



CITY OF CONCORD

REPORT TO MAYOR AND THE CITY COUNCIL

FROM: Matthew R. Walsh, Director of Redevelopment, Downtown Services, & Special Projects

DATE: October 30, 2019

SUBJECT: 135 North State Street
RSA 79-E Community Revitalization Tax Relief Incentive Application

RECOMMENDATION

Accept this report and hold a public hearing on December 9, 2019 for the attached resolution, granting up to 9 years of RSA 79-E Community Revitalization Tax Relief Incentives for real estate located at 135 North State Street.

BACKGROUND

On January 14, 2008, the City Council approved Resolution #8130, which adopted the provisions of RSA 79-E Community Revitalization Tax Relief Incentive. RSA 79-E is a local option statute designed to support revitalization of downtown and village centers by providing property tax incentives for qualifying real estate development projects. In short, the program allows for a property owner to forego property taxes associated with new improvements to real estate for a period of 1-15 years, depending upon the unique attributes of said real estate project.

To date the City has awarded the following applications for RSA 79-E tax relief, as follows:

Year	Project	Location	Use	Total Years Granted
2008	Washington Street Estates LLC	Washington St, Penacook	Residential	7
2009	Penacook Village Laundry Mat	Village St, Penacook	Commercial	1
2009	Sanel Block Redevelopment	49 South Main St	Commercial (Office)	5
2012	Endicott Hotel (Commercial)	South Main St	Commercial (Office / Services)	3
2012	Endicott Hotel (Residential)	South Main St	Residential	5
2014	Remi Block	148-158 North Main St	Mixed Use (Residential & Service / Restaurant)	5
2017	Elm Grove / State Pleasant LLC	15 Pleasant Street	Residential	6
2017	Elm Grove / State Pleasant LLC	5-7 South State Street	Residential	6
2018	Granite Center LLC	1 Eagle Square	Office & Retail	5
2018	Granite Center LLC	4-6 Dixon Avenue	Mixed use (Residential & Office)	5
2018	Granite Center LLC	8-14 Dixon Avenue	Office & Retail	5

DISCUSSION

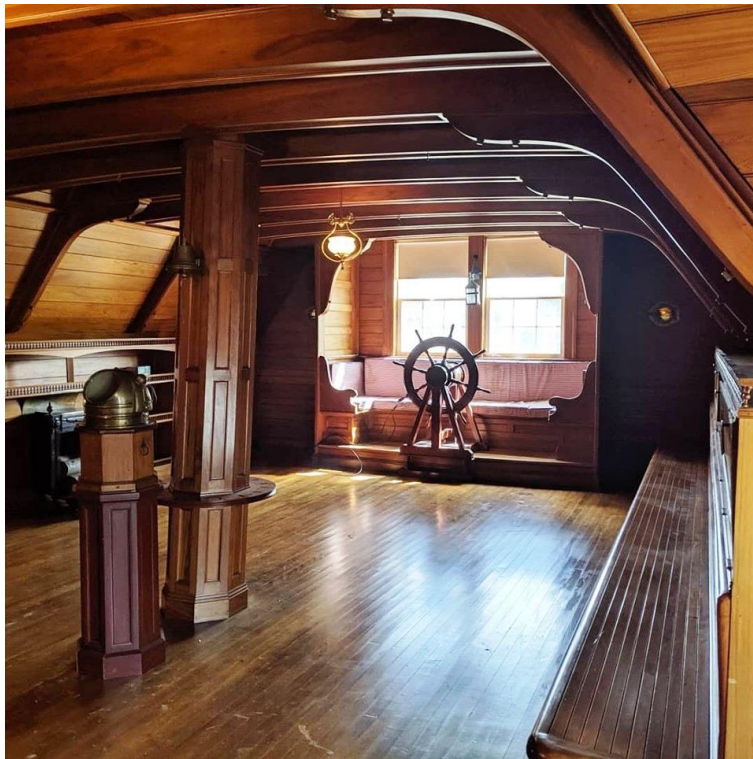
1. *Overview:* Fred Potter, doing business as 135NNS, L.L.C. (the applicant), acquired 135 North State Street on October 8, 2019 for the sum of \$570,000. The property was purchased from Jon Chorlian, doing business as Rollins Court L.L.C., who is developing the adjacent 8 unit residential “pocket neighborhood”.

