

The Role of Tax Credits and Subsidies in Downtown Revitalization: Case Study Binghamton, New York

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Introduction

The O'Neil-Ross Building, located in the central business district of Binghamton, New York is looking at another lease on life. Known simply as the O'Neil Building, it was built in 1889-1890 for mixed-use office and retail purposes and has been a landmark since it opened. In recent times the O'Neil Building sat vacant for nearly ten years, suffering extensive roof and water damage from neglect. It was sold at auction in 2004. The O'Neil's current owner is now deciding on an appropriate use for the building. Of the possible redevelopment scenarios, a mix of off-campus market rate student housing for the State University of New York at Binghamton (SUNY Binghamton) and ground floor retail appears to be the most feasible option.



Figure 1: Northeastern United States

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The pending rehabilitation of the O'Neil building is important in many respects. Certainly, breathing new life into a disinvested urban center brings with it a host of benefits for the city. Increased tax rolls, economic activity, and urban vitality are just some of the potential positive outcomes, not to mention the ability of urban rehabilitation projects to serve as a catalyst for neighboring redevelopment and more buoyant property values. Because it is located on the city's main commercial street, the reuse of the building should bring people to live and work in the city and direct more activity to its downtown. Other recent projects in the downtown area such as loft apartments, art galleries, and restaurants, have created an interest in both commercial and residential development. Still, a project such as this often stalls in the planning phases due to obstacles with financial feasibility. As in many communities across the U.S., Binghamton's high property tax rate and the general cost of rehabilitation present a challenge to preserving historic building stock and providing economically feasible opportunities for developers. Although high property taxes and renovation headaches may be seen as a threat, owners/developers can turn to federal, state, and local subsidies to make a project such as this financially feasible. These funding tools make rehabilitation plans for the O'Neil Building and other projects viable alternatives to demolition or development on less challenging Greenfield sites.

This case study looks at three alternative development scenarios: rehabilitation with no subsidies; rehabilitation with subsidies available today; and rehabilitation with enhanced subsidies currently under consideration at various levels of government. Since the scenario with enhanced subsidies will produce the most attractive financial results, and because these subsidies either exist today in other communities, or have realistic chances of adoption at various legislative levels, this scenario warrants serious consideration. As such, several policy recommendations are offered that would bridge the gap between existing programs and what is required for this project and others like it to become financially feasible.

Regional and Community Setting

Located in the Southern Tier of the State of New York, Binghamton is a classic example of the post-industrial, mid-sized American city. The city's location at the junction of the Susquehanna and Chenango Rivers made it a prime spot for settlement and industry in the nineteenth and early-twentieth centuries. Companies produced cigars, shoes, and cameras, and later computers and flight simulators, employing thousands of people and making Binghamton a hot spot for innovation. In the city's heyday, IBM and Endicott-Johnson Shoes were the leading employers in the area. The jobs brought in people, and the people built a wealth of late-nineteenth century architecture. However, the City of Binghamton has experienced the impacts of deindustrialization and the relocation of manufacturing overseas. Like many American industrial cities, it has seen population loss and economic disinvestment during the last fifty years. Since 1990,

the population of the City of Binghamton has decreased from approximately 53,000 to nearly 46,000. It is projected to continue to decline at a rate of 1% annually over the next ten years. Binghamton's loss of population has had several negative effects, including a severely reduced tax base and a downtown property vacancy rate ranging between 20 and 30%.

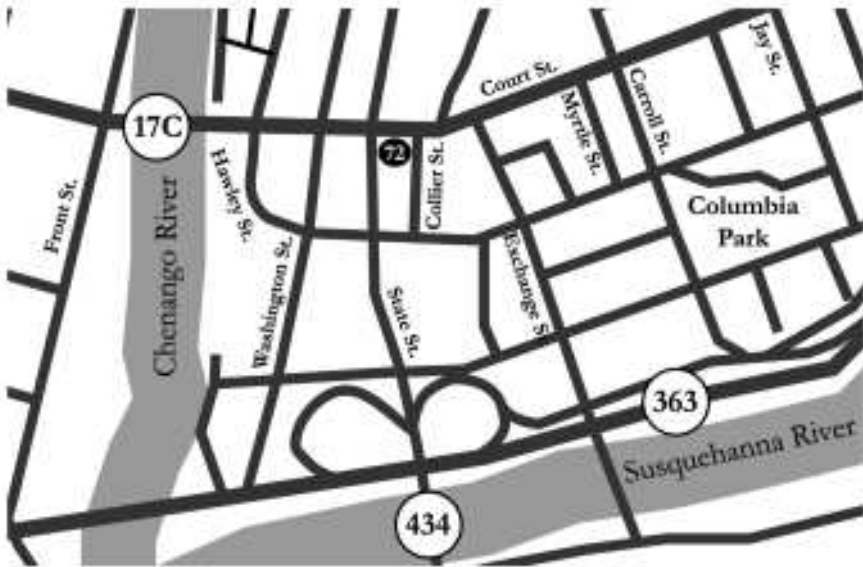


Figure 2: Downtown Binghamton

The flight of industry has resulted in several economic issues for individuals in the city. According to the 2000 Census, the median household income for Binghamton was \$25,665, compared to \$35,347 in Broome County and \$43,393 in the State of New York. Furthermore, the population segment living below the poverty level in the city is roughly 10% higher than that of either the county or the state. One of the most alarming statistics is that the median value of a single-family house in Binghamton - approximately \$66,500 - is one-third the national median house price of \$208,500. 2nd Quarter 2005 (National Association of Realtors).

