



MINUTES
COMMUNITY DEVELOPMENT COMMITTEE
FEBRUARY 11, 2009

A meeting of the Portland City Council's Community Development Committee (CDC) was held on Wednesday, February 11, 2009, at 5:00 p.m. in Room 209 on the second floor of Portland City Hall. Present from the Committee were its Chair Councilor Cheryl Leeman and members Councilors Nicholas Mavodones and Daniel Skolnik. Also present from the City Council was Councilor Dory Waxman. Present from the City staff were City Manager Joe Gray, Business Development Representative Nelle Hanig, Planning Division Director Alex Jaegerman, Planning and Urban Development Director Penny St. Louis Littell, Housing and Neighborhood Services Director T. J. Martzial, Economic Development Director Greg Mitchell, Senior Planner William Needelman, and Senior Executive Assistant Lori Paulette.

Chair Leeman opened the meeting noting that the meeting would be audio/video taped.

Item #1: Minutes

Review and accept minutes of previous meeting held on January 14, 2009.

On motion made and seconded, the Committee voted unanimously to accept the Minutes as presented.

Item #2: St. Joseph's Senior Living Project TIF Request.

Chair Leeman noted that the Committee has met regarding this item on a couple of occasions, requesting staff to negotiate terms for a TIF agreement. She asked Greg Mitchell for an update.

Mr. Mitchell gave a brief update of the project, saying that it includes 45 to 50 apartments in the renovated Convent; 25 to 30 apartments (new construction) in an addition to the Convent; and, 36 units (new construction) located in three townhouse/cottages adjacent to the convent. The project is a partnership with the Sisters of Mercy and John Wasileski, with a new non-profit to be created to own the project.

Mr. Mitchell said that the TIF has been requested due to shortfall for the undertaking. When the project is done, it will be a \$25 Million development. Financing sources now account for \$23 Million, so there is a \$2 Million gap. Staff has evaluated and met with the project team and are recommending a 30-year TIF with 60% of the TIF revenues to go to the project, and the remaining 40% to go to the General Fund.

Mr. Mitchell said that the property is now tax exempt and this project will put it back on the tax role with \$10 Million in new taxes over 30 years, again with 60% to the Developer and 40% to the City's General Fund. For every dollar of the 60% TIF to the developer, the City will save approximately 34% of that tax dollar due to the TIF sheltering effect on State aid for education, municipal revenue sharing, and County tax. Other public benefits include the preservation of an important historic structure and establishing new market rate senior living units to create additional economic benefit.

Chair Leeman thanked Mr. Mitchell for the update. Although there has been public comment on this project at two previous Committee meetings on this subject, she asked if there was any public comment, and there was none.

Councilor Skolnik asked how many jobs would be created.

Mr. Wasileski said that during the construction period of two to five years, he estimated 70-80 full-time jobs. When the project is completed and occupied, he estimated 20 full-time jobs.

Councilor Skolnik asked if the 60% to the project would all be targeted to debt service.

Mr. Mitchell indicated in the affirmative, to cover the \$2 Million gap.

Councilor Mavodones indicated that at the end of the 30-year TIF, 100% of the revenues would then go into the General Fund, and, again, Mr. Mitchell indicated in the affirmative.

Councilor Mavodones commented that Mr. Wasileski's projects in other areas are well-maintained. He asked Mr. Wasileski his opinion about the condition of the subject property after the 30 years were up.

Mr. Wasileski said that the key to management is asset protection for current and future use. Renovation and updates for painting and carpet, etc., are no different for a retirement community to keep up the asset. Both external and internal maintenance are done routinely.

Chair Leeman asked if the TIF were approved, how soon would construction start.

Mr. Wasileski said that over the next 4-6 months, the development team would get the numbers together and garner the financing program. The Stimulus package will help to free credit lines. Then permits and approvals would be obtained, and, with luck, construction would start a year from now. Retirement communities need to be in the right place in town, and this location is tailor made for long-term success.