The subject property consists of two structures: a 10,071SF mansion and a 4,090SF carriage house, which are set on a 0.51 acre lot.

2. *Historical Significance:* Constructed in 1890, the property is the former home of Governor Frank West Rollins. Rollins was a one term Governor of the State of New Hampshire from 1899-1900, and is best known the founder of “Old Home Week”.

In 1901, Rollins and four associates founded the Society for the Protection of New Hampshire Forests (SPNHF). Rollins and SPNHF were instrumental in the passage of the Weeks Act in 1911, which established the White Mountain National Forest. Rollins served as president of SPNHF until his death in 1915. In 1917, the SPNHF established the Kearsarge Mountain Reserve in Warner as a memorial to Governor Rollins. The reserve was later renamed “Rollins State Park” in 1961 in his honor.

The property was listed on the National Register of Historic Places in 1984. In addition to its historical significance, the property is architecturally significant as it is one of the finest examples of Shingle Style architecture in Concord. The property also features a unique room which is a replica of the interior of an 18th century schooner ship (picture below).



3. Owner's Redevelopment Plan: The applicant plans to renovate the property into a "live-work" space for KidsVax and Legacy Wise. Both entities are also owned by the applicant. In addition, some meeting and conference spaces will be available for rent by the general public.

Specifically, the applicant intends to renovate the mansion to feature office space, conference rooms, and a live / work suite featuring three bedrooms where interns associated with these organizations will live at significantly reduced rents.

The carriage house will be renovated to feature conference rooms and meeting spaces. The two car garage will be maintained.

The applicant has indicated that the total cost of the project is approximately \$2.7 million, as detailed below:

- Soft Costs: \$1,042,885 (\$73.64 / SF). These include property acquisition (\$570,000), design, accounting and legal fees, as well as fixture / furnishings / equipment for the property (\$300,000).
- Hard Costs: \$1,685,000 (\$118.99 / SF). These are construction costs. The project will feature new electrical and mechanical systems, renovated restrooms and kitchen, as well as installation of a single occupant limited use / limited application (LULA) elevator and other handicap accessibility improvements.

4. Review of RSA 79-E Criteria:

- a. Eligibility Criteria:

- i. Property Located in RSA 79-E Districts: This property is not within either the Downtown or Penacook Village RSA 79-E Districts. However, on April 11, 2016, the City Council approved Ordinance #8911, which broadened the City's definition of a "qualifying structure" for RSA 79-E applications to include historic structures, which have been listed on, or determined eligible for, the State or National Register of Historic Places, provided the cost of renovations is 25% of pre-rehabilitated assessed value (excluding land) or \$250,000 (whichever is less). *Analysis: This property was listed on the National Register of Historic Places in 1984. In addition, the Applicant's budget for the project is approximately \$2.7 million, which exceeds the financial criteria for participation in the RSA 79-E program. Therefore, the property is eligible to apply for RSA 79-E benefits.*
- ii. Ownership: Although Mr. Potter filed his application on October 2, 2019, he subsequently became the Owner of the property on October 8, 2019, and is therefore eligible to apply.
- iii. Start of Renovations: Part 8, Section 5 of the City's RSA 79-E application specifically prohibits applicants from commencing improvements to the properties seeking RSA 79-E benefits prior to the City Council acting upon their 79-E application. The same section further states that start of building improvements prior to 1) City Council's action on the application

and 2) receipt of the statutorily mandated RSA 79-E Protective Covenant “may result in denial of the application”.

Analysis: The applicant has begun renovating the property. Specifically, renovations include replacement of the mansion roof and other exterior improvements. The applicant indicated that he has a contractual obligation to Jon Chorlian / Rollins Court LLC to complete these improvements prior to December 31, 2019.

The City Council has two options, as follows:

1. *The City Council could summarily deny the application for commencing the project prior to the City Council acting on this application; or,*
2. *The City Council could waive this provision. Should the Council waive this requirement, the value of any improvements completed prior to potential award of RSA 79-E, as well as receipt of the Protective Covenant, will not be eligible for tax relief.*

b. 79-E Review Process:

i. RSA 79-E Statutorily Mandated Deadlines:

1. Public Hearing and Decision: In accordance with RSA 79-E:4, II & III, the City has 60 days to hold a public hearing upon receipt of a completed application, and 45 days to act upon it after the public hearing. *Analysis: The applicant filed its RSA 79-E application for 135 North State Street on October 2, 2019. Pro formas for the application were subsequently provided on October 14, 2019. As the application was complete on October 14, 2019, the City must hold the public hearing by December 13, 2019.*

The City Council will have until January 23, 2020 to vote on the application.