Today, a walk around Binghamton shows that the city is struggling to evolve from an industry-based to a service-based economy. Decentralization has left retail shops empty and sidewalks deserted, as many downtown business and retail establishments have relocated, like the majority of the areas' residents, to the surrounding suburbs. Recently, however, some surprising new trends have begun to breathe new life into the city. For instance, a new art community is growing in downtown Binghamton, creating market opportunities for galleries and loft living. In addition, Lockheed Martin has recently committed to a local contract in Owego, which will bring 700 new jobs to the region.

Although the nearby suburb of Vestal may attract many of the incoming employees, young professionals are filling large vacancies in downtown housing units across the nation, and Binghamton may benefit from this trend. The downtown area will also see the coming of a new student center for Binghamton University, a development that is sure to bring more business and street life to a struggling urban core. The vacant remnants of an old boomtown position Binghamton for a possible rebirth, and these recent developments could be the key to bringing the city back to life.

O'Neil-Ross Building History

The O'Neil-Ross Building is a 35,913 square foot office building in the heart of Binghamton's Court Street Historic District. The ornate, seven-story brick office structure, located at 70-76 Court Street, (Figure 2), has a long history within the commercial fabric of Binghamton. The building is located within a National Register Historic District, the Court Street Historic District, and is surrounded by other architecturally significant buildings. It boasts beautiful views of the Chenango and Susquehanna River valleys and is located near the city, county, and state offices at Governmental Plaza, NYSEG Stadium, and numerous other office buildings, restaurants, and art galleries. Its proximity to parking at the Collier Street and State Street parking garages also makes it an attractive site for adaptive reuse.

The O'Neil-Ross Building has undergone a multitude of renovations over its 115 year history. The structure is actually comprised of two late 19th century buildings, the Ross Building and the O'Neil Building (Figure 3). The western building was built in 1889-90 by a local banker, Erastus Ross, and designed by the prolific local architect, Truman I. Lacey. Ross was the founder and president of the Merchants Bank, which in 1891 would become known as the banking firm of Erastus Ross and Sons. The Romanesque style Ross Building featured rough-cut stone on the ground floor and a massive entrance arch. George F. O'Neil, a local business man, added two-bays on the eastern side. By 1900, city residents referred to both buildings as the O'Neil Building.

In the 1970s the building's first two floors were modernized for a new tenant, Chemical Bank (Figure 4). The massive entrance arch was removed and the rough-cut stone on the first floor was replaced with a red brick veneer that extended to the second floor. Further interior structural changes were made to merge both of the first floor spaces of the Ross and O'Neil Buildings and to provide stair access to the second floor offices. In addition, the building's owners painted the exterior of the third through seventh floors white and, installed tinted modern windows

Occupancy dwindled in the late 1980s and early 1990s as the owner deferred maintenance on the building. By 1996, all tenants had vacated the building and the owner owed approximately \$500,000 in back taxes. In 1995 the City of Binghamton began pursuing the owner for back taxes but was not able to acquire title to the building

until March 2004, when they placed the building on the market. Unfortunately, the building suffered greatly from the lack of maintenance. Due to negligence, the roof collapsed, subjecting the interior to moisture and mildew, and necessitating an extensive rehabilitation.

Mark Yonaty, a local businessman born and raised in Binghamton, became interested in the building in 2004. Like many long time residents, Mr. Yonaty remembers when Binghamton's downtown was thriving and wants to help bring back that lost vitality. He realizes the O'Neil Building represents an excellent opportunity due to its location at a prime intersection in the heart of downtown.

Mr. Yonaty is considering final development plans for the building and is interested in exploring the possibility of high-end office space as well as student housing to accommodate SUNY Binghamton's future 25 million dollar investment in a downtown satellite campus. His immediate concerns are stabilizing the roof, assessing the environmental abatement needs, gutting the interior, and evaluating mechanical systems needs. Mr. Yonaty currently estimates the rehabilitation will cost at least \$2.0 million. A much higher estimate, well over \$3.0 million, will be used in this analysis.

The rehabilitation and occupation of the O'Neil Building should bring a renewed vitality to downtown Binghamton. Its successful re-emergence should not only encourage others to invest in downtown businesses, but also encourage people move to downtown - creating a 24-hour community. The building's restoration, especially the removal of the 1970's brick veneer façade, will bring attention to the historic fabric of downtown and should encourage others to pursue historic restoration. With proper improvements and use, the O'Neil Building will again play an important role as an anchor of the central business district of Binghamton.

Proposal: Student Housing

The most attractive proposal for the O'Neil Building is believed to be a mixed-use structure, with student housing units on the upper six floors and retail space on the first. The goal of this proposal is to capture demand from Binghamton's student population. SUNY Binghamton plans to build a new \$25 million student center along the river's edge, featuring classrooms and academic programming. This investment will create a need for student housing that is currently lacking in downtown. While this proposal targets students as its primary market, it could also include recent graduates, young professionals and couples in transition in its marketing scheme.

