemented in 1998 as the city's first Special Purpose District

Takeaways

Some TDR mechanisms (such as select special district transfers) are allowed by right with administrative oversight while other programs (such as landmark transfers) required a special permit but are now largely approved through an administrative process. Unsurprisingly, the programs which are administratively approvable have been or are now utilized far more frequently than those with more significant regulations. In general, however, the TDR program has been utilized most reliably as an "extraordinary measure to be used only under exceptional circumstances when more basic zoning tools will not suffice."[21]

In the words of the New York City Department of City Planning, "Section 74-79 transfers, despite their limited use, serve as something of a template for other transfer provisions, especially those included in Special Districts." New York City's Cide Code Section 74-79 was established nearly half a century ago and was updated in 2023 under the City of Yes program; New Orleans has an opportunity to learn from its success and failures as it develops and expands its own TDR programs.

As demonstrated in this overview, there are a variety of political and economic factors that contribute to New York City's success in preserving landmark structures and areas of cultural significance through TDR. Generally, staff find that a combination of the following circumstances result in successful transfers of development rights:

- Strong demand for air rights in the receiving area

[21] New York City Department of City Planning, A Survey of Transferable Development Rights Mechanisms in New York City. 2015.

- Market pressure on sending area
- Low-barrier procedural requirements
- Clearly defined receiving area, with some proximity to the sending site
- FAR caps to regulate amount of height transferred from sending site
- FAR caps tied to the existing height and massing requirements of the base zoning district

A 2014 study by the Furman Center for Real Estate and Urban Policy found that developers had purchased over one billion dollars' worth of development rights between 2003 and 2013, through over 400 unique transfers.[22] The study confirms that the conditions noted above are integral to the robust market for TDRs in New York City and remarks on some trends that are important to consider in relation to adopting these methods in New Orleans.

First, the competitive real estate market in New York City drives demand for development rights. Many, if not most, successful transfers are initiated in the assembly process for large developments in Lower Manhattan and Midtown, where the market is strongest and there is already a generous zoning envelope. The program is underutilized in areas that are more restrictive of height and density, and many owners of historic landmarks have not been able to participate in the program due to a lack of demand for additional air rights in the allowable receiving area.

Second, TDR programs with specific policy goals (such as historic preservation) are often limited to strong market areas. Researchers found that 100% of landmark transfers have occurred in Manhattan, one of the strongest real estate markets in the world. These programs also tend to have more regulations regarding permitting and percentage of FAR that can be transferred. With lower incentives to participate, a strong market becomes particularly important.

ATLANTA, GEORGIA

Atlanta is a mid-size city within a large metropolitan area. Density and development patterns vary greatly from neighborhood to neighborhood within Atlanta's city limits, and development must contend with natural resources like the Chattahoochee River.

Atlanta adopted a TDR program in 1980 to preserve historic, low-density single-family homes. The program has since been expanded, and its intent is now to "[conserve] and [promote] the public health, safety and general welfare and [preserve] natural, environmental, historical and cultural resources."[23]

Atlanta's TDR program was created with a specific pair of adjacent downtown sites in mind (a local landmark known as The Castle and an 800,000 square-foot tower), and only a handful of transfers have occurred since.[24] However, the program has been successful in preserving

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[22] Been, Vicki. Buying the Sky: The Market for Transferable Development Rights in New York City. New York, New York: Furman Center for Real Estate & Urban Policy at New York University, 2013.
[23] City of Atlanta Code of Ordinances, Sec. 16-28.023 – Transfer of Development Rights
[24] City of Atlanta, Community Assessment Section 4.2 – Historic Resources, 2011 Comprehensive Development Plan, September 2011

several historic structures in high-demand neighborhoods and has served as a precedent for additional TDR programs in other areas of the state, such as the Chattahoochee Hill Country.[25]

Sending and Receiving Sites

Section 16-28.023 of the City of Atlanta's Code of Ordinances, which codifies the TDR program, states that a sending property is a lot with "special characteristics including but not limited to: woodland; flood plain; natural habitats; wetlands; groundwater recharge area; marsh hammocks; recreation areas or parkland, including golf course areas; or land that has unique aesthetic, architectural, or historic value that is found by the governing body to be deserving of protection from future development and which will be dedicated to that use when the development rights are severed or directly transferred to a sending property."[26]

By contrast, any property zoned to allow multi-family residential or mixed-uses with a residential component of at least half is a contender to receive development rights. Section 16-28.023 gives the governing body authority to determine whether a property that is eligible to receive development rights is suitable to receive those rights. The governing body is intended to make their determination based on "adverse environmental, economic or social impacts on the receiving property or on the neighboring properties."[27]

If the owner of a single- or two-family residence transfers development rights, the Atlanta zoning code requires that the structure is maintained for that use permanently.

Administration

When Atlanta's TDR program was established, it was restricted to adjacent properties, but later expanded to include non-adjacent properties. The interested parties would apply jointly for a special permit authorizing the receiving site to be developed with the additional density under common ownership with the sender. The joint application process for sending/receiving sites has been maintained so only one Council action is required on the transaction instead of two Council actions for separate sending and receiving applications.

The special permit application is submitted to the Department of Planning and is then reviewed by staff, the Zoning Committee, and in some cases the Atlanta City Council. The relevant governing body determines whether the receiving site is appropriate through a 45-day review process. If approved, development rights are severed from the sending site, and recorded on the deed.

Takeaways

The increased development rights enjoyed by receiving sites have been controversial at times. For example, at 250 14th Street, developers applied for a transfer of development rights from two historic homes to build a 20-story tower in Atlanta's Ansley Park neighborhood. They were met with well-documented opposition from area residents, including a petition signed by 317 people that specifically cites TDR as enabling inappropriate scale.[28,29] Situations like these

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[25] Ibid.
[26] City of Atlanta Code of Ordinances, Sec. 16-28.023 – Transfer of Development Rights
[27] City of Atlanta Code of Ordinances, Sec. 16-28.023 – Transfer of Development Rights
[28] Green, Josh, "New petition pushes back against Midtown tower proposal," Urbanize Atlanta, January 5, 2023
[29] Petition: Oppose Excessive Expansion of 14th St. Apartment Tower

emphasize the importance of clearly defining design guidelines and development limitations for receiving sites.

SAN FRANCISCO

San Francisco established a TDR program in 1985 in response to unprecedented downtown growth and resultant development pressure on historic buildings. The goal of the program is "to create an incentive to maintain historic buildings located in the Downtown and directing development to appropriate areas."[30] While San Francsico and New Orleans are markedly different contexts, the San Francisco TDR program has similar goals to those of the contemplated TDR program on Canal Street. There is a focus on the renovation of sending sites that is not typical for TDR programs, and San Francisco's Planning Department focuses the program solely on historic buildings.

Sending and Receiving Sites

At the most basic level, sending sites (or "transfer lots") in San Francisco's TDR programs are Landmark, Significant, or Contributory buildings and receiving sites (or "development lots") are non-historic properties. While sending sites initially had to be located within San Francisco's Downtown, the program expanded to include City-owned landmarks located in Public Use Districts[31] near Downtown as sending sites in the early 2000's.

Figure 12. The Old Mint, a venue in San Francisco completed as a branch of the United States Mint in 1874, was renovated through profit from TDR in the early 2000s. Photo courtesy of Non Plus Ultra.

When a sending site seeks to transfer TDR, a Preservation, Rehabilitation, and Maintenance Plan (Preservation Plan) must be submitted to the Planning Department. The Preservation Plan outlines the building's ongoing maintenance, what preservation or restoration work will take place, and the construction schedule for that work, along with any other information that the Planning Department may require of the applicant. To ensure that the Preservation Plan is followed, the Planning Department requires that sending sites submit a status report within

[30] https://commissions.sfplanning.org/hpcpackets/HPC_TDR_Packet_2013_07_11.pdf

[31] "[...] there shall also be in the City a Public Use District herein referred to as a "P District," to apply to land that is owned by a governmental agency and in some form of public use, including open space." San Francisco Planning Code, Section 211. P (Public) Districts.

one year demonstrating compliance and holds authority to impose penalties on sites that do not comply.

