

CITY OF SALEM
PUBLIC HEARING OF THE CITY COUNCIL
NOVEMBER 29, 2018

**“Know Your Rights Under the Open Meeting Law, M.G.L. c. 30A ss. 18-25, and
City Ordinance Sections 2-2028 through 2-2033.”**

A Public Hearing of the Salem City Council was held in the Council Chamber on Thursday, November 29, 2018 at 6:30 P.M. for the purpose of an amendment to the existing Downtown Salem Housing Development Incentive Program (HDIP) Zone (program area) and Plan as originally approved by the Department of Housing and Community Development in 2017. Notice of this hearing was posted on November 21, 2018 at 3:37 P.M. and advertised in the Salem News on November 19, 2018 and November 26, 2018.

Councillor Gerard, Dominguez, Furey and Madore were all recorded as absent (excused)

Councillor Josh Turiel presided.

Also, in attendance was Tom Daniel, the City Planner.

**(#558) – (#589) HOUSING DEVELOPMENT INCENTIVE PROGRAM (HDIP) –
EXPANSION OF PARCELS AND ADOPTION OF THE HDIP ZONE AMENDMENT
PROPOSAL**

ORDER: In accordance with 760 CMR 66.08, The Mayor on behalf of the City of Salem, is hereby authorized to submit to the Massachusetts Department of Housing and Community Development (DHCD) an amendment to the existing Downtown Salem Housing Development (HD) Zone and Housing Development Incentive Program (HDIP) Plan as originally approved by the Department of Housing and Community Development in 2017. The Housing Development Zone shall be expanded to include all parcels within the Center Development (B5) zoning district, the adjacent North River Canal Corridor zoning district and three additional parcels, specifically, 5 Broad Street, 17 Hawthorne Blvd., and 150 Federal Street. And to adopt the HDIP Zone Amendment Proposal.

Tom Daniel began the hearing with an overview and summary of what took place back in 2017 when the existing Downtown Salem Housing Development (HD) Zone and Housing Development Incentive Program was originally approved in 2017. HDIP is a tool that is a state enabled program per M.G.L. Chapter 40V that incents the development of market rate housing in a program area established by an eligible municipality. A municipality that is part of the Gateway Community. When this tool was adopted in 2017 it was very limited geographically. It originally included five (5) parcels and was amended to include a sixth (6th) parcel, the Tabernacle Church. The five original parcels were 65 Washington St., 29 Federal St., 15 Federal St., 32-50 Federal St. and 252 Bridge St. The HDIP provides two

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tax incentives to encourage substantial rehabilitation of properties for lease or sale as a multi-unit market rate housing:

1. A local-option real estate tax exemption, called a tax increment exemption (TIE) on all or part of the increased property value resulting from improvements, and
2. A state credit for Qualified Substantial Rehabilitation Expenditures that is awarded throughout a rolling application process.

Tom Daniel went on to state that since that time there has been additional interest in using the tool. The first step is to expand the area from six (6) parcels to all of the B-5, NRCC, and 3 specific parcels, 5 Broad St., 17 Hawthorne Blvd. and 150 Federal Street.

Appearing in Favor:

David Friedberg, 57 Britannia Circle, Salem and part of the Association of Realtors spoke in support. He stated that the more housing in Salem will help keep it affordable. Salem's a great place to live and this way people will be able to stay in Salem.

Councillor Milo asked for clarification. The HDIP zones are for developers who are interested in developing market rate housing, correct? and 10% affordable.

Tom Daniel responded that the program the state runs requires 80% at market rate and the other 20% can be any other configuration.

Councillor Turiel question to Tom Daniel is what do we usually ask for a set as aside for the developments that go through Planning for Affordable Housing?

Tom Daniel stated that since Salem does not have an inclusionary housing ordinance, so far requiring affordable housing that's done through the Planning Board Special Permit. What is typically required is that 10% of units be made affordable at 80% of the area median income.

Councillor Dibble stated that this HDIP proposal before us does not include any affordable or low-income housing; 80% is market rate and the other 20% is up to the developer. I am in support of this but something needs to require affordable housing and hopefully our new inclusionary ordinance will require a percent as affordable.

