REPORT OF THE COMMITTEE ON FINANCIAL HARDSHIP
PHILADELPHIA HISTORICAL COMMISSION

30 MAY 2007
ROOM 578, CITY HALL
SCOTT WILDS, ACTING CHAIR

PRESENT
Scott Wilds, Acting Chair, Office of Housing & Community Development
James Brown IV
Vincent Rivera, AIA
David Schaaf, Philadelphia City Planning Commission

Jonathan Farnham, Acting Historic Preservation Director
Jorge Danta, Historic Preservation Planner II
Leonard Reuter, Law Department

ALSO PRESENT
John Gallery, Preservation Alliance for Greater Philadelphia
Liz Blazevich, Preservation Alliance for Greater Philadelphia
Michael Treacy, Lorraine Hotel, LP
Frans Van Wagenberg, Lorraine Hotel, LP
Clive Coppin, DPK&A
Darwin Beauvais, Esq., Klehr Harrison Harvey Branzburg & Ellers
Robert Powers, Powers & Company
Stephan Salisbury, Philadelphia Inquirer
Rev. Joy L. Griffin, WAR!

CALL TO ORDER
Mr. Wilds called the meeting to order at 10:00 a.m. Messrs. Brown, Rivera, and Schaaf joined him on the Committee. Mr. Wilds reported that Michael Sklaroff, chair of the Committee and Commission, had recused owing to his firm's representation of one of the applicants in other matters.

699 N. BROAD STREET, DIVINE LORRAINE
Owner: NSI Venturi Fund Five-DL LP, Patrick J. O'Niel, principal
Sunergy Housing Divine Lorraine LLC, Benno Wiersma, principal
Applicant: Michael F. Treacy
History: Designed by Willis Gaylord Hale, built in 1892-93. Designated on 13 May 2005
Project: Demolish rear annex owing to financial hardship

OVERVIEW: The Historical Commission reviewed an in-concept application in January 2007 for the redevelopment of the former Divine Lorraine Hotel. The application proposed the demolition of the hotel's rear annex, rehabilitation of the hotel building, and construction of two buildings. The Commission reviewed the demolition of the annex within the context of the overall project and approved it as an alteration, without a finding of hardship or public interest. The Preservation Alliance appealed the Commission's decision on the grounds that the Historical Commission's decision was an abuse of discretion, that it was arbitrary and capricious, that it was not in accordance with the law, that the Commission had not properly apply the Rules & Regulations and Secretary of the Interior's Standards for Historic Preservation, and that the Commission had violated the appellant's due process and rights. The applicant submitted the Financial Hardship application to overcome the Preservation Alliance's objections and avoid a protracted legal battle.

The applicant has assessed three redevelopment schemes to convert the annex to residential condominiums. Scheme One proposes connecting the annex to the restored hotel; Scheme Two proposes redeveloping the annex as an independent structure; and Scheme Three proposes connecting the annex to the new construction portion of the project. The applicant has included a detailed study of Scheme One prepared by Angkor Contracting Services. The study provides an estimated construction costs in excess of $3.8 million or $329 per SF. The estimated income from the sales of the units within the annex building is $3.2 million, assuming 16 units at $200,000 each. The applicant projects a $600,000 loss with a valuation of the land and annex at $0 and without the inclusion of soft costs. Schemes Two and Three were not studied in detail, but the application claims these two schemes would result in greater losses.

STAFF RECOMMENDATION: The staff recommends that the Committee recommend that the rear annex cannot be used for any purpose for which it is or may be reasonably adapted and therefore may be demolished.

DISCUSSION: Mr. Danta presented the application to the Committee. Developers Michael Treacy and Frans Van Wagenberg of Lorraine Hotel, LP, architect Clive Coppin of DPK&A, attorney Darwin Beauvais of Klehr Harrison, and preservation consultant Robert Powers represented the application.