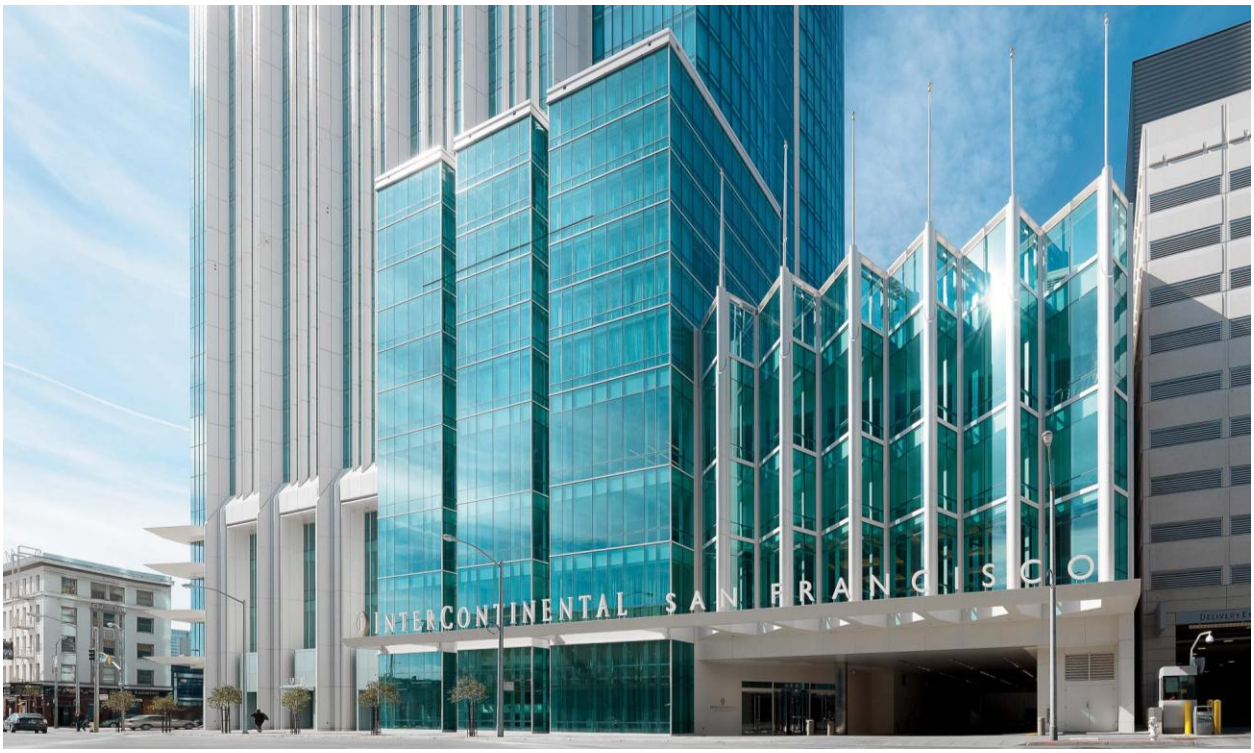

Figure 13. A portion of TDRs from The Old Mint were used to develop the InterContinental San Francisco Hotel. Image courtesy of Continental Development.

Receiving sites must be located in the C-3 Downtown Commercial Districts (C-3 Districts). Like New Orleans' CBDs, San Francisco's C-3 Districts begin at the waterfront and follow a major commercial corridor (Market Street) inland to a major freeway (State Highway 101).[32] San Francisco's TDR program has been successful in promoting intense development in these districts while preserving historic structures in and around Downtown.

Administration

San Francisco's TDR program is administered by the Planning Department. There are three major administrative steps in the process:

1. Statement of Eligibility: an application packet is submitted by the sending site to determine eligibility. The Zoning Administrator signs a Statement of Eligibility that is recorded with the Office of the County Recorder if approved.
2. Certificate of Transfer: an application packet accounting for the sending and receiving parties is submitted, and if approved, the Zoning Administrator signs a Certificate of Transfer that is recorded with the Office of the County Recorder.
3. Notice of Use: an application packet is submitted by the receiving site to secure the notice of use, which demonstrates that the owner of the receiving site owns sufficient development rights and is often required for the approval of building permits.

[32] https://sfplanning.org/resource/zoning-use-districts

The Planning Department reviews and certifies TDR eligibility, transfer, and use, but it does not regulate the TDR market. In San Francisco, TDR credits can be bought and owned by any third party, including developers, brokers, speculators, or financial institutions. All these actors have become key participants in San Francisco's TDR market. For example, brokers connect developers with potential receiving sites to available TDR credits, similarly to how consulting firms in New Orleans are often retained by applicants to facilitate the request of variances or land-use changes.

The metric that underpins the program is FAR.[33] While the goal of receiving sites is still to increase allowable height, using FAR instead of square footage or number of floors allows the Planning Department to enforce limits that are proportionate to lot size on a district-by-district basis.

Takeaways

In a report prepared for the City of San Francisco in 2013, Seifel Consultants summarized the TDR program's purpose, history, and function, engaged stakeholders, and made recommendations. Two takeaways from their analysis are particularly relevant to New Orleans' contemplated program.

Firstly, their analysis revealed that brokers and developers "both expressed a need for more transparency around how much TDR was available and how much it cost." Interviewees stated that knowledge around TDR was held predominantly by a few key figures in San Francisco's development community and pointed to this as an issue. While the value of TDR is not managed by the Planning Department, the supply is. If New Orleans were to implement a similar administrative process it would be important to maintain transparency around the availability of TDR credits.

Additionally, Seifel Consultants found that "TDR pricing has not correlated with supply, demand, or use, but rather with the overall real estate market for development, as well as the characteristics of unique individual transactions." This takeaway indicates the importance of a strong real estate market to successful TDR programs, but also provides evidence that individual relationships between property owners can create the conditions for successful TDR transactions.

In comparing San Francisco's TDR program to those of other cities reviewed by the study, the requirement of a Preservation Plan also stands out as a valuable takeaway for New Orleans' contemplated program. While in most cities the focus is on receiving sites, San Francisco's TDR program provides a framework to hold sending sites accountable.

[33] The ratio of a building's gross square footage to that of the parcel on which it sits – this is defined elsewhere in the study so this footnote will likely be removed.

E. COMPLEMENTARY STRATEGIES

TDR can be used as a tool to support historic and ecological preservation. However, TDR is not the only method by which a property owner can be compensated for unused development rights associated with their historically significant property. This section will explore Complementary strategies to TDR programs.

DDD FAÇADE GRANT PROGRAM

The New Orleans' Downtown Development District (DDD) maintains a small grant program for the restoration or renovation of facades in the CBDs, including along Canal Street. While the program is not explicitly dedicated to historic preservation, many recipients have used these small grants to restore historic facades.

CONSERVATION EASEMENTS

The Internal Revenue Code provides an income-tax deduction for taxpayer donations of perpetual conservation easements for historic preservation purposes.[34] These conservation easements are federal tax incentives that encourage the conservation of real estate, including historic structures and undeveloped, natural areas.

Conservation easements involve two parties: the property owner and a land trust or government agency. The property owner enters into a binding agreement with the land trust or governmental agency, permanently giving away some of the rights associated with the land to protect its conservation value.[35] If the donation benefits the public by permanently protecting a "conservation resource," it can qualify as a charitable tax deduction on the donor's federal income tax return.

The federal tax incentive is an income tax deduction equivalent to the fair market value of the landowner's forsaken development right. In the case of historic structures, property owners can preserve a historic building's facades, roof, and structural elements, and in exchange, claim a federal tax deduction for the lost development rights.[36]

Once the conservation easement is established, it is enforced permanently in two ways. First, the loss of development rights is noted against the property's title, ensuring that any future property owner is bound by the easement.[37] Second, the public agency or land trust to which the donation is made has the ongoing responsibility of ensuring that the donor adheres to the conservation terms of the easement.

The federal deduction that a property owner can receive by entering into a conservation easement can be further supplemented by state-level deductions. Conservation easements, because they are a restriction on property rights, must be authorized by state legislation.[38] In addition to federal and state tax deductions, a conservation easement can result in lower property taxes if the reduced development potential resulting from the easement is factored

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[34] Deal, Kate B. "Incentivizing Conservation: Restructuring the Tax-Preferred Easement Acceptance Process to Maximize Overall Conservation Value." Georgetown Law Journal 101, no. 6 (2013): 1587–1618.
[35] ibid.
[36] ibid.
[37] ibid.
[38] ibid.

into the property's tax assessment. The combination of all three can create a "tax trifecta" that makes preservation easements financially attractive to property owners.[39]

Nearly every state has passed legislation enabling enforcement of conservation easements. In the 1980s, the National Conference of Commissioners on Uniform State Laws drafted the Uniform Conservation Easement Act (UCEA) as a model act, so many states and the District of Columbia have similar statutes.[40] In 1986, the Louisiana legislature using the UCEA as a model, adopted the Louisiana Conservation Servitude Act. This enables the creation of conservation servitudes, which are functionally equivalent to easements, within the state.[41] Louisiana's conservation servitude is based on the UCEA; however, several key differences make the statute weaker than the model act.

In New Orleans, conservation easements are typically donated from the property owner to the Preservation Resource Center (PRC). The PRC is a state-wide enforcement body and ensures that the building is preserved as required. Its Easement Committee approves any changes to a building, including paint color, maintenance, and repairs. Notably, the PRC only acquires façade easements, which protect street views of the building but do not limit interior renovations.

The PRC holds over 100 easements in New Orleans, Baton Rouge, and elsewhere, including the following Canal Street easements:

- 819 Canal Street
- 826-832 Canal Street
- 901-921 Canal Street (The Ritz Carlton)
- 1028-1030 Canal Street (Hosteling International New Orleans)
- 1200 Canal Street (Joy Theater)

Conservation easements have been applied to a wide range of historic properties in New Orleans, including Canal Street commercial buildings, St. Charles Avenue mansions, and exemplary shotgun homes. The PRC notes that in recent years, conservation easements have been employed for larger structures as opposed to smaller homes because the expense of establishing an easement (appraisals, stewardship fees, possible architectural drawings, and other costs) can be infeasible for smaller residential properties. As a result, the program is more effective in preserving commercial or multi-family structures.

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[39] McCall, Dan. "The Role of Easements in Historic Preservation: Implications of Valuing a Property Right as a Commodity," Georgetown Law Center historic Preservation Seminar, 11 May 2024.
[40] "1981 Conservation Easement Act," Uniform Law Commission, 24 January 2024.
[41] "Louisiana Conservation Servitudes," Land Conservation Assistance Network, 25 January 2024.

