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Court refuses to hear appeal over housing at church

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By Tom Dalton

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SALEM — The lengthy legal battle over the St. Joseph Church redevelopment appears over.

The Massachusetts Supreme Judicial Court has denied a request to hear one final state appeal, thus ending a four-year court fight by a group of neighbors and landlords who opposed the \$19 million project and challenged decisions by the city's Planning Board, Zoning Board and City Council.

They took this final rezoning appeal to the state Superior Court, Appeals Court and Supreme Judicial Court, losing at every stage.

On Sunday, a case that had dragged on since 2006 ended, when an SJC clerk e-mailed a one-sentence notice to attorneys informing them of the decision: "Please take note that on (Friday) the above-captioned application for further appellate review was denied."

The news was greeted with a combination of joy and relief by supporters of the project.

"We're hopeful this is the end of litigation and the beginning of a new block in The Point neighborhood," Mayor Kim Driscoll said. "It's been a long time in coming,"

On hearing the news, Lucy Corchado, president of The Point Neighborhood Association, let out an audible sigh. "I'm just relieved that it's finally over," she said.

"We're excited and ready to move forward," said Lisa Alberghini, executive director of the Planning Office for Urban Affairs, the developer of the Lafayette Street project.

Alberghini said they plan to spend the rest of this year finalizing the financing and taking care of other details, and hope to start construction early next year.

Driscoll called this project a "turning point" for The Point, a low-income neighborhood on the edge of the downtown.

"I think The Point neighborhood is going to benefit tremendously from having a brand-new block with lots of activity taking place on it," she said.

Tris complex construction project will involve several key steps. The developer plans to demolish St. Joseph Church and the convent on Harbor Street, and convert the school and rectory into housing.

It also plans to construct a four-story building on the corner of Lafayette and Dow streets that will have retail space on the first floor and apartments above.

The Planning Office for Urban Affairs, a development wing of the Archdiocese of Boston, will build 65 to 75 affordable residences for families with incomes up to \$63,000 a year.

Although the retail plans are not final, talks have taken place with a drugstore chain.

Alberghini said they are also considering providing community space on the first floor of the new building.

The application before the Supreme Judicial Court was a request to overturn the City Council's rezoning of this Lafayette Street block from a residential district to one that allows residences, businesses and other uses.

Assistant City Solicitor Jerry Parisella, who handled the case for the city, said they were not surprised by the court victory.

"We felt pretty confident going into the case that the courts would uphold the decision of the City Council to amend the zoning for that area, but, even so, it took two years to get a final result," he said. "But every court along the way affirmed that the City Council acted properly in its decision to rezone this area to help promote economic development."

John Carr, the attorney for the plaintiffs, said his clients can "hold their heads high" in defeat. He noted that the Supreme Judicial Court rejects most appeal applications within a matter of days.

"I take some satisfaction in the fact it has taken six weeks before denying our request," he said. "I like to think the reason was we raised serious appellate issues they were struggling with."

Carr said he doesn't, at this point, see any federal issues that would be grounds for an appeal to the Supreme Court.

"Once you've exhausted your appeal possibilities, you've reached the end of the line," he said, "and it appears that's what we have here."

Since the appeals began, this project has changed considerably from a development with a mix of housing, including both condominiums and affordable apartments, to all affordable apartments. A plan to include a senior center also has been dropped.

"Unfortunately, delays do often result in tradeoffs," Alberghini said, referring to the loss of the condos.

The developer added, however, that this still will be a quality project that will benefit the city and neighborhood.

"We are extremely committed," she said. "... That community is extremely important to us."