Chair Leeman said that this project is very exciting for Portland, and she hoped it would all fall into place. Portland can use a \$25 Million project to generate jobs, and the spin-off from the development will have positive impacts for the area. It is also a nice aspect that the project will integrate generations – from the high school to the retirement community.

Councilor Mavodones said that the Sisters of Mercy have done a great job maintaining the site, and the development team has good track record of developments. Both are committed to the site and project and he looks forward to seeing it go forward.

Councilor Skolnik then made a motion to send this TIF request forward to the City Council for the Senior Living Project at McAuley Place with a recommendation that it be approved. This motion was then seconded and passed unanimously.

Mr. Wasileski thanked the Committee for their time and support.

Item #3: Great Maine Wharf – Presentation regarding hotel development plans.

Joe Stevens, attorney representing Great Maine Wharf owner Eric Cianchette, introduced himself, Eric Cianchette, Joe Malone, and Owens McCullough as part of the project team here today.

Mr. Stevens first wanted address the issue of why the team is here today compared with what has been published by the media, i.e., the team is trying to circumvent the system by going straight to the City Council regarding a contract zone for the property. The team is well aware of the planning process and fully intends to go through that process, but wanted to have an informal dialogue with the Council first. This started with a meeting with City staff of Joe Gray, Penny Littell, and Greg Mitchell. As a result of

that meeting, it was suggested that the team should talk with this Committee about the concept.

Mr. Stevens said that Great Maine Wharf (GMW) would request to have the Waterfront Central Zone (WCZ) amended to allow for a full service hotel, restaurant, and ancillary uses as a contract zone. If GMW team is successful today, it will then work with Penny Littell and the Planning Department/Board to through the contract zone process. Contract zones are discretionary for the City, and GMW is developing a strategy in going forward.

Mr. Stevens handed out aerials photographs, the current zone language, and amendments being suggested (copy attached to these Minutes). There is a concept development plan included, architectural elevations, and fiscal benefits. The text amendments would be the first step to allow hotel, restaurant, and ancillary uses up to 65 feet in height as a contract zone as a conditional use, like an overlay zone.

Mr. Cianchette said that he has owned GMW for 4-5 years and has been considering options for its future use and make a contribution to that area. The building on the wharf is falling apart. The concept plan is to keep marine use on the first floor, build four floors, and have 180 cars parking on site. The development would be a green development, energy efficient, and environmentally sound. At this point in time, steel costs are down, and Mr. Cianchette said that now could be the time to get the project financed. Unemployment is up and this project would employ Maine people. He estimated employing 200 people year round with a \$6 Million annual payroll, not counting construction jobs. It would a \$40-\$50 Million project.

Mr. Cianchette said that although this would not be a total marine use, he would maintain marine use on the first floor. If allowed by the City to go forward with a contract zone, it would see a first class hotel.

Mr. Stevens noted that amendments to WCZ proposed would apply only to upper floors.

Chair Leeman thanked them for their presentation and asked if there was public comment, noting that because of other items on the agenda and timing, she requested brief public comment.

Tony Donovan said that investments in Portland are critical to the taxpayers and jobs for Portland. This is a local business, and the City has taken a stand on supporting local businesses and buying local. This applies not just to the smaller businesses but large scale as well, like GMW owned by Maine native Eric Cianchette. This development would broaden the horizons for Portland's waterfront. He would recommend the item go to the full City Council for discussion and guidance.

Alan Fishman said that he supports this project and has no financial interest in the project. The City needs to support local developers. By the City supporting this project today, it will enable the project team to move onto the next stage of making it happen.

Phin Sprague said that piers need a lot of money for their preservation, and this proposal does a lot of good things for Portland – for the working waterfront, builders, and jobs. He hoped that the City's policies will help people like Eric Cianchette invest in Portland.

William Gorham said that he too supports the project. It is time to relax zoning along Commercial Street. This plan can protect the working waterfront and develop a

pier as well. The developers are not here to circumvent the planning process, but needed to hear from the Council that it is willing to agree to a contract zone before investing large sums of money for naught.

