The Recommendations of the Landmark Preservation Task Force: A Report

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I. Introduction

The Landmark Preservation Task Force was charged by the Commission with the following tasks

1. Understand what other cities do to create interest and encourage investors in the development/redevelopment of historic districts and properties.
2. Calculate the return on investment from having historic districts in place.
3. Determine what have other cities done to help preserve historic institutional structures, particularly historic churches.

The University of Dayton Business Research Group (BRG) was hired to function as the Task Force' staff, facilitating sessions, performing background research, providing data analysis and organizing the final report. There were two key elements of the research and analysis effort. First, BRG conducted an analysis of changes in residential property values in the City of Dayton's historic districts relative to the city as a whole. Second, BRG conducted phone interviews with a substantial number of public officials and private citizens familiar with efforts to encourage development in historic districts in other Ohio cities.

In the discussion of recommendations that follows, the background research is noted in passing with more detailed discussion relegated to appendices.

II. The Return on Investment from Dayton's Historic Districts

Prior to conducting an analysis of changes in property values in Dayton's historic districts, the economic literature on historic district's impact was reviewed. The great bulk of that literature has found substantial positive direct effects at the individual house and neighborhood level from historic districts. A small portion has suggested that historic designation is less important because the housing in such zones is of typically superior quality.

There are two theoretic arguments for positive effects from historic district designation. The first argument suggests that the additional regulation provides protection against the potential loss on property value associated with neighboring incompatible uses. It protects against development that could damage property values, (Ijla et al 2011). The second theoretic argument suggests that the availability of such districts helps drive economic development by attracting "a creative class" that attracts in its turn desirable new firms, (Kotkin 2000, Sommers and Carlson 2000).

The empirical economic literature documenting positive impact s from historic district designation is vast, (see Appendix I for Bibliography). Ijla et al, (2011) examined 24 studies using hedonic models to examine the relationship between historic district designation and property values. Of these, 15 found positive impacts, 3 found negative effects, 5 found no effect, and 1 found mixed outcomes. Separately, studies from Memphis (Coulson and Lahr, 2005), New Orleans (Haughey and Basolo, 2000), Texas (a multi-city study, Leichenko et al, 2001), a six city study (Cincinnati, Cleveland, Pittsburgh, Atlanta, Dallas, Phoenix) Ijla et al 2011, Savannah (Cebula, 2009), Sacramento (Clark and Herrin, 1997), and Baton Rouge (Zahirovic-Herbert and Chatterjee, 2012) all found positive property value effects from historic district designation. One study in Chicago (Noon & Krupka, 2011) did suggest that controlling for extant historic quality; historic district restrictions did have negative price effects.

The Business Research Group compared residential property value appreciation in Dayton's historic districts to overall property value appreciation in the City of Dayton for the period from 1996 to 2012. The summary results are provided in Table 1. Property values in historic districts increased by 71% over the 16 year period while property values in the rest of the City of Dayton increased by only 22%. Significant city and federal resources were invested in three historic districts during the period (Wright-Dunbar, Paul Lawrence Dunbar and Dayton View). **Abstracting from these three historic districts, the increase in property values in the remaining historic districts (62%) is still triple that in the rest of the city.** The irrefutable conclusion is that the city has benefited quite substantially from the creation of the historic districts.

Table 1: Percentage Change in Residential Property Values, City of Dayton and It's Historic Districts, 1996-2012

Historic Districts	Percent Change from 1996 to 2012		
	Land Valuation	Building Valuation	Total Valuation
Squirrel-Forest (Five Oaks)	21%	37%	34%
Grafton-Rockwood-Wroe (Five Oaks)	14%	14%	14%
Kenilworth (Five Oaks)	63%	0%	7%
Grafton Hill	255%	66%	88%
Huffman/Inner East	192%	25%	50%
McPherson Town	104%	45%	56%
Oregon District	20%	66%	57%
South Park	185%	75%	98%
St. Anne's	173%	11%	32%
Dayton View	335%	106%	133%
Paul Lawrence Dunbar	242%	230%	232%
Wright-Dunbar	1237%	713%	821%
Total Historic Districts	**139%**	**57%**	**71%**
Hist. Dists (without W-D, PLD & DV)	**123%**	**48%**	**62%**
Rest of Dayton	**39%**	**17%**	**22%**

Note: A detailed table of the underlying property values is provided in Appendix Two

III. The Issue of Vacant Foreclosed Properties

What We Learned: While the volume of vacant housing in the City and historic districts has been documented extensively, it is useful to ask whether ongoing foreclosures contribute in a substantial way to the city's vacant housing issue. To assist the Landmark Preservation Task Force with that question, John Carter of the City of Dayton shared a list of foreclosed properties detailed for the city as part of a software package, CoreLogic. While these lists may not be 100% accurate they document 487 foreclosure filings in the City of Dayton in the slightly over 7 month period from August 23, 2012 to March 1st, 2013. The foreclosed properties are spread throughout the city and are associated with a large number of national and regional bank and mortgage companies, (see Appendix Three for list of companies and map of foreclosed properties).

Research: At this point, the City of Dayton has under consideration a Vacant Property Registration Ordinance. Landmark Task Force staff examined key provisions of ordinances in other parts of Ohio and noted certain features that seem to be of particular importance, (see Appendix Four). The chart in Appendix Four documents some different vacant property ordinances around the state.[1] The list of cities and towns with ordinances in Ohio is relatively long, so the list is meant to be illustrative of those deemed relevant due to city size or particular features. Most ordinances are of relatively recent origin and, in some cases; existing vacant property registration ordinances were amended to deal with foreclosed property issues (as in Cincinnati).

The evidence from Cincinnati's pilot program is strongly in favor of the efficacy of a vacant, foreclosed property ordinance that has enforcement starting at the time of foreclosure filing. Over the first 8 months of the program 433 foreclosure filings were monitored. Of those 158 have become vacant and the annual fee of $500 has been paid on 121 of the vacant structures for a total fees paid of $60,500. In addition, 289 fines have been levied to a total of $148,150. The program requires the services of 1 FTE Housing inspector and 30% of a FTE clerical time.

Recommendation One: The Task Force recommends that the City Commission adopt the Vacant Foreclosed Property Registration Ordinance that is on the Commission Agenda

Recommendation Two: Implementing a more Aggressive Approach to Vacant and Foreclosed Housing in Historic Districts

After a few months of experience with the Vacant Foreclosed Property Registration Ordinance, the City Commission should adopt an Ordinance that deals with privately held vacant properties that aren't in foreclosure specifically in established Historic Districts.

IV. Lessons from Other Ohio Cities in Encouraging Investment in Historic Districts

Note: Appendix Five provides details on approaches other cities in Ohio have taken to encourage development in Historic Districts. What is provided below is a simple summary

What We Learned: Historic Rehabilitation projects are difficult to do without sophisticated developers knowledgeable about financing vehicles and mechanisms in place to share risk. In Cincinnati 3CDC and in Cleveland the Downtown Cleveland Alliance provided a substantial amount of expertise and brokerage services that aid the development process. 3CDC's list of projects (see Appendix Five chart) is particularly noteworthy. Hamilton's projects owe a substantial amount to the involvement of the Hamilton Community Foundation and its willingness to become involved in the gap financing of deals.