This proposal would keep the basic plan of the building intact on the upper six floors. Again, the interior would have to be completely gutted and rebuilt due to the extensive damage, but the new plan would retain the original spatial composition. The central

staircase and elevator loft would remain in their current locations. The area surrounding the arrival bays would be divided into 34 apartments, with a range of studios, one-, two- and three-bedroom apartments. The large window openings and high ceilings should be retained to create a unique character and selling point for the apartments.

The student-housing proposal envisions the first floor of the building as retail space for either one or two tenants. Ideally, the developer would rent or use the retail spaces in a way that would reflect the demographics of its tenants and the surrounding community. The building is conducive to a bank or other financial tenant given its history. However, if bringing round-the-clock life to downtown is a goal, a tenant with longer operating hours such as a café/book store may be sought, which could make downtown more attractive to potential tenants.

Removing the 1970's era brick veneer and restoring the original façade is also recommended. This façade improvement will inherently improve the aesthetic of the entire downtown area, not just the immediate building. It will also enhance the appeal to young urban dwellers and the art patron population, both of whom increasingly value historic features. Moreover, the building will have a distinctive identity and stronger market presence which, in turn, will allow the owner to charge higher rents.

While the concept of a mixed-use housing-retail complex marketed toward students has some details, such as parking, that still need to be resolved, a separate market analysis conducted by the authors demonstrated that this is a market that is much underserved. Other successful conversions of older buildings to living space in Binghamton indicate that the O'Neil conversion to student housing has great potential. With support from both federal and state government grants and tax incentives, this restoration is possible

Financial Feasibility Analysis

The O'Neil Building is currently vacant and must undergo extensive renovation before returning to productive use, though it arguably sits on the best corner in downtown Binghamton. Whether a historic or non-historic approach to rehabilitation is ultimately chosen, the O'Neil Building must be a destination - and an aesthetically intriguing structure to succeed. Future tenants will be looking for sophisticated, tasteful interior space. A historic renovation is one way to create a distinct building that will attract these users, both urban dwelling students and retailers.

Methodology

Three different iterations of the O'Neil Building cash flow analysis were produced for the student housing development scenario and are described below:

1. No Subsidy- This scenario includes a pro forma cash flow assuming that

- none of the current financial subsidies and incentives are employed (Appendix A)
2. Base Case- This scenario incorporates the financial incentives available to the investor today. These incentives include: 20% Historic Rehabilitation Tax Credit (HRTC), tax abatement under the Ithaca Law, and incentives available through the New York State Empire Zone program- including sales tax exemption for materials used in the rehabilitation of the building, and savings on utilities and business taxes (Appendix B)
 3. Enhanced Subsidy- This analysis looks at how changes to the HRTC proposed by the National Trust for Historic Preservation would enhance the owner's returns, if those proposed changes could be applied to the project (Appendix C).

The purpose of the cash flow analysis is to facilitate an understanding of the manner in which subsidies and financial incentives affect the viability of rehabilitating an historic property. The analysis demonstrates the extent and complexity of the creative financing that is involved. It is not meant to be exact in terms of dollar amounts, but to illustrate the challenges and opportunities posed by programs like the Historic Rehabilitation Tax Credit, the Ithaca Law, and the Empire Zone programs. Key Assumptions for the cash flow analysis are detailed in Table 1 below.

Subsidy Programs

The key subsidy programs employed in the analysis including The Historic Rehabilitation Tax Credit (HRTC), the Ithaca Law, and Empire Zones programs are worthy of further discussion.

HRTC

The HRTC represents an opportunity to rehabilitate the O'Neil Building in a historically sensitive manner. According to the analysis, the O'Neil Building qualifies for HRTCs, in the amount of \$570,858 if rehabilitated as a commercial building, in this case retail and student housing. Table 2 below shows the tax credit calculation. Eligible expenditures include most of the hard and soft costs of improvement, but not the cost of land.

HRTCs are available for 10% to 20% of eligible expenditures. The amount of tax credit allowable depends on several factors. The details of the program and qualifications can be found on the National Park Service website at <http://www.cr.nps.gov/hps/tps/tax/IRSTAxLaw.htm>. The O'Neil-Ross Building is in the Court Street Historic District and is not on the non-contributing list; therefore, it is a candidate for the 20% credit. Naturally, this deeper subsidy comes with more comprehensive rehabilitation requirements.

As part of the historic rehabilitation we assume the removal of the brick veneer façade