Joe Schmader said that he is a former owner of GMW. He sold it due to the high costs of maintaining piers. Something for the waterfront needs to happen, and this project is needed. The Council needs to see that the change should occur now.

Joe Malone said that the development team fully expects to go through every step of the planning process, beginning at square one. Without zoning to allow it, it would be foolhardy to go any further. With the project, the pier would last one hundred years and the buildings would be state-of-the-art, including dockage for the first floor marine use and maintaining first floor marine use.

Susan Davis, speaking about a sustainable Portland, said that a sustainable waterfront would include sardine factories and first class restaurants and hotels. This project would fit well for Portland.

Chair Leeman asked if there was further public comment. There being none, the public comment session was closed.

Councilor Mavodones said that the GMW development team has a proven track record. He asked Mr. Cianchette if he owned the entire wharf.

Mr. Cianchette referred to a development board and described the areas of his ownership.

Councilor Mavodones said that he is going to New York this weekend, staying at a hotel, with his car parked off-site. He asked Mr. Cianchette to help him understand the necessity of on-site parking.

Mr. Cianchette said that the hotel he is proposing necessitates on-site parking. It has ballroom space, meeting space, as well as hotel and restaurant space. He would not want his customers who need their cars right away to have to wait a long time. Many hotels have parking for the customers underneath the hotel, which is what is being proposed here.

Mr. Cianchette then talked about the bulkhead, taking silt from the channel and encapsulating it. You could then run piles through it and build your building.

Councilor Mavodones asked about plans for commercial vessels on the east side.

Mr. Cianchette said that plans will continue as they have been. He is not planning to change it; it will continue as it has in the past.

Councilor Mavodones realized that the developers were looking to the Committee for its signal on where it stands for a contract zone. There are obstacles to go forward including shoreland zoning, submerged land issues, and other permitting issues.

Owens McCulloch agreed and the development team is aware that it will need to work with the Harbor Commission, DEP, NRPA, Army Corps of Engineers, and the Portland Planning Board. It will take some time, but with a favorable response from the City, dialogue will start immediately with all the entities.

Mr. Stevens said that this is true but an indication from the policy-makers as to whether this has a chance a going forward with a contract zone is needed before investing further time and money.

Mr. Cianchette agreed saying that it was too risky going forward without an indication from Portland's policymakers. If the Council is on board, Mr. Cianchette said that he would move forward to make this happen.

Councilor Skolnik asked about breaking ground with the project if a favorable response were received from the City.

Mr. Cianchette said that with the positive response, it will get done, starting with the bulkhead next Winter.

Councilor Mavodones asked Ms. Littell about the contract zone.

Ms. Littell said that the Planning Board would be making a recommendation to the City Council. The Planning Board would need a detailed site plan so the City would know the project in full.

Councilor Mavodones asked, historically, if there has been flexibility in a contract zone coming to the City Council rather than through the Planning Board.

Ms. Littell said that State law directs that changes in zoning come through the Planning Board, and contract zones are a change in zoning.

Councilor Mavodones said that should the City Council have a workshop on this project, would State law preclude the City Council then taking action on the contract zone, and Ms. Littell answered in the affirmative.

Chair Leeman said that the City Council has had on occasion an item on its agenda for a zone change which did not come from the Planning Board but rather as a Councilor amendment.

Ms. Littell said that those items should be from the Planning Board, noting in the past there have been instances where this did not happen. She would not advise zone changes that do not come from the Planning Board.

Councilor Skolnik asked about tax revenues from the proposed development, and if the hotel would be the same kind of hotel like The Regency.

Mr. Cianchette estimated approximately \$250,000 to \$300,000 annually in new taxes from the project. The hotel would not be the same, as in, for instance, The Regency, but it would be a first-class hotel like The Regency.

Councilor Skolnik then referred to the next item on the agenda, where the Committee received a sign letter from the “Waterfront Central Zone Property Owners” (WCZPO) and asked Mr. Cianchette if he had considered signing it as well.

Mr. Cianchette said that he is in favor of what they are doing; they are looking for bigger zone changes. He did not feel he had the time to wait for what they are requesting and, therefore, did not sign the letter. He is requesting something specific for a contract zone.