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[1] Basic source is database maintained by Safeguard Properties, a national property maintenance firm at http://www.safeguardproperties.com/Resources/Vacant_Property_Registration. Some additional information gathered and corrections made

CORE is a response to Hamilton's successful experiences in that process. Periodically, TIFs have been used to assist with particular projects around the state and in Cincinnati and Cleveland, city grants have been a part of the mix.

Dayton should invest in developing a non-profit vehicle for sharing risk across investment partners and providing the expert assistance in the planning and development stages that is sometimes required. The expert assistance is an important element of the strategy. By code, city officials are charged with enforcing regulations and the skill sets they develop to do that well are not the same skill sets that are required to proactively assist development of historically important structures and districts.

The location of the non-profit is logically linked to CityWide Development and the Landmark Preservation Task Force is aware the City of Dayton is in active discussion with CityWide on transitioning the governance of CityWide and establishing some performance based contracts. The Task Force has the following recommendation:

Recommendation Three: CityWide Development as an Implementing Mechanism

1. That the reconstituted Board of Trustees reflects the historical importance of the City as the major stakeholder by providing at least 3 appointments by the City Manager that initially would include the primary Planning, Development and Fiscal officers of the City
2. That the City Manager be an ex officio member of the Executive Committee and any subsequent search committee for a CEO of the corporation and its subsidiaries
3. That CityWide be charged with devising an annual work program for the Greater Downtown Area including all existing designated historic neighborhoods including strategic plans and investments using adaptive reuse, historic tax credits and marketing strategies for the preservation and rehabilitation of historic landmarks and designated neighborhoods
4. That CityWide be charged with creating a local funding apparatus and gap financing mechanism for the revitalization of structures in the Downtown Special Improvement District. Such mechanism should include banks, corporations and foundations using the successful elements of the Cincinnati Center City Development Corporation and should favor those businesses that contribute to the SID
5. In order to achieve the objectives stated in 3 and 4 above, CityWide needs to:
    a) Commit to providing fulltime dedicated professional staff to develop outcome measures and devise and execute specific work programs
    b) Needs to establish appropriate advisory committees of stakeholders and professional talent to guide these efforts
    c) Needs to provide an accounting to the citizens of Dayton via an annual presentation and written report to the Dayton City Commission including strategies, objectives, outcome measures, programs and performance detail
    d) A funding source will need to be identified to accomplish this recommendation

V. Facilitating Approval of Historic District Development Projects

What We Learned: In interviews with developers from various parts of Ohio, speed of approval process is discussed as one of the key elements of successful development. Economic development and planning officials in Dayton believe they have a relatively efficient system for approving development plans but note that problems can emerge as a result of incomplete plans and misunderstandings about the approval process. Much of the rehab work in the city is undertaken by first time developers who are not familiar with either the building code or the special provisions for historic buildings. Furthermore, those who are seasoned rehab specialists are often frustrated by their desire to be true to the historic integrity of the structure within the framework of the city's lean process which works best with straight forward projects. There are several issues that need to be addressed to improve the process of permit approval for historic structures:

1. Incomplete plans are the primary reason for permits being delayed. Revisions to plans cause costly delays to re-route and reexamine revised drawings.
2. The process of seeking building code waivers for historic structures is not procedurally well defined resulting in delays and costly consultations.
3. Often work is started prior to pulling permits or not done in a proper manner which nullifies use of building code waivers for historic structures.
4. Often historic rehab is undertaken by someone unfamiliar with historic building code provisions or undertaken by someone who cannot afford professional drawings.

The key building code provision that is relevant is Ohio Building Code 3407: *"The provisions of this code relating to the construction, repair, alteration, addition, restoration and movement of structures, and change of occupancy shall not be mandatory for historic buildings where such buildings are judged by the building official to not constitute a distinct life safety hazard."* To allow for this provision, two things must occur

1. There needs to be a structure and function that defines criteria of making this finding.
2. There needs to be a process for making this finding.

Recommendation Four: The Task Force recommends that the City Commission create the Office of Historic Rehab Assistance in the Department of Planning along with an associated fee structure.

The detailed elements of the recommendation are as follows:

1. Establish an Office of Historic Preservation Assistance in Dept. of Planning by Ordinance
2. Define eligible historic structures as any structure in an overlay district or listed by the Landmark Commission as historically significant to encourage local designations.
3. Staff with a part-time contractual architect. Minimum 10 hours per week.
4. An application fee for special assistance of $100.
5. Duties:
    a. Assist applicants in submitting complete plans.
    b. Act as expediter for special projects.
    c. Provide assistance in processing CRA tax abatement, BZA and Landmark applications.
    d. Expedite "walk-thru process for simple and complex permits.

e. Coordinate code compliance between Building Services and Landmarks
f. The applicant may seek a 3407 waiver from the Board of Building Appeals on their own or seek assistance from the Preservation Office. In the later instance:
    1) The Planning Manager would make a finding that the waiver is reasonable and important to preserve the historical integrity of the building.
    2) The historic preservation assistance officer would meet and confer with the Chief Building Official to secure an administrative waiver and if not advisable would assist the applicant in securing a waiver from the Board of Building Appeals.

VI. Marketing the Historic District Brand and Encouraging a Sense of Place

A. Marketing the Historic District Brand

What We Learned: As a starting point, city planners note too little attention has been paid to the systematic ongoing marketing of the historic districts. Current brochures on the historic districts are estimated to date from the 1980s. More than a simple update of these brochures is required. Printed material in no way accommodates the extensive use of on-line resources search techniques characteristic of modern home buyers. For example, the on-line site, http://cincinnatihistorichomes.com provides a detailed view of many historic district homes for sale in the Cincinnati market

Recommendation Five: The Task Force recommends that the City Commission contract with a marketing firm for a marketing campaign with the historic district neighborhood associations as logical collaborative partners in the implementation of the marketing contracts; that the marketing campaign must include particular attention to establishing an on-line presence that is easily maintained on an ongoing basis and relevant to potential investors and home-buyers; and that the staff report periodically on the status of this contract to assure that the effort stays on track

B. Attending to Place-Making in the Public Space of Historic Districts

What We Learned: If one thinks from a place-making perspective, marketing the historic districts has a wider field of action than simply creating an on-line presence for historic districts. Marketing the historic districts must take place within a broader discussion of a place-making strategy for each historic district. Discussions with city planning staff suggest that inadequate attention has been paid in the past 20 years to encouraging a sense of place through appropriate attention to the public spaces of historic districts.

In particular, they suggest that insufficient attention is paid to elements of the public space that help signal the uniqueness of each historic district. These include "retaining appropriate scale of streets, sidewalks, and new buildings; placement of buildings; and the overall form." In addition, one could imagine close attention to streetscape elements such as "welcome signs, street name signs, directional signs, street furniture, lamp posts, lighting, landscaping, accessibility features, and surface materials for streets, curbs, and sidewalks." The city has already adopted a set of Urban Design Standards that provide a framework for thinking about these physical elements.