Councillor Turiel – as a follow up to Councillor Dibble's remarks, with 65 Washington Street Project (District Court), in order to qualify for a HDIP there is a Tax Increment Exemption (TIE) that comes from the Council so we can set aside a portion of the TIE to include affordable housing.

Tom Daniel stated that the first thing we need to do is to expand the tool (expanding the zone) then the developer comes to Council who wants to use the tool. The Council has the leverage of what the 20% can be i.e. make 10% affordable. If the City supports the

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project the State looks at the city's support and provides tax credits on a case by case basis.

Councillor Peterson – I understand the attractive parts of this, but if there is such a high need for affordable housing are there other tools or means to allow for an easier path to allow more affordable housing, more than 20%.

Tom Daniel – This HDIP program is to incentivize Market Rate Housing. Why are we trying to incentivize that if our needs are more on the affordable side of this? Its really trying to diversify markets. In terms of assistance to private developments to produce affordable housing not a lot of programs that help do this. Non-profit developers like North Shore CDC and Harbor Lights are accessing different tools and programs for low income housing credits through the State. But in terms of private development going through the Planning Board requires 10% to be affordable and that creates a challenge for a developer to meet that requirement so this is a tool that helps them get over that hurdle. We are not talking about Public Housing that fall under the Salem Housing Authority or Non-Profit Housing, we are talking about Private Sector Development that wants to invest and build houses, but if it doesn't pencil out for the developer to make 10% affordable then no housing gets produced.

Councillor Peterson then asked about the Church Properties. What if they wanted to do something with the Housing Authority does being in this HDIP zone preclude this?

Tom Daniel responded that No, just be being in the zone does not preclude anybody from using any other tool.

Councillor McCarthy stated this is just a tool and a developer may or may not choose to use it to make a development work. However older buildings do not bode well to convert, so if a developer wants to take that on, they have an option to use this tool in the zone. Right now, there is no specific development in front of us. They can use the tool to develop property with that % in there. There is no secret project for some big housing project. We as a Council think housing is important and this is just another tool for developers to use.

Councillor Milo asked since this looks like it is going to pass and then the next thing we hear is that ABC company who invested half a million dollars will come to us for a TIE. Is there a way once this tool is in place to have a conversation with current or potential developers that they don't come to us when they are so invested and if we don't grant them a TIE then we are the bad guys killing their development? Is there a way to prevent this?

Tom Daniel – In my perspective the developers who I talked to know this is a risk not a guarantee. It is in their interest to avoid this tool. The first have to come to Council for approval and then get approved by the State. It's a competitive tool and the State may this it's a great project but they are oversubscribed and they can't support this. Its very

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process intensive so there not going to come overnight to go through this. Its up to the Council and they are not backed into a corner. Only example we have is the District Court, which lead to this tool being adopted. Two of three proposals for 5 Broad St. mentioned HDIP tool.

Councillor Sargent – The HDIP was used at District court not for housing but to clean up the site for remediation. If had HDIP already then ran into pollution then no place to go. Are there any provisions to provide local labor agreements?

Tom Daniel responded what is in front of you tonight is adopting the HDIP and not labor agreements. But when looking at TIE then could be discussed by the City Council.

Councillor Turiel – HDIP doesn't go through unless they come to us for a TIE agreement.

David Friedberg – I understand that developers will ask for more units to be built to make project more feasible with a special permit, variance, etc. Is there any risk or with this incentive any discussion that with HDIP in place any opportunity for a developer to ask for more units because the whole idea is you can make this project work with 50 units but now with using the HDIP tool you only need 45 units? I wouldn't want to see this hinder the process for developers to get more units. Already at 10% affordable under 40B but 40S and 40R is available.

Josh Turiel – any variances granted by ZBA will still be in ZBA purview.

Tom Daniel – Yes, Councillor that is correct. Is this going to skew the market because less units. Let me remind you this is not an easy tool for people to access. It creates risk. Developers try to manage risk – they rather do their project without HDIP. Rather obtain a variance from the ZBA.