Table 1: Summary of Key Assumptions

Building Data	
Acquisition costs	\$65,000
building size, sf	\$35,913
floor plate, sf	4,866
number of stories	7
Student Apartments Assumptions	
Square Feet Avail. To Apartments	31,047
Efficiency	85%
Net Square Feet for Apartments	26,390
Average Unit Size, sf	775
Ave. Bedrooms/Unit	2
Number of Units	34
Market rent per Unit, per month	\$900
Operating expenses, % of EGI	25%
Operating Expense increase per year	3%
Vacancy %	8%
Retail Assumptions	
Retail sf	4,866
Efficiency, %	87%
Net rentable area, retail	4,233
Market rent/sf, retail	\$12.00
Rent/Expense Inflation	3.0%
Operating expenses,% of EGI	25%
Vacancy %, retail	5%
Lease Commission, %	4%
Tax Assumptions	
Percent Depreciable	85%
Project Total Basis, Apt/Retail	\$3,637,330
Depreciable Life Retail	39
Depreciable Life Apt.	27.5
Depreciation per Year, Apt/Retail	\$122,030
Holding Period (years)	5
Construction & Financing	
Façade Removal and Restoration	\$200,000
Construction Duration, yrs	1
Construction Loan-to-Cost	80%
Interest Rate	7.50%
% Loan Outstanding during Construction	50.00%
Construction Financing Costs, 1% of Loan	\$28,579
Cost per sf, retail	\$55.00
Cost per sf, apartments	\$100.00
Construction Cost, Apt & retail	\$3,572,330
Construction Loan, Apt & Retail	\$2,857,864
Interest on Const. Loan, Apt/Retail	\$107,170
Permanent Loan-to-Value, A&R	75.0%
Weighted Cap Rate, A&R	8.0%
Stabilized Value of Apt/Retail	\$3,555,181
Interest Rate on Permanent Loan	6.5%
Amortization Period, yrs	25
Loan term, yrs	20
Selling Assumptions	
Cap Rate at Sale - Apartments & Retail	8.0%
Selling Price - Apartments & Retail	\$3,273,168
Selling Expenses, %	4%
Tax Rate (all income)	35%

on the first two stories of the building. The estimated cost of removing the brick and restoring the façade beneath is \$200,000. While this is a considerable expense, the benefits may outweigh the cost. It is important to note that in addition to the standards attached to the 20% tax credit, the investor will be responsible for meeting these standards for the entire project if he receives any state or federal funding for the project, such as a façade grant. Therefore, the incremental cost to the project will not be onerous. The use of tax credits can be administratively challenging and time consuming, however, there are several consultants operating locally who can facilitate the process.

Table 2: O'Neil Building Historic Rehabilitation Tax Credit Calculation

	Retail / Student Apts.	
Tax Credit Available	20%	
Eligible Expenditure	\$	3,572,330
Total Tax Credit Available	\$	714,466
Fees @ 15%	\$	607,296
Equity Yield for HRTC	\$	0.94
Equity Raised from HRTC	\$	570,858

Ithaca Law

The Ithaca Law is a ten-year state tax abatement program. The Ithaca Law was passed by the New York State Legislature in 2001 and enables cities to pass their own version of this tax abatement program. It is available only in cities that have adopted their own local version of the Ithaca Law. Binghamton is one such city. Cities that adopt a local version of the Ithaca Law are given considerable discretion to structure their program in a manner that suits local needs. Most cities that have adopted an abatement program, including Binghamton, have structured it to allow a property tax freeze for five years following rehabilitation. Beginning at year six the property tax is phased in, based on current market values, in 20% increments, until full tax liability is reached in year 10. The tax liability of the O'Neil Building under Binghamton's adopted version of the Ithaca Law is shown in Table 3 below. Without the Ithaca law, the annual tax liability for the O'Neil building would be that amount shown in year 10 after expiration of the tax abatement.

The tax savings from the Ithaca Law are reflected in the line item 'property taxes w/ abatement' in the pro forma found in Appendices B and C. We assume the investor holds the property for five years after the end of construction, and then sells. Given the structure of the tax abatement and our proposed holding period, the investor incurs a property tax expense only in the last year of the holding period. The tax in year six is equivalent to 20% of the actual tax liability. Whoever purchases the property from the original investor would incur considerable tax liability in the years that follow.

This is because the abatement is tied to the building’s rehabilitation, not to the owner. Therefore it expires after 10 years, regardless of changes in ownership. This fact severely reduces the building’s marketability in Year 5. To adjust for this burden, the present value of property taxes in Years 6 -10 (discounted at 8%) was deducted from the initial sales price estimate. Without further help from city or state tax relief programs, the O’Neil Building will face a steep challenge in maintaining positive net operating income given the tax liability it faces toward the last years of the tax abatement program and beyond. In fact, our analysis shows that the tax liability at year 10 is only slightly lower than the net operating income that can be expected. For this reason, the O’Neil Building will be challenged to hold its value long-term. While the Ithaca Law program has made historic rehabilitation projects possible that otherwise would not be, there remains room to strengthen the program to make historic rehabilitation more attractive to private investors. Ultimately, the O’Neil building may succumb to a fate of further neglect or demolition if net rents in the future are not able to support the property tax structure in the city.