At the same time, these physical elements are designed to nurture the sense of a shared unique living experience. Which specific historic district public space projects will do that? At this point, there is no specific document in existence that describes the logical historic district public space projects the City of Dayton should pursue.

It is in the city's long term interest to protect the public and private investments made over the last 30 years in the historic districts by focusing resources on place-making elements of historic districts public spaces. The City should implement a strategy for developing and implementing place-making projects in historic districts' public places. The objective is to create an inventory of fund ready historic district public place projects that are prioritized by importance and potential funding source. The strategy document should include a time line for applying to state and federal funding sources for targeted place-making physical elements and designate responsible parties. The broader point is that a strategic plan would systematically review potential projects and potential funding sources in a simultaneous framework where potential partners including CityWide could be brought to the table early in the process.

One reason a strategic review is the changed nature of federal transportation funding. The Federal Transportation Enhancement Funds have been replaced by the Transportation Alternatives Program. While Transportation Enhancement Funds could be directly applied to "Historic preservation as an independent activity" that is not the case with the Transportation Alternatives Program (see Appendix Six). However, a clever group could envision a city-wide strategic plan on alternative transportation and safe routes to school (that are eligible) that made a virtue of the 19th and early 20th century layout (close to downtown and neighborhood schools) of historic districts. The city has already won some support for its safe route to school work. One could envision some innovative collaboration that is also conducive of place-making in historic districts. Note that this requires a broader view of the city's transportation network than may be associated with traffic engineers.

Recommendation Six: The Task Force recommends that the City Commission focus resources on implementing projects that will enhance place making elements of historic district public places including special assessment districts and other funding mechanisms

VII. The Struggle to Preserve Historic Churches

What We Learned: Conversations with state historic preservation officials reveal a fundamental tension when considering historic church preservation. For National Historic Tax Credits preservation of the interior is as important as preservation of the exterior if the pre-rehabilitation condition of the interior was closely linked to its original condition. The sanctuary is often what makes a church distinctive. But preservation of the sanctuary makes it extremely difficult to re-engineer a church for other purposes whether residential or commercial. Re-use projects (seeking historic tax credits) that have altered church sanctuaries extensively have had to document that the interior was no longer distinctive because of alterations over time that have changed its nature.

This suggests that in any inventory of downtown Dayton churches, special care should be taken to document what is known about alterations over time to the interiors. Documentation of alteration will allow a broader set of adaptive reuse possibilities to be considered if inclusion on the National Historic Register is considered as part of a re-use strategy

Where the sanctuary could not be altered successful projects have typically focused on using the church as an event space (art galleries, theatre, concerts, etc. Ohio historic preservation experts at the state and city level interviewed for this report had trouble thinking of successful church preservation projects in Ohio.

3CDC along with the City of Cincinnati has put money into stabilizing St. Paul's German Evangelical Church at 15th and Race in Over-the-Rhine. Of the approximately $700,000 spent to stabilize the roof, roughly half came from the city. Cincinnati has developed a Historic-Stabilization of Structures fund after a task force commissioned in 2010 but the size of the fund is relatively small. For example, in 2011, the City moved to use the funds to stabilize a decommissioned catholic church (to the tune of $193,000 but noted in doing so it would deplete the funds allocated for the year.

The Landmark Preservation Task Force believes an inventory of historic churches in the greater downtown Dayton area should be conducted that documents the argument for or against historic significance. This would be similar to the earlier Adaptive Reuse Study of downtown buildings commissioned by the city. Churches should be categorized by 1) current condition, 2) eminence of structural deterioration sufficient to warrant demolition, 3) potential for re-use, 4) the extent of exterior and interior changes and 5) the likelihood that historic designation is a possibility. After the inventory of historic churches has been conducted Dayton should consider the potential for the creation of a stabilization fund that can provide funds for emergency repairs where the potential for adaptive re-use is high.

Recommendation Seven: The Landmark Preservation Task Force recommends The City of Dayton should undertake an inventory of historic district churches in the downtown Dayton area that documents the argument for or against historic significance; after the inventory, the City Commission should consider the potential for the creation of a stabilization fund that can provide for emergency repairs where the potential for reuse is high

VIII. A Citizen Nomination Process

The Issue: Currently, there is insufficient clarity in the process by which citizens can petition to have a significant historic structure placed on the Dayton Register of Historic Landmark Properties. While citizen do have a legitimate public interest in the preservation or foregoing the demolition of significant historic structures, there must also be a well-defined process of law before restricting property rights. The Task Force believes there is a reasoned approach to meet both community interests.

Recommendation Seven: The Task Force recommends the following ordinance change, HD3 Citizen Nomination

A property can be nominated by a citizens' petition for inclusion in the Dayton Register of Historic Landmark Properties (HD3) if it meets both of the following criteria:

1. The property is eligible for or listed on the National Register of Historic Places, and

2. The property is in the public domain or otherwise tax exempt, of the property is privately owned but has singular significance in the history of the City

The Property may be nominated by a committee of Petitioners composed of five electors of the City and containing the signature of 25 registered voters in the City. The petition shall briefly state the historic importance of the structure.

The Landmarks Commission shall hold a public hearing within 60 days of the filing of the petition with the Clerk of the Commission and after giving at least two weeks written notice to the property owner of record. The Landmarks Commission shall render a decision within 30 days of the public hearing in accordance with 150.345.3 Nomination of Historic Districts.

Appendix I: Bibliography of Economic Literature on Historic District Impact

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Appendix Two: Changes in Residential Property Values in Dayton and Its Historic Districts

A Summary of Changes in Residential Property Valuation, 1996-2012 for the City of Dayton and its Historic Districts

