

**Item 23-0561: Request to approve the Development Agreement with Fox Commons Properties, LLC for improvements and redevelopment of the property located at 10 E. College Avenue (Tax Id #31-2-0290-01) in Tax Increment Financing District No. 11**  
**Community & Economic Development Committee on 2023-05-24 630**

Wed, May 24, 2023, 6:30PM

**Aldersperson Denise Fenton (District 6) 01:32**

We have no public hearings or appearances tonight, so we will move straight to our one action item, which is number 23-0561 Request to approve the development agreement with Fox Commons properties LLC for improvements and redevelopment of the property located at 10 East College Avenue (Tax Id #31-2-0290-01) in Tax Increment Financing district number 11. I assume Director Homan would like to speak to us about this first?

**Director Kara Homan (Community And Economic Development) 02:09**

Sure. So, what I'll do is give an overview. As it relates—

**Aldersperson Denise Fenton (District 6) 02:12**

So, I get plan commission mixed up. Pardon. So, can we get a motion to get this on the table?

**Aldersperson Nate Wolff (District 12) 02:17**

Motion to approve.

**Aldersperson Joss Thyssen (District 8) 02:18**

Second.

**Aldersperson Denise Fenton (District 6) 02:19**

Thank you.

**Director Kara Homan (Community And Economic Development) 02:21**

Ready?

**Aldersperson Denise Fenton (District 6) 02:21**

Please go ahead.

**Director Kara Homan (Community And Economic Development) 02:22**

Sorry about that. So, I'll give you a brief overview of some of the big items primarily as it relates to the topics covered in the staff memo. But if there are questions that are more specific to elements of the development agreement that I don't highlight, I'm happy to answer those. I also want to make the committee aware we do have the development team here present. Should there be any questions that I can't answer that are more pertinent to them, I'll let you know, and then you'd have the ability to entertain comment from them if you so choose.

**Director Kara Homan (Community And Economic Development) 02:56**

So, we're really excited today to present to a development agreement that has been long in the works. We've been working collaboratively internally with the city attorney's office, as well as the finance director and the team here to the left to work with the Fox Commons development team to really review their TIF application, go

through it with a fine tooth comb, and craft a set of development incentives, incentives, as well as items stipulated in the development agreement that we think is mutually beneficial.

**Director Kara Homan (Community And Economic Development) 03:32**

So, what's being proposed is a what I would call a redevelopment or transformation of the City Center Plaza, which is the building located between City Center West and City Center East. And what's being proposed is a mixed-use development that will be comprised of a mixture of housing, primarily on the upper levels of the building, health uses, commercial, retail, and the like. Included in the development agreement at the back of it was a series of renderings, conceptual renderings, for anyone who wants to get a sense of what the final design could look like.

**Director Kara Homan (Community And Economic Development) 04:11**

In terms of how the development deal is structured, we've worked with our city assessor's office to review their financial information and we've projected that the development will create an increment of approximately \$15,321,100. And how that works in terms of how the city approaches Pay As You Go development incentive, which is once an increment value is reached, as stipulated in the development agreement, we pass through up to 90% of that increment in terms of the taxes it generates. That is estimated to create an increment payment of \$301,500 per year. The development agreement caps the revenue stream at 4.357—or \$4,357,550 over time. When you account for what that is worth as a net present value today, the incentive is two—about \$2.5 million. So that's how the financial piece is structured.

**Director Kara Homan (Community And Economic Development) 05:23**

In terms of other items that we've really worked hard with the development team to include in the agreement that tie back to the city's planning instruments, such as the city's comprehensive plan, the College Ave—the College North Neighborhood Plan, we included language in sections 1.9 with regards to pedestrian easements, connecting the east and west sides of the building to the two adjacent properties. We also ensured that those easements will have connectivity between City Center Street to the north, as well as College Avenue. We also have language built into the agreement in sections 1.6, 1.7, and 1.8 related to the area, or the facade of the building on level one, that those have pedestrian orientation, storefronts on College Avenue, and ensure overall aesthetic that's in line with our city planning documents. And we also have in section 1.10 language that prohibits any housing units within the development from being licensed as a tourist rooming house, otherwise known as a VRBO.

