

Town of New Paltz Historic Preservation Commission Meeting
Tuesday December 15th 2020 7:00PM – 9:00PM via Zoom

Commissioners attending: John Orfitelli (Chair), Susan DeMark, and Matt Maley

Agenda

1. **Public Comment**
2. **Review/Approve November Minutes**
3. **Implementation of RETT for HPC**
4. **Other Items**

The on-line Zoom meeting was called to order at 7:03pm with a motion from Susan DeMark and seconded by Matt Maley. Motion carried.

Pledge of Allegiance

Minutes:

1. **Public Comment:** No public comments were received
2. **Review/Approve November Minutes:** The Commission reviewed, and approved [minutes from our November 17th meeting](#) and John Orfitelli agreed to post on our Town web page.
3. **Implementation of RETT for HPC:** The Commission discussed preparations for implementation of the Real Estate Transfer Tax which will take effect on any property conveyed on or after Feb. 1, 2021. The tax won't apply to property conveyances made on or after that date if there is a binding written contract that was entered into prior to that date.

A Community Preservation Fund (CPF) Advisory Board of seven members appointed by the Town Board will evaluate potential projects based on the Community Preservation Plan and make recommendations to the Town Board. John Orfitelli will serve to represent both the Town and Village HPCs. The Town board will formally establish the Advisory Board during the "reorg" meeting which happens every January.

John Orfitelli, Susan DeMark, Ingrid Haeckel, and Cara Lee held a Zoom call with Erin Tobin from the NY Preservation League to learn about the steps needed to make historic preservation projects eligible for CPF funding.

The following notes from our meeting summarizes the key elements regarding the implementation of the RETT and funding specifically for Historic Preservation.

- a) The primary mission of the HPC is to preserve and protect properties of significant historical value. The [local law that established the HPC](#) specifies the [Local Landmark Designation process](#) as the primary means to carry out that mission. Property owners approached by the Commission have resisted participating in the Designation Process for various reasons. This has led the Commission to investigate ways to incentivize property owners to voluntarily participate in the process.
- b) **Prior to the creation of a CPF and passage of the RETT**, the primary incentives to property owners were Federal and State Tax Credits and the use of [Charitable Contributions](#) through various types of Conservation Easements.
 - **A conservation easement** is a restriction on the owner's use of the property. A popular form is the open space or scenic easement, wherein the owner of land agrees to set the land aside to preserve natural, scenic, historic, scientific and recreational areas, for public enjoyment. The deductible value of the easement is generally determined using a "before and after" approach. That is, the value of the total property

owned by the taxpayer (including adjacent property that is not encumbered by the easement) before granting the easement is determined. Then, the value of the property after granting the easement is subtracted to determine the value of the easement.

A charitable contribution of a qualified conservation easement is available to the extent the contribution does not exceed 50% of adjusted gross income (AGI). The IRS has determined that some taxpayers have been claiming inappropriate contribution deductions for cash payments or easement transfers to charitable organizations in connection with purchases of real property. Consequently, **conservation easements and charitable contributions now face more intense scrutiny by the IRS.**

- **A historic preservation easement** is a voluntary legal agreement, typically in the form of a deed, which permanently protects a significant historic property. Since it is a perpetual easement, an owner is assured that the property's historic character will be preserved. In addition, an owner who donates an historic preservation easement may be eligible for one or more forms of tax benefits.

Under the terms of a typical preservation easement, a property owner places restrictions on the development of, or changes to, the property and transfers these restrictions to a qualified organization whose mission includes environmental protection, land conservation, open space preservation, or historic preservation.

A property is considered a certified historic structure if it is a building, structure, or land area individually listed in the National Register of Historic Places.

- **A facade easement is a type of conservation easement** which is designed to maintain the historic character of a building's facade. When a facade easement is created, the owner of a building agrees not to make changes to the facade without confirming that they will not compromise the historic value. The easement is donated to a nonprofit organization which accepts conservation easements and holds them in trust. **The properties that qualify for a façade easement must be listed in the National Register of Historic Places.**
- c. **With passage of the RETT, the primary incentive now shifts to direct payments to property owners for conservation easements.** Large estates will likely require an alliance between the Town and one or more preservation land trusts to achieve the funding needed to acquire the easement. The following are the key questions that the Commission needs to address:

- **Can a Historic Property façade be covered by a Conservation Easement?**

In some cases, the conservation easement preserves a piece of land or a building that has been certified as historic, **including the historic façade of a building.** ([Link to reference](#)). In this case:

- a. Property must be recorded in the National Register of Historic Places
- b. Local Designation by HPC is optional (not required)
- c. Land Trust could be used to enforce easement -or- the HPC
- d. May limit the application to only those historic properties with large parcels
- e. Owner compensation method for the façade needs to be defined (see below).

- **Can a Designation by the HPC be treated equivalent to a Façade Easement?**

In this case:

- a. The Owner gives up 'façade rights' in a Local Designation same as with a Façade Easement
- b. National Register of Historic Places Designation is Optional
- c. HPC enforces designation via CoA Process (Land Trust is not involved)
- d. Designation recorded with deed (same as with a Façade Easement)

e. All Qualified Historic Properties eligible including those on small parcels

f. Owner compensation needs to be defined (see below).

- **How is the value of a façade easement or local designation determined?** This is perhaps the most difficult aspect of either the façade easement or local designation, namely, how exactly can the value of the façade be determined and translated into compensation to the owner. *While the law states that the fund can be used for historic preservation it does not state explicitly how this should be done.*

The Commission will seek input from various appraisers who have experience in preservation easements.

One proposal: **Consider reasonable amount for basic maintenance.** For example, roof repair/replacement, gutter repair/replacement, windows, façade repair. Matching grants would be used to provide funds as required and available.

The Commission agreed to pursue the following:

- a. Contact Christie DeBoer (J.O.) and the NY Landmarks Conservancy (S.D.)
- b. Check on how Massachusetts uses their CPF to purchase façade easements. How do they value façades?
- c. What does the façade include?
- d. Historic District Council in NY City (S.D.)
- e. Does payment for an easement remove the ability for the owner to take a tax credit or charitable contribution for other parts of the property?

4. Other Items:

- Commissioners were reminded to submit their financial disclosures to the Town Clerk for 2021.
- The Commission agreed to schedule meetings in 2021 on the third Tuesday of each month. John Orfitelli informed the Town Clerk of that decision and requested the Town calendar be updated accordingly.
- The Commission will seek new members through the print media and Facebook. Susan agreed to create a post on the HPC Facebook page and John will update the HPC Town site page to include a request for new members.

Motion to adjourn was made by Susan DeMark and seconded by Matt Maley. Motion carried. Meeting adjourned at 8:53.

Next Meeting will be held via Zoom at 7:00pm on Tuesday, January 19th, 2021.