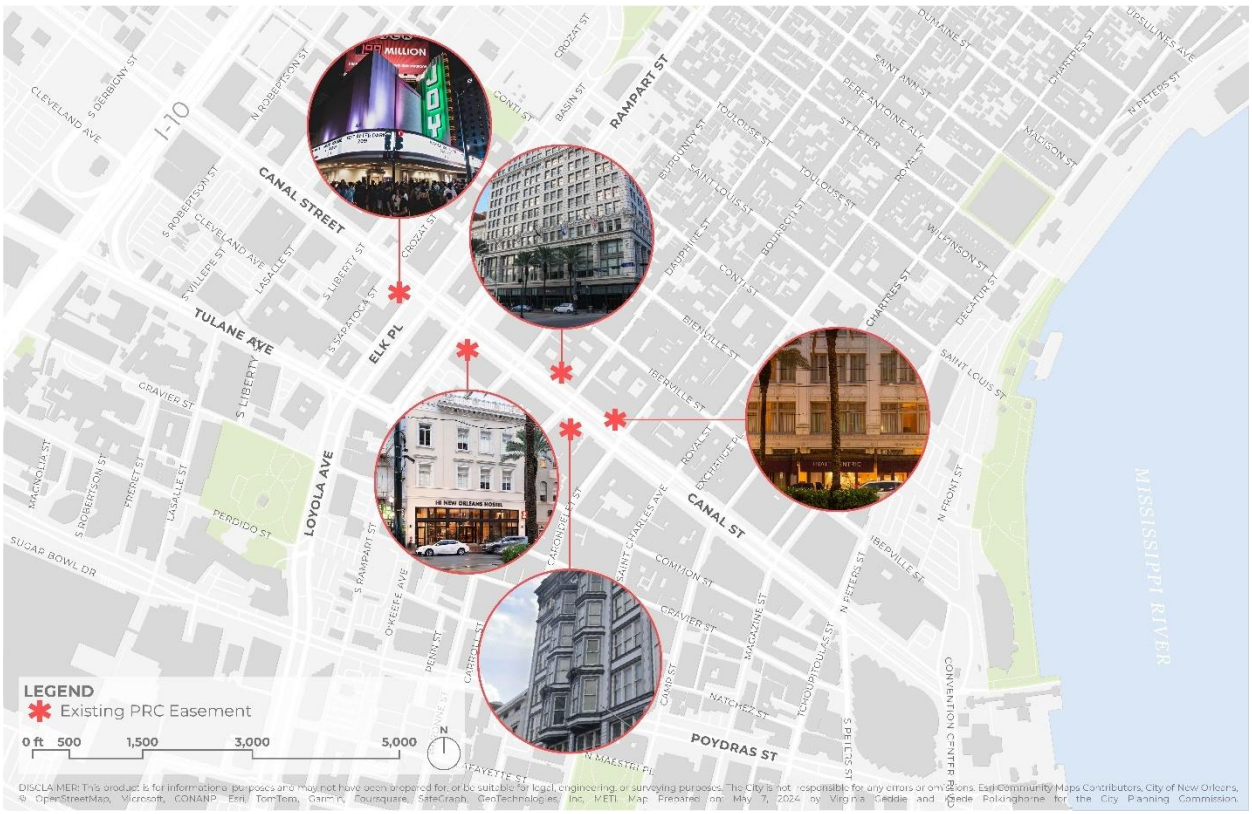

Figure 14. Existing PRC easements along Canal Street.

The ability to receive a tax deduction in exchange for conservation is well-established in the tax code. Consequently, the development community is familiar with and has experience utilizing conservation easements. Developers likely have a greater level of comfort with conservation easements and perceive them as being a more predictable tool than a new TDR program.

Conservation easements are a highly effective historic preservation tool. Easements ensure preservation of historic structures to a degree that local historic districts cannot because they alter the title of a property and permanently restrict the changes that can be made to it. Moreover, easements are not subject to market changes in the way that historic preservation regulations are.[42]

Louisiana's existing conservation easement program operates outside of City government, meaning there is no financial administrative burden on the City and no potential for political pressure at the City level. However, because the City is not involved in the establishment of conservation easements, it cannot use the program to proactively facilitate development of specific properties.

Perhaps most importantly, conservation easements are a preservation tool, not an economic development tool. While conservation easements do provide a property owner with some compensation for unused development rights, it is not required that the compensation be

[42] McCall, Dan. "The Role of Easements in Historic Preservation: Implications of Valuing a Property Right as a Commodity," Georgetown Law Center historic Preservation Seminar, 11 May 2024.

reinvested into the property or used to develop another property. Further, conservation easements cannot be promoted in the way that economic development tools, like TDR, often are. The fact that the program is based in the tax code's deductions for charitable giving means that it is subject to IRS rules. These rules limit the ability to promote the program to developers who may use it to help fund reinvestment in the historic property or the development of another property.

HISTORIC TAX CREDITS

Property owners in New Orleans frequently make use of both federal and state tax credits to support the rehabilitation of historic structures. Tax credits are a dollar-for-dollar reduction on a property owner's tax liability.

The Federal Historic Rehabilitation Tax Credit Program is jointly administered by the National Park Service and Internal Revenue Service. To qualify for the program, a property must be individually listed in the National Register of Historic Places or must be a contributing structure to a National Register Historic District. The applicant must spend the value of the building on rehabilitations, which is known as passing the "basis test." The property must also be income-producing. If requirements are met, property owners can receive a 20 percent credit on Qualifying Reimbursable Expenses, which include everything but furnishings.[43]

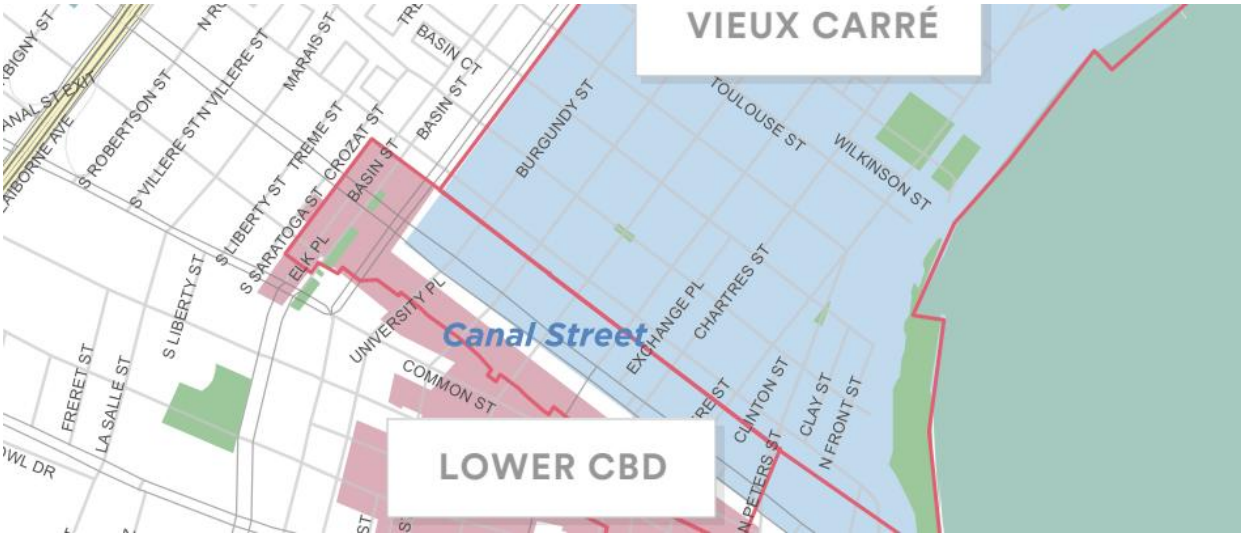

Figure 15. The HDLC Canal Street Historic District overlaps with the Lower CBD (shown in red) and Vieux Carre (shown in blue) National Register Historic Districts.44

The State Commercial Tax Credit Program (or State Historic Tax Credit) is modeled on the Federal program. The State Historic Tax Credit is administered by the Louisiana State Historic Preservation Office. Properties that qualify for the Federal Historic Rehabilitation Tax Credit Program also qualify for the State Historic Tax Credit, as well as any properties in a Cultural District or a Downtown Development District built within that district's period of significance. Rather than being required to pass the basis test, property owners must spend a minimum of $10,000 on rehabilitation. Like the federal program, the property must be income-producing.[45]

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[43] https://prcno.org/help-for-homeowners/historic-rehabilitation-tax-credits/
[44] https://prcno.org/wp-content/uploads/2017/07/1-1.pdf
[45] https://prcno.org/help-for-homeowners/historic-rehabilitation-tax-credits/

The Federal Historic Rehabilitation Tax Credit Program and the State Historic Tax Credit are not mutually exclusive. Property owners can stack benefits from both programs if their property is eligible for both programs. Portions of the HDLC Canal Street Historic District overlap with the Vieux Carre and Lower CBD National Register Historic Districts. Further, the HDLC Canal Street Historic District is within the Downtown Development District. As such, many properties along Canal Street that would likely benefit from a TDR program are also eligible to benefit from the Federal Historic Rehabilitation Tax Credit Program and the State Historic Tax Credit.

ZONING LOT MERGERS

New York City's zoning lot merger (ZLM) tool has effectively allowed developers to acquire additional development rights for projects without a special approval process or variance of the base zoning requirements. ZLMs allow adjacent "zoning lots" to merge, which spreads development rights over a greater land area. For areas that are limited by FAR, this allows one property to capitalize on the unused development rights of an adjacent lot which can result in considerable additional floor area and – in some cases - height. This tool has been used in NYC to construct some of the "super tall" skyscrapers in Midtown Manhattan, several of which are over 1,300 feet in height, or twice as tall as New Orleans' One Shell Square.

