

Housing Committee Meeting Minutes
Tuesday October 6, 2009
5:00 p.m. City Hall - Room 209

Attending: Councilor David Marshall, Chair, Councilor Kevin Donoghue, Councilor John Coyne, Councilor John Anton, T.J. Martzial, HNS Division Director, Amy Grommes Pulaski, HCD Program Manager, Janet Paul, HNS Office Assistant, Michael Bobinsky, Director of Public Services, Tom Civiello, Public Services, Greg Mitchell, Director of Economic Development

Item 1. Approve Minutes from August 4, 2009 and September 1, 2009

Chair Marshall called the meeting to order. T.J. Martzial mentioned that there had been an amendment to the minutes for the August 4th minutes. There had been a second motion made to request \$950,000 in NSP funds for Avesta Housing's Beckett Green project; it was omitted from the minutes. Councilor Donoghue motioned to amend the Housing Committee minutes of August 4, 2009, Chair Marshall seconded; the motion passed unanimously. Councilor Donoghue requested a change in the minutes of September 1. He requested that the words "Councilor Donoghue said" be changed to "Councilor Donoghue asked whether" the condominium conversion fee should be proportionate to the impact on displaced tenants rather than the rental market unit. He made a motion to approve the amended minutes from the September 1 meeting. Chair Marshall seconded. The motion was unanimous.

Item 2. Riverton Land Bank Designation

Michael Bobinsky from Public Services showed a map of land in the Riverton/Deering area and said the Land Bank had requested the highlighted areas to be designated for Land Bank acquisition. These properties are City owned or tax acquired properties. They are considered non-buildable, in sensitive wetlands, and are in the head waters of Dole Brook. The Department of Public Services endorses the recommendation due to the sensitive wetlands and the fact that Dole Brook is considered an urban-impaired stream. The City will have to deal with Dole Brook in the future because of impact from runoff. The property is associated with access to the Riverton rail trail. Staff was asked to present this request to the Tax Acquired property committee, which it did to make sure there was support before they went further. This is 17 acres of land.

Doug Roncarardi of Public Services passed around a wetlands mitigation study. When the area was plotted, they found it was difficult to access and very wet. This is located in the Dole Brook watershed, which runs from PATHS, through the Riverside golf course, and dumps into the Presumpscot River. Several nearby projects encroach on the property, and because water has been ditched or culverted, the water quality has been declining. The DEP has labeled it as an urban-impaired stream, meaning the water quality standards do not meet its classification. We are obligated under a five year permit to improve the quality of five streams. It is expensive to fix things once they are let go. We have the opportunity to protect this area, which would be extremely difficult to develop under guidelines we have in place under Chapter 500, which requires mitigation for wetlands and storm runoff. It makes more sense to preserve the head waters.

Chair Marshall asked if Public Services was asking to order a recommendation be brought to the City Council. Councilor Donoghue asked if the Land Bank had a standing recommendation as well. Doug responded that the Land Bank Commission will order a recommendation too.

Public Comment:

- Tom Jewell, Chairman of Land Bank Commission, said he was aware that housing and open space often compete for parcels in the City. There is a project adjacent to the land in question, Skylark Commons. The lots in question are not buildable lots. This is an opportunity to join space at PATHS and Riverton rail trail, creating a greenway.
- Steve Aylward, 46 Newton St., member of Land Bank Commission, this recommendation would continue the process of securing the view shed. The area would remain wooded and have a rustic feel, and not be just another sidewalk. It would create a natural trail connection between PATHS and the Riverton trail. With possible Amtrak expansion, we may be able to get across the tracks, opening up a path from Back Cove through Evergreen Cemetery to the Presumpscot River. Some parcels of this land could be sold off and built on; this is a balanced request.

Councilor Coyne motioned that the Housing Committee make a recommendation to the City Council that the area be designated for the Land Bank. Councilor Donoghue seconded the motion; it was unanimously approved.

Item 3. 660 Congress Street - Housing Replacement Ordinance

T.J. Martzial said the owners of 660 Congress Street, Elliotsville Plantation, inc. (EPI) have requested an exemption from the Housing Replacement Fund on the basis that it is a "project of special merit".

