



CITY OF PORTLAND, OREGON  
BUREAU OF  
**Planning**

Tom Potter, Mayor

Gil Kelley, Director

1900 S.W. 4th Ave., Ste. 4100  
Portland, OR 97201-5350

Phone 503-823-7700

FAX 503-823-7800

TTY 503-823-6868

Email pdxplan@ci.portland.or.us

www.portlandonline.com/planning

## Exhibit A

### Memorandum

**Date:** December 27, 2006

**To:** Mayor Potter and Members of the Portland City Council:

**From:** Barbara Sack, AICP, City Planner

**C:** Siobain Beddow, Portland Development Commission

**Re:** **Planning Commission Report and Recommendation on a Request to Extend the Term of a Ten-Year Tax Exemption for One Year for the Westshore Apartments**

On November 28, 2006, the Planning Commission held a public hearing on the request to extend the term of a 10-year tax exemption for the Westshore Apartments for one year. City Council approved a ten-year tax exemption under the City's New Multiple-Unit Housing tax exemption program for this project in 1996. The exemption is set to expire June 30, 2007. All the rental units in this project are affordable to low-income households at or below 50 percent of area median family income (MFI). Pacific Housing Developers, the for-profit partner in Pine Street Associates Limited which owns the project, is requesting the extension so that the project can be turned over to a nonprofit partner. The sole reason for the extension is to allow sufficient time to transfer the property to a nonprofit partner without incurring additional costs of the transfer. This transfer will assist the preservation of this low income housing. A nonprofit partner will be able to receive a tax exemption for the property as long as the units are kept affordable to low income households

#### Site Information

The Westshore Apartments are located at 222 SW Pine Street. The project is an air right development over a public parking garage on the north half of the block bounded by SW Pine and Oak Streets and SW 2nd and 3rd Avenues. This half block was formerly occupied by an annex to the Portland Police Bureau headquarters, which occupied the southern half of the block before it moved to the Justice Center. The block is zoned Central Commercial with a Design overlay, (CXd) and is in the Central City plan district.

#### Affordability of Rental Units

City Council required as a condition of approval that all 113 units in this project be affordable to households at 50 percent MFI (\$23,750 in 2006 for a one-person household) for the 10-year term of the tax exemption<sup>1</sup>. Because of the assistance from the State of Oregon provided to this project, the unit rents must remain be at or below levels affordable to households at or below 50 percent MFI for a longer period than the 10-year tax exemption. (See the attached PDC Report No. 06-122 for more detail.) In order to preserve the viability of the project as low income housing, the for-profit owner has decided to invite a nonprofit partner to replace them in the project.

#### The Property Tax Exemption

The Westshore Apartments has a 10-year limited tax exemption allowed under City Code Chapter 3.104, the New Multiple-Unit Housing tax exemption program. This exemption applies to the project improvements but not the land. The project owners do not own the land under this project but have a condominium arrangement with the owner of the parking garage above which the apartments are located. The tax exemption for this project took effect in the summer of 1997 after the owner received a certificate of occupancy.

On July 19, 2006, City Council placed a moratorium on accepting new applications under the New Multiple-Unit Housing program until the end of 2007 with the exception of projects with 100 percent low income housing. Low income housing is defined in the ordinance as housing affordable to households at or below 60 percent MFI. This project would meet that standard.

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<sup>1</sup> Housing is considered affordable when monthly housing costs are not more than 30 percent of the monthly income. In 2006, this is a maximum monthly rent of about \$584 for a studio and \$627 for a one bedroom (if utilities were included). Thirteen of the units are one-bedrooms and the rest are studios.

**PDC Review**

At their November 8, 2006 meeting, the Portland Development Commission approved Resolution 10 that recommends that Planning Commission and City Council approve a one year extension of this tax exemption. They found that the one-year extension of the tax exemption was necessary to facilitate the transfer of the property to nonprofit ownership without incurring additional costs. (See attached Resolution 10.)

**Planning Commission Review**

Chapter 3.104 requires the Planning Commission to review tax exemption requests under this program for consistency with city plans and policies and to make a recommendation to City Council on the scope and nature of the public benefits provided by the proposed project. PDC staff asked the Planning Commission to review this requested change to the term of the tax exemption because there is no prescribed process for changing the term of the tax exemption, so this request is following the path of the original approval.

**City Council Review**

City Council will be asked to approve an ordinance to extend the tax exemption by one year.

**Planning Commission Findings:**

The project owners listed the provision of low income housing as a public benefit provided by the project in their original application. The extension of the tax exemption for one year is to allow time for the nonprofit partner to be substituted for the for-profit partner. This transfer of ownership will help preserve the affordability of 113 low income housing in Portland's Downtown. The preservation of these low income housing units will support the City's policy of no net loss of low income housing units in the Central City that Council adopted by passage of Resolution No. 360021 in 2001. Facilitating this transfer of ownership by extending the term of the exemption also supports the City's *Comprehensive Plan* Housing Policy which calls for encouraging the retention of existing rental housing at rent levels affordable to area residents. This housing was originally built to serve entry level workers and other low income Downtown residents. If this extension is not granted, the property taxes incurred will add to the costs of the transfer.