There are many benefits to ZLMs. ZLMs allow for the use of development rights that might not otherwise be used, which can provide value for historic property owners. The transferred development rights are from adjacent properties, so the maximum development potential on a square does not change, it is simply shifted. Further, ZLMs provide a by-right process that is an alternative for variance applications which require the applicant prove there is a hardship related to the development of the site.

However, ZLMs also present challenges that are not associated with more traditional TDR tools. In New York City, there is no cap on the amount of floor area a receiving site can obtain through the ZLM process. Even in the Midtown neighborhood, known for its incredible scale, there has been concern voiced over some of the larger structures built without sufficient community input.

New Orleanians are generally accustomed to a public process around additional height permissions that exceed a site's base allowance. The public may not be receptive to additional height permissions granted without a public process. This may be especially true in the CBD, which has undergone two height studies since 2010.[46] The current CZO has development bonuses for the provision of certain public benefits, but these benefits have limits. Additionally, the bonuses provide for additional floor area, which could provide extra height in districts where height is regulated by FAR, but not in those districts regulated with a height maximum.

Additionally, ZLM mechanisms are most successful in strong market areas, where development rights are in high demand, but the limited sending radius is restrictive for programs that are aimed at protecting the existing conditions on a receiving site. Whereas ZLMs are driven by demand for development rights and additional height from receiving sites,

[46] The height study completed in 2010 by the Downtown Development District identified square by square the potential sites for development. The study could be a meaningful resource in promoting or further developing a hypothetical TDR program.

programs aimed at preserving historic structures and districts can stagnate if eligible sites are not located within a square where there is great demand for additional height.

TDR CREDIT BANKING

TDR banks can act as intermediaries in the supply chain of development credits and come in active and passive forms. If a receiving site is not immediately available, but a sending site has credits for sale, an active TDR bank can purchase those unused development rights from the seller and bank them until a buyer is available. In its most passive iteration, a TDR bank can limit itself to facilitating private interactions between buyers and sellers.

TDR Credit Banks are typically established as nonprofits financed by a revolving fund, though local governments can also act as TDR credit banks, depending on state enabling legislation and possible conflicts of interest. In some cases, conservation or preservation groups can function as the TDR bank, allowing preservationists to directly coordinate the sale and transfer of development credits in affected districts. Some systems enable any nonprofit conservation or preservation organization, such as New Orleans' Preservation Resource Commission (PRC), to act as a credit bank.

A TDR credit bank can ensure that proceeds from the sale of rights are invested back into the sending site, preventing these sites from being demolished by neglect. In the case that a sending site is demolished by neglect, a TDR credit bank can monitor the exchange of rights to ensure that the structure built in its place does not exceed the historic structure's height.

Owners of receiving sites should be permitted to obtain preliminary project approvals before securing a TDR, ensuring that a project is viable before incurring related costs. Because the transfer of development rights functions as an alternative to a variance, TDR approvals should be processed administratively rather than through onerous public procedures that disincentivize their use. Formulas for calculating TDRs should be as simple as possible. The most effective systems use basic ratios for applying TDRs, such as 1:1 or 1:4: for each square foot of unused space, the receiving site gains one square foot (or four in the case of a 1:4 ratio). Successful TDR programs provide few alternatives for acquiring additional development rights or added densities. In San Francisco, developers cannot achieve additional development rights without TDR, incentivizing demand for the TDR program and investment in the sites designated for sending and preservation. By contrast, San Diego's TDR program failed because it had to compete with too many alternative density bonus programs. San Diego's TDR program allowed density bonuses up to 24 percent, but this was neutralized by competing density bonuses for environmental protections, affordable housing, and design amenities. While these additional density bonuses could be deployed in tandem with TDR, San Diego's real estate market did not have the demand necessary to warrant overlapping development bonuses, especially as the base zoning already allowed 43 units per acre.

Funding is critical for a TDR bank to operate and to actively purchase rights from prioritized sites for conservation or preservation. TDR banks can be funded through tax levies, special assessment districts, or millage increases. When the market is not conducive to private transactions, a fully funded TDR bank will have the wherewithal to proactively pursue historic properties within the designated sending area to prevent teardowns, demolitions, and neglect that might otherwise occur during a market downturn.

The TDR Bank can be instrumental in managing supply and demand in the mitigation of market inefficiencies or distortions. Too few development credits in the TDR marketplace and

low demand will result in an idle program, and thus in diminished benefits for the sending sites and the preservation goals of a TDR program; but too many credits can also diminish prices. Owners of properties within the sending district must have a monetary incentive for parting with unused development rights. If the market price for unused credits is too low, then the program is less attractive for property owners within the sending district.

A TDR program without a credit bank would simply enable transactions between private parties. Such transactions could be facilitated by developing and maintaining a certified public-facing inventory of the total universe of available TDR credits and transactions.

If the TDR program is successful and market demand for credits is strong, then the program can be scaled up to include a credit bank. If market demand for development credits is weak, or the complexity of coordinating the transfer of development credits is too onerous for the private market, a credit bank can be established to manage the supply and demand of development credits.

A credit bank could be fully or partially funded by a tax levy, grant, or loan to cover administrative costs and the costs of actively acquiring credits in targeted areas. A credit bank could also strategically purchase development credits during market downturns when the cost of acquisition is cheaper.

F. POTENTIAL SENDING AND RECEIVING SITES

POTENTIAL SENDING AREA

Any Historic Landmark Structure within the CBD, and any significant or contributing structure that is located within any Historic District in the CBD including the Canal Street Historic District, Picayune Place, Lafayette Square or Warehouse District, is contemplated as a potential sending site.

Figure 16. The potential sending sites are Landmark Structures and significant or contributing structures in the CBD Historic Districts: Canal Street, Picayune Place, Lafayette Square, and Warehouse District Full Control CBD HDLC Districts.

Along Canal Street, there appears to be roughly 10 Significant buildings and roughly 99 Contributing buildings that could be sending sites.

Figure 17. Contemplated sending sites along Canal Street.

POTENTIAL RECEIVING AREA

The state enabling legislation for TDR in Louisiana limits receiving sites to those within the CBDs. Staff recommend that any property located within any of the Central Business Districts, but outside of a local historic district, be contemplated as a potential receiving site. These sites, particularly those that are vacant, have the most potential for development and flexibility in scale. Designated historic landmarks would not be eligible as a receiving site.

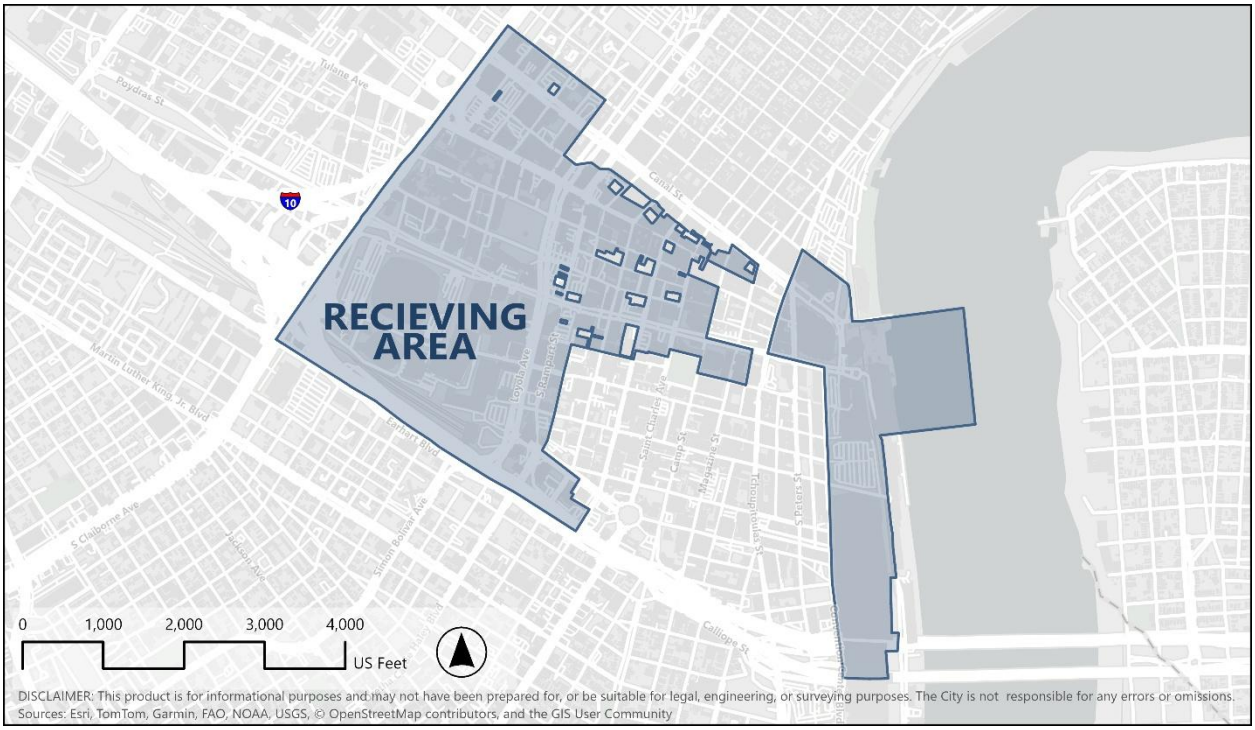

Figure 18. Contemplated receiving sites in the CBD,

The CZO limits development in the CBDs in two ways: through a height limit established by Figure 17-2, and through a FAR established by Figure 17-3. Each area of the CBD is limited either by a height limit or a FAR, but no area is limited by both.

Most TDR programs use FAR as a mechanism for quantifying and transferring development rights. Because the CBD zoning districts vary in how they regulate density (some by height and some by FAR) any new TDR program will have to include language specifying how transfers of development rights between two dissimilar districts can be calculated.