**Director Kara Homan (Community And Economic Development) 06:42**

So that's a really high-level general overview of how we've structured the agreement. We've been reviewing this diligently and have internal consensus amongst staff that we're recommending that the development agreement as written be approved.

**Director Kara Homan (Community And Economic Development) 07:00**

I do want to just outline one little item that was included in an amended development agreement that was uploaded to your packet yesterday. We, as we were reviewing this and have received some feedback from one of the tenants of the condominium unit that we're located in, if you look at section 1.9.3, we added language that makes it abundantly clear that after hours employee, tenant, and the like access during the day on Sundays, such as by card access, will be allowed in a similar fashion as the after-hours access after 5 and before 8am. So, we just added that language to tighten it up and make it abundantly clear that there's not this gap in access for employees during the day on Sundays. Otherwise, that was really the only change that was uploaded to the agreement yesterday.

**Alderson Denise Fenton (District 6) 08:05**

Thank you. Are there any questions from others? Alder Doran, do you have any questions? Okay.

**Alderson Chad Doran (District 15) 08:19**

Thank you. I guess I'll just start with the financial piece just because TIF agreements are always confusing for, I think for us, and more so probably even for the public that doesn't really pay attention to them much at all. I think we often look at when these projects going forward, what the sort of percentage amount like the city's—the city ends up contributing to it for a project. And we've talked about a number of different numbers I think in here between the assessed value, what the what the construction costs, and all that kind of stuff. So, what ends up, I guess, first of all, just being that percentage amount, and where—what are we calculating that off of?

**Director Kara Homan (Community And Economic Development) 09:04**

So, what we've indicated in is in terms of the increment that's created, we're contributing percentage amount of 16.39% in present value terms, and that's in terms of the increment created. It is important to know, the developer has an estimated investment of \$33.6 million, so the assessed value we do anticipate will be lower, primarily because the owner of one of the condominium units will be tax exempt, and that's already been built into our TIF projections.

**Alderson Chad Doran (District 15) 09:37**

And then, elsewhere, we talked about up to the 4 point—almost 4 million the city could end up contributing. Where—can you just to sort of explain, I guess, for us the difference there in terms of those two numbers, and—

**Director Kara Homan (Community And Economic Development) 09:54**

Sure.

**Alderson Chad Doran (District 15) 09:55**

—and what might lead to it going up to the \$4.4 million?

**Director Kara Homan (Community And Economic Development) 09:58**

So, the \$2.5 million is the present value of the 4.357. So, the 2.5 is if you apply a 7% interest rate over the period of time we're making the payments, it will come out to 4.357. It's a similar concept of like a mortgage. You know, you mortgage your house for this, but your payments over time if you total it up is something more. So, the present value is the 2.5. And the 4.3 is really just what we're paying out with interest assumed over time.

**Alderson Chad Doran (District 15) 10:34**

Okay, so

**Director Kara Homan (Community And Economic Development) 10:35**

Did I get that right, Matt?

**Matt Rehbein (Economic Development Specialist) 10:37**

Yeah, so we are not paying interest on the contribution. But to get a present value that's where—that's why we have that number in there. Because that would be comparable to what you've seen in a number of other development agreements where we were paying interest to discount to what is that present value.

**Alderson Chad Doran (District 15) 10:55**

So, in the in the end, just to be clear, for all of us, I guess the city's contribution will end up being the 4.4 million over time?

**Director Kara Homan (Community And Economic Development) 11:03**

Over time, but to compare apples to apples in terms of how some of our other development agreements have been written, we show the present value, but then we pay interest over time. But it would be 4.3 million over time, but the present value is 2.5. So, in a historic development agreement, you might have seen language that said, we'll pay 2.5 million plus interest. Right?