	Number of Residential Parcels Evaluated	2012 Land Valuation (in 000s)	2012 Building Valuation (in 000s)	2012 Total Valuation (in 000s)	1996 Land Valuation (in 000s)	1996 Building Valuation (in 000s)	1996 Total Valuation (in 000s)
Historic Districts							
Squirrel-Forest (Five Oaks)	51	$ 745	$ 3,651	$ 4,396	$ 618	$ 2,672	$ 3,290
Grafton-Rockwood-Wroe (Five Oaks)	102	$ 1,115	$ 4,558	$ 5,673	$ 981	$ 4,016	$ 4,996
Kenilworth (Five Oaks)	12	$ 180	$ 824	$ 1,004	$ 110	$ 825	$ 936
Grafton Hill	98	$ 2,511	$ 8,771	$ 11,282	$ 708	$ 5,297	$ 6,005
Huffman/Inner East	329	$ 4,703	$ 11,482	$ 16,185	$ 1,608	$ 9,176	$ 10,784
McPherson Town	81	$ 1,952	$ 6,002	$ 7,954	$ 955	$ 4,130	$ 5,085
Oregon District	192	$ 4,593	$ 25,558	$ 30,151	$ 3,825	$ 15,364	$ 19,189
South Park	660	$ 13,732	$ 32,078	$ 45,810	$ 4,815	$ 18,328	$ 23,143
St. Anne's	261	$ 4,388	$ 12,315	$ 16,703	$ 1,609	$ 11,075	$ 12,684
Dayton View	174	$ 2,678	$ 9,589	$ 12,267	$ 616	$ 4,659	$ 5,275
Paul Lawrence Dunbar	28	$ 217	$ 911	$ 1,128	$ 64	$ 276	$ 340
Wright-Dunbar	61	$ 1,541	$ 3,631	$ 5,172	$ 115	$ 446	$ 562
Total Historic Districts	**2049**	**$ 38,355**	**$ 119,370**	**$ 157,725**	**$ 16,024**	**$ 76,265**	**$ 92,289**
Hist. Dists (without W-D, PLD & DV)	**1786**	**$ 33,919**	**$ 105,239**	**$ 139,157**	**$ 15,229**	**$ 70,883**	**$ 86,112**
Rest of Dayton	**46128**	**$ 601,771**	**$ 1,788,670**	**$ 2,390,442**	**$ 433,905**	**$ 1,528,887**	**$ 1,962,792**

	Percent Change from 1996 to 2012		
	Land Valuation	Building Valuation	Total Valuation
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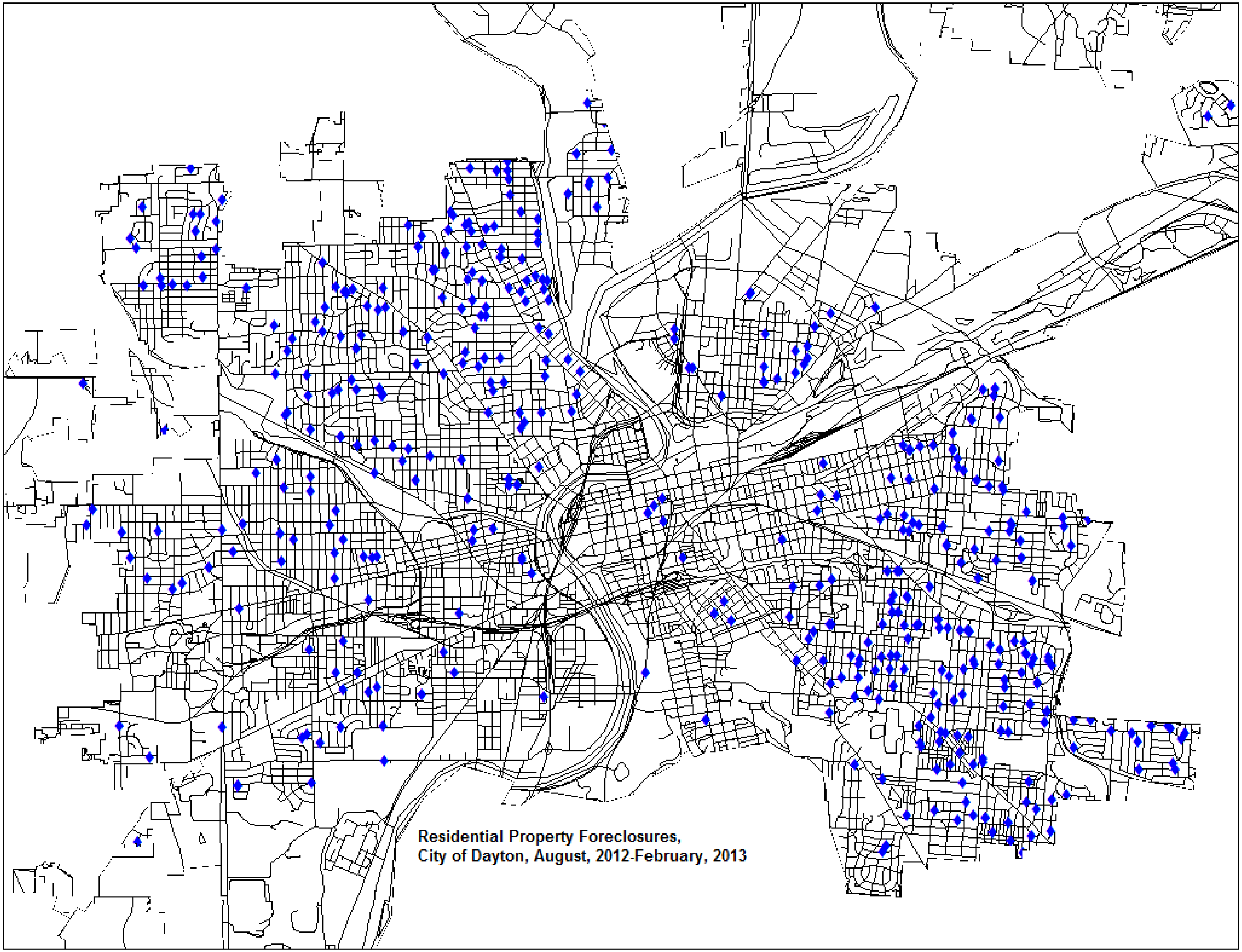
Hist. Dists (without W-D, PLD & DV)	**123%**	**48%**	**62%**
Rest of Dayton	**39%**	**17%**	**22%**

Residential property valuations in Dayton Historic Districts in the last 16 years have increased in percentage terms by 71% while the increase in the Rest of the City is 22%. Ignoring the three districts where very substantial public investments have been made (Wright-Dunbar, Paul Lawrence Dunbar, Dayton View) the increase is 62%.

Appendix Three: Recent Foreclosure Filings in City of Dayton, Bank Involvement and Map of Activity

Foreclosure Filings: City of Dayton Aug 23, 2012 to March 1st, 2013		
JP MORGAN CHASE BK	72	14.8%
WELLS FARGO BK	51	10.5%
BANK OF AMERICA	49	10.1%
FIFTH THIRD MTG CO	29	6.0%
PNC BK NATIONAL ASSN	29	6.0%
US BK NA	26	5.3%
CITIMORTGAGE	20	4.1%
DEUTSCHE BK	15	3.1%
EVERBANK	15	3.1%
HSBC BANK	14	2.9%
NATIONSTAR MTG LLC	12	2.5%
MIDFIRST BK	11	2.3%
LIBERTY SVGS BK FSB	9	1.8%
WRIGHT PATTERSON CU	9	1.8%
HOUSEHOLD REALTY CORP	8	1.6%
UNION SVGS BK	8	1.6%
COLONIAL SVGS FA	7	1.4%
BANK OF NY MELLON	6	1.2%
FEDERAL NAT'L MTG ASSN (FNMA)	6	1.2%
FLAGSTAR BK FSB	6	1.2%
GMAC MTG LLC	6	1.2%
TBF FINANCIAL LLC	6	1.2%
HUNTINGTON NAT'L BK	5	1.0%
KEYBANK NAT'L	4	0.8%
BENEFICIAL FIN'L 1 INC	3	0.6%
EASTERN SVGS BK FSB	3	0.6%
EMERALD BK	3	0.6%
FIFTH THIRD BK	3	0.6%
ALL OTHERS	52	10.7%
Grand Total	487	100.0%
Source: CoreLogic Software Package data dump		


Residential Property Foreclosures,
City of Dayton, August, 2012-February, 2013

Appendix Four: Summary of Vacant and Foreclosed Property Ordinances in Ohio

The Chart on the Next page summarizes key vacant and foreclosed property ordinances in the State of Ohio. Below certain key provisions in ordinances are summarized

A registration fee that escalates on an annual basis: There is a wide range in initial fees from $100 (Columbus, Zanesville, Massillon, and Youngstown) to $400 for $500 (East Cleveland and Cincinnati). However, a recurring feature that has been used effectively to incentivize rehabilitation and sale is an escalation of the fee schedule for those who charge lesser amounts.

