



# Council Communication

Office of the City Manager

Date

December 18, 2006

Agenda Item No. 41

Roll Call No. 06-

Communication No. 06-787

Submitted by: Richard A. Clark, City Manager

## AGENDA HEADING:

Resolution approving Third Amendment to Urban Renewal Agreement for Disposition Parcel 99A-1, Metro Center Urban Renewal Area (Court Avenue Lofts and 4<sup>th</sup> Street Condos.)

## SYNOPSIS:

Court Avenue Partners II, LLLP (Rick Tollakson, President and CEO, Hubbell Realty Company, 6900 Westown Parkway, West Des Moines, IA 50266) has requested the Third Amendment to the Urban Renewal Agreement. The Third Amendment extends the deadline of substantial completion by 9 months to March 31, 2008. The extension was requested due to construction delays related with soil remediation. The Amendment also consents to the creation of a horizontal property regime in order to legally separate the ownership interests of the apartments, condominiums, underground parking, and commercial space.

This action also approves the Estoppel Certificate and Subordination Agreement. It was the intent of the City that a lender financing the project would be able to obtain a first mortgage lien upon the Property. The City and Court Avenue Partners II, L.P. will enter into this Subordination Agreement for the purpose of acknowledging the subordination of the City's rights under the Urban Renewal Agreement (except as to those portions of the Urban Renewal Agreement which are expressly not subordinated pursuant to the Agreement).

## FISCAL IMPACT: NONE

## ADDITIONAL INFORMATION:

Court Avenue Lofts and 4<sup>th</sup> Street Condos feature a total of 94 residential units, approximately 9,000 square feet of commercial space and underground parking. Soil remediation is complete and the concrete infrastructure is beginning to rise from the ground. This project follows the completion of another Hubbell Realty project. The Spaghetti Works (3<sup>rd</sup> and Court) residential conversion is nearly complete and residents will begin moving in next month.

Pursuant to the terms of the Development Agreement, the developer has submitted satisfactory evidence demonstrating that adequate financing commitments have been obtained.

## PREVIOUS COUNCIL ACTION(S):

Date: May 8, 2006

Roll Call Number: 06-911

Action: Receive and file communication from Urban Design Review Board and approve the Conceptual Development Plan for the Court Avenue Lofts and the 4th Street Condos. (Council Communication No. 06-268) Moved by Hensley to adopt. Motion Carried 6-1.

Date: March 20, 2006

Roll Call Number: 06-537

Action: Second Amendment to Development Agreement and authorizing closing on sale of vacant parcel west and south of Spaghetti Works Building to Court Avenue Partners II L.P. Moved by Brooks to adopt. Motion Carried 7-0.

Date: November 7, 2005

Roll Call Number: 05-2679

Action: First Amendment to Development Agreement with Court Avenue Partners II, L.P. and Court Avenue Investors, Inc. (Vacant parcel west and south of the Spaghetti Works Building). (Council Communication No. 05-639) Moved by Vlassis to adopt. Motion Carried 7-0.

Date: November 8, 2004

Roll Call Number: 04-2446

Action: Hearing regarding Urban Renewal Agreement for sale of land for Private Redevelopment with Court Avenue Partners II, L.P. (Council Communication No. 04-567) Moved by Hensley to adopt. Motion Carried 5-1-1. Nays: Brooks. Pass: Vlassis.

#### **BOARD/COMMISSION ACTION(S):**

Date: April 4, 2006

Roll Call Number: N/A

Action: The Urban Design Review Board at its April 4, 2006 meeting, by unanimous consensus vote of the members present, recommended approval of the Conceptual Development Plan for Court Avenue Lofts and 4th Street Condos.

The Board also recommended the Community Development Director grant an exception to the Court Avenue tax abatement design guidelines for new construction, noting the total percentage of brick and the solid appearance of the precast on the base level is very close to meeting or exceeding the 75% requirement.

Date: March 21, 2006

Roll Call Number: N/A

Action: Preliminary review of the Conceptual Design Plan. No action taken. Developer's design team was asked to consider the Board's comments and present a revised Conceptual Design Plan at a future Board meeting.

Date: April 20, 2006

Roll Call Number: N/A

Action: Planning and Zoning Commission, by 10-0 vote, approved the site plan for Court Avenue Lofts and 4<sup>th</sup> Street Condos on the following conditions:

- Provision of 37 shrubs in parking lot landscape buffer along Third Street frontage.
- Provision of a total of 2 street trees along Court Avenue.
- Provision of a total of 11 street trees along Fourth Street.
- Consultation with the City Arborist to determine the number, species and locations appropriate for street trees along Third Street in accordance with the City's Landscape Standards.
- Compliance with all Site Plan requirements of the Permit and Development Center.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**