

**CITY COUNCIL
COMMUNICATION:**

ITEM _____

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

99-169

SYNOPSIS -

AGENDA:

APRIL 19, 1999

At the April 19, 1999 City Council meeting, the Council is requested to approve the following agenda items related to the proposed Court Avenue Entertainment Center redevelopment project:

SUBJECT:

COURT AVENUE
ENTERTAINMENT
CENTER-
DEVELOPMENT
AGREEMENT,
VACATION OF
ROW, AND
AUTHORIZATION
FOR ACQUISITION
OF PROPERTY

- The Development Agreement with Centertainment Development, Inc. (106 West 14th Street, Kansas City, MO, Charles Fancher, President);
- Second and final readings of the ordinance to vacate the various public rights-of-way within the project site; and
- Set fair market value and authorize Offers to Purchase for the various properties located within the project footprint. The Offers are contingent upon the developer proceeding with the project by providing satisfactory evidence of financing and tenant commitments and other related documentation to the City on or by June 24, 1999.

TYPE:

RESOLUTION
ORDINANCE
RECEIVE/FILE

The proposed Court Avenue Entertainment Center is located on the site bounded by Court Avenue on the north, 3rd Street on the east, the Des Moines Interstate rail line on the south, and 5th Street on the west. It does not include the property containing Spaghetti Works/Julio's/Johnny's Hall of Fame, the office building at 108 - 3rd Street, and the Rock Island Depot.

SUBMITTED BY:

RICHARD CLARK
DEPUTY CITY
MANAGER

FISCAL IMPACT -

The Court Avenue Entertainment Center project will provide a very favorable 'return on investment' to the taxpayer as summarized below.

Tax Revenues: For purposes of evaluating the project's fiscal impact, it is assumed the project will be taxed at its minimum assessed value of

\$24,000,000, generating an estimated \$16,575,000 in consolidated property tax revenue over 15 years. The net consolidated property tax revenue generated by the project, after debt service and tax increment financing (TIF) assistance, is estimated at \$7,935,000 over the 15-year period. In addition, the project will generate an estimated \$2,375,000 in hotel/motel tax revenue over the 15-year period.

City Expenditures: Of the estimated \$6 million in City costs, the City will finance about \$3,000,000 with a TIF bond issue which has been included in the City's current debt projections. The remaining \$3,000,000 in costs will be provided from the land sales. Actual cost may vary from estimates.

The City's expenditures will be for land acquisition, streetscape improvements, and construction of the proposed surface public parking lot. The City is still working with the Iowa Department of Transportation (IDOT) in valuing the City's use of excess property from the Martin Luther King, Jr. Parkway (MLK) project as public parking.

The project will also receive a \$4,000,000 grant that will be funded with an annual tax increment cash payment of \$500,000 over an eight-year period beginning in 2002/2003. The net present value of the TIF grant is \$3 million based on a 6.9 percent discount rate. The project will not receive tax abatement.

RECOMMENDATION -

Approval of:

- **Development Agreement for the Court Avenue Entertainment Center;**
- **Second and third considerations of the ordinance to vacate Fourth Street and alleys within the development site; and**
- **Authorization to make Offers to Purchase which are**

contingent on the project proceeding.

BACKGROUND -

The City Council selected Centertainment as the preferred developer for this project in August 1998. On March 15, 1999, the Council set the April 19, 1999 Council meeting as the date on which the City will hold a public hearing on entering into the proposed development Agreement with Centertainment. In conjunction with provisions of the proposed Development Agreement, the City is undertaking related actions, such as vacation of the public rights-of-way and acquiring property which are also on the April 19, 1999 Council agenda.

The Development Agreement before the Council is consistent with the developer's proposal accepted by the Council at its meeting of August 17, 1998. The proposed Development Agreement also meets all of the goals established by Council on September 14, 1998, which served as a guide for preparing the Development Agreement.

Key provisions of the proposed Development Agreement are outlined below.

Sales Price: The property will be sold in "as is" condition for \$3 million. The developer is responsible for completing an environmental plan prior to the purchase of the land by the City. The City will not have liability for environmental cleanup on the property if it is needed.

Evidence of Financing and Tenant Commitments: The developer has until June 24, 1999, to obtain financing and tenant commitments. The City will require tenant commitments for the entire movie operation, the land lease for the hotel and for 50 percent of the remaining net leasable space with a tenant mix comprised of life-style retail, entertainment oriented retail, full service restaurant, and other food and beverage establishments.