Using FAR bonuses as opposed to height bonuses is preferrable because it encourages a proportionate translation of rights lost and rights gained. For example, if a building with 1,000 square foot floorplates transfers one floor of buildable area to a building with 5,000 square foot floorplates, an FAR bonus could negotiate the difference in floorplate area while a height bonus could not. Many of the historic structures on Canal Street do have modest floor plates compared to potential new-build developments in the CBDs, so this nuance is necessary.

Still, establishing caps on how much additional floor area receiving sites can enjoy will be important to preserve the historic character of the CBDs.

Notably, very few sites have requested variances for height in the contemplated receiving area, as shown in Figure 19. Since 2015 there have been eleven (11) requests for height exceptions: nine (9) were granted, one (1) was denied, and one was withdrawn by the applicant. The data for the requests noted in the figure is available in the appendix. Arguably, the lack of variance requests indicates a lack of demand for additional height beyond base zoning regulations.

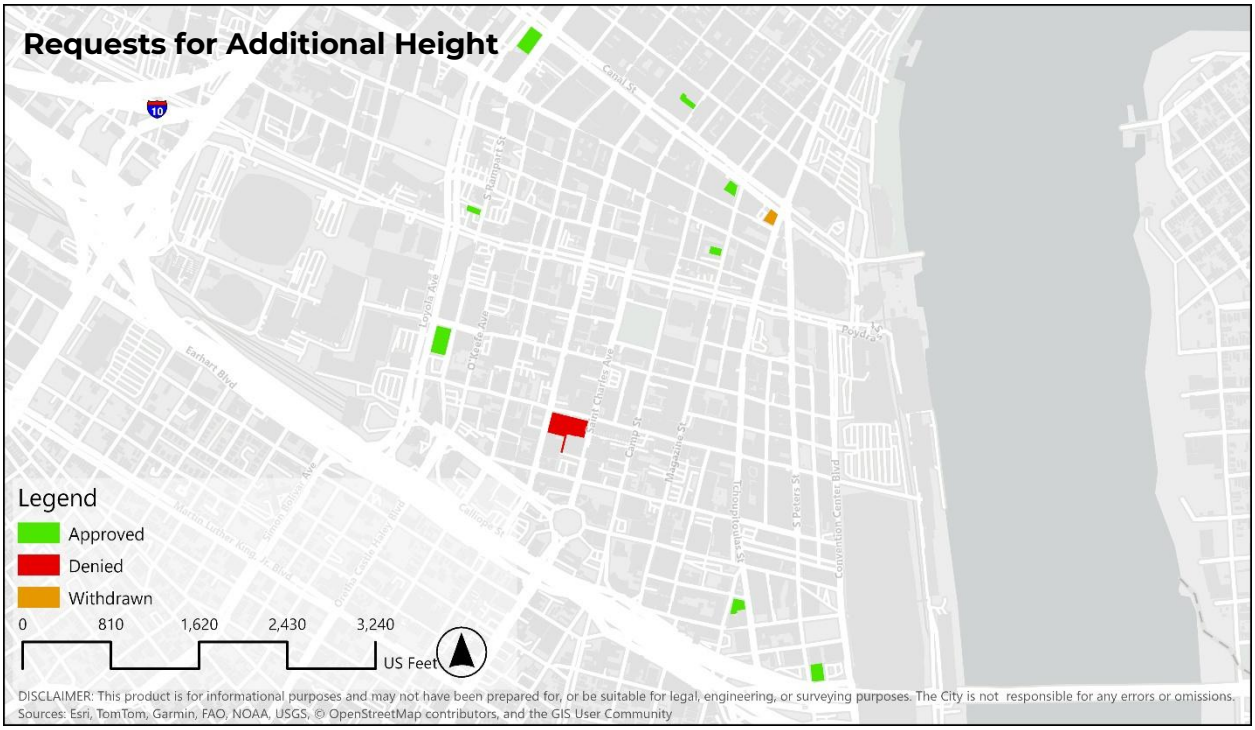

Figure 19. Very few sites have requested a variance for increased height in the CBDs since the implementation of the 2015 CZO.

While lack of demand is a potential challenge for the contemplated TDR program, staff recommend moving forward with the program in anticipation of improved future development conditions.

As stated previously, a variance process that provides an avenue for waivers to interested developments with little scrutiny or cost would – like any other bonus – reduce the attractiveness of a TDR program. However, if the variance option is removed for the receiving site area, it could stymie development. For example, the appropriate quantity of development rights may not be available at the appropriate time to facilitate a transfer without the existence of a credit bank, and sites that are determined to be ineligible for TDR would have no other option to develop beyond base zoning regulations.

TDR OUTSIDE OF THE CBDS

Potential receiving areas should located in strong real estate submarkets with demonstrated demand and capacity to absorb additional development rights. Additionally, these areas would need to be located within zoning districts that allow developments beyond primarily single- and two-family residential dwellings. Mixed use, dense residential, and commercial projects (such as hotels) are the types of uses that are most likely to be interested in additional height or FAR beyond the allowances of the underlying zoning districts. Receiving areas should also be areas where additional height or density would be appropriate and compatible with surrounding development.

Current state legislation does not allow for TDR outside of the CBDs; however, exploring the potential applicability of the program to other areas of the city is advisable in the long term. Expanding the geographic applicability of TDR could allow new or alternative types of TDR that have not yet been contemplated. This could be particularly helpful if there is a development

market spike in a specific area that could be harnessed for the preservation of a nearby or adjacent area.

G. FINDINGS

The intent of this study is to identify whether a TDR program can be useful in the revitalization of historic structures on Canal Street as recommended in the 2018 Canal Street Study, and the 2025 Canal Street Progress Report. The state legislation that provides the framework for a municipal TDR program defines the areas for sending and receiving sites to that of the CBD, not just Canal Street.

The current and previous zoning ordinances both include programs similar to TDR in the CBD. Neither have been used to-date. The current program, the Landmark Preservation Public Benefit Program, allows increased FAR of 20% when financially contributing to the restoration of a landmark site. The Landmark Preservation Public Benefit Program differs from the program in the former CZO that allowed all historic properties (not just landmarks) and limited the receiving sites to the CBD districts intended for maximum development. Speculation can only explain why neither program was utilized: the ease of obtaining waivers through the BZA, lack of development interest in building beyond zoning permissions, other tools within the CZO like the Central Business District Planned Community Development (CBPCD), a lack of formal procedural information and administrative ambiguity, etc.

In particular, the Landmark Preservation Public Benefit Program is unclear how the added density is triggered and if the increased density is for the Landmark itself, or for another property. The regulations do not specify if there are sending sites involved, only that there can be additional bonuses granted for an unspecified amount of financial contributions to preserve a historic landmark. If a developer or property owner attempted to utilize this program, significant interpretation would be warranted from the Zoning Division within the Department of Safety and Permits. This program exemplifies the characteristics of an unsuccessful policy: ambiguous regulations without an infrastructure in place to support it.

Best practices in other cities researched – New York, Atlanta, and San Francisco - indicate the critical elements to a successful TDR program center around clear regulations, alignment with market reality and predictable outcomes. TDR works best in strong markets, tied to a specific purpose – such as preservation of historic structures – and where transfers are administratively approvable, and therefore, more predictable. New York's experience with TDR indicates that strong demand for development and a cap on the FAR/Height transfer is important to temper out-of-scale development while still creating an attractive program. Implementing a low-barrier TDR mechanism can transform a TDR program from something unusable into something a routine mechanism.

The TDR programs in Atlanta and San Francisco highlight the need for safeguards, especially for context-sensitive FAR/Height limits. These best practices underscore the need of a strong market to create a feasible program and ensuring transfer is paired with enforceable preservation obligations.

In New Orleans, a transfer of development rights could help preserve and maintain historic structures within the CBD that oftentimes do not utilize the entirety of their allowable building envelopment. When a discrepancy exists between the allowable development rights and the actual size of a historic structure, an opportunity is created to capture and transfer the developable area to another property in exchange for payment, thereby supporting preservation while accommodating growth elsewhere.

However, the 2025 Mandatory Inclusionary Zoning Market Feasibility Analysis assessed development in the downtown area and found a significantly weak market. The study concluded that additional incentives may be necessary to encourage even market-rate residential development if the city seeks to increase housing production.

H. RECOMMENDATIONS

Despite this knowledge of a weakened development market downtown, staff recommends **codifying a new TDR program** in two phases to allow for the potential transfer of developable rights in case it proves helpful both for the preservation of an existing significant historic structure and for a new project. Unlike the existing and previous tools, staff recommend including all significant and contributing historic structures designated in local historic districts and all landmark structures as sending sites within the CBD, and establishing receiving sites as any site outside of historic districts within the CBD.