A bond requirement: Canton and Youngstown require that at foreclosure a cash bond of $10,000 be required (see page 5 of Canton amended ordinance). The ordinances specify that the bond can be used against mowing, boarding and demolition costs the city incurs. This requirement appears to have serious issues at this point (early April, 2013). The Building Inspector for the city of Canton indicates that they are not currently enforcing this ordinance for fear of a law suit. She indicates they are getting good compliance with other aspects of their vacant property registration ordinance. Youngstown has decided (as of late March, 2013) to start enforcing their bond requirement. Springfield, Massachusetts passed the original ordinance that required posting the $10,000 cash bond in August, 2011. National banks sued in U.S. District Court and the legality of the city ordinance was upheld in July 2012. The banks appealed to Federal Appeals Court. In March, 2013, the city decided not to accept a mediated settlement and is going to start enforcing that part of the ordinance.

Six month Inspections: Painesville has instituted an aggressive program of Vacant Property Registration over the last year. Interior and Exterior Inspections are performed on a 6 month basis. Euclid does 2 annual external inspections, “provides a list of required repairs to the owner and a date on which the repairs must be completed. The property owner faces fines if the repairs are not made.” The Table on the second page following summarizes Euclid vacant property registration activities over the first year of the program

Posted Notices: Many ordinances require a sign that specifies the phone number and address of the party responsible for the property, (see page 7 of Canton Ordinance).

A Vacant Building Plan: Several ordinances require a vacant building plan be filed based on 3 categories (demolition, secured structure, rehabilitation) (see Painesville and Sandusky). Where demolition is specified, some ordinances (see Painesville) require an escrow of $10,000 for a residential building and $75,000 for a commercial building.

The Use of Pilot Neighborhoods: Cincinnati has focused its enforcement efforts by specifying a set of pilot neighborhoods for the vacant and foreclosed property registration ordinance. The neighborhoods specified ranked relatively high in the number of foreclosed properties. Documents enclosed in an appendix provide 1) the initial letter sent by the city at the time of foreclosure to owners and 2) the detailed experience of the city in the 5 pilot neighborhoods over the first 8 months of the program. The essential program accomplishments include monitoring 433 foreclosure filings. Of those 158 have become vacant and the annual fee of $500 has been paid on 121 of the vacant structures for a total fees paid of $60,500. In addition, 289 fines have been levied to a total of $148,150. The program requires the services of 1 FTE Housing inspector and 30% of a FTE clerical time.

Some Relevant Vacant Property Registration Ordinances in Ohio

City/County	Fees	Enacted	Registration Timeframe	Other Features
Canton	$125; annually, renewal due Jan. 1	8/27/2012	30 days following vacancy	Amended Ordinance on 8-27-12 specifies registration 30 days following filing of default with a bond requirment of $10,000.
Cincinnati	$500 vacant less than 1 yr annual renewal	6/1/2012	30 days following notice	Based on Pilot Neighborhoods.
Chillicothe	none	12/11/2006	Within 20 days following the foreclosure filing	
Columbus	$100	7/21/2004		Immediately following notice of violation
East Cleveland	$500; annually for well-maintained,	6/2/2009	45 days following vacancy	esclating schedule for those not maintained
Euclid	$200	2/6/2012	90 days following vacancy or 30 days following city notification	housing inspector will conduct two annual exterior inspections of the property, provide a list of required repairs to the owner and a date on which the repairs must be completed. The property owner faces fines if the repairs are not made.
Massilon	$100; annually, $10 per unit; pro-rated a	9/12/2012	90 days following vacancy	
Painesville	$200; annually, with escalating fee schedule that doubles every year	2/22/2011	90 days following vacancy or 30 days following city notice	Requires owners to submit vacant building plan, Requires inspection twice a year -- internal and external, Provides for exemptions (i.e., listed with licensed broker)
Parma	$150 with escalating fee for 3 yr. schedu	Pre-2009	30 days	A Vacant Building plan must be submitted with the registration. If the requirements of the plan are not followed, the property must be re-registered with the applicable fees every 6 months. In addition, passed on May 13, 2011 A Foreclosure Notification Ordinance
Sandusky	$400 with fee doubling each year for 5 yrs.	3/26/2012	30 days following vacancy or 30 days following city notification	Applies to Vacant Commercial/Industrial Buildings. Vacant Building Plan must be filed. Must submit vacant building plan defined in one of 3categories (demolition, secured structure, rehabilitation). Have general liability insurance.
Toledo	$100; annual, due Jan. 1, escalating fee schedule, May ve waived under particular circumstances	12/15/2008	90 days	Jan 2013, Toledo City Council made changes to the vacant building registry legislation. Major changes involved including entities which file complaints for foreclosure on residential buildings, which may cause a building to become vacant or abandoned. The law requires owners of vacant homes to pay an annual $200 fee to be on the registry, as a way to fund city nuisance inspectors and crews cutting grass on vacant property.
Youngstown	$100; annually from registration date	10/19/2011	30 days following vacancy or city notification	Amended the vacant property registry to include a $10,000 bond on foreclosed properties, the bond can be used against mowing, boarding and demolition costs the city incurs
Zanesville	$100; annually	7/27/2010	30 days following vacancy	

Euclid Vacant Property Registration Data			
	June-December, 2012	Jan-June, 2013	Total, June 2012 to June 2013
Letters Mailed	656	219	875
# of Point of Sale Permits	60	40	100
Revenue from Sales Permits ($225/ea)	$ 13,500	$ 9,000	$ 22,500
# of Vacant Property Registrations	269	178	447
Revenue from Vacant Property Registrations ($200 each)	$ 53,800	$ 35,600	$ 89,400
Source: http://www.cityofeuclid.com/community/housing/VacantPropertyRegistration			

Appendix Five: Best Practice Report on Potential Vehicles for Encouraging Investment in Historic Districts and Preserving Landmarks

I. Financing Vehicles

A. Hamilton's CORE Program: One example that was cited by state historic preservation officials as exemplary is the City of Hamilton's CORE program, established as a separate 501C3. Participating investors in the CORE Fund include the Hamilton Community Foundation, First Financial Bank, Fifth Third Bank, and the City of Hamilton. The goal is to provide targeted capital investments in real estate development or redevelopment projects in the historic urban core of the City of Hamilton. They are specifically targeting particular sites including the former facilities of Smart Paper, Ohio Casualty, and Elder Beerman. While CORE has participation from the major banks in town, it also has a professional staff that can provide the lead on pulling projects together; providing planning and design assistance in addition to underwriting.

