

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b>	February 23, 2015
	<b>Agenda Item No.</b>	<b>16</b>
	<b>Roll Call No.</b>	<b><u>15-0289</u></b>
	<b>Communication No.</b>	<b><u>15-075</u></b>
	<b>Submitted by:</b>	<b>Matthew A. Anderson, Assistant City Manager</b>

**AGENDA HEADING:**

Approving competitive bid process for the sale and redevelopment of Disposition Parcel 99C /Metro Center Urban Renewal Area located at 420 Court Avenue and receipt of redevelopment proposal from 420 Court Avenue, LLC (a joint limited liability company formed by William C. Knapp, L.C. and Hy-Vee, Inc.).

**SYNOPSIS:**

Because this City-owned property was purchased through the urban renewal process, it is necessary to sell the property in accordance with Iowa Code requirements which include providing a full and fair opportunity for other potential developers to submit competing redevelopment proposals.

The roll call on the February 23, 2015 agenda provides for the following relating to the redevelopment proposal and the process for competing proposals to be made to the City for the City-owned property at 420 Court Avenue:

- Receipt of redevelopment proposal from 420 Court Avenue, LLC Gerard Neugent, 5000 Westown Parkway/Suite 400, West Des Moines, IA, agent) which shall be on file at the City Clerk’s Office. The proposal is to redevelop the property with property with a 108,000-square-foot, four-story mixed-use building containing a full-service Hy-Vee grocery store with a restaurant occupying approximately 35,000-square-foot on the ground level and approximately 81 market-rate apartments in the upper three (3) floors; a one-story parking deck with about 100 parking spaces on the upper level and surface parking with approximately 100 parking spaces and landscape and streetscape improvements throughout the site and adjacent rights-of-way.
- Provision of the terms and conditions that must be met by a competing proposal including allowed property uses, financial capacity, development experience, maximum economic development assistance that may be available for the project with the proposal(s) due at the City by no later 1 p.m. on April 2, 2015.
- Set date of public hearing for April 6, 2015 with notice of the City’s intent to enter into the proposed Urban Renewal Agreement with 420 Court Avenue, LLC if no other responsive proposal is received.

**FISCAL IMPACT:**

Amount:

*Revenue to the City:*

- Land Conveyance: \$270,000 (The previous communication to the Council indicated the land sales price was \$3,570,000 with an initial economic development grant of \$3,300,000 to the developer at the time of conveyance. There is no net financial impact with this change.); and

- Full taxes will be paid by the developer on the land portion of the assessment during the entire term of the economic development assistance.

*Economic Development Assistance to the Developer:*

- Years 1-10: 10 year 100% tax abatement on all residential improvements and economic development grant for commercially-assessed improvements;
- Years 11 and 12: 80% of project-generated tax increment on improvements (after subtraction of debt-protected levies); and
- Years 13-15: 75% of project-generated tax increment on improvements (after subtraction of debt-protected levies).

Funding Source: Metro Center Urban Renewal Area Tax Increment Financing District Revenues. A specific fund code will be assigned to the project when payments begin.

## **ADDITIONAL INFORMATION:**

### Background

The site, currently leased for public surface parking, was purchased about 15 years ago for redevelopment after receiving several development proposals for a large multiscreen movie theater complex with related uses for a site that extended across 4<sup>th</sup> Street. After selection of a developer and numerous extensions, the City terminated the redevelopment contract in 2002 because the selected redeveloper was unable to obtain the required financing. In 2003, the site was reconfigured to provide for individual sites located to the east and west of 4<sup>th</sup> Street; Court Avenue Partners purchased the east site and developed the Court Avenue Apartments with Dos Rios restaurant on the first floor.

In 2006, the City requested developer interest in the western site; two (2) developers were selected for a multiple use concept. Again, financing proved difficult and redevelopment did not proceed.

### 2014 Development

The City issued a request for developer interest in the western site in January 2014. It asked for identification of a development team, its experience in undertaking projects similar in scope and scale to this site, a narrative, and site layout and general graphics describing the proposed project. The City indicated the architectural design needed to be appropriate in building scale, massing, materials, and site placement given its important location next to several National Register buildings and that on-site parking should include parking spaces available to the public as potential replacement for public spaces currently on the site.

The Knapp/Hy-Vee proposal was selected by the City Council in late February 2014 as a ‘preferred developer’ based on the proposed development of housing, a full-service grocery store with restaurant and parking that was being undertaken by entities with strong financing and experience backing the project. Both have extensive experience in housing and commercial development and the ability to undertake the development in a timely manner.

