



# CITY OF CONCORD

## REPORT TO MAYOR AND THE CITY COUNCIL

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

**DATE:** November 13, 2017

**SUBJECT:** RSA 79-E Community Revitalization Tax Relief Incentive Application  
5-7 South State Street

### RECOMMENDATION

Accept this report and set the attached resolution granting a six year RSA 79-E Community Revitalization Tax Relief Incentive for real estate located at 5-7 South Street for a public hearing on December 11, 2017.

### 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 forgo property taxes associated with 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 six applications for RSA 79-E tax relief, as detailed below:

Year	Project	Location	Total Years of Tax Relief Granted
2008	Washington Street Condominiums (Former Hoyt Electric)	Washington St, Penacook	7
2009	Penacook Village Laundry Mat	Village St, Penacook	1
2009	Sanel Block Redevelopment	South Main St	5
2012	Endicott Hotel (Commercial)	South Main St	3
2012	Endicott Hotel (Residential)	South Main St	5
2014	Remi Block (Residential)	South Main St	5

## **DISCUSSION**

1. *Overview:* On September 21, 2017, State Pleasant LLC filed an application seeking RSA 79-E relief for property located at 5-7 South State Street. The applicant acquired this property on September 29, 2017 for \$740,000. The purchase also included a parking lot to the south of the property, which is located on a separate parcel.

Acquisition of this property is part of a larger redevelopment project being undertaken by the applicant involving three other properties, as follows: 15-17 Pleasant Street, 26-32 Pleasant Street, and 19 Pleasant Street.

The property consists of a four story, 28,196 square foot (gross) mixed-use building on a 0.25 acre lot, which currently features retail and office uses on the first and second floors with residential uses on the third and fourth floors (for a total of 10 apartments). The building was constructed in 1911 and was originally known as “The Kearsarge” per a historic inventory prepared for the City in 1999. The property is currently assessed at \$1,012,000.

State Pleasant LLC is limited liability company controlled by Elm Grove Properties, a large full-service real estate development and property management company based in Manchester. Elm Grove owns and manages approximately 1,000 residential units in New Hampshire and Massachusetts, including Hanover Commons; an innovative and locally renowned micro-flat apartment project in Manchester geared towards young professionals. Micro flats are very small studio apartments, typically 250 to 400 square feet in size, featuring private bathrooms and built-in furnishings provided by the Developer.

The owner plans to invest \$2.924 million (or \$103.70 per square foot) to purchase and renovate the building, as well as convert the first and second floor commercial spaces into 18 new market rate apartments. Apartments will consist of studios, one bedroom, and two bedroom units. Of this total, \$2.184 million is directly related to design and construction costs. The owner has secured variances from the Zoning Board to permit ground floor residential. In addition, City Council recently amended the Zoning Ordinance so this project, and others, would not have to complete major site plan review. The project is scheduled to start in January 2018 and will take approximately six months to complete.

A copy of the RSA 79-E application is attached. Staff has reviewed the application and determined it to be complete. In accordance with RSA 79E:4, II & III, the City has 60 days to hold a public hearing on the application and 45 days to act upon it after the public hearing. Per RSA 79:E, V, 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.

2. *Basic Criteria for Awarding RSA 79-E Community Revitalization Tax Relief Incentives:* It is important to note that the City has no obligation to grant any RSA 79-E applications. However, in order for the City to approve this application, City Council must find the following as set forth in RSA 79-E:4, IV:

- a. The governing body finds a public benefit under RSA 79-E:7. If a benefit is found to exist, City Council has the discretion to grant tax relief for up to five years. Analysis for this is provided later herein. The statute also provides additional years of tax relief for qualifying projects on a discretionary basis, as follows:
  - i. Up to additional two years of tax relief for a project that results in new residential units. *Analysis: This project will create 18 units of new housing and therefore is eligible for this benefit.*
  - ii. Up to four years for a project that includes affordable housing. *Analysis: This project will not include any affordable housing. Therefore the project is not eligible for an additional four years of benefit.*
  - iii. Up to an additional four years of tax relief for the substantial rehabilitation of a qualifying structure that is listed on or determined eligible for listing on the National Register of Historic Places provided that the substantial rehabilitation is conducted in accordance with the U.S. Secretary of Interior's Standards for Rehabilitation. *Analysis: While the project will rehabilitate a building which is eligible for the National Register, the applicant will not strictly comply with the Secretary of the Interior's Standards. Therefore the project is not eligible for an additional four years.*
- b. The specific public benefit is preserved through a covenant under RSA 79-E:8. *Analysis: The applicant will provide the required Covenant to the City which shall run with the land for a period twice the benefit period (i.e. 12 years) in accordance with RSA 79-E:8, II. As part of its Covenant to the City, the applicant shall commit that all residential units shall be market rate units for at least 12 years (i.e. twice the period of the 79-E benefit). The term "Market Rate Apartments" shall mean residential dwelling units which command sales prices or rents that are equivalent to that which is paid for comparable properties in arms-length transactions on the open market without governmental, nonprofit, or other subsidies or assistance to the builder, renter, or buyer, which (a) have the effect of reducing the price or rents of such properties, or which (b) subsidize the costs of the properties or (c) require the owner or developer to give preference to low or moderate income families/households as defined by New Hampshire Housing Finance Authority, United States Department of Housing and Urban Development, or other Federal or State Agency when renting or selling properties.*
- c. The governing body finds that the proposed use is consistent with the municipality's master plan or development regulations. *Analysis: The preservation, renovation, and adaptive reuse of historic properties like The Kearsarge supports the goals and objectives of the City's 2030 Master Plan and 1997 Downtown Master Plan.*