Mr. Beauvais summarized the application and its circumstances for the Committee. He explained that the hardship application had been submitted in good faith to keep the project moving forward, despite the appeal. He explained that Mr. Coppin would provide details on the three development schemes that the team had studied. Mr. Brown asked him to clarify the circumstances leading to the submission of the hardship application. Mr. Beauvais explained that his clients had submitted and received approval for an in-concept application to renovate the hotel and demolish the annex building standing behind the hotel. He further explained that the Preservation Alliance had filed an appeal of the approval and prompted the applicants to submit the hardship application. Mr. Wilds asked the applicants if they had withdrawn their in-concept application. Mr. Beauvais stated that they had not. Mr. Wilds reported that the Commission had granted the in-concept approval and would support it during the appeal hearings. Mr. Wilds asked the applicants why they had conceded to Preservation Alliance's request that they submit a hardship application rather than fighting the appeal at the Board of License & inspection Review. Mr. Treacy explained that they submitted the hardship application to avoid a protracted legal battle with the Preservation Alliance. He reported that they are working to ensure that the new development will open on time in 2009. Mr. Wilds asked if the Board had scheduled the appeal hearing yet. John Gallery of the Preservation Alliance explained that he and the applicants had mutually agreed to continue the appeal while the Commission reviews the hardship application. He noted that the Board had rescheduled the hearing for October 2007. Mr. Wilds asked the developers when they hoped to receive a final approval from the Commission. Mr. Treacy replied that they planned for a final approval in October 2007. Mr. Beauvais reminded the Committee that the in-concept approval does not vest any rights in a final approval; therefore, his clients are eager to move forward to a final approval.

Mr. Wilds suggested that the Committee consider the merits of the application. He commented that the application appears flawed because the only detailed analysis considers the annex in isolation, not as part of a larger development on the designated site. Mr. Treacy disagreed, stating that they had analyzed three redevelopment schemes, the annex with the hotel, with the new construction, and alone. Mr. Wilds asserted that the application only presents one in-depth analysis, the annex in isolation. He stated that the economics of the entire site must be included in the analysis. He cited other cases in which the Commission had required an accounting of the financial information for the entire site during its review. He asked the applicants to continue with their presentation, but advised them that the Committee may recommend to the Commission that the application is incomplete.

Mr. Coppin, the architect, presented what he called Option 1. This option would include a stair for the annex in the hotel building and an elevator between the structures. He noted that the floor levels are very different in the two structures. He noted the annex's many problems including hazardous materials, deteriorated windows and roof, deflected floors, degraded masonry exterior, and numerous building code compliance issues. He explained that the two structures are very close to one another, making it difficult to fit an elevator between them. He reported that placing the stair in the hotel building would result in the loss of five potential residential units in that building. Mr. Wilds asked the applicants if an adaptive reuse of the hotel alone without the annex would be feasible. Mr. Treacy replied that it would not without the new construction on the adjacent, undesignated lots. He stated that there is no space for parking or mechanical equipment at the hotel site. Mr. Wilds asked if the hotel would be profitable if one compared construction costs to subsequent income only. Mr. Treacy stated that he believes that the hotel-only project neither make or lose money, but would break even. Mr. Wilds asked for a real accounting of Option 1. He stated that the anecdotal case was not enough; he requested the cost and return numbers. Mr. Treacy reported that they had not priced Option 1. Mr. Wilds reiterated that he could not judge Option 1 without an opportunity to review complete financial projections for it and the assumptions underlying those projections.