Since its selection as the preferred developer, 420 Court Avenue, LLC, has worked extensively with OPN Architects to create a site and building layout. They have met with various groups including the Downtown Neighborhood Association, Court Avenue Business Association, Downtown Community Alliance and City staff on the design work as it has progressed. Suggestions from these groups have helped refine various project elements. In addition, the Urban Design Review Board has undertaken its

review of the project and believes design process has shown substantial progress. As detailed in the “Boards and Commission” section of this communication, the Board does recommend some additional refinement of the project design before conveyance of the property.

The development contract provides for termination of the developer assistance if Hy-Vee ends operations on the site and its first floor space is not reoccupied by commercial use within a year and if any residential units are sold before 15<sup>th</sup> year, economic development assistance will terminate.

#### Other

In June 2014, the City of Des Moines was selected by the State of Iowa to submit a formal application for the new state Iowa Reinvestment Act program. The formal application for submission to the state is also on the February 23, 2015 Council agenda.

This program allows certain state sale and use taxes generated from new projects in a designated reinvestment district to be reinvested the district. The City’s preliminary application to this program in March 2014 showed creation of a reinvestment district located generally between the proposed Events Center Hotel and the 420 Court Avenue project. The Hy-Vee store is projected to be an important sales tax generator within the district.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: January 12, 2015

Roll Call Number: [15-0075](#)

Action: [Preliminary](#) terms of agreement and authorize City Manager to proceed with the necessary documents for a developer-initiated redevelopment proposal with 420 Court Avenue, LLC (a joint limited liability company formed by William C. Knapp, LC and Hy-Vee, Inc.) for the purchase and redevelopment of Disposition Parcel No. 99C/ Metro Center Urban Renewal Area located at 420 Court Avenue. ([Council Communication No. 15-019](#)) Moved by Hensley to receive, file and approve the preliminary terms of agreement set forth in Council Communication No. 15-019 to direct the City Manager’s Office to proceed with negotiation of a formal agreement with 420 Court Avenue, LLC to be incorporated into a developer-initiated proposal, consistent with the terms set forth in the Council Communication No. 15-019. Motion Carried 7-0.

Date: March 10, 2013

Roll Call Number: [14-0383](#)

Action: [Proposed](#) Preliminary District Plan for the Iowa Convention and Entertainment Reinvestment District and the submission of a pre-application to the Iowa Economic Development Authority (IEDA). ([Council Communication No. 14-109](#)) Moved by Coleman to adopt. Motion Carried 7-0.

Date: February 24, 2014

Roll Call Number: [14-0329](#)

Action: [Selection](#) of Knapp Properties/Hy-Vee as the preferred developer to purchase and redevelop 420 Court Avenue. ([Council Communication No. 14-080](#)) Moved by Coleman to acknowledge that this

is the first step of the process, refer to the City Manager to develop a communication strategy and to submit it to Council for their review that will keep the Mayor and Council apprised of the negotiations and development plan, and to adopt the recommendations contained in Council Communication No. 14-080. Motion Carried 5-1-1. Nays: Moore. Absent: Cownie.

\*Mayor Cownie left the meeting during item 52.

Date: December 23, 2013

Roll Call Number: [13-1971](#)

Action: [Authorizing](#) the City Manager to seek proposals for the purchase and redevelopment of City-owned parcels in the vicinity of 420 Court Avenue with a mixed-use project. ([Council Communication No. 13-603](#)) Moved by Hensley to adopt; refer to the City Manager to include a communication plan for the Council into this project. Motion Carried 7-0.

Date: January 9, 2006

Roll Call Number: [06-0097](#)

Action: Regarding City-owned site between 4<sup>th</sup> and 5<sup>th</sup> Street on south side of Court Avenue and direct negotiations of Preliminary Terms of Agreement for redevelopment. ([Council Communication No. 06-019](#)) Moved by Hensley to adopt; and include the following key items: 1) Penalty on subsidies. 2) Financial feasibility of the project. 3) Dialog on hotel feasibility. Motion Carried 6-1. Nays: Brooks.

Date: February 4, 2002

Roll Call Number: [02-0360](#)

Action: Termination of Redevelopment Agreement with Centertainment Development, Inc. for the Court Avenue Entertainment Center Project. Moved by Brooks to adopt. Motion Carried 7-0.

Date: August 17, 1998

Roll Call Number: 98-2604 to 98-2609

Action: Hearing on items regarding Proposals for redevelopment of property south of Court Avenue, between 3<sup>rd</sup> and 5<sup>th</sup> Streets, Capitol-Center Development Area and Riverpoint Capitol-Center Development Area Urban Renewal projects, (Court Avenue Entertainment Center Project):

- (A) Recommendation from Architectural Advisory Committee. Moved by Vlassis to receive and file. Motion Carried 5-2. Nays: Flagg and McPherson.
- (B) Recommendation from Urban Renewal Board. Moved by Vlassis to receive and file. Motion Carried 5-2. Nays: Flagg and McPherson.
- (C) Recommendation from City Manager's Office. ([Council Communication No. 98-343](#)). Moved by Vlassis to receive and file. Motion Carried 5-2. Nays: Flagg and McPherson.