Mr. Stevens said that the WCZPO is requesting more comprehensive changes to the zoning. As it stands now, the development being proposed could not apply for a contract zone because the use is not permitted. Therefore, he submitted the proposed text amendments to Division 18, minor in nature, for a full service hotel, restaurant, and height zone changes. These amendments would allow the proposed redevelopment uses as a contract zone. If the text amendments are approved, GMW would then submit a contract zone application accompanied by appropriate reports and studies.

Chair Leeman asked if the Council were to approve the amendments submitted, would they would apply to the entire central waterfront.

Mr. Stevens agreed, saying that you could only implement any of the proposed text changes with a contract zone. As it stands now, the project could not apply without the text changes for a contract zone because the use is not permitted now even with a contract zone.

Councilor Skolnik asked if there have been any changes in the state of Maine Wharf since Mr. Cianchette bought the wharf (underlined section an amendment to the minutes at the CDC meeting of 3/11/09), any deterioration.

Mr. Cianchette said that he has owned it for about four years and it has been depreciating, and he has lost most of the big commercial fishing boats.

Chair Leeman discussed the amendments, asking if the Council were to approve the amendments presented by the development team, would someone, for example, two piers down, be able to do the same thing. Does it apply to the full Waterfront Central Zone (WCZ)? And, when the Council starts looking at the entire WCZ, will the amendments be grandfathered?

Ms. Littell said that assuming the Council adopts the contract zone as being contemplated today, then yes the amendments would be grand-fathered.

Councilor Mavodones said that the text amendments being proposed and, if passed, would affect the entire central waterfront. When comparing it to the contract zone at the State Pier, how does it factor into the subject property.

Ms. Littell said that they are different zones.

Councilor Mavodones asked about the Council approving text amendments to the eastern waterfront zone prior to the contract zone.

Mr. Needelman said that the City established the eastern zone with standards for contract and conditional zoning. A developer for the Maine State Pier would then enter into a contract zone.

Chair Leeman said that the City Council needs to proceed in the best interest of the City. This has at times involved zoning amendments initiated by the Council and not the

Planning Board. With this subject project, again, the City Council needs to proceed in the best interest of the City.

The Chair noted that because of the economy, all forms of government are at turning points and are looking at different approaches to spur development. This proposal is a tremendous opportunity for Portland. The developer and his team have already done incredible projects, and this project merits a presentation to the full Council. This is a \$40-\$50 Million project fixing a derelict wharf and maintaining and enhancing a piece of the waterfront. It is creative with its approach with the bulkhead, maintaining the first level for marine use, and then the hotel development with the location of it not at the end of pier which is unattractive. It is a good balance of uses. The City should facilitate the project through the process. She asked Ms. Littell to take a look at the development review process for that facilitation to make this project happen. This kind of opportunity does not come twice.

Councilor Mavodones said that the waterfront is a visceral issue, so it is important process wise that this Committee is proactive in looking at it. He would be in favor of holding a Council Workshop as a next step in this process for the developer and team. Making a recommendation on the merits of the project today is something he cannot do. There needs to be a public hearing that is well-noticed for the Council to make a decision; constituents have strong feelings about the waterfront. The City, however, does need to be creative in working with the pier owners.

Councilor Mavodones closed by saying that the best route for the project to get a signal from the Council would be through a presentation, with questions and answers, at a Council workshop. There are many promising components to the subject proposal, and

maintaining the use on the first floor for marine use is one of them. The height issue may be a challenge.

Councilor Skolnik said there does seem to be a process question today, and a policy for the waterfront that will evolve. This is a project he would want to see move forward but not pushed through. This does seem to be the signal from the Committee today.

Chair Leeman agreed, adding the full City Council needs to weigh in on this through a workshop session. With past experience on the waterfront, the Council should facilitate this proposal and make it happen. As this goes forward, the public will start to be aware of the project as well. The Council workshop will be an opportunity for the Councilors to ask their questions, obtains answers, and then the developer and team may then enough information to move forward.