**Someone (I couldn't tell if this was Alderperson Doran or someone else) 11:29**

Correct.

**Alderperson Chad Doran (District 15) 11:30**

Okay. Thank you. I think that's—I'll let the group go for now. Thank you.

**Alderperson Denise Fenton (District 6) 11:36**

Thank you. Um, any questions from committee members? I have a couple if that's okay. So, I don't want to belabor the time value of money again. But if I understand it correctly, Director Homan, the city—once the project is complete, the city will be paying—once it's reached the increment value—the city will be paying the \$301,500 a year through August of 2042. Is that correct? I'm four—I'm in Section 4.2.2.

**Director Kara Homan (Community And Economic Development) 12:27**

At the latest. Let me just take a look. What was the section you referenced?

**Alderperson Denise Fenton (District 6) 12:42**

4.2.2 of the development agreement. I'm sorry.

**Director Kara Homan (Community And Economic Development) 12:48**

That's correct. Now, if their assessed value comes in higher, or our tax rate changes, there is the possibility it gets paid off sooner.

**Alderperson Denise Fenton (District 6) 12:57**

Because of the 90% increment. Okay, so I just wanted to clarify that the city is not writing anybody a check for four and a half million or either or \$2.9 million.

**Director Kara Homan (Community And Economic Development) 13:10**

Correct.

**Alderperson Denise Fenton (District 6) 13:10**

Once the project is completed and has reached the agreed upon value, the city will commence making the annual payments from the TIF.

**Director Kara Homan (Community And Economic Development) 13:19**

Correct.

**Matt Rehbein (Economic Development Specialist) 13:20**

And, and those payments are made from the actual tax receipts. So, it's not money that we're fronting. It's paid based upon tax receipts.

**Alderson Denise Fenton (District 6) 13:28**

Thank you. I wanted to clarify that it's not coming from city budget, it is actually coming from the tax receipts in the TID. Okay, thank you. And thank you for indulging me with just a couple more questions. So, and either Director Homan or staff or anybody any of the members of the team present could answer this. Have—I want to ask; we've got a lot—we've got some long-term tenants on the first floor of the building. Have there been discussions with the existing tenants? I mean, we know that we talked about last—in the last couple of meetings—the city is moving out of some lease space for dance studios so. And could you just give me your name and the group you're with just so we can have it for the record? Um, hang on one second. Let me get you...Okay better?

14:32

**[Someone associated with the developer of the project spoke, but his microphone was not turned on and his comments were not picked up or recorded.]**

**Alderson Denise Fenton (District 6) 15:17**

Just, I know there's another tenant on the upper levels. And my understanding of the agreement is that one tenant would be taking over all that space. So that was, you know—have you been in discussion with them as well?

15:32

**[The person associated with the developer spoke off microphone.]**

**Director Kara Homan (Community And Economic Development) 15:37**

Talking about the schools?

**Alderson Denise Fenton (District 6) 15:39**

I was gonna—yeah, I was gonna speak the—yeah, about the school.

15:43

**[The person associated with the developer spoke off microphone.]**

**Alderson Denise Fenton (District 6) 16:20**

Thank you. And, by the way, thank you all for being here just for, you know, being available to answer questions. And thank—I'm sorry, I'm hogging. I'm hogging the time. But I also see that the agreement calls for the availability of the development to have 280 parking stalls. I assume that—I mean, up to. I assume that would be in the yellow ramp. And we always talk about parking downtown. So—and anybody present, staff, how is that working with obviously all the new residential that's coming forward? I know we want to fill those parking ramps, but any potential for parking issues with everything going on there?

**Director Kara Homan (Community And Economic Development) 17:10**

So, when we were negotiating this, we had a lot of meetings with the Public Works team. We did some forecasting of the residential housing units that were coming online that had likelihood to utilize yellow ramp, including the ones under construction and ones that could come to fruition, such as the Transit Center. We have written this agreement where they can purchase up to 280 parking passes in city ramps. We anticipate that initially, they'll probably start with yellow. However, as time goes on, some of their tenants may prefer red, some may prefer green. So, we wrote it loosely enough so that they have flexibility. But at present conversations we've had with Director Block, there is more than enough capacity in yellow ramp to accommodate this plus projected housing development.

