

**CITY COUNCIL
COMMUNICATION:**

ITEM _____

**OFFICE OF THE CITY MANAGER
CITY OF DES MOINES, IOWA**

99-041

SYNOPSIS -

AGENDA:

FEBRUARY 1, 1999

SUBJECT:

FIRST AMENDMENT
TO AGREEMENT-
REDEVELOPMENT
OF EASTGATE
SHOPPING CENTER
(EAST 14TH STREET
AND EUCLID
AVENUE)

Eastgate Plaza, LLC ("Redeveloper") has entered into an Agreement with the City to redevelop the Eastgate Shopping Center located at the northeast corner of East 14th Street and Euclid Avenue. The Redeveloper is proposing to amend the Agreement adopted by Council on June 22, 1998, by Roll Call No. 98-2078, to address issues that were previously unforeseen. The Redeveloper is reaffirming its intent to construct and/or renovate up to 400,000 sq. ft. of building space, but is legally committing to no less than 250,000 sq. ft. of mixed retail, service, and commercial office uses on this 42-acre parcel, as well as to resurface the parking area and install landscaping on the property within three years following substantial completion of the Euclid Avenue stormwater detention basin, which commercial buildout is anticipated to occur no later than January 1, 2003. Eastgate Plaza, LLC anticipates investing in excess of \$15 million to redevelop the property. Ellen Walkowiak, with the City's Office of Economic Development, is coordinating the City activities relative to this project.

TYPE:

RESOLUTION
ORDINANCE
RECEIVE/FILE

On the February 1, 1999, Council agenda is a roll call to approve the First Amendment with Eastgate Plaza, LLC for redevelopment of the Eastgate Shopping Center. The purpose of the First Amendment is to allow the Redeveloper to address its unanticipated higher project costs, preserve its cash flow position, obtain more design and marketing flexibility, and extend the timeframe to complete the project to assure its success. The First Amendment allows the City a nine-month extension of time to commence construction of the stormwater detention basin, provides management (not fiduciary) responsibility to oversee and coordinate the Redeveloper's and the City's wetlands mitigation activities, improves design of bid specifications which may result in construction cost savings, eliminates the Redeveloper's \$100,000 contribution to address stormwater detention basin costs that exceed \$5 million, requires the Redeveloper to contribute \$300,000 toward wetlands mitigation to develop Eastgate, and reduces the

SUBMITTED BY:

RICHARD CLARK
DEPUTY CITY
MANAGER

Redeveloper's required building density by 50,000 sq. ft. The Amendment is necessary to ensure the feasibility of the redevelopment project to be conducted by Eastgate Plaza, LLC.

FISCAL IMPACT -

Stormwater management improvement costs, including expenses to mitigate wetlands, are estimated to be \$5 million. In July 1998, Council allocated \$4.4 million of stormwater utility funds for the stormwater improvements as part of the stormwater and sanitary sewer components of the Capital Improvements Program (CIP). In addition, the Polk County Board of Supervisors has committed \$600,000 to assist in constructing the stormwater improvements. The acquisition and installation of the traffic signal will cost about \$160,000, which is in the proposed Fiscal Year 1999-2000 CIP.

It is estimated that over ten years, the value of the additional consolidated taxes paid by Eastgate Plaza, LLC will be \$3.8 million, after tax abatement, assuming a \$12.5 million increase in the assessed value of building improvements. The value of three-year, 100 percent tax abatement that the Redeveloper could receive for redevelopment of the Eastgate Shopping Center is projected at \$1.6 million, provided that Council amends the current City-wide urban revitalization plan to allow for a minimum of 250,000 sq. ft. rather than 300,000 sq. ft. to be constructed.

The fiscal impact of the First Amendment involves eliminating the Redeveloper's \$100,000 contribution to address stormwater detention basin costs that exceed \$5 million and potentially reducing the additional consolidated taxes paid by Eastgate Plaza, LLC because of a smaller project. However, the Redeveloper is compelled to maximize building density on the site in order to maximize lease revenue. As a result, the decrease in building density may not occur.

RECOMMENDATION -

Approve the First Amendment to the Agreement with Eastgate Plaza, LLC for redevelopment of the Eastgate Shopping Center.

BACKGROUND -

Intent of Project and Redevelopment Challenges

The City and Eastgate Plaza, LLC have created an opportunity to redevelop the Eastgate Shopping Center, which is underutilized and has prime development potential. The intent of the project is to maximize the functional and economic use of the property while coordinating construction of area stormwater management improvements and pursuing cost efficiencies where possible.

The Redeveloper has encountered several challenges that make this site difficult to redevelop. Land must be acquired from multiple property owners to assemble the site and there is obsolescent infrastructure that must be removed and replaced, wetlands to be mitigated, environmental concerns to be addressed, and stormwater problems to be resolved. The City's assistance is essential to the success of this project.

The Agreement and the First Amendment involve substantial investment by the City. Improvements include constructing a detention basin in the northeast portion of the Eastgate Shopping Center and appropriate storm sewer infrastructure to address area stormwater management problems, mitigating wetlands as necessary, and purchasing and installing a traffic signal approximately 1,000 feet east of the intersection at East 14th Street and Euclid Avenue. Stormwater management improvements will benefit both the Eastgate redevelopment and a larger area of the City in the upper Dean's Lake watershed. Although the Redeveloper's costs to install new water and sewer lines, replace structures, and conduct wetlands mitigation are greater than initially projected, it is anticipated that the City will remain within the \$5 million budget originally established to construct the stormwater detention basin and related storm sewer improvements as well as to mitigate wetlands.