Mr. Coppin proceeded with the presentation of Option 2. Mr. Schaaf asked if the annex was considered separately, or as part of a larger complex. Mr. Coppin stated that it was considered separately; only a hallway connects the buildings. Mr. Coppin presented the floor plans for the annex rehabilitated as condominiums. Mr. Wilds asked why the developers had proposed such small units in the annex. He suggested two units per floor, not three. Mr. Coppin stated that the development small units is the principle behind the entire project. The units in the hotel would be about 450 square feet each, approximately 100 square feet larger than those proposed for the annex. Mr. Wilds inquired about the projected sales prices for the condominiums in the hotel. Mr. Treacy noted that they would sell from $190,000 at the lower end to $225,000 to $235,000 at the upper end. Mr. Wilds asked the applicants if they considered other uses for the annex such as the complex's health club. Mr. Treacy stated that they had considered office use, but it did not appear feasible. Mr. Brown asked about the targeted market. Mr. Treacy said that they were targeting young professionals. Mr. Brown suggested that he consider other possible uses for the annex in addition to residential and office. Mr. Treacy responded that they had concentrated on Option 1. He reported that he had examined comparable sales for condominiums in the area. Condominiums less than 1,000 square feet averaged $297,000 for the zip code east of Broad Street and $327,000 for the zip code west of Broad Street. He concluded that the Option 1 condominium project is infeasible, even when the land and financing costs and contingencies are not included in the calculations. Mr. Wilds again suggested a health club. Mr. Schaaf replied that it was not feasible owing to the short floor-to-floor heights. He also noted that the annex floors are about 1800 square feet, the size of a small ranch house. He asserted that the annex should be used as a corridor between the hotel and the new buildings. Concurring with Mr. Schaaf's assertion that the annex is very small, Mr. Wilds noted that the Commission considered the removal of the annex an alteration, not a demolition in part because of the size of the annex in relation to the hotel building. Mr. Schaaf agreed and remarked that the annex footprint is only 15% of the total building footprint at the site.

Mr. Van Wagenberg addressed the Committee. He stated that the financial hardship application had been submitted to address what some deemed a procedural problem with the Commission's in-concept approval of the removal of the annex. A third party had appealed the in-concept approval claiming that the Commission did not have the authority to reach such a decision without a finding of hardship or public interest.

Mr. Wilds stated that the financial numbers presented by the applicants only address the annex, not the designated site as a whole. He asserted that a complete hardship application must include an analysis of both the hotel building and annex structure. He observed that the entirety of the designated resource, the hotel and annex, must be considered. He clarified that the application need not include any financial information about the proposed construction on the adjacent, vacant, undesignated parcels. He stated that the hotel rehabilitation may, in fact, be profitable enough to subsidize the rehabilitation of the annex. Mr. Treacy responded that they cannot precisely estimate costs and income associated with the hotel rehabilitation. He is currently estimating that the construction costs for the hotel would be approximately $24 to $25 million without acquisition and soft costs and the income would be approximately $28 million. Mr. Wilds acknowledged that the costs and income were within 10% of one another without soft costs. He also acknowledged that Option 1 would result in the loss of five units in the hotel. Mr. Treacy noted that the land cost for the historic and adjacent, vacant sites was $10.1 million. He stated that the hotel and annex was $3.2 million of that $10.1 million. He stated that the annex was appraised at $48.03 per square foot, a cost which is not included in their analysis. Mr. Brown asked the developers why they are retaining the annex. Messrs. Wilds and Treacy explained to Mr. Brown that the developers do not want to retain it, but want to demolish it.

Mr. Gallery stated that the Preservation Alliance is in favor of the restoration of the Divine Lorraine and in favor of the overall development concept. He rejected the hardship application, however, claiming that it offers nothing more than anecdotal evidence. He noted that the application claims that it will cost $3.8 million to rehabilitate the annex, but provides no numbers to support that claim. He asserted that one document shows that the entire rehabilitation cost for the historic site would be $4.5 million. Mr. Treacy corrected him, noting that the $4.5 million cost was for the electrical work alone. Mr. Gallery stated that the appraisal made no mention of the annex. He asserted that the two letters from real estate brokers in the application were "worthless" because their texts are identical. He also stated that there is no evidence provided to support the $200,000 price projected for the annex units. He concluded that there is nothing in the application that documents a hardship. He asserted that any financial analysis should be in the context of the larger project, including the undesignated, vacant land. He stated that he believes that the annex does, in fact, present a hardship, but that that hardship is not documented in this application. The Committee should reject the application and require that it be revised.

Mr. Wilds examined the spreadsheet of construction costs included within the application and noted that it covers the hotel building, not the annex. Mr. Treacy acknowledged the oversight. Mr. Brown contended that the application was incomplete. Mr. Wilds agreed and stated that it was not ready for a review by the Commission. He advised the applicants that the Committee would not find that retaining the annex would result in a hardship based on the current application. He explained that the applicants could withdraw their application.

Messrs. Treacy and Van Wagenburg withdrew their application.

ADJOURNMENT

The Committee adjourned at 11:17 a.m.