Graham Whynot-Vickers of EPI gave a brief history of 660 Congress Street. The property is located in both the Arts District and the Congress Street Historical District. It was built in 1886 as two side by side houses. The property was renovated in the 1920's and remained as two units. It was again renovated in the 1940's but it is unclear what the residential configuration was at the time. Currently, there is retail space on the first floor and seven housing units on the top two floors. The building has been vacant for two years; it is in very poor condition.

Patrick Gilgallon of EPI said there are seven dwelling units currently on record with the City. He said that because the building has been vacant for two years, there would be no displaced tenants; it doesn't create a housing deficit. The units cannot be returned to livable units without substantial investment of close to a million dollars. The building is rated as having medium to severe deterioration. They have determined through consultation with senior staff about the ordinance that the building can be returned to the original two units and possibly be exempt from the ordinance as stated under Letter N, section 6.

Elliotsville Plantation is a non-profit corporation. This building will be developed as an artist in residency project. Participants will be given a stipend, a place to live, daily meals, and space to develop their art. Residencies will be from three months to a year. Nobody will live on the premises. 100% of the building will be devoted to artist activity. There are two parts of the Housing Replacement Ordinance's section on projects of special merit that apply here.

1. Is the project consistent with the Comprehensive Plan?
2. Will the project provide significant public and civic benefits?

Rebecca Lundquist of EPI stated the ordinance says that modifications to regulations and their interpretation should be considered if they are found to be counterproductive to appropriate development in the Arts District. The Creative Portland Corporation is in full support of granting project of special merit status to the development of 660 Congress Street. It will bring national and international artists to work in Portland: Open studio events, artist's galleries and lectures that will enhance the art and culture of Portland.

The project is also consistent with Historic Preservation aspect of the Comprehensive Plan. Rebecca read part of a letter from Deb Andrews, Portland's Historic Preservation Manager, in support of restoration of the building. It provides significant public and civic benefits at its location. The Creative Portland Corporation said this project would be an anchor in the Arts District. The economic benefits will help the area. Elliotsville Plantation is a private non-profit foundation but pays (and will continue to pay) 100% of property taxes based on assessments.

Patrick Gilgallon said no other groups are likely to rehab this building for housing because of its condition. Historic Preservation requirements and their costs are extremely high. Only high-end housing would make this feasible. If this is not deemed a project of special merit, the building will likely remain vacant and continue to deteriorate. He requests a positive recommendation to move forward to the City Council.

Councilor Donoghue asked how many artists would be in residency and where would they live? Patrick Gilgallon said there would be four to six artists and Elliotsville Plantation planned to buy existing housing in the City.

Councilor John Anton asked if they were going to use state and/or federal tax credits. They said no, the foundation chooses to fund the entire project. Their accountant has advised them not to use these credits because of the way the foundation was set up. Councilor Anton asked if they were aware of the Housing Replacement Ordinance when they acquired the property. Rebecca said no; this was an opportunity to save a building from deterioration and they had to jump on it. They did not have time for due diligence. They walked through the building and used loose numbers. She says this is not the way we usually do things.

Councilor Donoghue asked if Elliotsville Plantation has a Board of Directors. Rebecca said there are four members and they are looking for more because their mission statement has broadened to include arts. He asked what sort of

housing they were seeking for the artists. She said that they had been putting their efforts into the artist's space because it would be a waste of time to look at housing if they can't get over this hurdle.