The staff acknowledges a truly impactful TDR program would require a strong development market in the CBD. However, in the absence of a strong market, there may still be opportunities for specific sites to utilize a Transfer of Development Rights policy. A weaker market should not preclude the implementation of a Transfer of Rights program. In the interim period, the staff recommends basic policy that could be used in a TDR exchange as a Phase 1 implementation. The intention is to refine the policy after the City's market strengthens as a Phase II implementation. The Phase 1 Transfer of Development Rights program would require a text amendment to the CZO that includes:

- Defining **sending sites** as all significant or contributing structures within Local Historic CBD Districts, and all Landmark Historic Properties.
- Defining **receiving sites** to all sites outside of designated historic districts within the CBD in accordance with HDLC guidelines.
- Establishing a means of ensuring that owners of sending sites are limited in their development rights in perpetuity, such as a deed restriction or recordation with the assessor's office.
- Determining how to calculate the quantity of transferrable rights in square feet for areas regulated by FAR and areas regulated by height.
- Setting a limit on receivable site's height/FAR to maintain relative scale and neighborhood character, likely a 20% maximum over the base zoning district's height/FAR.
- Requiring sending sites to submit an assessment, or a "Historic Structure Report" of the current state of the building and its needs.
- Requiring a plan for how the proceeds of the sale will be used to preserve the historic building including how the proceeds of the sale will contribute to the needs assessment of the building. Any proceeds not necessary for the preservation of the building may be used at the owner's discretion.
- Requiring that receiving sites submit development plans to the Executive Director for review by the Design Advisory Committee.
- Explicitly prohibiting development credits from being used for the construction of parking as a principal structure.

The staff has drafted regulations utilizing the considerations above, that could form the basis of a Phase 1 Transfer of Development Rights program. Subsequently, the regulations could be

modified as a result of a future market analysis conducted after market conditions regain strength in the future.

The staff proposes the Transfer of Development Rights policy replace the current Landmark Preservation Financial Contribution Standards in Article 17, Section 17.5.E of the Comprehensive Zoning Ordinance. Section 17.5.E falls under the broader category of Public Benefit Floor Area Ratio (FAR) Bonus Provisions in Section 17.5. Below are recommended code changes to the Comprehensive Zoning Ordinance to implement a Transfer of Development Rights policy. The recommended language could be further refined in the text amendment stage.

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17.5.E TRANSFER OF DEVELOPMENT RIGHTS[47]

The purpose of this Section is to authorize the severance of development rights from a sending property and affix them to a receiving property, to preserve and enhance the transfer sites and buildings located there, in accordance with the terms and conditions delineated in Sections 17.6.A and 17.6.B.

17.5.E.1 Applicability

1. Any building designated as a Historic Landmark Structure, or as significant or contributing by the Historic District Landmarks Commission (HDLC), and located within any Historic District in the Central Business District may be considered a sending site for development rights.
2. A receiving site may be a lot or parcel located outside of a Historic District within the area bounded by the Mississippi River, Howard Avenue, the river side of I-10-Claiborne Avenue and the uptown side of Iberville Street. A receiving site cannot be a designated historic landmark.
3. A designated sending site may transfer unused density allowed by the Comprehensive Zoning Ordinance, as expressed by square footage, regardless of if the site is governed by floor area ratio (FAR) or height. The calculation of transferrable rights shall be the difference between the maximum allowed developable area according to the Comprehensive Zoning Ordinance and the developed area of a parcel or lot. A receiving site may receive density transferred from a sending site not to exceed 120% of the base zoning allowance for FAR or height, whichever is applicable.

17.5.E.2 Administration

1. Any development that utilizes additional density via the Transfer of Development Rights policy requires: (1) a development plan and design review, (2) and approval by the Executive Director of the City Planning Commission, following a review by the Design Advisory Committee in accordance with Section 4.5.D. The owners of the sending and receiving properties shall submit a single application package that includes the following components:
    a. Sending Site

[47] The potential Transfer of Development Rights mechanism is contemplated as replacing the existing Section 17.5.E: Landmark Preservation Financial Contribution Standards in the current CZO.

i. A map and legal description of the property from which the transfer is proposed;
ii. A description of the HDLC's designation of the building as significant or contributing;
iii. Submittal of an assessment, or a "Historic Structure Report," of the current state of the building and its needs
iv. A plan for how the proceeds of the sale will be used to preserve the historic building including how the proceeds of the sale will contribute to the needs assessment of the building. Any proceeds not necessary for the preservation of the building, may be used at the owner's discretion.

b. A calculation of and the amount of quantified development rights that are proposed to be severed or transferred from the Receiving Site
   v. A map and legal description of the property from which the transfer is proposed;
   vi. If the site contains a structure that will utilize the additional development rights, written verification from the HDLC that the structure is non-contributing shall be submitted.
   vii. A plan showing the lot size, location and size of the buildings, structure or improvements to be placed on-site; the specific use of each building, structure, property, or part thereof; detailed arrangement of required parking spaces, location and means of ingress and egress; and
   viii. An explanation detailing the proposal of how the transferred development rights will be applied to the site.

If the Transfer of Development Rights project is approved, the final approved development plan of the sending and receiving sites shall be recorded with the deed of each property in the Office of the Clerk of Orleans Parish Civil District Court, prior to the issuance of any building permit or certificate of occupancy for the new development. The City Planning Commission shall record the severance, ownership, assignment and transfer of development rights of the properties as part of its official records and the official zoning map shall be updated.

***

In creating a text amendment, other modifications to the CZO must be considered to reduce competition between the TDR program and other development bonus tools in the CZO, including:

- The Landmark Preservation Tool in Article 17,
- Affordable housing bonuses,
- Green building certification bonuses,
- Transit Oriented Development bonuses,
- Other development bonus opportunities; and
- Defining the term "preservation."

In other cities, successful TDR programs are often supported by credit banks or third-party exchanges. Following the implementation of a TDR program, staff or the administering entity should work to develop the necessary infrastructure for a credit exchange system in the phase II portion of the policy - potentially in partnership with the Preservation Resource Center which has previously expressed interest.

As part of the additional market analysis and study, the TDR program could be expanded to include sending or receiving sites adjacent to the CBD, such as the French Quarter or the River District. The market analysis should identify strong development areas and resources that could benefit from such an expansion. Changes would require amendments to state law as the enabling regulations (RS33:4722) limit the program to the CBD.

In addition to a new TDR program, the city can continue supporting revitalization and historic preservation efforts by:

- Working with DDD to incentivize use of the façade grant including potential increase in award for historic properties on Canal Street,
- Working with the PRC to encourage utilization of its Conservation Easement program for historic property owners,
- Advocating for the extension of the State Historic Tax Credit beyond December 31, 2027.

The City and CPC can support complementary programs and codify a new TDR tool which could create positive impacts for the historic character of downtown.

I. PUBLIC INPUT

PUBLIC HEARINGS AND WRITTEN COMMENTS

In 2019, the CPC held several targeted meetings regarding the imminent TDR study. Work was interrupted from December of 2019 to March of 2020 due to the cyber-attack and the subsequent COVID 19 pandemic.

After regaining access to the study and, in accordance with Motion M-19-195, the CPC held a public hearing on the TDR Study on June 9, 2020. At this public hearing, the staff presented the scope of the study and opened the hearing to public comment. No one from the public spoke on the study.

Following the June 9 CPC meeting, staff began working on the TDR study. However, challenges to staff capacity exacerbated by the COVID-19 pandemic proved difficult to overcome for the 2020 study team and the study was ultimately shelved from 2021-2023.

In January of 2024, three staff members were re-assigned to the study. The 2024 study team reviewed and updated material collected by the 2020 study team, met with additional stakeholders, and re-drafted the study.

Any public comments received during the study period are included in Appendix E.

STAKEHOLDER MEETINGS

During the TDR Study, the CPC staff met with the following offices, organizations, groups, and individuals:

- City Attorney's Office (2019)
- Historic District Landmarks Commission (2024)
- Department of Safety and Permits (2024)
- Downtown Development District (2024)
- Jones Walker (2019)
- Julius Kimbrough, Affordable Housing Developer (2019)

- Megan Webb; In-Lieu Fee Mitigation and TDR King County Department of Planning (2019)
- Office of Economic Development (2024)
- Preservation Resource Center (2019, 2024)
- Williams Architects (2019, 2024)
- Sherman Strategies (2019)

J. NEXT STEPS

The study will be presented to the City Planning Commission. The City Planning Commission's recommendation shall be forwarded to the City Council for consideration. The City Council may choose to hold its own public hearing on the Study, though it is not required.

In the case that the City Council seeks to implement a TDR program, the Council will adopt a Motion directing the CPC to docket the request and write a staff report with recommendations for the specifics of the program. The text amendment process would have an additional public hearing before the CPC, and the CPC may choose to recommend text changes to the City Council with or without modification of the staff recommendations, or they could recommend denial of the proposal. Next, the City Council would hold a public hearing before considering adoption of text changes. The Council may adopt, adopt with modifications, or deny the recommendations of the CPC.

K. APPENDICES

APPENDIX A: STATE ENABLING LEGISLATION

RS 33:4722

§4722. Creation of districts; powers of municipal authorities; transfers of development rights; and uniform regulations within district

A. For any and all of the purposes set forth in R.S. 33:4721 the governing authority of any municipality may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes; and within the districts so created, the governing authority may regulate and restrict the erection, construction, alteration, or use of buildings, structures or land.

B. The governing authority of the city of New Orleans shall have the power to provide for official landmark or other appropriate designation by ordinance of areas, places, buildings, and structures having a special historical, community, or aesthetic interest or value; and in connection with those areas, places, buildings, and structures so designated by ordinance to impose regulations governing their construction, alteration, demolition, and use and to adopt additional measures appropriate to their preservation, enhancement, or use, which additional measures may include but are not limited to:
    1) Establishment of procedures authorizing owners of designated property to transfer development rights in such amount and subject to such conditions and controls as are appropriate to secure the purposes of this Part;
    2) The acquisition of the complete ownership of properties so designated or a lesser interest therein, including a preservation restriction, and the reconstruction, operation, or transfer by the municipality of any such property so acquired or the transfer of any development rights so acquired, all in accordance with such procedures and regulations and subject to such conditions as the governing authority deems reasonable and appropriate.