CORE is in part a successor to the Community Foundation's earlier economic development efforts. In 2005, they established a Community Development Fund as a vehicle for investing in projects that could have an important influence on the economy of the area. The Hamiltonian Hotel was their first Community Development Fund project.

It is however difficult to separate out CORE from a set of other initiatives that the City of Hamilton has undertaken including a Business Development Team charged with assisting start-ups and small businesses by smoothing the city's various permitting processes and providing a single point of contact to lead a startup through a certificate of occupancy. In addition, several other initiatives preceded CORE including a set of projects in downtown Hamilton along High Street that used Ohio Historic Tax Credits as part of the mix.

B. Hamilton's Other (Non-CORE) Financing Vehicles

1. Two developments by Historic Developers, LLC (Steve Coon and 4 other partners).

a) Mercantile Buildings Lofts $9.2 million restoration. The project included 29 market-rate residential units and three spaces of street-level retail. The Community Foundation loaned money based on the tax credits.

6% TIF and City of Hamilton
22% State and National Historic Tax Credit Equity
18% Conservation and Facade Easement
12% Owner's Contribution
42% Residual Qualified Rehab Expenditures

b) The Historic Journal News building (will house Butler Tech Arts Academy) Ohio Historic Tax Credit $804,122. The money from the tax credits will support phases two and three of the project, which will be completed in mid-February, 2013. Initial construction on the project began in the late summer of 2012. Note that on the initial Phase I only private equity money was in use. OHTC came in on Phase 2 and 3. In Phase 1 the city didn't contribute any money "but has agreed to execute the purchase agreement and escrow instructions for the sale of the building." The purchase price was $100,000. Developer had commitments from Butler Tech before proceeding with purchase and the City of Hamilton acted as a pass through perhaps because of asbestos issue.   Note: See G10-6-27-12 Ratify Journal News Building Assignment Agreement.pdf

c) Robinson-Schwenn Building, (Opera House renovation) Originally rehabilitated in the 1997-2000 period and only national designated after rehabilitation had occurred.   Now purchased by Historic Developers to potentially link to the Journal News building behind.

2. The Strauss Building (42 apartments and artist studios) (getting rid of false facade).

Artspace Hamilton Lofts, Total Project Cost: $10,209,024 Ohio Historic Tax Credit:

$2,332,373, Round 8, June 2012

· Address: 222 High Street, 45011 Developer: Minnesota Artspace

C. TIF Financing and Property Tax Abatements

The OHPTC Program Manager at Ohio Development Services Agency indicated that TIF financing has only been seen sporadically in the projects they have reviewed. However, he felt that the automatic application of property tax abatements had been useful in various projects (Columbus in particular). He noted that Canton has used TIF in special loan packaging.   Cleveland's Victory Building project (office and lab space planned)), awarded OHTCs in Round 7 in Dec 2011, had substantial aid pledged from the City of Cleveland including a $720,000 loan tied to a vacant property fund and a tax-increment financing deal worth $2.5 million over 30 years.

Summa Center Building, A TIF example from Akron: Summa Center building (formerly Charles Mayer building (formerly post office)) was purchased by Akron Legacy Real Estate Development LLC for $1.2 million. The rehabilitation cost is $8 million. Summa Hospital is putting 200 IT and finance employees in offices in it.

The City used Tax Increment Financing to pay for the land purchase (8 acres) and site-related public improvement. Akron originally acquired the property and demolished existing structures at a cost of $2.5 million for the planned re-location of METRO Transit's intermodal transfer center (now to go elsewhere).

The project includes a special financing arrangement to cover the city's nearly $4 million upfront cost of preparing the land for development. Property taxes levied on the improvements will be diverted to the city for 30 years to repay those upfront costs.

D. The Importance of Non-Profit Vehicles in Financing

The OHPTC Program Manager at Ohio Development Services Agency noted the vital role of non-profits in Cincinnati and Cleveland in their Historic Tax Credit projects (see Tables 2 through 4 on page 23). In Cleveland, the Downtown Cleveland Alliance has both a Business Development Team and a Predevelopment Matching Fund.[2] The Predevelopment Matching Fund "provides financial support to property owners and developers ...to complete financial and architectural feasibility studies, design

[2] Of course, the Downtown Cleveland Alliance also runs the Downtown Cleveland Special Improvement District via a contract with the Downtown Cleveland Improvement Corporation that has all downtown property owners as shareholders. Part of DCA's programming is based on grant funding from Cleveland foundations.

development studies, prospective appraisals or historic tax credit qualifications." The goal is to provide expert advice on the economic feasibility of a project. The Predevelopment Matching Fund was set up with support of major foundations in Cleveland.

While Cleveland has had considerable success across the OHTC rounds, it is difficult to judge the degree to which projects are viable primarily because the economics for apartments in downtown Cleveland are good. Occupancy rates for apartments in downtown Cleveland hover in the 96% to 97% range and the projects awarded Ohio Historic Tax Credits in Round 8 and 9 included two major projects focused on large multi-unit residential. For example, the East Ohio building is a 21 story building in the 912 historic district downtown that is going to be converted to 223 residential apartment units. One could tell a story about the work the Downtown Cleveland Alliance has done over the last three years to rebrand the 912 district that the building is in, but one might argue that the project was viable on its own.

The developers of the Rosetta Center building on Euclid Avenue in Cleveland were awarded Ohio Historic Tax Credits in Round 8 to redo 5 stories from empty offices to 83 apartment units. Note that the developers already owned the building and had existing commercial tenants on other floors. The Truman Building, at 1030 Euclid Ave was awarded $1.8 million in OHTCs in Round 8 for a plan that included 26 apartments along with some retail and indoor parking.

In Cincinnati, 3CDC (Cincinnati Center City Development Corporation) has been an important driver of historic district projects. They function independently (and sometimes despite opposition from) the city government. Their fast and furious levels of activity have sometimes had more traditional historic preservationists alarmed. They function both as developers themselves and as lenders to developers using New Market Tax Credits and a Cincinnati Equity Fund. In the table on the next page, their completed projects from the last 8 years are shown with a break-down of funding sources. Note the relative unimportance of Historic Tax Credits in the mix and the use of city grants as an element. A detailed description of the history of their two lending funds, The Cincinnati New Market Fund and the Cincinnati Equity Fund (taken from their web site) is provided in an Insert at the end of this section.

