



Roll Call Number

Agenda Item Number

42

Date February 11, 2008

COMMUNICATION from William Lillis and Daniel Manning regarding proposed Merle Hay Mall Redevelopment and Tax Increment Financing District.

(Council Communication No. 08- 075 attached)

MOVED by _____ to receive and file the attached communication, direct staff to prepare a proposed urban renewal and tax increment financing plan for the Merle Hay area; and authorize the City Manager to negotiate a development agreement with the owners of Merle Hay Mall property for future City Council action.

APPROVED AS TO FORM:

Lawrence R. McDowell
Deputy City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|----------|------|------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| HENSLEY | | | | |
| KIERNAN | | | | |
| MAHAFFEY | | | | |
| MEYER | | | | |
| VLASSIS | | | | |
| TOTAL | | | | |
| MOTION CARRIED | APPROVED | | | |

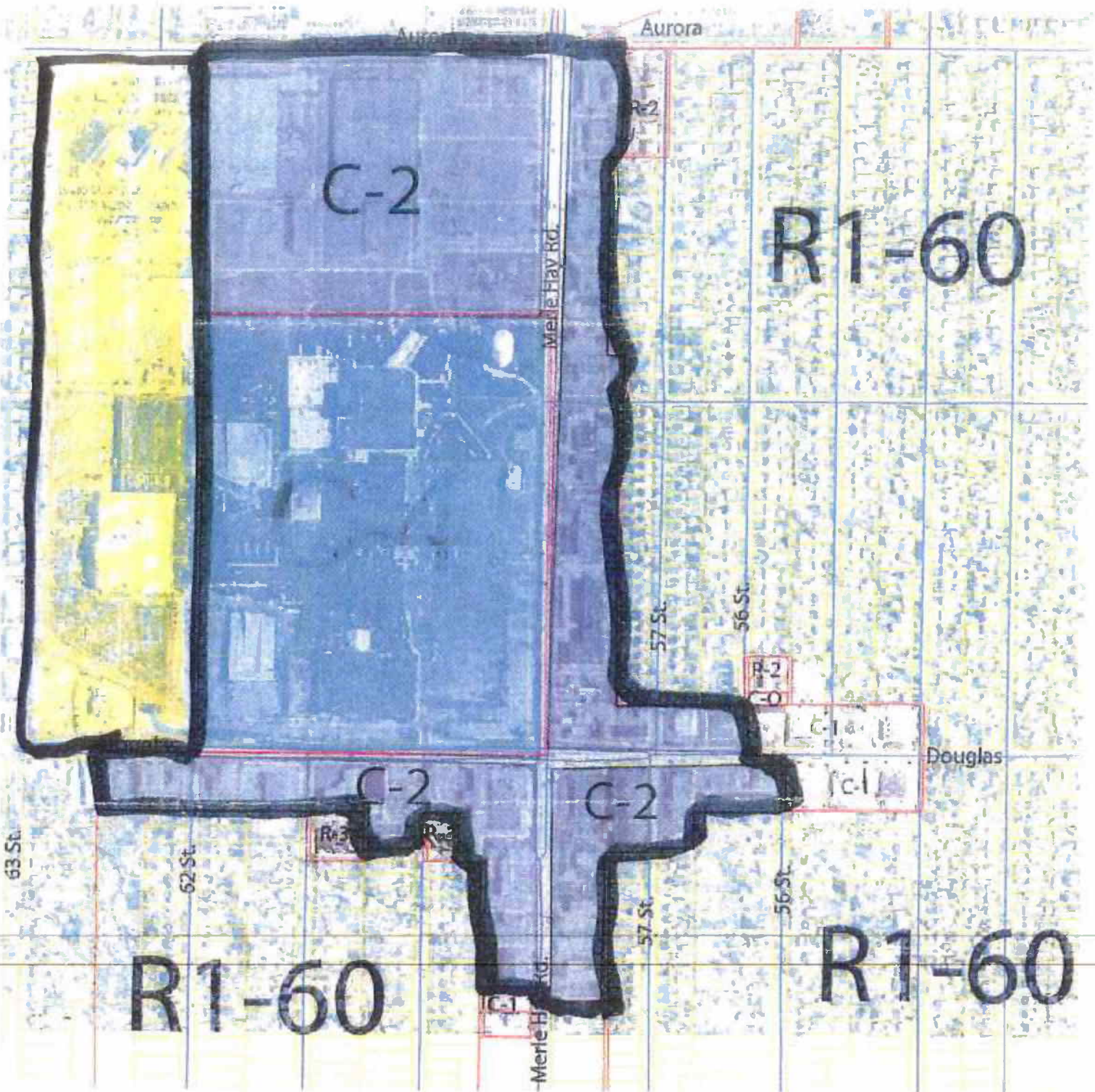
CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk



Urban/dale portion

EXHIBIT
 tabbler
 A

CONNOLLY O'MALLEY LILLIS HANSEN OLSON LLP

ATTORNEYS AT LAW

WILLIAM J. LILLIS
RUSSELL J. HANSEN
MICHAEL W. O'MALLEY
EUGENE E. OLSON
STREETTAN CAMERON
DANIEL L. MANNING
CHRISTOPHER R. ROSE
ADAM C. VAN DINE

BANK OF AMERICA BUILDING
317 SIXTH AVENUE, SUITE 300
DES MOINES, IOWA 50309-4127

JOHN CONNOLLY, JR. (1881-1875)
GEORGE E. O'MALLEY (1905-1982)
JOHN CONNOLLY III (1918-1988)
BERNARD J. CONNOLLY (1920-1970)
C. E. McNULTY (1901-1958)

TELEPHONE (515) 243-8157
FAX (515) 243-3919
www.connollylawfirm.com

ESTABLISHED IN 1917

February 4, 2008

VIA HAND DELIVERY

Mayor Franklin T. Cownie
and Members of the City Council
City of Des Moines
City Hall
East 1st and Robert D. Ray Drive
Des Moines, IA 50309

SUBJECT: Tax Increment Financing (TIF) District - Merle Hay Mall

Honorable Mayor and Members of the City Council:

Our law firm represents Merle Hay Mall (hereafter "Merle Hay") reference the creation of a Tax Increment Financing (TIF) District in the vicinity of Merle Hay Road and Douglas Avenue (hereafter "TIF District").

The Des Moines City Council, at its meeting of January 22, 2007, initiated the creation of the TIF District pursuant to the map attached as Exhibit "A."

Representatives of Merle Hay and the undersigned have been working with the City Manager and his staff, reference the procedural steps necessary to create the TIF District during the last year.

Attached as Exhibit "B" is a narrative prepared by representatives of Merle Hay and, in part, requests assistance for the redevelopment of the Merle Hay Mall.

Merle Hay requests the shortfall of Five Million Six Hundred Thirty Thousand Five Hundred Ninety Dollars (\$5,630,590.00) (see Exhibit "B") be incorporated in a Preliminary Terms of Agreement ("Preliminary Agreement") to be adopted by the City Council at its meeting of Monday, February 11, 2008.

Merle Hay will enter into a Development Agreement subsequent to the adoption of the Preliminary Agreement and expects the Development Agreement to permit reimbursement from Tax Increment Financing funds over a fifteen (15) year period.

CONNOLLY O'MALLEY LILLIS HANSEN OLSON LLP

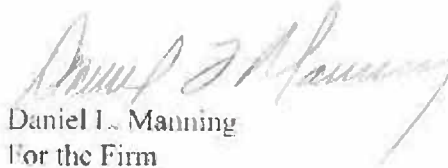
Mayor Franklin T. Cownie
and Members of the City Council
City of Des Moines
February 4, 2008
Page 2

Merle Hay, and the undersigned, requests this letter be received and filed (with the attached Exhibits "A" and "B.") and that the City Council, after consideration of the request, adopt the Preliminary Agreement at the City Council meeting of Monday, February 11, 2008.