Public Comment:

- ▣ Andres Verzosa, Aucocisco Galleries would like to be in the area of 660 Congress Street if this project succeeds. He currently owns a gallery in the Old Port. Residency programs for artists are invaluable to the artists.
- ▣ Donna McNeil, 48 State Street: This is an opportunity to invite artists back to Portland. You people are looking a gift horse in the mouth. If you don't grant the exemption for this project, there is no visioning in this city whatsoever. You've chased artists out of the Old Port, you've chased them out of the Public Market.
- ▣ Mark Bessire, 20 Salem St.: Maine is known as one of the greatest places for making art. This is an unbelievable opportunity. We need this presence in the State. It's crucial development in a growth industry.
- ▣ Rose Marasco, Winter Street: She had worked to get artists live/work space written into the Comprehensive Plan. There are lots of sports teams but it's hard to find an arts team. This is a good opportunity for kids.
- ▣ Alex Rowe, 51 Deering Street: She wants to see more activity there to build community. This project will work with colleges, schools and community centers. It can build a bridge to the multicultural community.
- ▣ Arthur Fink, Peaks Island: This project is nurturing growth of the creative economy. It fosters a love of the City, and is good for tourism. This is not about turning housing into artist space. It's about turning a wreck into a noble beauty that will nurture our quality of life. It is unrealistic to return this building to housing.
- ▣ Ed Page, Logan Place: Build more affordable housing. There are enough art galleries. Some artists in Portland are homeless.
- ▣ Peter Bass: The Comprehensive Plan has competing goals, housing vs. historic preservation and the arts. This is a fantastic opportunity. Many have backed off on the building because it is too expensive to rehab. The building is marginal for housing. He looked at the building for possible residential development and concluded it would be too expensive.
- ▣ Sally Oldham, 387 Danforth St: From the Greater Portland Landmarks viewpoint, this is an opportunity to have the building well used and rehabbed.
- ▣ Mary Jo Scofield, Homeless Voices for Justice: Who does this cater to? What does it offer? She is not hearing what category of people can benefit from this.
- ▣ Jessica Tomlinson, 24 Taylor St. - The arts have a big role in economic development. She is afraid to walk down this block now; it was shut down for a gunman. Artists can play a critical role in improving the economy of this area.
- ▣ Mark Swann, Preble Street Executive Director: He supports the project but not at the expense of housing. His concern is that the reason for the Housing Replacement Ordinance has not gone away. They opened a 30 bed women's shelter after the YWCA closed and they get 60 women a night, sleeping on floors, sleeping in meeting rooms, closets. Men in their shelter sleep 10 inches apart. The housing need is compelling. He asked that the request be denied.
- ▣ Greg Shinberg, Congress St.: This building is a keystone on the block. He hopes to bridge the housing gap with 56 apartments, many of them small studios. He supports the project.
- ▣ Andrew Hayman, Pearl Place: He was previously homeless. He lived in his car at the rear of Hannaford for six months. He couldn't get an apartment in Portland eight years ago, even though he had a voucher. He had to move to Westbrook. There are not enough apartments for the poor, especially those without a car. There needs to be more affordable housing. These units in question can be homes for people like me.
- ▣ Jan, Portland St.: She and her husband, a war veteran, were homeless. She stayed at the Women's Shelter while he slept in his van with their dog. When she was approved for general assistance, she couldn't find a home because of the dog. Please vote against the waiver.
- ▣ Brooke Delorme, Commercial Street: It is hard to imagine that building could be turned into housing. She is in favor of the waiver based on economic development.
- ▣ Carleton Winslow, Capisic St.: When was the last time someone was not asking the City for money, and they will pay 100% property taxes. He asked that the Housing Committee approve the waiver.
- ▣ Dee Clark, Homeless Voices for Justice: She thinks this is an awesome project, but it is unfair not to put money into the Housing Replacement Fund. People worked hard to pass that ordinance. There are many who cannot access housing in Portland. Please do not grant special merit status. Come and visit the homeless shelter; it might change your mind.