Implications and Potential Direction: Historic Rehabilitation projects are difficult to do without sophisticated developers knowledgeable about financing vehicles and mechanisms in place to share risk. In Cincinnati 3CDC and in Cleveland the Downtown Cleveland Alliance have provided a substantial amount of expertise and brokerage services that aid the development process. Hamilton's projects owe a substantial amount to the involvement of the Hamilton Community Foundation and its willingness to become involved in the gap financing of deals. CORE is a response to Hamilton's successful experiences in that process. Periodically, TIFs have been used to assist with particular projects around the state and in Cincinnati and Cleveland, city grants have been a part of the mix.

Dayton should invest in developing a non-profit vehicle for sharing risk across investment partners and providing the expert assistance in the planning and development stages that is sometimes required. The expert assistance is an important element of the strategy. By code, city officials are charged with enforcing regulations and the skill sets they develop to do that well are not the same skill sets that are required to proactively assist development of historically important structures and districts.

The location of the non-profit is logically linked to CityWide Development and the City of Dayton is in active discussion with CityWide on transitioning the governance of CityWide and establishing some performance based contracts. This Task Force strongly recommends that very specific accountability measures be built into any renegotiation of CityWide's organization structure and recapitalization by the City of Dayton. While there are substantial advantages to the establishment of a private non-profit in terms of attracting private capital, elements of accountability should also be built in given the City of Dayton's financial stake.

Insert: Description of 3CDC, Cincinnati New Markets Fund, Llc and Cincinnati Equity Fund
Reprinted from http://www.3cdc.org/what-we-do/fund-manager/

3CDC

"In November 2004, the staff of 3CDC accepted the daily operating responsibilities for the Cincinnati New Markets Fund (CNMF) and the Cincinnati Equity Fund (CEF). The separate governing Board of these two private funds consolidated financing programs geared toward urban redevelopment to accomplish the common goal shared by all three organizations. CNMF and CEF loans spur economic development in the Central Business District (CBD) and Over-the-Rhine (OTR) providing:

A key source of capital as lending institutions abandon the market
Capital for land banking
Funding for pre-development activities
2-4% interest rates
Interest-only payments (NMTC loans)
No pre-sale requirements
Loans made on non-recourse basis to developers
Loan proceeds revolve and are reinvested in additional projects

As manager of CNMF and CEF, 3CDC acts as a bank, loaning and investing money in projects that will bring benefits to and spur additional private development in the center city. CNMF and CEF funds are used to redevelop existing buildings on or bring new construction to land banked properties owned by 3CDC. These projects would generally not qualify for the rates and terms required by conventional banking. To date, 3CDC has invested $437 million in the CBD and OTR. Approximately $234 million of that investment, more than 50%, is from CNMF & CEF. The success achieved is due to the dedication of the CNMF & CEF Board of Directors, City officials and staff, community organizations and residents.

CINCINNATI NEW MARKETS FUND, LLC

The Cincinnati New Markets Fund (CNMF) is a private organization comprised of 13 leading Cincinnati corporations. CNMF focuses on making loans and equity investments that help to revitalize and strengthen the center city of Cincinnati, including both the central business district (CBD) and the adjacent Over-the-Rhine (OTR) neighborhood. These areas are considered distressed neighborhoods and therefore qualify for NMTC investments.

CNMF is the result of the federal New Markets Tax Credit Program (NMTC), which was established by Congress in 2000 as part of the Community Renewal Tax Relief Act. It provides a credit against federal income taxes to privately managed investment funds such as CNMF. In turn, these investment funds, or community development entities (CDE), make loans and capital investments to stimulate development in distressed communities.

Appendix Five Table 1: Completed Projects of 3CDC in Cincinnati over the period from 2005 to 2012

	Type	FHTC	OHTC	CNMF/ NMTC	Tax Abatement LEED	City Grant	Cincinnati Equity Fund	City of Cincinnati	ODD	Private	Bank Loan
Belmain	16 loft units			$2.7 M	10 year						
Bremen Lofts	17 loft units			$2 M		$1.4 M	$0.15M				
Centennial Row				$1.15M		$0.6 M					
City Home Phase 1	11 units			$3.17 M				$0.78 M			
Phase 1b	4 units			$1.24		$0.36 M					
Phase 2	7 single family townhouses			$1.74 M		$0.46 M					
Duncanson Lofts	25 condos plus retail			$5 M		$1.6M	$0.8M				
Duveneck Flats	15 Condos plus commercial			$3.8M		$0.6M	$0.6M				
Falling Wall	6 units			$1.58M		$0.2M					
Fountain Square	public space$13M					$4M	$7.9M		$4M	$5M	$15M
Gateway Arts Building	12 units/commercial space			$0.8M		$0.5M	$1.7M				
Gateway Condos	21 units					$2.5M	$2M			$2M	
Good Fellows Hall	5 units			$1.8M		$0.24M					
Lackman Bar	Bar			$0.425M						$0.163M	
Lackman Lofts	7 units			$1.48M		$0.28M					
Lofts at Fountain Sq							$0.8M			$4.5M	
Mottaini	8 units			$2.37M		$0.48M					
Parvis Lofts	32 Units	$1.8M	$1M	$2M		$0.96M	$1.74M				$3M
Saengerhall	Office/Comm	$1M	$0.9M	$2.3M			$4.1M				
The Righteous Room	3 units/Commercial			$2M							
Trideca Lofts	9 units + Commercial			$2.9M		$0.4M					
Trinity Flats	25 units + Commercial			$5M		$1M					
Washington Park	Public Green Space, event, underground garage	Public $26.2M, Private $21.9M (NO HTC)									
Walnut Streert Grille	Restaurant						$3M			$1M	
Westfalen Lofts	9 units		$0.39M	$2.63M		$0.36M					

Inset from 3cDC Website (Continued)

The managing members of 3CDC committed over $90 million to compete for an NMTC allocation award in 2003-2004. During that round of funding, the Federal government received applications from 271 entities requesting a total allocation of $30.4 billion. CNMF's $50 million award was one of only 62 applications accepted nationally in a process that awarded a total of $3.5 billion. Investment of this allocation included the revitalization of Fountain Square and approximately 250 residential units and 91,000 SF of commercial space in Over-the-Rhine.

In October 2008, another application from 3CDC on behalf of CNMF was accepted and awarded $35 million in New Markets Tax Credits from the CDFI. This was the sixth round for the NMTC program. In all, 239 organizations nationwide requested funding totaling over $21 billion. CNMF received one of only 70 awards granted this round by CDFI. The award has allowed CNMF and its strategic partners to continue redevelopment downtown north of Fifth Street as well as its revitalization efforts in OTR, specifically moving north on Vine Street and the renovation of Washington Park.

3CDC has been awarded 2 more NMTC allocations since then for a total of $153 million. A fifth application was submitted in the fall of 2012. Total development directly spurred by CNMF investment totals $437 million.

As the manager of CNMF, 3CDC makes loans to developers for redevelopment projects in the target areas. Most developers will not or cannot borrow money from a conventional lender to undertake risky development opportunities. Once a development is completed, the developer begins to pay back the loan and the repayment goes back into CNMF allowing even more loans to be made.