Very truly yours,



William J. Lillis



Daniel L. Manning
For the Firm

WJL:sm
Enc.

Merle Hay Mall Proposed Redevelopment

Background

Development of the Mall

Merle Hay Plaza opened in May of 1959 as an open air plaza of stores between a Younkers Department store and a Sears store. In 1973, the Plaza was enclosed and expanded to the west to include a Montgomery Ward store and a Younkers Store for Homes. In 1993, the Younkers Store for Homes closed and was replaced with a Kohl's Department Store. In 2000, the Montgomery Ward Store closed and a new Famous-Barr Department Store opened. In 2004, Younkers relocated from its original location to the Famous-Barr location and in 2005 a new Target Store opened in the former Younkers location.

The interior of the Mall has been renovated a number of times over the past 49 years, most recently in 2000. Other than the entrances immediately adjacent to the new anchor stores described above, the only entrance that has been renovated is the main east entrance, which was last renovated in 1990.

Changing Business Climate

When Merle Hay Plaza opened in 1959, it was the largest shopping center in the State of Iowa. Up until 1989, you could find a license plate from virtually every county in Iowa in the parking lot at holiday time. Now, there are many more choices for people all over the state of Iowa. The proliferation of shopping centers around the state have over time eroded the trade area of Merle Hay Mall. While still a super-regional shopping center, Merle Hay Mall has responded to the change in the market place by emphasizing its central location offering stores that cater to the large middle market shopper in central Iowa. Stores like Target, Kohl's, Old Navy, and Children's Place cater to value conscious families, which has become Merle Hay's niche customer.

Changing Retail Format

More recently, the preferred retail format around the United States has shifted away from the enclosed regional mall towards a more open and convenient format. Originally called strip centers or power strip centers, these formats have gotten much more pedestrian friendly. Now described as "Lifestyle centers" they offer convenient and quick access to stores in an outdoor landscaped setting. One of the challenges that older enclosed malls face is how to "open up" to the outside without losing the attractiveness of the enclosed mall setting.



Changing Retailer Landscape

Another challenge that older shopping centers face is how to accommodate new retailers in their existing and often obsolete retail space. Small shop retailers that proliferated up until the economic downturn of 1991-1992 have been replaced by much larger "junior anchor" stores like Bed, Bath & Beyond, Old Navy, Best Buy, Staples, and Famous Footwear. These stores generally require between 8,000 and 55,000/sf, much larger than the average mall store size of approximately 3-5,000/sf. In addition, they also require convenient access to their customers, via direct parking lot entrances and prominent roadway visibility.

In order to attract and accommodate these popular retailers, it is necessary to reconstruct the existing mall space, both to make it bigger as well as to provide exterior and interior access for this type of retailer. Depending on the configuration of the mall property, only certain areas may be eligible for this type of redevelopment. Specifically at Merle Hay Mall, the only mall area where this type of redevelopment is possible is the eastern face of the original mall building that faces Merle Hay Road. The enclosed mall area between Target and Sears on either side of the main east entrance to the mall provides both road visibility as well as direct parking lot access for customers.

Proposed Redevelopment

Facade Renovation

The proposal would reconfigure and rebuild approximately 55,000/sf of mall space in order to bring in four junior anchor stores and two restaurants. The stores would have entrances facing the east parking lot as well as interior entrances to the mall corridor. Old Chicago is the first stage of this redevelopment, located immediately next to Target. Old Chicago has interior seating and an exterior patio. The entire façade of the restaurant was rebuilt, including raising the parapet wall to better match the Target façade. In addition, a service area was added between Old Chicago and the junior anchor tenant to the north to provide a delivery garbage service area for these two tenants. One of the hardest issues to address when reconfiguring this type of mall space with entrances at both the front and rear of the store is how and where to configure the service areas to accommodate these stores.

The same façade improvements are proposed to continue from the north side of the Old Chicago service area all the way to the Sears entrance court on the east side of the mall.