- Nikki McLain: This is a great project, but there are plenty of poor and homeless people. She doesn't see how anyone could take away funds or turn their back. There are lots of displaced people who are couch-hoppers. In some cases, tenants can be evicted if someone not authorized to live in that apartment sleeps on their couch. Their name is taken off the waiting list for housing because they are not considered homeless. There is not enough housing but people keep coming.
- Christopher, Danforth St.: The Housing Replacement Ordinance has language for a project of special merit and this exceeds the requirements. The project can only help that district move in the right direction.
- Carol Wilson: The City website says there are 305 homeless people in Portland, but this building does not make sense as affordable housing. I support granting the waiver.
- Amy Regan, Homeless Voices for Justice, Preble Street: Her group opposes the waiver. The Housing Replacement Ordinance was not based on habitability. It says that housing units are to be replaced whether there is a current tenant or not. If the condition of the building is a consideration for granting project of special merit status, then the City would unintentionally encouraging disinvestment. Councilor Marshall and Mr. Gilgallon stated that there is enough affordable housing in Portland. The City's website says there is a 3.6% rental vacancy rate. There is not enough housing for the 126 people who were newly homeless last month. There are over 150 men sleeping on the floor every night at the Oxford Street Shelter. At this point, there is not enough room for them all to lie down. Some are sleeping sitting up. Thirty families stayed at the family shelter last month. The HRP gives us the opportunity to have both the project and housing, instead of having to choose. That building does not have to be residential. Elliotsville Plantation has the ability to pay into the fund to replace the units. We do not understand why a non-profit foundation rejects financial incentives for historic buildings but balances their project on the backs of those desperately needing housing.
- Steven Scharf, 226 Veranda St.: He applauded the foundation for not requesting government funds. Payment to the fund for seven units equals about \$400,000.
- Councilor Anton said that an administrative calculation had been made, driven by the legal number of units, two.
- Steven said there are seven units there and that is what the argument is about. The intent of the ordinance was not to require that the replacement housing be affordable. The ordinance requires either payment into the fund or the developer to build housing elsewhere. If Elliotsville Plantation can do this for less than \$400,000, that makes sense. I knew the special merit loophole was something you could drive a Mack truck through. It needs to come out of the ordinance. We were told special merit would be something of a very high bar. It would be something the City needed when it couldn't do anything else, not something like an arts project. This project does not qualify for what we were told back in 2002 would apply as special merit. It should be for something that cannot be done elsewhere. Roxanne Quimby could do this project elsewhere. The memo to the Council specified a payment in lieu of taxes; they could stop paying at any time because it is not required of a non-profit. Taxes and payment in lieu of taxes are two different things. They will be taking seven units off the market and adding 4-6 people needing housing, for a total loss of 13 units. The State Theater is empty; there is plenty of space available. Every project can find something in the Comp Plan to justify its purpose. You could even find justification for Video Expo porn to be where it is on Congress Street.
- Lisa, West End: She feels like the City said, "If you build it, they will come." Artists are responsible for the economic boom and development in Portland. Every time we turn around we are being shut down and punished for the work we've done. She is in favor of the waiver.
- Ben Noyes, State St.: At the age of 15, in the late eighties, he left Portland for San Francisco for an artists in residency program because there was nothing for him here. He came back and stayed because of the art scene in Portland.
- Chair Marshall said there were two questions from the group. 1. Who does the residency cater to and what does it offer and to whom? Rebecca answered that the program is open to anyone if there is applicable space. They do not have the facilities for welding sculpture, for instance. There will be an anonymous jury for applications. They will provide housing. Participants will be fed, nurtured and given a family. The program does not require the artists to have a car. It is important this be a pedestrian experience. 2. When was the last time someone came in with a project and was not looking for money? Chair Marshall said he can't think of an instance.
- Councilor Donoghue said this is a positive project. It meets Historic Preservation objectives, and enlivens a section of Congress Street that needs life. The aim of the Comprehensive Plan and the ordinance was to establish a standard of no net loss of housing. The idea is a one for one replacement. The way out is being deemed a project of special merit, and there are three parts to this. Does the City Council say it's special? Five of the members have to say that it is. Does it meet the objectives of the Comp Plan? This project does, in nearly every way. Does the project provide significant public benefits in its location? He is challenged when the proposal does not take advantage of available tax credits. This was a significant point in the adoption of the Congress Street Historic District. Why not consider housing artists in new housing instead of existing housing? We are talking about a net

loss of about 13 units. He is not convinced the exemption is necessary but he is open to using other economic development tools to help. He is not hearing what the project cost assumptions were going in so he does not know what the financing gap is that the waiver would fill. At this point he does not support granting the waiver. He thinks it is a way to subvert one public interest for another.