Table 3: O’Neil Building Historic Rehabilitation Tax Credit Calculation

O’Neil Building		Retail/ Student Apts.
Annual Liability	\$	226,372.87
Year 1	\$	-
Year 2	\$	-
Year 3	\$	-
Year 4	\$	-
Year 5	\$	-
Year 6	\$	45,274.57
Year 7	\$	90,549.15
Year 8	\$	135,823.72
Year 9	\$	181,098.30
Year 10	\$	226,372.87

Empire Zone

Empire Zones are designated areas throughout New York State that offer special incentives to encourage economic development, business investment, and job creation. Businesses operating inside an Empire Zone are eligible for a range of tax benefits that are applied against new capital investments. Benefits include tax reduction credits, real property tax credits, sales tax exemptions, wage tax credits, and utility rate reductions, among others. The tax benefits can reduce a company’s tax liability significantly. Companies operating in Empire Zones have benefits for up to 10 years. Additional savings are available on a declining basis in years 11 through 15 . Our analysis assumes that a sales-tax exemption on the purchase of materials and services used directly for rehabilitation is awarded under the Empire Zones Program. Additionally, we assume

savings on utility rates and business taxes paid. The savings on sales tax is worked into the pro forma as an 8.0% reduction in the overall cost of rehabilitation. The savings is applied to 50% of the total cost of rehabilitation, because not all expenses (such as labor) are eligible. Savings on utility rates and business taxes are calculated as a 10% reduction in operating expenses each year for the entire holding period.

Findings

Renovation of the O’Neil Building as mixed use retail and residential facility appears to be a financially attractive option. The stabilized cash flows, internal rate of return, and net present value for each of the three cash flow iterations are summarized in Table 4 below. This summary shows what returns would look like if the property were held for five years after the initial year of rehabilitation / construction and then sold. The assumptions made to reach these conclusions were presented in Table 1. Full pro formas for the no-subsidy, actual conditions, and enhanced subsidy scenarios are included in Appendices A, B, and C respectively.

Table 4: Cash Flow and Investment Summary

	year 0	year 1*	year 2**	year 3	year 4	year 5	year 6
No subsidy	\$(65,000)	\$(3,572,330)	\$220,513	\$197,438	\$158,407	\$119,511	\$2,729,027
Actual conditions	\$(65,000)	\$(2,858,578)	\$274,246	\$296,874	\$303,295	\$309,855	\$2,919,556
Enhanced subsidy	\$(65,000)	\$(2,687,321)	\$274,246	\$296,874	\$303,295	\$309,855	\$2,919,556

	Unlevered IRR	Levered IRR	NPV @ 10%	NPV @ 15%
No subsidy	-1%	n/a	\$(1,259,127)	\$(1,544,994)
Actual conditions	8%	13%	\$(60,421)	\$(558,485)
Enhanced subsidy	10%	39%	\$(10,761)	\$(409,566)

Under Actual conditions the unlevered Internal Rate of Return (IRR) is 8% and the Net Present Value of the investment at 10% is (\$60,421). The weighted average cost of capital in our analysis will likely be higher than the interest paid on the permanent loan, or 6.5%. Clearly, the likely returns available under actual conditions are unattractive. These cash flows and returns are the “best available” under current legislation in that they take advantage of New York’s Empire Zone benefits, Ithaca Law Property Tax

Abatements, and Historic Rehabilitation Tax Credits. It is disheartening to see that while even combining all these subsidies, the disconnection between market rents, rehabilitation costs, and operating costs prohibits an attractive investment.

Enhanced Subsidy Needed

Our analysis indicates that the development scenario would be extremely difficult to undertake with 'no subsidy.' The pro forma yields negative IRRs and a substantially negative NPV. This highlights how economically challenging it can be to rehabilitate historic properties, and how important subsidies are in making such investment attractive to investors. The analysis has also proven that even with readily available subsidies, this project would not be feasible. Perhaps the project requires some form of subsidy boost in order for the numbers to work out. This section takes legislation currently under consideration and applies these subsidies to the project to further examine feasibility.

The National Trust for Historic Preservation has recommended that the HRTC be increased for projects in disinvested areas. The proposed change to the HRTC would provide tax credits equal to 130% of a project's qualified expenditures. The concept is borrowed from the Low Income Housing Tax Credit Program that provides a similar boost for projects carried out in low-income areas. Per that recommendation, the analysis assumed an allocation of 130% of the available credit in the 'enhanced subsidy' scenario. If the recommended change took effect, the unlevered IRR increases to 10% and the NPV is less negative at \$(10,761), making the project substantially more attractive, but still borderline without leverage. Considering the effects of leverage, the project may in fact become feasible. The financing assumptions used in the analysis yield a leveraged IRR of 39% under the Enhanced Subsidy scenario. Still, the enhanced subsidies demonstrate the importance of continued support for the maintenance and enhancement of available historic tax credits. The rehabilitation of the O'Neil Building and many other properties in downtown Binghamton would certainly be more attractive to developers if a 130% credit were made available for historic projects in that area.

The numbers indicate that an opportunity exists to develop high-end apartments geared to students, with returns hinging on enhanced subsidies currently in the legislative pipeline. If this avenue is to be pursued, not only must it be done aggressively to stay ahead of the market, but a close working relationship with the city must be fostered in order to derive maximum benefit from existing and proposed subsidies. Careful analysis needs to be made of similar local projects in the pipeline. Building high-end apartments would also entail developing some relationship with SUNY to help promote the O'Neil Building as a housing option to incoming students.

Policy Recommendations

There are several policy recommendations that are critical to making the O'Neil Building project a success, as well as promoting historic rehabilitation of other historic buildings in Binghamton.

The Ithaca Law, PILOT (Payment In-Lieu of Taxes) agreements, New York State's Empire Zone, and the Federal Historic Rehabilitation Tax Credit programs are all programs that are currently in place that can ease the burden of rehabilitation costs of historic structures. These incentives are needed to encourage developers to return to historic downtowns, rather than focus entirely on suburban greenfields where new construction costs are less expensive.