- d. The value of proposed improvements is at least \$75,000 or total 15% of the property's current assessed value, whichever is less. *Analysis: The \$2.924M budget for improvements is well in excess of the \$75,000 or 15% of pre-renovation assessed value threshold required for participation in the RSA 79-E program.*
3. Public Benefit: In order to approve this application, 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:
    - a. That the project enhances the economic vitality of the downtown. *Analysis: Staff believes the addition of new 18 residential units will create additional vitality as these new households will "shop, dine, and play" in downtown thereby contributing to the economic vitality of the area. Therefore staff believes this project satisfies this criterion.*
    - b. 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: A 1999 Historic Inventory of the property prepared by Lisa Mausolf as part of the City's Downtown Concord National Register of Historic Places District determined that the property has historical and architectural significance within the context of the historic district. Therefore staff believes this project satisfies this criterion. A copy of the inventory report is attached.*
    - c. 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: Although the project will preserve and renovate a historic structure, and includes energy efficiency improvements, the applicant does not intend to strictly conform to the Secretary of the Interior's Standards for Rehabilitation. Therefore, the project does not technically satisfy this criterion.*
    - d. 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 State's Smart Growth statute as it involves renovation of a historic building featuring the construction of 18 new dwelling units, thereby creating additional residential density in an urban environment, served by existing infrastructure, thus helping to reducing sprawl. Therefore staff believes this project satisfies this criterion.*
    - e. That the project increases residential housing in urban or town centers. *Analysis: The applicant plans to create 18 new residential rental units at the property. Therefore staff believes this project is satisfies this criterion.*

Staff believes that this project, as proposed, satisfies four of the five criteria above, and is therefore eligible for the RSA 79-E program. Again, the project only needs to satisfy one of the five criteria to be eligible for consideration.

4. Financial Need for 79-E Benefits: 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.

A review of the pro forma has confirmed that although the Developer's project does achieve positive cash flow, it is marginal in the short-term without a RSA 79-E benefit, as it will not achieve certain debt service coverage ratios (DSCR) required by its lender. The DSCR measures the strength and availability of cash flow to pay debt service obligations, and is typically calculated as net annual operating income divided by annual debt service for a given year. Commercial lenders typically require a DSCR of 1.2 or higher.

Without RSA 79-E, the applicant's project will have a DSCR in the range of 0.10 and 1.18 in the first several years after the project is completed. However, if City Council were to approve the developer's RSA 79-E application, the project will achieve the 1.20 DSCR more quickly, thereby making it compliant with the terms and conditions of the financing package.

If City Council were to deny the application, the developer would not be able to take advantage of very favorable financing terms, which it has secured for the project from its lender. Consequently, the developer could be forced to renegotiate its financing package, which could result in higher interest rates and borrowing costs, and, in turn, threaten the financial viability of the project.

5. Potential Tax Savings to Applicant: The property's current assessed value is \$1,012,000. This shall serve as the project's base value for the purposes of RSA 79-E. The City Assessing Department projects that the property will have an assessed value of \$2,475,700 upon completion of the proposed improvements.

Based upon this information, staff projects that granting of the RSA 79-E benefit will result in total savings to the developer of approximately \$283,000. Please see the attached spreadsheet titled "Projected Financial Benefit of RSA 79-E Award to Applicant" for more information.

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 base value of the property, including any taxes associated with increases to the base assessed value of \$1,012,000 due to market inflation.

6. Other Considerations: In addition, City Council should also consider the following when evaluating this application:
  - a. The renovation budget includes funding for energy improvements, thereby satisfying the requirements of RSA 79-E:2, IV.
  - b. Per RSA 79:E-14, No state or federal grants or tax credits will be used to finance these renovations.
  - c. The subject property is within the Sears Block Tax Increment Finance District. In accordance with RSA 79:E:4, VI, the City has no obligation to grant a RSA 79-E benefit for development located within a TIF District should the governing body believe that doing so would impede the TIF's ability to support debt service or operating expenses. Staff believes that approving this RSA 79-E application will not inhibit the District from meeting its current or anticipated expenses. However, temporary deferment of the new assessed value will result in a short-term loss of revenues, which, in turn, could otherwise have been used to help expedite the repayment of debt and expedite the sunset date for the SBTIF District.

**STAFF RECOMMENDATION:**

Staff has determined that the application complies with all requirements set forth by RSA 79-E and therefore recommends that City Council approve the attached resolution granting six years of property tax relief for the property subject to the terms and conditions set forth within the attached resolution.

Staff believes this is appropriate because:

1. This is the first major project that South Pleasant Street LLC (i.e. Elm Grove Properties) has attempted in Concord;
2. The developer is making a significant financial investment which will create additional housing and expand vitality in Downtown Concord;
3. The project will feature micro flat apartment units; a new type of rental housing not previously attempted in Concord, thereby adding risk to the developer's project due to the untested market for this product locally;
4. The proposed project satisfies four of the five public benefit criteria set forth in the statute;
5. The developer has demonstrated financial need for accessing the City's RSA 79-E program; and,
6. Granting of the financial benefit will not have a detrimental impact upon the Sears Block Tax Increment Finance District's capacity to support debt service and operating expenses.