C. (1) All such regulations shall be uniform for each class or kind of land and structure throughout each district, but the regulations of one district may differ from those in other districts. However, no regulation shall change the status of premises which have been continuously used for commercial purposes since January 1, 1929, without interruption for more than six consecutive months at any one time. The governing authority may, however, provide for the removal of nonconforming signs and billboards, less and except billboards erected in compliance with parish or municipal regulations at the time of erection, provided that it first establish a reasonable amortization time for removal according to a reasonable set of standards and schedules.

C. (2) In the city of New Orleans the provisions of Subsection B of this Section shall apply only to the area bounded by the Mississippi River, Howard Avenue, the river side of I-10-Claiborne Avenue and the uptown side of Iberville Street.

APPENDIX B: TDR IN THE 1970 CZO

Section 16.8. Permit for Transfer of Development Rights.[48]

16.8.1. Purpose and Intent.

It is the City's' intent to authorize the transfer of development rights from certain sites, places, buildings or structures designated as historic landmarks, or having a special historical, community or aesthetic interest or value, located in certain zoning districts, hereinafter referred to respectively as "transfer sites" and "transfer districts," to certain sites, places, buildings or structures located in other zoning districts, hereinafter referred to respectively as "receiving sites" and "receiving districts," in order to preserve and enhance the transfer sites and structures located thereon. It is the City's further intent to restrict the use of the transfer sites in accordance with terms of the permit authorizing such transfer and to authorize utilization of the development rights so transferred on the receiving site in accordance with the terms of the conditional use permit for such site. Because of their unique characteristics, each of these actions requires the exercise of planning judgment.

16.8.2. Applicability—Transfer and Receiving Districts.

The City Council may permit development rights to be transferred from lots occupied by buildings or structures worthy of preservation and having special historical, community or aesthetic interest located in any CBD District (transfer districts) to lots located in a CBD-1, CBD-2, or CBD-2B District (receiving districts) and may permit development rights to be transferred from lots occupied by buildings or structures worthy of preservation located in the CBD-8 District (transfer district) to lots located in the
CBD-9 District (receiving district). Such buildings or structures shall not include any landmarks owned by the City, State, or Federal Government. From time to time, the City Council may designate other zoning districts as transfer and receiving districts pursuant to procedures for zoning amendments in Section 16.2.

16.8.3. Rights Transferred and Restrictions.

Floor area authorized for the transfer site under the transfer district regulations may be transferred to the increase the maximum floor area allowable on the receiving site or sites under the receiving district regulations, subject to the following conditions and limitations:

1. The maximum amount of floor area that may be transferred from a transfer site shall be the maximum floor area allowed by the applicable transfer district regulations, exclusive of any additional bonus floor area, less the total floor area of all the buildings on the transfer site.
2. The increased floor area on the receiving site may exceed by ten (10) percent the maximum floor area allowed by the provisions of Section 6.11 for developments which earn bonus floor area.
3. In all CBD Districts, the transfer of development rights once completed shall irrevocably reduce the amount of floor area that can be developed on the transfer site by the amount of floor area transferred. In the event that the landmark's designation is removed or if the landmark building is destroyed, or if for any other reason the transfer site is redeveloped, such transfer site can only be developed up to the amount of floor area as reduced by the transfer.

16.8.4. Procedures.

1. Application Requirements.

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[48] New Orleans City Planning Commission, *Comprehensive Zoning Ordinance*. 1970.

An application for transfer of development rights under this section shall be made by the owners or their representative of the transfer site and of the receiving site in the form of a request for restriction of development rights on the transfer site and to allow additional development rights on the receiving site through authorization of a conditional use permit for the receiving site. The application shall be submitted to the Executive Director of the City Planning Commission, and shall be processed in accordance with Section 16.9.4. The application shall include the following:

a. A site plan for the transfer site;
b. A conditional use permit application, together with all materials required for such submission, for the receiving site;
c. A program for the continuing maintenance of the transfer site;
d. A report from the CBD Historic District Landmarks Commission commenting on the proposed transfer; and
e. Such other information as may be required by the City Council or the City Planning Commission.

2. Planning Commission Recommendation.
After receiving the report of the Executive Director, the Planning Commission shall conduct a public hearing to determine whether to recommend to the City Council whether the transfer of development rights should be permitted, in accordance with the procedures of Sections 16.9.3 and 16.9.5. Thereafter, the Planning Commission may recommend approval, conditional approval or denial of the request for transfer of development rights, and shall cause such recommendation to be delivered to the City Council for action.

3. City Council Action.
After receiving the recommendation of the City Planning Commission, the City Council shall conduct a public hearing and, thereafter, shall determine whether to approve, modify or deny the request for transfer of development rights. Such decision shall be conveyed to the applicants in the manner provided in Section 16.9.2.

4. Approval Criteria.
The Planning Commission in making its recommendation and the Council in taking action on the application for transfer of development rights shall approve such application only if:

a. The permitted transfer of floor area to the receiving site will not create adverse effects on the character of the surrounding area, to the detriment of the occupants of buildings on the block or nearby blocks.
b. Adequate safeguards exist to insure that buildings from which development rights are transferred are retained and renovated.
c. All requirements for a conditional use permit on the receiving site have been met.

5. Conditions.
The Planning Commission may recommend and the City Council may impose such conditions as are necessary to reasonably assure that such criteria are met. In addition to all other conditions, the City Council may require that a surety bond be filed or deposited in escrow with the City to insure compliance with the requirements as may be imposed by the Council.

16.8.5. Transfer Instruments.

The owners of the transfer site and of receiving site shall submit to the City Council a copy of the transfer instrument legally sufficient in both form and content to effect such transfer and a certified copy of the notice of restrictions, which shall be filed by the owners of the sites in the

place designated by the law for the filing of deeds and restrictions on real property. Both the instrument of transfer and the notice of restrictions shall specify the amount of floor area to be transferred, and shall specify by lot and block numbers the sites from which and to which such transfer is made.

16.8.6. Termination and Extension of Transfer Permit and Conditional Use Permit. Termination of the permit to transfer development rights and the conditional use permit for the receiving site for failure to commence construction, as well as the extension of such permits, shall be in accordance with Section 16.9.11.

APPENDIX C: LANDMARK PRESERVATION FINANCIAL CONTRIBUTION STANDARDS

17.5.E LANDMARK PRESERVATION FINANCIAL CONTRIBUTION STANDARDS

17.5.E.1 Landmark Preservation Public Benefit Formula

Floor area bonuses for financial contributions to the restoration of existing or proposed landmark structures shall be based on one-time financial contributions based on the following:

a. The financial contribution required for each square foot of bonus floor area shall be equal to eighty percent (80%) of the median cost of one (1) square foot of land within the Central Business District, as geographically defined in Section 17.5.D.2.
b. The cost of land in the Central Business District, as geographically defined below in Section 17.5.D.2, shall be determined based on the average sale price for land within the most recent five (5) years, as provided by the City. In the event that fewer than three (3) such sale prices are available in the most recent five (5) years, the land value of parcels of land that are not developed with structures within the Central Business District, as provided by the Orleans Parish Assessor, may be used to determine the average cost of land for the purposes of this section.
c. The maximum bonus that may be obtained is equal to twenty percent (20%) of the base Floor Area Ratio.

17.5.E.2 Landmark Preservation Standards and Guidelines

a. Existing or proposed landmark structures shall be located within the boundaries of the Central Business District and shall be identified on the list of historic landmarks of the Historic District Landmarks Commission or on the National Register of Historic Places.
b. Restoration projects shall be consistent with the guidelines of the Historic District Landmarks Commission (HDLC) if the landmark structure is located within a local historic district or on the list of historic landmarks of the HDLC, and subject to the approval of the Division of Historic Preservation of the State of Louisiana if the landmark structure is on the National Register of Historic Places and is not within a local historic district or on the list of historic landmarks of the HDLC.
c. Proposed new landmarks shall be identified and certified by the HDLC and/or the National Park Service.
d. Funds shall be used for substantial interior or exterior rehabilitation or restoration that is visible from a public street or within a portion of the interior that is open to the public. The work shall exceed routine maintenance, as determined by the Director of the Department of Safety and Permits.

APPENDIX D: CANAL STREET RENOVATION CASE STUDIES

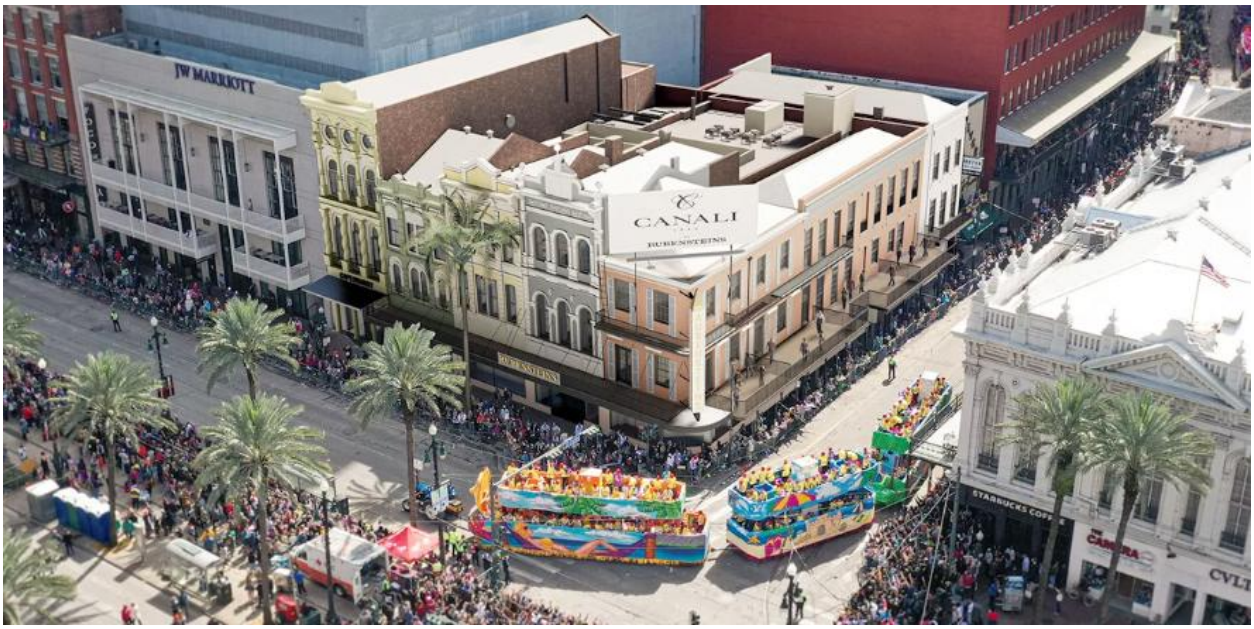
The following case studies illustrate the strategies and challenges associated with adaptive re-use of historic structures along Canal Street today.