**Alderson Denise Fenton (District 6) 18:05**

Thank you. And I think I just have one more if I can get into the weeds a little bit more. So, we've talked about the value of the total project is 35-30—the budget's \$33.6 million, somewhere about that. And then the assessed value will be 17.3 because of the a non—well, administra—nonprofit taking up. So that's about half the value. Can you just discuss briefly, the, maybe not the specifics, but expand on the payment in lieu of taxes, with a nonprofit taking about, you know, what we think is half of the value of the space?

**Director Kara Homan (Community And Economic Development) 18:53**

So, I'm going to first ask with a question to make sure I'm understanding this. So, within the development agreement, we have language that if any additional property were to be converted to nonprofit, how we would address that. And what that stipulates is, if any property were to be sold to a tax-exempt outside of that carveout, it would trigger a required payment in lieu of taxes that equates to the tax value we'd be bringing in within the TID.

**Director Kara Homan (Community And Economic Development) 19:29**

With regards to the tax-exempt entity that will be in unit two, without getting into the details of who that is, it is our intention to have a pilot with them as well. Is that a fair statement? Attorney?

**Attorney Christopher Behrens 19:51**

There are discussions that have been going on with the entity, but obviously we can't talk about any of those details right now. But there are conversations taking place. The other provision is really there more to protect the investment should one of the occupants or occupied spaces change from a taxable to non-taxable to allow that funding mechanism to continue so that the payout in the agreement can continue.

**Alderson Denise Fenton (District 6) 20:23**

Thank you. And I promise, one more. And just to get make sure my math is correct, the planned assessed value is net of that the amount of space that the nonprofit will be using, so that the increment is only based on the assessed value that is taxable entities.

**Director Kara Homan (Community And Economic Development) 20:48**

Correct.

**Alderson Denise Fenton (District 6) 20:49**

Okay. Okay. Just wanted to be [...]. I think that's all I have. Did—if anybody's still awake, does that leave any more questions?

**Alderson Israel Del Toro (District 4) 20:57**

Sure. I'll take one.

**Alderson Denise Fenton (District 6) 20:58**

Alder Del Toro.

**Alderson Israel Del Toro (District 4) 21:00**

Hi, very much more superficial question here. I recognize that some of this is intended to be developed as retail space. Is there any discussion or preliminary planning on some of this retail space being considered as a grocery store for downtown?

21:22

[The person associated with the developer spoke off microphone.]

**Aldersperson Denise Fenton (District 6)** 21:28

It should be. It's showing on.

**Developer Representative** 21:30

I can project. [words not picked up by microphone, but the mic was eventually turned on.]

**Developer Representative** 21:36

There isn't any yet. But yeah, we're kind of open to all kinds of collaborative and synergistic uses within the space that would, you know, continue. We really want to make this a community asset. And, you know, however we can make tenants that are that fit well, together, work we'll do so.

**Aldersperson Israel Del Toro (District 4)** 21:55

In previous projects. Just a quick follow up.

**Developer Representative** 21:57

All right.

**Aldersperson Israel Del Toro (District 4)** 21:59

Just quick follow up. In previous projects, have you encountered situations where a space like this can bring in a grocery store or a retailer into a central facility like this to make it accessible to the housing that's happening all around it?

**Developer Representative** 22:15

Not specific to a grocery store. But we do have a lot of experience in these types of projects there which have a commons element. Sometimes they're a health commons, where there's these medical medically oriented synergistic users. And this is kind of a flavor of that. And that's why we're probably involved with it, is how do we find one tenant that serves another or even a nearby use? And it's kind of like, why this is so central to all this happening, not only within city center plaza itself, but the rest of what's happening in downtown Appleton. So, we're kind of open to all kinds of ideas. So, if you have some, you know, beyond that, we'd be open to hearing them. But yeah, so hopefully, they do show some interest.