■ Rebecca reiterated that the foundation was strongly advised not to pursue the available tax credits. The money they would receive would far exceed the money they would be paying to the City. They have not addressed the housing for the artists yet because they have to cross this hurdle.

■ Councilor Donoghue asked the budget for this project budget. Rebecca said that at this point, that is unknown. They cannot create one until they get through this process. They are trying to find the right place for their vision. Councilor Donoghue said he is challenged by a project without a budget seeking removal of a fee. It seems like an economic development tool to bridge a gap. Rebecca said that is why they are paying property taxes. They have never ignored their duty. Councilor Donoghue said he is concerned about monetizing the social cost of loss of housing. Rebecca said they are committed to monetizing the arts, the environment and poverty in the State of Maine. They address poverty through food; they cannot address poverty through housing because it is not in their mission statement. Councilor Donoghue said the standard he is trying to uphold is no net loss of housing.

■ Councilor Coyne said he is generally supportive but has questions about the lack of a budget. Will the project go away if they are not granted a waiver? Rebecca said that at this venue, the answer is yes. He asked how much money would be expected to be added to the HRP. T.J. responds that the calculation would be 7 x \$57,850. Councilor Anton said it is his understanding that an administrative calculation of the fee had been made which was driven by the legal number of units stated on the tax card, which is two, or \$115,700. It would have been helpful to have a copy of the determination of two units at this meeting. Councilor Donoghue asked T.J. if he had a copy of the determination. T.J. replied that no, he didn't, apparently Councilor Anton had more information than he was given. Councilor Anton said he had received a communication from Greg Mitchell via Penny Littell. Greg was asked if the determination was for two units. Greg replied that it was his understanding that it was. Chair Marshall said he had heard the same thing so he was calling it fact. Councilor Anton said that the level of communication from the staff was disappointing. It is an administrative decision, he is not going to defend it and the City Council has no say about it anyway.

Councilor Coyne asked how many have asked for exemptions. T.J. Martzial responded that only one had gone before the City Council, the YWCA, and it was denied.

Councilor Anton said the Comprehensive Plan was somewhat contradictory but there is a compelling argument that this meets the minimum threshold. He asked what if the City denied the \$115,700 waiver but offered a \$115,000 grant? Rebecca said she would get back to him after she had spoken with the Board of Directors.

Chair Marshall said that as an artist, he is in the middle, which is awkward. He knows artists who struggle to find housing and those who are homeless. The Housing Plan was approved on November 18, 2002 and the HRP was approved on October 7, 2002. Perhaps the City Council anticipated the need for exemptions.

He asked if the project were consistent with the Comp Plan. Does it have civic and public merit in a specific location? The ordinance says nothing about the developer acquiring other buildings or how much money a developer has or the budget of a developer, or whether they would accept a grant. He has seen a memo from Housing and Neighborhood Services about ten other groups who have asked for a waiver and they were all denied. Your odds are nothing at this point. The fact that the City Council passed the Comp plan and the HRP ordinance less than two months later says to him that they knew there would projects that would qualify. This project will revive a historic building in the most economically distressed area of the downtown, and he supports the waiver. He is looking within the guidance of the ordinance.

Councilor Donoghue said he is against granting the exemption. He is interested in how the City can make the project successful and get the requisite amount of money, whatever the determination is, into the HRP. It is important to him that the City put money into preserving housing stock.

Councilor Coyne said does meet the threshold, and the building is not useful in its current state. We are looking at investing in the arts and putting people to work. His is compassionate for the folks who have limited access to housing, and the City working on it.

Councilor Coyne made a motion to approve the recommendation for an exemption, Chair Marshall seconded, Councilor Donoghue was opposed. The motion passed, and will be recommended for approval to the City Council on October 19th at 7:00PM.

The Committee entered Executive Session, public meeting adjourned. Next meeting will be held November 9, 2009 in Council Chambers.

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