New Main East Entrance

The existing main east entrance is proposed to be replaced with a two story glass atrium that will extend approximately 30 feet to the west into the mall concourse. The porte cochere will also be replaced with one that is more in keeping with the clean modern look of the rest of the façade.

Reconfiguration of Existing Space

Vacating the interior space in order to build out 55,000/sf of new tenants required that a number of tenants be relocated within the mall. The largest of these tenants is Old Navy, which currently occupies 22,310/sf. The current Old Navy prototype store is approximately 15-17,000/sf. Consequently, the appeal to Old Navy of relocating was the ability to downsize their store to the current prototype and minimize their occupancy costs. The only space that Old Navy was willing to relocate to is the Limited and former Causal Corner space. As a result, Merle Hay management was forced to wait until the Limited lease came up for renegotiation before being able to relocate Limited and then agree to relocate Old Navy. In total, five tenants will have to be relocated in order to build out the new proposed tenant spaces. Relocation is a costly endeavor, as tenants like Old Navy generally want their new space built out 100% plus repayment of the unamortized cost of the existing improvements in their old locations.

Modern retail stores have a much higher energy demand than older retailers, requiring significant upgrades of electrical transformers and distribution equipment. Merle Hay Mall is fortunate that it has a chilled water loop system to heat and cool the mall stores. This is a very efficient means of cooling such a large structure, permitting each tenant to operate an air handling unit (essentially a fan) instead of a separate roof top unit. As part of this proposed project, we will hopefully be working with Mid-American Energy to replace the 50-year old transformers that currently sit immediately north of the main east entrance.

Environmentally Conscious Renovations

Merle Hay Mall management analyzed the proposed possible renovations against the LEED certification criteria for retail projects. Two factors essentially prevent us from seeking LEED certification for this renovation project. First, as a renovation there are very few improvements that we are able to make to generate enough points to qualify for LEED certification. In addition, if we pay for tenant improvements that are LEED qualified, we are unable to aggregate those points with the points we are able to generate with our mall renovations. This inability to aggregate points between the retail store and the mall makes it even more difficult to generate enough points to qualify for LEED status.

Merle Hay Mall is committed to renovating the structure in an environmentally sound manner. Our new roof will be a reflective surface, which should reduce our air conditioning load. We will be adding landscaping and walkways on the east façade, which will add to our permeable surface. It will also create areas outside that can be used by our shoppers during nice weather.

In addition, but not as part of this proposed project, we are looking into micro-generating opportunities on our property. To that end, we have just begun gathering the

initial field data to determine what types of electric micro-generation would make economic sense in light of our location.

Community Benefit

There are a number of direct benefits to the residential areas near Merle Hay Mall that would accrue from a renovation of the mall. Providing goods and services close by would save consumers gas and time when they do their shopping. Fewer hours logged on the road mean less greenhouse gas emissions from those car trips. Proximity to a first class shopping venue will improve the market perception of these neighborhoods and will hopefully help to stabilize home values. Revitalization of the entire commercial corridor will benefit the surrounding businesses as well as the commercial tax base. The ability of Des Moines to retain and revitalize its regional shopping venue will improve the shopping choices for people living in Des Moines as well as the suburbs adjacent to the Mall.

Public/Private Partnership

The combination of increased competition in the marketplace plus sharp increases in the cost of construction prevents Merle Hay Mall from undertaking the proposed redevelopment without doing it in partnership with the City of Des Moines. For all of the reasons stated above, we believe a redevelopment of Merle Hay Mall will improve the economic outlook of the entire Merle Hay Road and Douglas Avenue corridor as well as improve the quality of life for those Des Moines residents who prefer to shop closer to home and potentially use mass transit to access those shopping areas.

Unlike some other property owners whose failure to invest in their properties has precipitated the decline of those projects, the Merle Hay Mall owners have spent tens of millions of dollars over the past ten years to re-merchandise the store selection in the mall and redevelop the department stores that anchor the mall. Those investments have prevented a further erosion of Merle Hay's market share resulting from increased competition. Consequently, Merle Hay's market share is as robust as it could be given the shifting marketplace.