Councilor Skolnik said that he is comfortable with a Council workshop session which does not include any vote by the Council as that is not the purpose of workshops.

Councilor Mavodones agreed saying that the purpose of the Workshop is to hear about the project, asks questions, and the public can attend but there is no public comment/hearing session as part of workshops.

On motion made and seconded, the Committee voted unanimously to have the proposal scheduled for a workshop session of the City Council as soon as possible.

Item #4: Waterfront Central Zone Property - Presentation regarding proposed zoning amendments.

Chair Leeman noted that the Committee received a letter dated 12/1/08 to the City Council from WCZPO and signed by twelve waterfront property owners.

Dick Ingalls addressed the Committee saying that he lives in South Portland but has been working on Portland's waterfront most of his life. The letter is supported by those twelve signatures. Although Mr. Cianchette has not signed it, both support each other.

In the Spring of 2006, the Planning Board amended the ordinance and the waterfront got some relief, but that is not the case anymore. Parking and other strict regulations drafted within those amendments obviated relief to the owners. The Waterfront Central Zone (WCZ) language is a complicated ordinance.

Mr. Ingalls then noted that the letter contained four areas of concern. The first regards the "No Adverse Use Sections" (must be marine and commercial use) which is throughout the ordinance to the point that wharf owners have already met with the City Manager and Penny Littell. It is a policy issue that the owners feel must be changed.

The second issue regards the parking restrictions of the WCZ. The parking restrictions need to be eliminated. Everyone wants to protect the working waterfront, but these parking restrictions will not help.

The third issue rises and falls with the tide regarding working below the deck of the pier. A property owner use to be able to come to the Harbor Commission and detail the project, and the Commission would inform the Planning Board of what was happening so that everyone could keep track of what was going on with nothing in writing at that time. A couple of years ago, this process died and now a permit is required for everything. He and Tom Dobbins, Chair of the Harbor Commission, have met with Penny Littell and a process seems to be underway and being worked on.

The fourth item concerns dredging. The last time the channel was dredged was 1997/1998. Mr. Ingalls said that he now has the Water Quality Control Certificate that

was issued two weeks ago as a step for the next dredging. However, private pier owners cannot dredge between the docks because it is too contaminated to go to sea, meaning that there is a Federal legal dump site located out to sea about 4 ½ miles east by north. Mr. Ingalls then talked about a CAD (Contained Aquatic Disposal) cell has been done in NY and NJ. Mr. Ingalls explained about the CAD Cell, hazardous materials, and dredging regulations (for details, anyone may call the Economic Development Office at 874-8683 and obtain a copy of the DVD of the meeting at a cost of \$10.00). Mr. Ingalls also noted that the cost of a CAD cell is \$7 Million. He had a meeting in Augusta with the Army Corps of Engineers yesterday, and it was mentioned that the Legislation Delegation needs to ask for funding. This is starting to get some movement and would need City support as it go through the U.S. Budget Committee. The Army Corps would go to the Congress, and the Congress would request the Budget Committee to give funds to the Army Corps for the CAD cell.

Mr. Ingalls then referred back to items #1 and #2, which WCZPO is asking for policy change by having the CDC formally vote for WCZPO to work with Planning in drafting a new ordinance.

A motion was made and seconded to have WCZPO work with the Planning staff and formulate changes and bring it back to this Committee.

Councilor Mavodones asked about that process.

Ms. Littell said that the ultimate text change would go to the Planning Board and then to the Council. If you want it to come back to this Committee, then it will. It is unusual for text changes to go to Committee.

Councilor Skolnik questioned when text amendments do go to a Committee.

Ms. Littell again noted it is unusual, but if a Committee has a certain interest and requests a review, those are the times a Committee would also be involved.

Councilor Skolnik, referring to the motion that it come back to this Committee, said that he could not support that motion. Process wise, the text amendments are done with the Planning staff, brought to the Planning Board, and then to the City Council. However, if the motion passed without his vote, he would see it come back to this Committee, but it would also need review by the Planning Board.