2. City’s Ability to Deny an Application: The City has no obligation to approve RSA 79-E applications, and, in accordance with RSA 79-E:4, V, the City Council may deny the application at its sole discretion. Such denial may be appealed to the Board of Tax and Land Appeals or Superior Court. However, a denial may only be overturned if the City acted in bad faith.

ii. Public Benefit: For an application to be eligible for approval, the City Council must determine that the development project will create one or more “public benefits” as set forth within RSA 79-E:7, as follows:

1. That the project enhances the economic vitality of the downtown. *Analysis: The property is not located within the Downtown or*

Penacook Central Business District. Therefore, the project does not satisfy this criterion.

2. That the project enhances and improves a structure that is culturally or historically important on a local, regional, state, or national level, either independently or within the context of an historic district, town center, or village center in which the building is located. *Analysis: The property was listed on the National Register of Places in 1984. Therefore, the application satisfies this criterion.*
3. That the project promotes the preservation and reuse of existing building stock throughout a municipality by the rehabilitation of historic structures, thereby conserving the embodied energy in accordance with energy efficiency guidelines established by the U.S. Secretary of the Interior's Standards for Rehabilitation. *Analysis: The applicant intends to renovate the property in accordance with the Secretary of the Interior's Standards for Rehabilitation.*
4. That the project promotes development of municipal centers, providing for efficiency, safety, and a greater sense of community, consistent with RSA 9-B (New Hampshire's Smart Growth statute). *Analysis: This project is consistent with the goals of the State's Smart Growth statute, as it involves renovation of a historic building served by existing infrastructure, thus helping to reducing sprawl. Therefore, the application satisfies this criterion.*
5. That the project increases residential housing in urban or town centers. *Analysis: This project will not result in any new residential units.*

In summary, Staff believes that this project, as proposed, satisfies three of the five criteria above, and is therefore eligible for the RSA 79-E program.

iii. Other Considerations: The City Council is required to also consider the following when evaluating this application:

1. The renovation budget includes funding for energy improvements, thereby satisfying the requirements of RSA 79-E:2, IV.
2. RSA 79:E-14 stipulates "the provisions of this chapter shall not apply to properties whose rehabilitation or construction is subsidized by state or federal grants or funds that do not need to be repaid totaling more than 50 percent of construction costs from state or federal programs".

Analysis: The applicant intends to use US Historic Tax Credits to support this project. Combined, the projected cash value of these credits is approximately \$150,000. Given the applicant's projected budget of \$2.7 million, the project appears to satisfy this criterion.

5. Term of Tax Relief: In accordance with RSA 79-E:4, IV, the term of tax relief for qualifying projects may range between 1 and 15 years of tax relief; as follows.
- a. Up to 5 years for projects which satisfy base “public benefit” criteria;
 - b. Up to 2 additional years for projects which create new dwelling units;
 - c. Up to 4 additional years for projects which create affordable housing; and,
 - d. Up to 4 additional years for projects renovated in accordance with the US Secretary of the Interior’s Standards.

The applicant has requested 9 years of tax relief per items “a” and “d” above.

Tax relief commences upon the initial April 1st following substantial completion of proposed renovations. The applicant has indicated the project will be completed in July 2020; therefore, the term of tax relief would begin on April 1, 2021.

Analysis: The applicant's project is eligible for up to 9 years of tax relief per items “a” and “d” above. The City Council has the discretion to award anywhere between 1-9 years, as the City Council might believe is appropriate. The City Council may also deny the application. In addition to the 9 year benefit period, the project will not pay property taxes on new assessed value created by renovations during the construction period (i.e. December 2019 – April 1, 2021).

6. Potential Tax Savings to Applicant: The City Assessor has determined that the base value of property is \$621,200. This figure includes the ongoing roof replacement, which must be counted towards the base assessed value, as those improvements were initiated prior to the City Council acting upon this application.

The City Assessing Department projects that the property will have an assessed value of \$848,600 upon completion of the proposed improvements.

If RSA 79-E were granted, it would only apply to the \$227,400 difference between the base value of \$621,200 and projected renovated assessed value of \$848,600.