ALTERNATE RESOLUTIONS:

(D) Accepting Proposal from PLC Commercial, Inc., Newport Beach, CA, or; Moved by Vlassis to receive and file. Motion Carried 5-2. Nays: Flagg and McPherson.

(E) Accepting Proposal from Centertainment, Inc., Kansas City, MO. Moved by Vlassis to approve. Motion Carried 5-2. Nays: Flagg and McPherson.

WITHDRAWN (F) Selection of Appraisers for Appraisal Services.

(G) Communications/petitions received regarding proposals for Court Avenue Entertainment Center. Moved by Vlassis to receive and file. Motion Carried 5-2. Nays: Flagg and McPherson.

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

Board: Urban Design Review Board

Date: February 3, 2015

Resolution Number: N/A

Action: The Board recommended approval (5-0- 2 abstain, 4 absent) of the conceptual design plans shown with the following items still to be resolved by additional review prior to the sale of the property to the developer:

- Believe the change from using exterior wood/metal panels is a good thing although the step-down in quality to the Nichiha-type fiber cement board materials is a concern. The Board requests further investigation of materials where the fiber cement board is proposed to face public rights-of-way on 4<sup>th</sup> St. and Court Avenue in the elevations presented at this meeting.
- The Board needs to see further development of all site plan-related items, including the green link, streetscapes on all rights-of-way, screening of the loading dock area, and integration of bike facilities.
- Selection of the exterior screen material for the parking garage should take the level of transparency into account with respect to the screening's perforation size with a preference for a medium/high level of transparency.
- May be beneficial to articulate the exterior columns on the parking garage.
- Recommends additional design work be done on the streetscape/sidewalk area on the 5<sup>th</sup> St. pedestrian corridor connecting from Court Avenue to MLK Parkway. The Board would like to see the addition of landscaping and seating, similar to what was described in the schematic design which felt more vibrant and pedestrian-friendly.
- Encourage additional consideration to a green roof for the Hy-Vee store, especially for the residential units that face south and view this rooftop; the current rooftop may diminish the marketability of those units.

Board: Urban Design Review Board

Date: January 20, 2015

Resolution Number: N/A

Action: The Board recommended approval (7-1-2 abstain, 1 absent) of the proposed financial assistance package with the following comments:

- Concerned the 15 year tax abatement is too long. Feel the incentives are too high; making the City and government a partial owner of the project without getting benefits of ownership. Seems most of the incentives are going to parking that is needed because of the grocery store. Any business that requires 30% subsidy, is not a business at all but a welfare recipient.
- Realize the financial support is on the high side but there have been several opportunities in the past that have fallen through. Feel that it is time to try to get this to happen.
- Would like to see the second phase happen as quickly as the market would allow. The project is much stronger with a second phase completed. Encourage everyone involved to look at this as an opportunity.
- Feel that the grocery store is needed but it is only one facet of a multi-faceted problem. The problem is that the residents downtown need a mass transit solution. Transit is a high priority that the City needs to start work on. Opportunities for transit may need to be driven by the private sector. With that understanding when is there going to be a tipping point when there is investment in infrastructure for transit or when it becomes a priority.
- Think the project is worth the investment and it will continue to support a healthy downtown. This opportunity is appropriate at this time. It is worth the investment to keep downtown going in the right direction.

Board: Urban Design Review Board

Date: January 6, 2015

Resolution Number: N/A

Action: Recommended approval (9-0-2 absent) of the proposed preliminary conceptual plan with:

- Liked the loading dock location; continue refinement to minimize its impact.
- Continue to develop the ground floor plan; Board preferred as much transparency and visibility as possible into the grocery store operations using the display windows.

- Provide a strong and unique urban edge along the surface parking while still allowing for future residential expansion on 4<sup>th</sup> Street.
- Conceptual material palette was agreeable but subject to review of actual materials.
- Urban grocery store is needed in downtown; make sure the area for grocery stock is large enough.
- Provide further definition of ‘pocket park’.

### **ANTICIPATED ACTIONS AND FUTURE COMMITMENTS**

- City Council: Public hearing on Urban Renewal Development Agreement and related land conveyance items.
- Urban Design Review Board: Submission of items outstanding from the February 3, 2015 meeting prior to Council consideration of approval of special warranty deed for transfer of ownership of the property.
- Plan and Zoning Commission: Site plan review and recommendation on various developer’s requests for subsurface and air rights vacations.

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