Chair Leeman then asked for a vote on the motion and it passed 2-1 (Skolnik).

The Chair, noting that the public wanted to speak, opened the meeting for public comment.

Steve DiMillo said that the group does represent all pier owners who want to maintain their piers. There is a dire need for change to the ordinance and all looked forward to this change happening.

Joe Schmader agreed; his pier is used mostly for recreational boating. He does not have any more commercial boats to work on. It is time for change to the ordinance.

Chair Leeman asked if there was further public comment, and there was none.

Item #5: Private Marina Project – Presentation by Alan Graves regarding private marina next to Ocean Gateway.

Mr. Graves handed the Committee a listing of “Benefits of a First Class Marina to the City of Portland”, attached to these Minutes.

Mr. Graves said that he asking for an RFP to lease from the City an 8’ x 5’ piece of land to the submerged land owned by the State of Maine. There are currently 1,000 large yachts being made as we speak. Maine is between Florida and Newfoundland, and

he believes he can lure many of these yachts to Portland for a first class marina to tie up. No service, fuel, but strictly dockage and a Summer operation. He would also propose to build the floats at Cianbro and IMT that would be 66 long and 12 feet wide. Mr. Graves also proposed building a floating megaberth. The CAT terminal would utilized for passengers.

Councilor Skolnik noticed that there were two gangways in the Board that Mr. Graves put up and would he need another lease, and also asked about fuel for the yachts and financing for the project.

Mr. Graves said that he may need two leases but would start with just the one. Regarding fuel, the larger boats would lay alongside the Julianne and fuel from there; smaller boats would obtain fuel from DiMillo's or across the bay. Financing would be private with his partner. Local companies would be available for the boats to buy supplies from. It is a \$4.5 Million project, with spin offs to the area. There would be 8-10 jobs in the Summer and 3-4 in the Winter. It would add \$4 Million in new value and would generate new taxes.

Councilor Skolnik asked about the land side impact.

Mr. Needelman said that at the request of the CDC a couple of years ago, staff began looking at the land east of Ocean Gateway, referred to as the Amethyst lot. It was anticipated to move forward to study various uses, including community sailing, marina, parks, trails, and open space. This study was put on hold, however, because of the uncertainty with the Maine State Pier (MSP). MSP assumed redevelopment of Ocean Gateway, and the Amethyst lot was for overflow parking. The City also has contractual obligations with Bay Ferries to provide a certain amount of queuing area. As a result,

further study of this land has not been conducted until there is clear direction of the uses for the MSP, Ocean Gateway, and associated land needs. Any projects going forward would need to have compatibility with other users.

Chair Leeman said that the land is a safety valve for the Maine State Pier and other queuing issues, and Mr. Needelman agreed.

Mr. Graves said that he would need about 30 spaces, or may be able to valet park in the new garage.

Councilor Mavodones noted the sail space, recreational boats, and marina. This size marina would have some standards for parking, he would assume.

During the design process of going forward with the project, Mr. Needelman said that parking requirements would be discovered by ordinance or demand. It would also determine how much on-site and off-site parking would be required.

Chair Leeman suggested that this go back to the Planning staff and added to the list of the Council created workplan for the Planning and Urban Development Department and determine its priority for the project in terms of other priorities already listed.

Councilor Mavodones asked if the next step was working with Mr. Graves or framing an RFP.

Chair Leeman said that staff needs to provide direction and come back here with a recommendation on how to proceed, so the next step is staff working with Mr. Graves and for Planning to place the project on its workplan.

Ms. Littell said that she would take a look at the already lengthy list and determine a timeframe to be back to the Committee.

On another subject, Chair Leeman said that the state of the economy is having negative effects on small businesses and residential home owners. She asked staff and Councilors to think about how the City can be more proactive, both internally and externally, suggesting to perhaps have a roundtable discussion with various business owners. This will be an item for brainstorming at a subsequent Committee meeting.

There being no further business to come before the Committee, the meeting was then adjourned at 7:40 p.m.

Respectfully submitted,

Lori Paulette