City Acquisition of Property: The City is proposing to make contingent offers to purchase in the next week for the properties that comprise the development site. The City would not close on any properties until the developer provides the required evidence of satisfactory financing, tenant commitments, an

environmental plan, and the City has a satisfactory plan for the surface public parking lot.

The Development Agreement states that if the developer is unable to provide these commitments by June 24, 1999, and submits evidence to the City that it has made diligent best efforts to obtain these commitments, the City Council, may, at its discretion, extend the period of time for the evidence of the commitments.

Developer-Damages Payment: The developer must provide a \$1.75 million letter of credit or cash at the time the developer's written request for property acquisition is made; if the developer terminates the project after the City begins property acquisition and before the Certificate of Completion is issued, the \$1.75 million must be paid to the City as liquidated damages, as does the \$250,000 good faith deposit. The City must complete its land acquisition within seven months from the date of the request or January 31, 2001, whichever date is later.

Minimum Assessed Valuation: The developer must enter into a minimum assessment agreement for \$24 million for a period of 15 years, starting from the date the Certificate of Completion is issued by the City. (The hotel property will have a minimum assessment of \$7 million and the entertainment center's assessment will be for a minimum of \$17 million.)

Tax Increment Financing Assistance: In lieu of tax abatement, the City will provide a \$4 million TIF grant which will be paid over a period of eight years at the rate of \$500,000 per year. The payments begin the year after the Certificate of Completion is issued by the City. The City must also provide a grant in the amount of \$50,000 for streetscape improvements.

Parking: In order to provide public parking in the new surface parking lot proposed south of the development site, the City must determine the most cost-effective method to acquire the property. Current plans identified federal funding for acquisition of the Nesbit and Gilcrest/Jewett sites for the MLK project with the excess right-of-way from these sites to be used for the surface parking lot. It is our understanding that the federal government will require reimbursement for its portion of the fair market value of the properties used for public parking. The proposed Development Agreement provides the City until May 18, 1999, subsequent to the anticipated Council

action on May 17, 1999, to determine a strategy to address this issue. The City has the option of requesting an extension up to June 24, 1999, from the developer to continue working on resolution of this issue.

The City will also provide parking free of charge to the users of the 3rd and Court and 5th and Walnut Garages after 4:00 p.m. Monday through Friday and weekends. It is understood that the garages are open to the public on a first come-first serve basis and may also be used periodically by patrons of certain special events.

Anticipated future Council actions related to the Court Avenue Entertainment Center project are:

- May 17, 1999 - Approval of the financing plan for the unencumbered acquisition of the property designated for the surface public parking lot south of the proposed Court Avenue Entertainment Center site. As stated above, the City may request an extension of this deadline up to June 24, 1999, from the developer.
- October 1, 1999 - Deadline for submission of the final construction plans. City Council review and approval of the plans occurs within 45 days of the developer's submission.

Steiner + Associates (2 Easton Oval, Suite 550, Columbus, OH, Yaromir Steiner, President), the co-developer and equity partner in the project, is currently working with potential retail tenants as well as coordinating design and construction work.

Typically in a project of this scale, changes in the project design plans will occur as the marketing agent, Steiner, leases specific tenant spaces and the final engineering and construction plans are completed. Any significant design changes will be submitted to the Council for review and approval.

Acquisition of Property

The Council is requested to approve fair market values and offers to acquire the following properties, including filing for

condemnation if a settlement does not appear feasible. These offers are subject to the City and developer meeting various commitments, detailed in the Development Agreement, that will allow the project to proceed and were described in the previous section. It is anticipated that completion of the commitments will occur on or by June 24, 1999.

The fair market values of the properties proposed for acquisition, totaling \$4.088 million, were determined by independent appraisers. In addition, relocation benefits, which are not included in the fair market values, are available to eligible business owners and tenants. There are no residential owners or tenants; a majority of the property proposed for purchase is used as surface parking lots.

<u>Address</u>	<u>Titleholder</u>	<u>Fair Market Value</u>
420 Court Avenue	Norwest Bank	\$1,540,000
107 - 5th Street	Auto Park Corp.	\$133,000
312 Court Avenue	Systems Property Dev. Co.	\$912,000
106 & 107 - 4th Street	N.F.P. Ltd. Partnership	\$258,000
120 - 4th Street	Randolph Investment Co.	\$745,000
Various	Norfolk & Southern Railway Co.	\$500,000