New York State Rehabilitation Tax Credit Program

New York is one of several states that does not have a state historic rehabilitation tax credit program. It is strongly encouraged that New York adopt a state historic rehabilitation tax credit program that would provide a tax credit for income-producing projects as well as private residential rehabilitation. States such as Georgia have had marked successes with aggressive tax credit programs that encourage downtown investment and provide a viable alternative to greenfield construction.

The enactment of a state historic rehabilitation tax credit program carries benefits for investors and local residents alike. Both the developer of a project like the O'Neil Building and the residents of Binghamton stand to benefit economically from bringing the building back to productive use. The benefits of encouraging historic rehabilitation include the creation of additional jobs, increased incomes, and tax revenue for municipalities, as well as direct and indirect economic benefits of creating new heritage tourism sites.

The public policy benefits of the state historic tax credit would be numerous. Cities would be able to leverage downtown and community revitalization and guide new investment back to existing municipal infrastructure. Communities would be able to retain existing residents while attracting new residents to existing neighborhoods. The creation of a state historic tax credit would also help communities increase their tax base by increasing property values, encouraging additional local investment, and attracting new business and vitality to existing neighborhoods. It would encourage residents to reclaim the historic housing stock, countering a growing shortfall in owner-occupied affordable housing and improving community appearance and pride. Finally, it would encourage the establishment of new National Register and locally-designated historic districts, as well as municipal participation in the Certified Local Government Program. Together these programs can have a significant impact.

National Trust for Historic Preservation Proposed Changes to the Federal Rehabilitation Tax Credit Program

The National Trust for Historic Preservation has proposed changes to the Federal Rehabilitation Tax Credit Program in order to make it more effective in promoting historic preservation. Amendments include:

Basis Reduction: Although not entirely applicable for the O'Neil project, there is a proposal to eliminate or weaken the rule that lowers the tax benefit of the HRTC when used in conjunction with the Low Income Housing Tax Credit. Under existing rules, the LIHTC must be subtracted from the building's eligible basis before calculating the HRTC. The new rule would allow the HRTC to be calculated based on the entire basis, thereby deriving maximum tax benefit from both the HRTC and the LIHTC. Compounding the tax benefits even further, the entire basis could be used to calculate annual depreciation, not just the reduced basis after the application of both tax credits. In all, these changes would significantly increase the equity available for all kinds of residential urban rehabilitation projects and greatly enhance feasibility.

Boost Subsidy in Distressed Areas: Increase the possible amount of historic tax credits in the most disinvested areas, in order to stimulate rehabilitation of historic buildings located in the most difficult areas to develop. Currently, the Low Income Housing Tax Credit allows for a basis boost of 130% for projects undertaken in low-income census tracts. A similar boost for the HRTC would greatly benefit downtrodden neighborhoods and downtowns.

More "Workability" for Small Projects: Enrich the historic rehabilitation credit's potential for small projects. The existing subsidy is comparatively shallow, which disproportionately affects smaller developments because the potential tax credits from such projects are simply too small to warrant participation by institutional investors.

Less Extensive Rehabilitation Rule: Currently there is a mismatch between historic rehabilitation tax credits and low-income housing tax credits (LIHTC), which precludes a category of LIHTC projects with less extensive rehabilitation benefiting from the historic rehabilitation tax credits.

Allow the 10% Credit Available for Housing and for Buildings that are 50 Years or Older: Under present guidelines, the 10% credit is not available for non-historic residential income-producing rental property, which affects the amount of housing that could be made available through historic preservation. In contrast, investors and developers are allowed by the tax code to use the 10% tax credit for a non-residential, non-historic (as defined by building and/or district designation) structure built or put

into service before 1936. This differs from the 20% tax credit code, which allows all historic buildings that are at least 50 years or older to claim the credit. Making the 10% credit available for non-historic residential structures that are 50 years old or older will place many more buildings back in service.

Reducing the Property Tax Burden

Presently, New York State has one of the highest property tax burdens in the nation. The City of Binghamton's total tax rate is almost twice as high as its surrounding suburbs and is significantly higher than the national average. New York State should increase its school and municipal aid in order to lower property taxes and encourage development in the areas that need it most.

Stricter Code Enforcement and Heavier Fines

The O'Neil Building suffered greatly from its lack of building maintenance. Negligence caused the roof collapse and resulted in significant structural damage to the building. The City of Binghamton could have averted this significant decline if had stricter code enforcement laws that enabled them to levy fines against non-complying property owners. While this tactic may not have been effective in the case of the O'Neil Building since the owner had declared bankruptcy and owed approximately \$500,000 in back taxes, this policy may help save other historic structures from similar fates.

Receivership

The significant damage that occurred to the O'Neil Building also could have been prevented if Binghamton had the power to take non-complying properties into receivership. Under a receivership program, if a building is not in substantial compliance with municipal ordinances regarding fire protection, structural integrity, zoning, or disposal of refuse, the local city government can appoint a non-profit organization that has a demonstrated record of rehabilitating structures to take control of the property. Once the non-profit has control of the building, it can make necessary repairs and rent the structure. The court may transfer ownership of the building to the non-profit if it has been in control of the property for more than two years and no legal owner has been identified after a diligent search. Alternatively, the non-profit can seize ownership if an owner has been identified and served with notices but has failed to assume control or repay all rehabilitation and maintenance costs of the receiver, and if it has been in control of the property for more than three years.