If the City Council were to grant this application for 9 years of tax relief, the total combined tax savings to the application is projected to be approximately \$72,400. On average, 79-E will save the project approximately \$7,200 annually.

It is important to note that the RSA 79-E benefit only applies to that portion of the assessed valuation created by the proposed improvements. Therefore, the applicant will still be obligated to pay taxes on the \$621,200 base value of the property for the entire duration of the RSA 79-E period.

Further, because the property was owned by the Roman Catholic Diocese prior to June 2019, property had been tax exempt for decades.

Please see the attached spreadsheet titled “Projected Financial Benefit of RSA 79-E Tax Relief Incentive” for more information.

7. Statement of Financial Need for 79-E Benefits:

a. Statement of Financial Need: The applicant has stated that it believes it requires RSA 79-E to make its project financially viable. Specifically, without it, the applicant does not believe it will be able to afford to renovate the carriage house. The estimated cost to renovate the carriage house is approximately \$600,000. If the applicant is unable to afford renovating the carriage house, they have indicated they would demolish the structure following the 5 year US Historic Tax Credit Compliance Period. *Analysis: RSA 79-E is projected to save the project approximately \$72,400 over 9 years, which is approximately 12% of the total cost to renovate the carriage house.*

b. Review of Pro Forma:

i. General: As part of its recodification of the City’s RSA 79-E program in April 2016, the City Council concurred with the City Administration’s recommendation that all RSA 79-E applicants provide a comprehensive financial pro forma for their projects. The purpose of requiring a pro forma is to help the City determine whether a 79-E benefit is required to make a project financially viable.

The applicant has provided a pro forma for this project. The pro forma is proprietary and not subject to public disclosure.

As previously noted, the applicant owns the two corporate entities (KidsVax and Legacy Wise) that will be leasing the property. The interrelated nature of the landlord with these tenants complicates the motivations and financial details of this project as compared to other traditional for-profit development projects.

For example, because of this unique relationship, proposed rental rates for the project’s proposed residential units have been significantly discounted by approximately 75%.

Further, the financial resources of Mr. Potter, KidsVax and Legacy Wise were not reviewed by City staff.

ii. Analysis:

1. *The Applicant’s pro forma indicates the project will have significant losses on the order of \$100,000 annually, or greater, which will need to be subsidized by the applicant.*
2. *Although the project will not have positive cash flow, nor achieve customary debt service coverage ratios customarily required by*

lenders, the applicant has secured a financing commitment for the project.

3. *The average annual cash value of the projected RSA 79-E benefit for this project is approximately \$7,200 and will not significantly improve the financial viability of the project given financial losses are projected to be \$100,000 annually, or greater.*

SUMMARY:

In summary, Staff offers the following:

1. The application appears to satisfy all statutory requirements set forth in RSA 79-E.
2. The property is historically and architecturally significant. It is listed on the National Register of Historic Places.
3. The applicant has partially begun renovations of the property. Per Part 8, Section 5 of the City's RSA 79-E application, this could be grounds for summarily denying the application. However, if the City Council wishes to waive this requirement and entertain the application, the value of improvements currently underway will not be eligible for 79-E property tax relief.
4. The total projected cash value of the RSA 79-E benefit is approximately \$72,400. On average, RSA 79-E will save the applicant approximately \$7,200 annually for the 9 year tax relief term.
5. The applicant has stated that without RSA 79-E, he may need to forgo renovation of the carriage house. This could lead to the demolition of the structure. The estimated cost for renovating the carriage house is \$600,000. The total value of RSA 79-E is \$72,400 (or approximately 12% of the estimated renovation cost).

It is unclear whether award of RSA 79-E will be sufficient to bring renovations of the carriage house to fruition.

Further, because the applicant has stated that RSA 79-E is required to preserve the carriage house, granting of RSA 79-E benefits should be conditioned upon the preservation and renovation of the carriage house.

6. The applicant's project has a budget greater than \$2.7 million (including property acquisition of \$570,000). Pro formas submitted by the applicant indicate the project will have an annual loss of approximately \$100,000. The property will be leased to two tenants directly associated with the applicant. This interrelationship complicates determination of financial need for the project.
7. Determination of financial need is not statutorily required for awarding RSA 79-E applications. However, the City has typically considered financial need as part of its decision making process for RSA 79-E applications.