Councillor McCarthy – As a follow up to that. Basically, a developer can ask for x, y, z from ZBA and the ZBA will make a determination. At what point does developer ask for the use of HDIP. Is it before they go to the ZBA, at the end, in the middle, does it matter. Since HDIP isn't a guarantee I would think ZBA not weigh HDIP in to the factor just the project itself. We all know contaminated properties with AULS or other challenges with development so I think ZBA would just look at the project.

Tom Daniel responded HDIP is the financial side of it. If getting relief from ZBA then may not need HDIP. If didn't get the relief they need then HDIP may come in so timing varies. For example, 5 Broad Street – one proposal relied on it, one maybe and one no. Once get projects underway how do we plug this gap then HDIP may be an option for the developer. For example, 65 Washington Street.

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Councillor Dibble – we had two very good committee meetings on this, so I thank you for your time. I understand the need for this tool but I'm trying to weigh that with the need for more affordable and low-income housing. When will housing ordinance come before Council?

Tom Daniel stated that the Inclusionary Housing Ordinance may come in front of Council late February/early March. In the meantime, public education and outreach happening on this. The Metropolitan Area Planning Council is serving as our advisor on this. Councillor Dominguez and Councillor Madore on advisory committee as well as other non-profits and some developers. We have focus groups that consist of residents, realtors, and boards and commissions. More outreach in the next couple of months with City Council and small and large business owners. Analysis going on with MAPC conducting what can Salem Market support our Market different than Cambridge or Boston. Trying to find the right size for Salem (not too much and not too little).

Councillor Dibble – Housing Ordinance speak to market rate, low income and affordable housing and can you briefly explain the difference between these three. Is there a dollar threshold for each of these?

Tom Daniel – Ordinance speaks to the non-market units (affordable units) What is not determined at is the percent of units we will be asking for or what level of household income will be recommending. This is what the market analysis that is underway will determine. Definitions – Market Housing is what the Market will bear or support. There is not one set answer for. What I describe as affordable housing is what the market is not producing on its own. We are looking to the private sector to develop housing it wouldn't provide otherwise. Public Housing that the public housing authority develops and manages for very low income or a member of a class that lets them access federal housing. We are also fortunate to have community organizations like North Shore CDC and Harborlight that uses public and foundation money to develop housing for a different income category. But what I'm talking about is what the private market that is not providing affordable housing and within affordable housing there are different percentages. What we are trying to do is help people understand what we mean when we say affordable housing. Area median income is based on Metropolitan Statistical Area (MSA) that includes Boston, Cambridge and up to NH. Although very diverse also very wealthy which skews things for Salem. So, if we are looking at 80% of a really high income then in reality, we can check the box that says affordable housing unit but more like local market price for Salem. What we want to do through MAPC is to forget what the MSA says, we don't care about Cambridge or Hamilton we care about Salem and looking at those numbers so we can have a policy that is smart for Salem.

Councillor Dibble – Have other cities in Massachusetts passed HDIP zones and if so how many.

Tom Daniel – HDIP only available in gateway cities. Don't know the number that have the program or are utilizing it. Many of those communities have Inclusionary Housing

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Ordinances so that governs their city. Typically include 10% of units; Somerville has 25% of units and that is creating a chilling effect because development says can't do projects there. Peabody mostly uses the HDIP in downtown but not sure if they have an inclusionary ordinance.

Councillor Dibble states in favor of this but wishes it was better and hopes the Inclusionary Ordinance comes soon.

Councillor Flynn – if developer takes advantage of this program are these percentages locked in forever i.e. 10% of affordable housing or if sold does the percent carry on to new owners or does it go away.

Tom Daniel – typically the requirement is for 99 years regardless of owner

Councillor Dibble moved the hearing be closed. It was so voted.

Councillor Dibble Moved that the matter be referred back to the Committee on Economic Development co-posted with the Committee of the Whole to provide a recommendation to the full council. It was so voted.

On the motion of Councillor Dibble the meeting adjourned at 7:11 P.M.