



STAFF REPORT

AGENDA ITEM # 23-120
COUNCIL MTG. OF: November 7, 2023
FROM: Dave Caron, Town Administrator
OFFERED BY: Administration
PREPARED BY: Administration
SUBJECT: Development of 19 Elm Street – **v 7.0**

New information in bold italics

INTRODUCTION:

The purpose of this memo is to ***seek Council authorization to sign an Option to Purchase Agreement with Trident Building LLC.***

TOWN ADMINISTRATOR COMMENTS:

Please see comments within this report.

BACKGROUND:

The Town of Derry became responsible for the 19 Elm Street property after a tax deed was executed in 2015. After taking ownership, the property was found to contain large quantities of hazardous waste stored throughout the building. The Town through NHDES, involved USEPA whose contractor removed and disposed of all the hazardous waste. Limited excavation and disposal of contaminated soil was also performed, however some residual contamination remained at depth.

The Town has marketed the property for redevelopment on several occasions. Recent efforts culminated in a purchase and sales agreement with a group of individuals who offered to purchase the property for \$150,000.00. The Council approved Resolution #2019-052 which authorized the Purchase and Sales Agreement.

As a condition of sale, the prior interested purchaser invested in a ASTM Phase I remediation study, which revealed that additional information was necessary to determine any levels of contamination remaining on the site. After completion of Phase I, the purchasers returned with a revised offer which essentially would have deeded the property to them at little or no compensation to the Town, an offer that was rejected by the Council. Ultimately, it was agreed that the purchaser would allow the Town use of the Phase I remediation report, for which the purchaser was given a right of first refusal upon completion of further environmental studies.

The Department of Public Works collaborated with the New Hampshire Department of Environmental Services to have a Phase II remediation study completed at the site, paid for through an EPA Grant. The study ultimately identified two small pockets of land which should remain undisturbed. When re-engaging with two of the original purchasers (the third entity had left the partnership), they countered with a \$100,000 purchase price, which was rejected by the Council with the direction to readvertise the property. More recently, the Town was contacted by one of the remaining purchasers who offered to purchase the property for the original bid price of \$150,000.

The remaining original purchaser engaged an engineer to review the conditions at the site, including interactions with town environmental staff and a review of all reports on file with the NH Department of Environmental Services. The Town was subsequently informed that the purchaser no longer has an interest in the property, citing the uncertainties in the law regarding the responsible parties to remediate any PFAS contamination.

We now look to an option involving NH Housing Finance Authority for income-controlled units at a higher density and a lower sales price on the property. Trident Building LLC has completed a number of these projects in partnership with NHHFA.

DISCUSSION:

This development would be financed through NHHFA utilizing some tax credits, and operate as true workforce housing, whereas tenants would be eligible to reside there based upon their income falling within a certain range. The program is designed to place residents into these rental units while they accumulate assets for future purchase of their own properties.

NHHFA will typically not partner with a developer on these projects unless the project contains at least 24 units (the schematic on this property includes 26 units). Typically, communities owning this land offer it at a bargain price to encourage redevelopment. It is presently understood that the purchaser would assume ownership and related liabilities associated with the land.

The Town's development partner checked with NHHFA regarding preferential treatment of Derry residents which unfortunately is not allowed given the use of federal tax credits on these projects.

Also attached is a copy of the Option to Purchase between the Town and Trident Building, LLC for this project at 19 Elm Street. The conveyance on the property to the developer for \$10 reflects the effort to keep the per unit development price as low as possible to enhance the probability of NHHFA project funding.

The Town's Engineering staff has reengaged with NHDES who will be refreshing the Phase I and II environmental reviews on the property, which is a necessary step in this process. A state grant is funding this work.

FISCAL IMPACT:

The property is assessed for \$142,700 under the mass appraisal system with no apparent adjustments for environmental concerns.

The Town has exhausted efforts to redevelop this property through traditional means due to the environmental history of the property. A sale under this arrangement would make the new owners responsible for any future environmental testing, although as past owner, the Town would remain in the chain of ownership and would have to address any claims, similar to past owners, that the Town was not responsible for any environmental damage during its ownership tenure.

RECOMMENDED ACTION BY COUNCIL:

Authorize the Town Administrator to execute an Option to Purchase Agreement to facilitate redevelopment of this site.



RESOLUTION

Number 2023-077

To Authorize an Option to Purchase Agreement on 19 Elm Street

WHEREAS, Section 5.1 of the Town Charter designates the Town Council as the governing and legislative body of the Town and, as such, it is empowered to purchase and convey real property for the benefit of the Town; and

WHEREAS, the Town has previously performed substantial environmental remediation work at 19 Elm Street and seeks to return the property to the tax rolls; and

WHEREAS, the Town has been negotiating with a development team to provide workforce housing on this site; and

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is authorized to execute an Option to Purchase Agreement for 19 Elm Street with Trident Building LLC.

This Resolution shall take effect immediately upon its passage.

Adopted: November 7, 2023.

Attest:

X _____

Charles Foote, Council Chair

Date: _____

X _____

Cristina Guilford, Town Clerk

Date: _____