New York is one of a handful of states that has a receivership law, but this law is weak and is only applicable to individual dwellings. The law requires that the building's conditions be "dangerous to life, health or safety" to prompt the appointment of a receiver. This law could be strengthened to include commercial and retail buildings

as well as a more detailed statement about the building conditions which mandate receivership.

Historic Preservation Easement Program

Binghamton should initiate a historic preservation easement program to protect its historic resources in the future and to allow for tax deductions for rehabilitating historic structures. A preservation easement is a voluntary legal agreement that protects a significant historic resource. An easement provides assurance to the owner that the property's intrinsic values will be preserved through subsequent ownership. In addition, the owner may obtain substantial tax benefits through a federal income tax deduction equivalent to the value of the rights given away to the non-profit or government organization whose mission includes historic preservation. An entire historic structure or the facade or interior individually may qualify. In most cases an easement donor may deduct the value of the easement from federal taxes for up to thirty-percent of his adjusted gross income. Any excess value may be carried forward up to five years.

The value of the easement is based on the difference between the appraised fair market value of the property before conveying an easement and its value with the easement restrictions in place. Under most circumstances, the value of an easement depends upon the property's development potential and operates under the assumption that an easement limits development, thereby reducing the value of the property. For further guidance on determining the value of an easement, a professional appraiser should be consulted.

The opportunity to donate a façade easement would encourage downtown Binghamton business owners, like those who own the O'Neil Building, to invest in their historic façades. All of the above-mentioned policy recommendations will greatly aid revitalization and preservation of New York State's historic downtowns and neighborhoods.

Conclusion

Preserving the O'Neil Building as a place that brings people into the downtown is in keeping with its historical purpose and critical for downtown Binghamton. A mixed use residential /retail project, the O'Neil Building rehabilitation will breathe new life into a building which has stood empty for many years, eventually returning it to the tax roll and bringing a new sense of vitality to Binghamton's historic core.

To make the most of rehabilitation efforts, private developers should work closely with the City of Binghamton to establish, or lobby for, incentives for historic preservation. By increasing incentives and cultivating strong public-private partnerships, they can facilitate further rehabilitation efforts in the downtown. These efforts will reverse the decades-long trend of disinvestment and abandonment and make historic Binghamton a destination once more.

Appendix I

O'Neill Building - Student Apartments & Retail (Unsubsidized)						**No -Subsidy	
Binghamton, NY	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Acquisition Costs							
Development Cost	\$ (65,000)	\$ (3,572,330)					
Empire Zone savings from Sales Tax on Improvements, 8%		\$-					
Student Apartments							
Potential Gross Income			\$367,757	\$375,112	\$382,614	\$390,266	\$398,072
Vacancy & Bad Debt			\$29,421	\$30,009	\$30,609	\$31,221	\$31,846
Effective Gross Income			\$338,336	\$345,103	\$352,005	\$359,045	\$366,226
Operating Expenses			\$84,584	\$88,864	\$90,641	\$92,454	\$94,303
Maintenance on Turnover Units			\$5,533	\$5,533	\$5,533	\$5,533	\$5,533
Net Operating Income, Apartments			\$248,219	\$250,706	\$255,830	\$261,058	\$266,389
Retail Component							
Potential Gross Income			\$50,801	\$52,325	\$53,895	\$55,512	\$57,177
Vacancy & Bad Debt			\$2,540	\$2,616	\$2,695	\$2,776	\$2,859
Effective Gross Income			\$48,261	\$49,709	\$51,200	\$52,736	\$54,318
Operating Expenses			\$12,065	\$12,427	\$12,800	\$13,184	\$13,580
Net Operating Income, Retail			\$36,196	\$37,282	\$38,400	\$39,552	\$40,739
Property Taxes (w/Tax Abatement)		0	\$45,275	\$80,549	\$135,824	\$181,098	\$226,373
Total Net Operating Income			\$239,140	\$197,438	\$156,407	\$119,511	\$80,735
Empire Zone savings from utility and business tax, 10%, Operating Expenses			\$-	\$-	\$-	\$-	\$-
Tenant Improvement, Retail			\$8,467				
Leasing Commissions, Retail			\$10,160				
Net Sales Proceeds							\$2,648,272
Cash Flow Before Financing	\$ (65,000)	\$ (3,572,330)	\$220,513	\$197,438	\$158,407	\$119,511	\$2,729,027
Hist. Rehab Tax Credit							
Adjusted Cash Flow Before Financing	\$ (65,000)	\$ (3,572,330)	\$-	\$197,438	\$158,407	\$119,511	\$2,729,027
Construction Loan Proceeds		\$2,829,285					
Permanent Loan Proceeds			\$2,639,722				
Construction Loan Repayment			\$ (2,857,864)				
Interest Expense			\$ (107,170)	\$ (170,372)	\$ (167,237)	\$ (163,899)	\$ (160,344)
Principal Repayment			\$-	\$ (48,222)	\$ (31,357)	\$ (54,695)	\$ (58,250)
Remaining Mortgage Balance							\$ (2,408,583)
Before Tax Cash Flow	\$ (65,000)	\$ (850,215)	\$ (216,223)	\$ (21,156)	\$ (60,188)	\$ (99,083)	\$101,850
IRR Before Financing		-1%					
NPV @ 15% (before financing)	n/a						
NPV @ 10% (before financing)	(1,544,994)						
	(1,259,127)						