***Planning Commission Recommendation:*** *Approve the requested one-year extension of the tax exemption term to allow Pacific Housing Developers to transfer the property to a nonprofit partner.*

# PDC

## PORTLAND DEVELOPMENT COMMISSION

**DATE:** November 8, 2006

**TO:** Board of Commissioners

**FROM:** Bruce A. Warner, Executive Director

**SUBJECT:** Report Number **06-122**

Recommend to the Portland Planning Commission and City Council Approval of a One-Year Extension to the Ten-Year Central City Property Tax Abatement for the Westshore Apartments located at 222 SW Pine in the Downtown Waterfront Urban Renewal Area.

### EXECUTIVE SUMMARY

#### BOARD ACTION REQUESTED

Adopt Resolution

#### ACTION SUMMARY

This action requests Board approval of the accompanying resolution authorizing the Executive Director to recommend to both the Portland Planning Commission and the City Council a one-year extension to a previously approved ten-year property tax abatement (Ordinance 170447 dated August 7, 1996) for the Westshore Apartments in the Downtown Waterfront Urban Renewal Area. The current tax-abatement for the project is currently set to expire December 31, 2006.

The property is intended to be transferred to a non-profit owner within the next year. Allowing appropriate time to complete the transfer without incurring additional costs of transfer is the sole reason for the request to extend the tax abatement.

While the City Council is the sole authority for the final decision, the Portland Development Commission (PDC), per City Code §3.104 is authorized to examine the financial aspects of tax abatement and forward recommendations to the City.

#### RELATIONSHIP TO ADOPTED PLANS AND POLICIES

The City's adopted 2001 No Net Loss Resolution No. 36021 provides the policy framework to preserve, rehabilitate and/or replace housing in the Central City that is affordable to households at or below 60 percent median family income (MFI). The resolution directs the PDC and the Bureau of Housing and Community Development (BHCD) to seek financial resources and/or regulatory tools adequate to carry out the policy. The proposal to extend the tax abatement for the Westshore for one additional year is directly supported by the No Net Loss policy.

The Westshore is 100 percent affordable with 113 units underwritten to serve residents at 50 percent MFI, and currently renting in the 45-50 percent MFI range.

## **PUBLIC BENEFIT**

The preservation of 113 very low income (50 percent MFI) rental housing units.

## **FINANCIAL IMPACT**

None at this time; however modest future financing involving PDC will likely be required as part of the eventual transfer of the project ownership to a non-profit general partner.

## **RISK ASSESSMENT**

This is the first time an extension for a tax abatement to a for-profit developer (Pacific Housing Developers) has been requested. State law allows for an extension beyond 10 years if the housing “is or becomes subject to a low income housing assistance contract with an agency or subdivision of this state or the United States.” Oregon Revised Statute 307.612(2). The existing regulatory agreements may satisfy this requirement, but the City Attorney will make the final determination and may decide that the project is not eligible for an extension.

## **WORK LOAD IMPACT**

The required work on this transaction is part of the normal and assigned workload of the affected staff.

## **ALTERNATIVE ACTIONS**

Make no recommendation and allow the property taxes to resume. If additional property taxes accrue on the project, PDC is likely to be the source to pay them, as this will simply add to the costs to transition the project to a non-profit owner. The current owner is likely facing a substantial exit tax and additional taxes will only make their exit more difficult to manage.

## **PUBLIC PARTICIPATION AND FEEDBACK**

N/A

## **CONCURRENCE**

Planning Commission staff did issue a concern that the tax abatement not benefit any parking spaces. The Westshore is a condominium shell which does not own any parking spaces, only rental housing units will be abated.

## BACKGROUND

The project (formerly known as the Pine Street Apartments) is a 113 studio and 1 bedroom apartment condominium located at 222 SW Pine Street in downtown Portland. Constructed in 1996, the financing structure utilized four percent tax credits, with a State of Oregon risk share bond as senior debt financing. This structure was selected as the developer is a for profit entity, providing an entirely affordable rental housing project.

The project developer received a developer fee (\$350,000 – approximately \$200,000 of which was initially deferred but has now been collected) for constructing the project, but has had to accrue rather than receive all but \$18,000 of management fees earned over the years under its various agreements.

Since the original approval, the project suffered various economic setbacks, the primary causes of these setbacks were:

1. Insurance and utility expenses ran higher than anticipated,
2. Onsite security expenses were incurred to deter drug activity around this downtown project, but these costs arose after the Project financing was closed and were not part of the original pro forma operating expenses submitted for review,
3. Vacancy rates rose as high as 30 percent as a combined result of Portland's economy, poor property management (a firm which has since been replaced), and additional development of competing 50 percent MFI units in the downtown area.