It is unnecessary to amend the Planned Unit Development (PUD) zoning for this project to reduce the allowable building density from approximately 400,000 sq. ft. to 250,000 sq. ft. It is the Redeveloper's goal to maximize use of the site. He intends to construct up to approximately 400,000 sq. ft. and is marketing the development property to accommodate higher density.

Project Description

The Redeveloper is Eastgate Plaza, LLC, an Iowa limited liability company. Norman S. Weinstein of Boca Raton, Florida, is the Managing Member of Eastgate Plaza, LLC, which is the prospective purchaser of property known as the Eastgate Shopping Center. Recently, Eastgate Plaza, LLC acquired the property formerly owned by the Wittern Investment Company located in the northwest portion of the shopping center. Ellis I. Levitt and Enduring Investments, LLC own the remaining land that must be assembled.

Eastgate Plaza, LLC is reaffirming its intent to construct and/or renovate up to 400,000 sq. ft. of mixed retail, service, and commercial office uses on this 42-acre parcel, resurface the existing parking lot, and install landscaping on the property to define traffic corridors more effectively in the parking area and to beautify the site. The Redeveloper has completed additional research and has discussed development opportunities with several businesses. As a result, the Redeveloper is requesting that the City amend its Agreement of June 22, 1998 because of unforeseen circumstances that have arisen to date.

First Amendment to Agreement

According to the First Amendment to the Agreement, the Redeveloper will be responsible for: (1) acquiring title to Phase I (west half) of the Eastgate Shopping Center by December 31, 1999, rather than title to all property by December 1, 1998; (2) completing construction and/or renovation of no less than 250,000 sq. ft. rather than 300,000 sq. ft. of mixed retail, service, and commercial office space within three years following substantial completion of the stormwater detention basin, which commercial buildout is estimated to occur by January 1, 2003, rather than by June 22, 2001; (3) conveying, at no cost to the City, land for the detention basin that is part of the Eastgate Shopping Center on or about April 1, 1999, and temporary construction and permanent easements satisfactory to the City for the proposed stormwater detention basin and related stormwater improvements within 60 days following receipt of the City's drawings describing the easements to be conveyed, which conveyance is anticipated to occur by mid-April 1999; (4) retaining responsibility to pay for wetlands replacement costs by using the \$100,000 that was to be made available by the Redeveloper for potential cost overruns associated with the stormwater detention basin and related stormwater improvements for wetlands mitigation and

depositing an additional \$200,000 into an escrow account 30 days prior to encumbrance for wetlands replacement; (5) submitting a joint application with the City to the appropriate state and federal agencies for wetlands replacement; (6) accepting excavated material from construction of the proposed stormwater detention basin suitable as structural fill, which quantities shall be determined prior to bidding the project, and developing an operational plan for acceptance of the fill; (7) notifying the City by May 3, 1999, rather than upon completion of the stormwater detention basin whether the City should transfer ownership of the existing storm sewer located in the southwest corner of the Eastgate Shopping Center to the Redeveloper or abandon it; and (8) providing information necessary for Council by April 1, 1999, to consider, complete its review, and make a determination on a proposed amendment to the City-wide urban revitalization plan to allow tax abatement for a minimum of 250,000 sq. ft. rather than 300,000 sq. ft. to be constructed at the Eastgate Shopping Center.

According to the First Amendment to the Agreement, the City will be responsible for: (1) designing, constructing and funding a stormwater detention basin at the northeast portion of the Eastgate Shopping Center, as well as related stormwater improvements on the property, which construction is to begin by Summer 1999, rather than by Fall 1998, and be substantially completed by December 31, 1999; (2) paying all costs related to wetlands that must be replaced as a result of the stormwater detention project and submitting a joint application with the Redeveloper to the appropriate state and federal agencies for wetlands replacement; (3) accessing approximately \$300,000 of the Redeveloper's funds to purchase land and construct replacement wetlands that will be affected by the Redeveloper's project; (4) providing and transporting suitable structural fill material available from construction of the proposed stormwater detention basin to the Redeveloper at no cost; (5) purchasing and installing a traffic signal on Euclid Avenue at no expense to the Redeveloper; and (6) by April 1, 1999, considering, completing its review, and making a determination on a proposed amendment to the City-wide urban revitalization plan to allow tax abatement for a minimum of 250,000 sq. ft. rather than 300,000 sq. ft. to be constructed at the Eastgate Shopping Center.

The City and Eastgate Plaza, LLC will mutually benefit by coordinating the proposed Eastgate redevelopment with construction of area stormwater management improvements.

The First Amendment, if approved, will allow the Redeveloper to address its unanticipated higher project costs, preserve its cash flow position, obtain more design and marketing flexibility, and extend the timeframe to complete the project to assure its success. The Redeveloper is compelled to maximize building density on the site in order to maximize lease revenue. The City will yield significant tax revenue, stem urban blight, and resolve area stormwater management problems. This project will also enhance the feasibility of redeveloping the former Day's Inn site located on the south side of Euclid Avenue at East 14th Street and adjoining land for commercial use.