Appendix II

O'Neill Building - Student Apartments & Retail (W/ 20% Historic Rehabilitation Tax Credit & Tax Abatement)						**Actual Conditions	
	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Acquisition Costs							
Development Cost							
Empire Zone savings from Sales Tax on Improvements, 8%							
Student Apartments							
Potential Gross Income							
Vacancy & Bad Debt							
Effective Gross Income							
Operating Expenses							
Maintenance on Turnover Units							
Net Operating Income, Apartments							
Retail Component							
Potential Gross Income							
Vacancy & Bad Debt							
Effective Gross Income							
Operating Expenses							
Net Operating Income, Retail							
Property Taxes (w/Tax Abatement)							
Total Net Operating Income							
Empire Zone savings from utility and business tax, 10%, Operating Expenses							
Tenant Improvement, Retail							
Leasing Commissions, Retail							
Net Sales Proceeds							
Cash Flow Before Financing							
Hist. Rehab Tax Credit							
Adjusted Cash Flow Before Financing							
Construction Loan Proceeds							
Permanent Loan Proceeds							
Construction Loan Repayment							
Interest Expense							
Principal Repayment							
Remaining Mortgage Balance							
Before Tax Cash Flow							
IRR Before Financing							
IRR After Financing							
NPV @ 15% (before financing)							
NPV @ 10% (before financing)							

Appendix III

O'Neil Building - Student Apartments & Retail (w/ Enhanced Historic Rehabilitation Tax Credit & Tax Abatement) Binghamton, NY						**Enhanced Subsidy	
	Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Acquisition Costs							
Development Cost	\$ (65,000)						
		\$ (3,572,330)					
Empire Zone savings from Sales Tax on Improvements, 8%		\$142,893					
Student Apartments							
Potential Gross Income			\$367,757	\$375,112	\$382,614	\$390,266	\$398,072
Vacancy & Bad Debt			\$29,421	\$30,009	\$30,609	\$31,221	\$31,846
Effective Gross Income			\$338,336	\$345,103	\$352,005	\$359,045	\$366,226
Operating Expenses			\$84,584	\$88,864	\$90,641	\$92,454	\$94,303
Maintenance on Turnover Units			\$5,533	\$5,533	\$5,533	\$5,533	\$5,533
Net Operating Income, Apartments			\$248,219	\$250,706	\$255,830	\$261,058	\$266,389
Retail Component							
Potential Gross Income			\$50,801	\$52,325	\$53,895	\$55,512	\$57,177
Vacancy & Bad Debt			\$2,540	\$2,616	\$2,695	\$2,776	\$2,859
Effective Gross Income			\$48,261	\$49,709	\$51,200	\$52,736	\$54,318
Operating Expenses			\$12,065	\$12,427	\$12,800	\$13,184	\$13,580
Net Operating Income, Retail			\$36,196	\$37,282	\$38,400	\$39,552	\$40,739
Property Taxes (w/Tax Abatement)		0	0	0	0	0	\$45,275
Total Net Operating Income			\$284,415	\$287,987	\$294,230	\$300,610	\$306,853
Empire Zone savings from utility and business tax, 10%, Operating Expenses			\$8,458	\$8,886	\$9,064	\$9,245	\$9,430
Tenant Improvements, Retail			\$8,467				
Leasing Commissions, Retail			\$10,160				
Net Sales Proceeds							\$2,648,272
Cash Flow Before Financing	\$ (65,000)	\$ (3,429,437)	\$274,246	\$296,874	\$303,295	\$309,855	\$2,919,556
Hist. Rehab Tax Credit		\$742,116					
Adjusted Cash Flow Before Financing	\$ (65,000)	\$ (2,687,321)	\$274,246	\$296,874	\$303,295	\$309,855	\$2,919,556
Construction Loan Proceeds		\$2,829,285					
Permanent Loan Proceeds			\$2,666,386				
Construction Loan Repayment			\$(2,857,864)	\$(170,372)	\$(167,237)	\$(163,899)	\$(160,344)
Interest Expense			\$(107,170)	\$(173,315)	\$(173,357)	\$(163,899)	\$(160,344)
Principal Repayment			\$ -	\$(45,279)	\$(51,357)	\$(54,695)	\$(58,250)
Remaining Mortgage Balance							\$(2,408,563)
Before Tax Cash Flow	\$ (65,000)	\$34,794	\$ (135,826)	\$78,279	\$84,700	\$91,261	\$292,379
IRR Before Financing							
IRR After Financing		10%					
NPV @ 15% (Before Financing)		(409,566)					
NPV @ 10% (Before Financing)		(10,761)					

Endtnote

² New York State Governor's Office of Regulatory Reform, downloaded from <http://www.gorr.state.ny.us/gorr/Empire_Zones.htm>