As the project struggled, it became clear that the impending return of property taxes to the operating expenses for the project would prove unmanageable. The owner has been engaged in discussion with a number of non-profit community development corporations attempting to negotiate a transfer of the property for the past few years.

The project does currently generate positive cash flow, and, in addition, the non-profit entering the general partner position will have higher operating expenses, due in part to service coordination for the tenant population where required. This means that the risk share bond debt payments will be too high relative to net operating income, requiring a restructuring of the bond debt.

An inquiry to Multnomah County some time ago indicated that full taxes on the project, when they resumed would be \$98,000 (as of 2003-04 tax year). There is a formula which reduces these taxes for affordable projects, and the estimated property taxes after reduction are estimated to be somewhere between \$60,000 and \$90,000 according to the owner. This additional amount in taxes will challenge the financial health of the project.

PDC carries a loan on the project, in the amount of \$1,365,545 which is repaid through a cash flow share formula. The loan is currently deferred to preserve cash in reserve accounts which will transfer to the new non-profit owner.

Due to shifting and possibly rising interest rates, all parties consider it prudent to reduce the bond interest rate as quickly as possible. There is a moratorium on changing ownership within six months of refunding the bonds (the mechanism for restructuring the bond debt service), so

even if the bond restructuring is completed by calendar year end 2006, the actual transfer cannot occur until after June 30, 2007. By that time a half year of property taxes will have accrued on the project, increasing the costs of transfer.

Allowing for the schedule of the transfer without incurring additional costs of transfer is the sole reason for the request to extend the tax abatement. PDC does not control the state's schedule for refunding and reissuing the risk share bond; which is currently under negotiation but has not yet happened.

A potential complication is the fact that this is the first time an extension to this type of tax abatement has been requested. The city has also ordered a moratorium on tax abatements issued under section 3.104 of the City Code, which is the tax abatement this project received. When City Council adopted the last ordinance extending the moratorium on the abatement program (3.104), they made an exception for projects that are 100% affordable to low income renters. The Ordinance # is 180327 and was passed by Council on July 19, 2006. Low income is defined as housing affordable to households at or below 60% MFI.

**CC:** Andy Wilch, Director of Housing  
Siobain Beddow, Finance Coordinator  
M. Baines, General Counsel  
L. Sundstrom, Central Services Director

**PORTLAND DEVELOPMENT COMMISSION**  
Portland, Oregon

**RESOLUTION NO. 10**

**RECOMMEND TO THE PLANNING COMMISSION AND CITY COUNCIL  
APPROVAL OF A MODIFICATION BY AN EXTENSION OF ONE YEAR TO A  
TEN YEAR CENTRAL CITY PROPERTY TAX ABATEMENT PER §3.104 OF  
THE CITY CODE FOR THE WESTSHORE APARTMENTS LOCATED AT 222  
SW PINE IN THE DOWNTOWN WATERFRONT URBAN RENEWAL AREA.**

**WHEREAS**, Chapter 3.104 of the City Code specifies the process for reviewing and approving application for property tax abatements for new, multiple-unit housing, including projects containing units available for individual purchase; and

**WHEREAS**, Westshore Apartments has applied for a modification of terms, by an extension of one year, to a property tax abatement (Ordinance 170447) which was approved by the Portland City Council on August 7, 1996; and

**WHEREAS**, tax abatements to for-profit developers under Section 3.104 of the City Code have a duration of ten years; and

**WHEREAS**, the project serves an entirely low income population of tenants, with rent levels capped at 50 percent of median family income with all units subject to income restrictions until 2026; and

**WHEREAS**, the for-profit owner has elected to invite a non-profit partner to replace them in the project to resolve the concern regarding the viability of the project once the abatement period expires; and the new non-profit owner will be exempt from property taxes on the project while serving the same tenant population; and

**WHEREAS**, one of the bond related financing actions necessary to complete the restructure upon transfer requires a six month waiting period before the new owner can enter the partnership. The requested extension of the abatement period is necessary to allow time for the required six month waiting period to elapse so that the non-profit general partner can step into the ownership of the project, without incurring a financial penalty in the form of additional property taxes to the project they will inherit, and preserving the existing affordable units; and

**WHEREAS**, there is no established process for modifications to previously granted tax abatements so this request is following the original path of the abatement approval; and

**WHEREAS**, the Planning Commission reviews the application for conformance with public benefits and forwards its recommendation to City Council for final approval; and

**WHEREAS**, the abatement extension duration recommended is one year, through December 31, 2007; and

**WHEREAS**, if the transfer is not complete by December 31, 2007 any taxes which would have otherwise been due during 2007 shall become immediately due retroactive to January 1, 2007; and

**WHEREAS**, the preservation of existing affordable housing units represents a compelling reason to consider the requested modification; now therefore be it

**RESOLVED** that the Commission directs the Executive Director to forward a recommendation to the Planning Commission indicating that the requested one-year extension of the abatement, to the Westshore Apartments project be granted; and be it

**FURTHER RESOLVED** that this resolution shall become effective immediately upon its adoption.