The overall goal of CNMF is to support 3CDC's efforts to revitalize the CBD and OTR by making below market-rate loans to commercial, residential and community real estate projects. Currently, there are two main offerings: a mezzanine loan product and mixed-use construction loan product. Revitalization is resulting in the creation of new home ownership opportunities and jobs, repopulation of the neighborhoods and reduction in crime. Without CNMF's low-cost capital, such efforts would not be financially feasible.

By making an investment in a CDE, an individual or corporate investor can receive a tax credit worth 39% of the initial investment, distributed over seven years, along with any anticipated return on their investment in the CDE. The program is administered by the CDFI Fund; an arm of the U.S. Treasury.

THE CINCINNATI EQUITY FUND, LTD.

The Cincinnati Equity Fund (CEF) was created in 1995 to support real estate development and compliment the low-income housing market by providing market-rate housing units to create mixed-income neighborhoods. To date, CEF and CEF II have made over $136 million in loans resulting in $672 million in total development directly spurred by the fund's investments. Projects include Fountain Square, Washington Park, Nicholson's, Palomino, Boca/Igby's, The Banks, and Over-the-Rhine condo developments.

CEF provides gap financing for downtown real estate development projects that would not otherwise happen but for the debt facility provided by CEF. Currently, there are two main offerings: a mezzanine loan product and mixed-use construction loan product. Both products offer components such as 2-4% interest rates, funding for pre-development and no pre-sale requirements."

Appendix Five Table 2: Ohio Historic Tax Credit Program through Round 9

Round	Year	# of Approved Projects	Estimated Tax Credits (in millions)
1	2007-08	40	$126.8
2	2008	34	$58.0
3	2009	11	$17.9
4	2010	13	$31.1
5&6	2011	13	$23.8
7	2011	13	$15.0
8	2012	18	$35.8
9	2012	23	$35.9
Total		165	$344.3

Appendix Five Table 3: Relative Success of Major Cities in Ohio Historic Tax Credit Program through Round 9

	Rounds 1-7		Round 8		Round 9		Total		
	# of Approved Projects	Estimated Tax Credits (in millions)	# of Approved Projects	Estimated Tax Credits (in millions)	# of Approved Projects	Estimated Tax Credits (in millions)	# of Approved Projects	Estimated Tax Credits (in millions)	Tax Credits per resident
Akron	10	$6.6	0	$0.0	0	$0.0	10	$ 6.6	$ 33
Cincinnati	23	$32.5	4	$8.2	6	$8.9	33	$ 49.6	$ 167
Cleveland	42	$117.0	2	$3.4	7	$14.7	51	$ 135.1	$ 343
Columbus	4	$8.8	4	$8.8	4	$2.4	12	$ 20.0	$ 25
Dayton	3	$4.7	1	$1.9	1	$3.3	5	$ 9.9	$ 69
Toledo	5	$11.9	1	$5.0	1	$1.4	7	$ 18.3	$ 64
Youngstown	6	$9.0	0	$0.0	0	$0.0	6	$ 9.0	$ 138

Appendix Five Table 4: Dayton Projects approved for Ohio Historic Preservation Tax Credits

Project	Address	Round	Estimated Tax Credit	Status (early 2012)
C.F. Ware Coffee Company Building	607 East Third Street	FY08	$1,283,017	Seeking Financing
Centre City Building	36 South Main Street	FY11	$1,870,909	Seeking Financing
Dayton Power and Light Company Building	613 - 645 East Third Street	FY08	$1,548,225	Seeking Financing
Rubenstein Building and Marietta Flats	1112-30 and 1146-48 W. Third St.	Round 8	$1,862,500	Not Known
Adaptive reuse (Wright Dunbar, Inc. and Wright State University) Marietta Flats will house Wright State's Children's Diagnostic and Therapeutic Innovation Center, creating 14 jobs. Historically known as the Walters Block, the Rubenstein Building will be rehabilitated for the University's Memory Center for Dementia and Alzheimer's Disease, creating 17 jobs.				
Huffman Block (David Building)	115 East Third Street	Round 9	$3,336,680	Not Known
Project entails the rehabilitation of the structure into the Lux-Lofts Apartments and would create 125 construction jobs				

Appendix Six: Transportation Alternatives Program Relevant Passages

Guidance on TAP Eligibility http://www.fhwa.dot.gov/map21/guidance/guidetap.cfm

Funds apportioned to a State to carry out the TAP may be obligated only for the activities described below.

There is no requirement for TAP projects to be located along Federal-aid highways. SRTS projects must be within approximately two miles of a school for kindergarten through eighth grade as specified in SAFETEA-LU Section 1404. (23 U.S.C. 402 note)

Eligible Activities: Under 23 U.S.C. 213(b) eligible activities under the TAP program consist of:

1. Transportation Alternatives as defined in 23 U.S.C. 101(a)(29) (MAP-21 1103):
    - **A. Construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other non-motorized forms of transportation,** including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans with Disabilities Act of 1990.
    - **B. Construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults, and individuals with disabilities to access daily needs.**
    - C. Conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other nonmotorized transportation users.
    - D. Construction of turnouts, overlooks, and viewing areas.
    - **E. Community improvement activities, including-**
        - i. inventory, control, or removal of outdoor advertising;
        - **ii. historic preservation and rehabilitation of historic transportation facilities;**
        - iii. vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control; and
        - iv. archaeological activities relating to impacts from implementation of a transportation project eligible under title 23.
    - F. Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to-
        - i. address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in sections 133(b)(11), 328(a), and 329 of title 23; or
        - ii. reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats.
2. The recreational trails program under section 206 of title 23.
3. **The safe routes to school program** under section 1404 of the SAFETEA-LU.
    - A. **Infrastructure-related projects.-planning, design, and construction of infrastructure-related projects on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools that will substantially improve the ability of students to walk and bicycle to school,** including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.
    - B. Noninfrastructure-related activities to encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle

and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.

   C. Safe Routes to School coordinator.

4. Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

Ineligible Activities: Section 1103 of MAP-21 eliminated the definition of transportation enhancement activities in section 104 of title 23 and inserted in its place a definition of transportation alternatives, which does not include eligibility for certain activities that were previously eligible as transportation enhancements:

A. Safety and educational activities for pedestrians and bicycles.
   Exception: Activities targeting children in Kindergarten through 8th grade are eligible under SRTS (an eligible activity under the TAP funding).
   Note: Some of these activities may be eligible under HSIP. Nonconstruction projects for bicycle safety remain broadly eligible for STP funds.
B. Acquisition of scenic easements and scenic or historic sites.
C. Scenic or historic highway programs (including visitor and welcome centers).
   i. Note: A few specific activities under this category (construction of turnouts, overlooks, and viewing areas) remain eligible under section 101(a)(29)(D) of title 23.
D. **Historic preservation as an independent activity unrelated to historic transportation facilities.** Note: Historic preservation and rehabilitation of historic transportation facilities are permitted as one type of community improvement activity; see section 101(a)(29)(E).
E. Operation of historic transportation facilities.
F. Archaeological planning and research undertaken for proactive planning. This category now must be used only as mitigation for highway projects.
G. Transportation museums.