**Aldersperson Israel Del Toro (District 4)** 22:57

And a follow up for city staff. What can we do as a city to try and stimulate or motivate a grocery store in this space? This really, really, really needs it.

**Director Kara Homan (Community And Economic Development)** 23:12

So Matt, is it okay, if I mention...? Appleton Downtown Inc. does have a committee that's working on recruiting, studying the market, proposition, and creating a strategy around a downtown grocery store. I have not yet been intimately involved in those conversations, but I have met with their executive director, and it's my understanding that she's working on that. Matt, did you want to add anything? I know you serve on their board?

**Matt Rehbein (Economic Development Specialist)** 23:43

Yeah. So actually, we just spoke about this today. So, ADI, the chamber, and city staff are working on a strategy to do just that. We're not ready to roll it out yet, but things are underway for that to that end.

**Alderson Israel Del Toro (District 4) 23:59**

Wonderful. Thanks, guys. Appreciate all you do.

**Alderson Denise Fenton (District 6) 24:03**

Alder Wolff.

**Alderson Nate Wolff (District 12) 24:04**

Thank you, Chair. Just to follow up on that, I know that in previous conversations with constituents and people of the public, they have demanded a Trader Joe's come to Appleton, and I would just like to take the moment to remind the public that they can go to their website and tell Trader Joe's such that you come to Appleton. So, I thought this would be a good opportunity to do that. And I encourage all of you to do that.

**Alderson Denise Fenton (District 6) 24:36**

Any other questions, comments?

**Alderson Chad Doran (District 15) 24:41**

Chair, sorry. Just another one if I can?

**Alderson Denise Fenton (District 6) 24:43**

Alder Doran. Apologies.

**Alderson Chad Doran (District 15) 24:45**

Okay, no worries. Thank you. Just going back to the pilot conversation for a second. Just for clarification. I believe a pilot is not a requirement for a nonprofit, correct?

**Attorney Christopher Behrens 25:04**

Correct.

**Alderson Chad Doran (District 15) 25:06**

And I guess if—not to get into too specifics, I guess, but the nonprofit under discussion here for this, does it provide a pilot to the city right now?

**Attorney Christopher Behrens 25:23**

Because of the discussion and the nature of the discussions right now, I'm not going to answer that question publicly, because we are in the midst of negotiations with them. And also, because of respecting the developers and the sensitivity with finalizing their plans. I don't know if they're at a point to announce. And I'm afraid if I answer that question, it could be narrowed down enough to know who we're talking about. So, I'll, again, restate we are having discussions with that entity. And you can draw whatever conclusions you want from that.

**Alderson Chad Doran (District 15) 26:01**

All right, fair. Thank you. And then one more, just follow up, back to the question about the increment. I think we talked about 90% of the increment created from the project goes back to the developers under the agreement. Correct? And that was somewhere in the 300,000 range, I think you mentioned. So, over the life of the this project in the TIF, the actual amount coming back to the city and the other entities from this project ends up being 10% of the additional increment.



**Director Kara Homan (Community And Economic Development) 26:31**

Until we've paid them out.

**Aldersperson Chad Doran (District 15) 26:34**

Until we paid out the \$4.4 million, yes? Okay. Great. Thank you.

**Aldersperson Denise Fenton (District 6) 26:41**

Any other questions? Comments? All right. Hearing none, we'll go ahead and vote. All those in favor, please signify by saying aye. Chair votes, aye. That passes five zero. So that will go to Common Council.

**Aldersperson Nate Wolff (District 12) 27:00**

See you next week.

**Someone 27:00**

Next week.

**Aldersperson Denise Fenton (District 6) 27:01**

Next week.

**Attorney Christopher Behrens 27:02**

We don't meet next week.

**Aldersperson Denise Fenton (District 6) 27:03**

Oh, it's two. It's two. It's the seventh. Because it's fifth week next week.