Rubenstein's Hotel

The Rubenstein Hotel opened in December of 2023, bringing the upper floors of Rubensteins clothing store back into commerce. Rubensteins has served New Orleans since 1924, operating continuously at the site of the renovated hotel. Prior to renovation, Rubenstein's was already occupying six buildings at the corner of Canal Street and St. Charles Avenue.[49]

The renovation was completed in partnership with MCC Real Estate Group and architecture and design office Cicada. The general contractor was Trison Construction, and the hotel's interiors were designed by Lauren Bombet Interiors. The first phase of construction began in February of 2020.

Combining the upper floors of six separate buildings with varying floor plates into one cohesive mixed-use boutique hotel and bar required significant architectural expertise. Cicada completed extensive 3D scanning to develop an accurate model of the building's "structure, layout, and historic elements."[50] Ultimately, the project was a success, and illustrates the advantages of combining upper floors to maximize potential profit.



Rubenstein's adaptive reuse, courtesy of Cicada

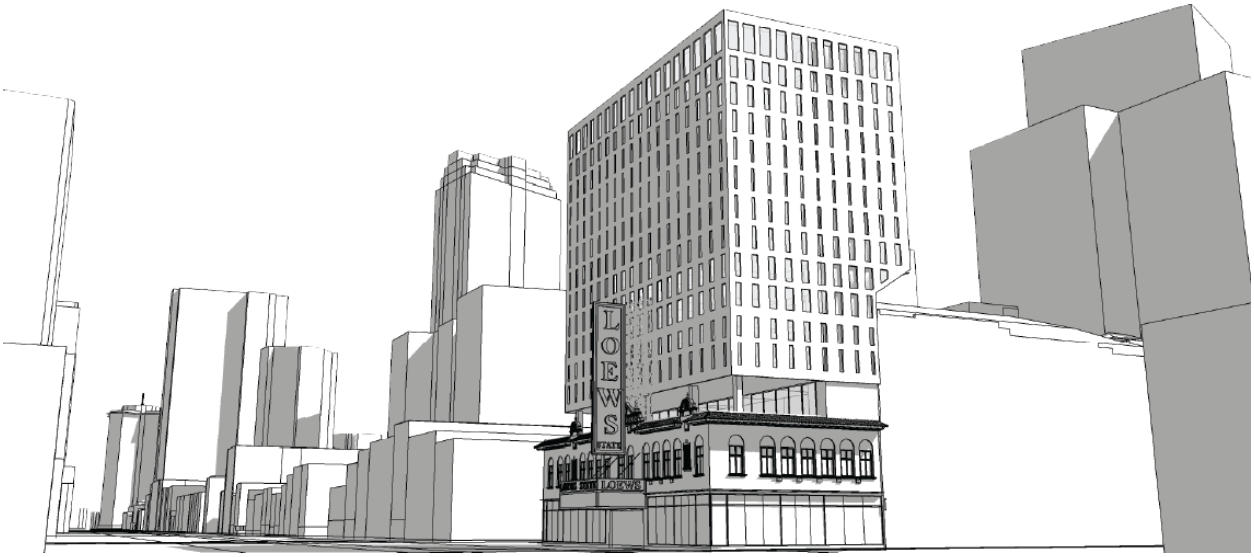
[49] https://therubensteinhotel.com/
[50] https://cicada.xyz/work/rubensteins-hotel

Loews Theater

The Loews State Palace Theater was constructed in 1926 and illustrates the Spanish Colonial Revival style on its Canal Street and Rampart Street faces. Thomas W. Lamb, who designed the theater, is celebrated for his work on hundreds of "movie palaces" across the United States, including the Realto Theater in New York City's Times Square.

In 2007, the Loews Theater permanently closed. In 2014, it was purchased by Gregor Fox for $3.5 million. With an estimated renovation cost upwards of $40 million, however, Fox chose to put the theater back on the market. In 2015, the building was purchased by LC Hospitality Group.[51] In 2017, the property owner requested and received a variance to the base zoning district's height limit. Plans were made in collaboration with Trapolin and Peer Architects to develop a 248-room hotel and ground floor retail by erecting a 15-story tower above the existing two-story building.[52] However, the proposal was repeatedly blocked by the CBD HDLC, and the building remains vacant today.

A core issue in the redevelopment of the Loews Theater is the price of renovation as compared to the opportunity for profit. Potentially, additional funding through development strategies such as TDR would lessen the price of renovation, and by extension lower the hypothetical profit that a complete redevelopment would need to produce. However, this case study points to the general complexity of balancing historic preservation and development, something TDR is not immune to and cannot autonomously solve.



Third and final iteration of the blocked Loews Theater renovation, courtesy of Trapolin Peer Architects [53]

[51] https://abandonedsoutheast.com/2019/08/27/loews-state-palace/
[52] https://www.nola.com/news/business/loews-state-theater-back-on-the-market-for-sale/article_9f37660a-1d0b-11ee-873b-ef2f9b1df4ad.html
[53] Trapolin Peer Architects

APPENDIX E: MULTI-MODAL/PEDESTRIAN CORRIDORS

17.6.C Designations and Boundaries

1. St. Charles Avenue, Howard Avenue/Andrew Higgins Drive to Canal Street, including the curvilinear portion of St. Charles Avenue that abuts the public space known as [Harmony] Circle
2. Canal Street, Claiborne Avenue to Convention Center Boulevard
3. Magazine Street, Canal Street to the Pontchartrain Expressway
4. Poydras Street, Claiborne Avenue to Convention Center Boulevard
5. Julia Street, Loyola Avenue to Convention Center Boulevard
6. Camp Street, Andrew Higgins Drive to Canal Street
7. Andrew Higgins Drive, St. Charles Avenue to Convention Boulevard
8. North Rampart Street, Canal Street to Iberville Street
9. Howard Avenue, St. Charles Avenue to Baronne Street
10. Baronne Street, Howard Avenue to Canal Street
11. Convention Center Boulevard, Canal Street to the Pontchartrain Expressway
12. Loyola Avenue, Canal Street to the Pontchartrain Expressway
13. Carondelet Street, Canal Street to Howard Avenue
14. Bourbon Street, Canal Street to Iberville Street
15. Tulane Avenue, Claiborne Avenue to Loyola Avenue/Elk Place
16. Tchoupitoulas Street, Canal Street to Andrew Higgins Drive
17. Girod Street, Loyola Avenue to Baronne Street
18. Dauphine Street, Canal Street to Iberville Street
19. Royal Street, Canal Street to Iberville Street
20. Chartres Street, Canal Street to Iberville Street
21. Decatur Street, Canal Street to Iberville Street

APPENDIX F: DATA: REQUESTS FOR HEIGHT

Docket	Location	Zoning	Required/Permitted	Proposed/Provided	Waiver	Disposition
BZA108-16	317-321 Magazine Street	CBD-2	50'	63'-5" (54'-8" grandfathered)	8'-9"	Approved
BZA036-17	101 Magazine Street	CBD-2	70'	81'-5" (77'-8" existing)	3'-9"	Approved
BZA034-17	1020-1038 Annunciation Street	CBD-6	setback 20' over 75'	setback 20' over 110'	setback 20' over 35'	Approved
BZA049-17	714-730 Julia Street, 801-815 St Charles Avenue, 816-820 Carondelet St	CBD-5	65'	66'-6"	1'-6"	Denied
BZA100-17	1100 Girod Street	CBD-1	120 sf per unit	46.7 sf per unit	73.3 sf per unit	Approved
BZA100-17	1100 Girod Street	CBD-1	12 FAR	12.13 FAR	0.13 FAR	Approved
BZA083-19	1100-1112 Canal Street	CBD-3	120 ft	195 ft	75 ft	Approved
BZA065-23	427 S. Rampart Street	CBD-1	36 ft / 3 stories	32 ft, 10 7/8 in / 2 stories	3 ft 1 1/8 in / 1 story	Approved
ZD020-15	400-430 Canal St, 103-111 Tchoupitoulas St	CBD-3	70'	250'	180'	Withdrawn
ZD072-15	121-123 Royal St	CBD-3	70'	268'	198'	Approved
BZA026-16	1148 S. Peters Street	CBD-6 Urban Core Neighborhood Mixed-Use District	125'	180'	55'	Approved

Appendix H: Public Comments