

COMMUNITY DEVELOPMENT AUTHORITY
January 25, 2018

CDA20180125-1
UNAPPROVED

A meeting of the Community Development Authority of the City of Cedarburg, Wisconsin, was held on Thursday, January 25, 2018 at City Hall, W63N645 Washington Avenue, second floor, Council Chambers.

The meeting was called to order by Mayor Kinzel at 7:00 p.m.

Roll Call: Present - Mayor Kip Kinzel, Council Member Jack Arnett, Dale Lythjohan, Joe Kassander, Andy Dettro, Eric Stelter, Eric Arvold (via speakerphone)

Also Present - City Administrator/Treasurer Christy Mertes, City Clerk Constance McHugh, City Attorney Michael Herbrand, Council Members John Czarnecki, Jack Arnett, Dick Dieffenbach, Rick Verhaalen, Patricia Thome and Mike O'Keefe, Todd Taves of Ehlers & Associates, Tony DeRosa of HSI Properties, Dave Barry of The Barry Company, interested citizens and news media

STATEMENT OF PUBLIC NOTICE

Mayor Kinzel acknowledged that the agenda for this meeting was posted and distributed in compliance with the Wisconsin Open Meetings Law.

PUBLIC HEARING REGARDING THE PROPOSED PROJECT PLAN, BOUNDARIES AND CREATION OF TAX INCREMENTAL DISTRICT NO. 5

Mayor Kinzel declared the public hearing open at 7:03 p.m. City Clerk McHugh acknowledged that proper notice of the public hearing was given.

Aaron Schultz, W59 N370 Hilbert Avenue, asked members of the CDA to disclose any affiliations they might have with St. Francis Borgia. With the exception of Mr. Stelter, who has children that attend St. Francis Borgia School, none of the other members of the CDA said they have any affiliations with the Church.

Mr. Taves said the CDA is being asked to adopt a resolution designating the boundaries of TID No. 5 and approving the Project Plan.

Mr. Taves reviewed the Project Plan with the CDA. TID No. 5 is a proposed 4.25 acre blighted district to be created to facilitate redevelopment on five parcels owned by St. Francis Borgia. This will be a \$1,925,000 pay-as-you go TIF with no borrowing on the part of the City. As the increment increases, revenues will be paid to the developer. \$8.7 in incremental value is forecasted by 2020 and the future value of the increment is expected to be \$4.4 million. The project is expected to generate an additional \$170,000 in taxes a year. The life of the TID is expected to be 13 years, well below the 27 years allowed by law. The actual costs to the City will be paid first.

Tony DeRosa of HSI Properties provided a history of the apartment proposal called Arabelle and the reasons for requesting Tax Incremental Financing (TIF). The company takes a long term approach to development in that it builds and holds its projects. He said Arabelle is what people are looking for in the community and there is a demand for it based on the calls he has received. He said it fits in with the City's Comprehensive Land Use Plan and is labeled Smart Growth Area #11 in the Plan. He further said the property is blighted and the building is at the end of its useful life.

Mr. DeRosa explained that TIF is absolutely critical to the project, due to a reduction in the density of the project and design modifications required by the City. The additional requirements are what make Arabelle special but do come with a cost. The standards set meet the character of the community. In order to close the gap, rents have been raised and St. Francis Borgia lowered the purchase price by \$325,000. To further close the gap on economies and achieve a market rate of return of 6% to 7%, assistance is required. Without it, Mr. DeRosa explained, the project will not work. Financing for the project is contingent upon TIF.

Mr. DeRosa said there are two types of TIF: 1) City funded with borrowing, and 2) a developer funded approach with no borrowing on the part of the City. He said the second type of financing is performance based and taxpayers are not on the hook for money. The properties are currently assessed at \$875,000 and pay \$16,949 in taxes. This amount of taxes will continue to be paid over the life of the TID. A rebate will be received based on the increment created. It is estimated the assessed value of the project will be \$9.6 million when completed and will generate \$186,243 in taxes annually.

In addition to the taxes generated, Mr. DeRosa said there will be a \$3.1 million economic impact on downtown businesses over a 10 year period, \$340,000 in impact fees paid, \$2.94 million in tax revenue over the life of the TID, and a tax base of \$8.7 million.

Dave Barry of the Barry Company said his company was selected as the broker for the site by St. Francis Borgia. The property was listed about three years ago and it was determined, based on the functional obsolescence of the inside of the building, that the highest and best use of the site is a multi-family development. Nine offers were received, two for the single family lot and seven from developers proposing a multi-family development. The developer that was selected walked away from the project and HSI came on board. Mr. Barry said HSI has provided the most feasible project.

Mr. DeRosa said if there is no project by HSI, all approvals granted by the City will be undone because they were contingent upon HSI as the developer. The current zoning of the site is institutional, which will not provide for a desirable development. He said there is no guarantee there will be something better on the site in the future with another developer.

Mr. Stelter asked why the high price on the site if it is blighted. Mr. Barry said he cannot disclose the price to be paid for the site, but it is less than the original asking price. The Church was hoping to get more money for the site but was not able to.

Mr. Stelter asked what the term of the loan is that HSI will be taking out to finance for the project. Mr. DeRosa said HSI will be personally guaranteeing a 10 year loan of \$11 million with an interest of approximately 5%.

Mr. Stelter questioned whether the loan could be extended to eliminate the need for public assistance. Mr. DeRosa said extending the loan will have a minimal impact on the project overall.

Mr. Stelter asked if HSI has considered bonding for the project. Mr. DeRosa said the City and the County do have revolving loan fund programs, but these programs are primarily geared for commercial developments and focus on job creation. These types of loans would not work in this case. He said the asking price for the site is \$1.5 million and the purchase price is \$1.125 million.

Mr. Stelter said he has a hard time understanding why the taxpayers have to pay for opportunity costs.

Mr. Dettro said there is a risk if the project does not assess as expected.

Mr. DeRosa said if payments are made over a longer period of time it will not be as good of an investment.

Council Member Arnett asked how competitive the market is for the investors involved. Mr. DeRosa said a broad group of investors are involved with the project that look at what the market rate of return is. A 6% to 7% rate of return is desired.

Mr. Lythojohan asked Mr. Taves to explain what the Project Plan really does. Mr. Taves said the Project Plan puts into place the mechanism for a pay-as-you go method of financing. It does not set forth the terms of the developer's agreement.

Mr. Dettro said the project has been bid once. He asked if it will be re-bid to possibly achieve savings. Mr. DeRosa said the project has been bid out twice and the company feels it has obtained the most competitive pricing. If there is a delay in the project due to bidding the costs will increase. The company has been negotiating with contractors and subcontractors.

Mr. Dettro asked if any possible savings realized from negotiations with contractors or subcontractors would go to the developer or to offset the cost of the TID. Mr. DeRosa said he takes the approach that if the project comes in under budget HSI should not get the full amount requested.

Attorney Herbrand said the developer's agreement has not been finalized; however, it will likely contain an auditing process and claw back provision.

Mr. Stelter asked if this project really satisfies the "but for" test. Mr. Taves said this is a judgement call to be made by the Joint Review Board; however, various bodies at all levels should be and are involved. He said this project and request are not uncommon in the world of

TIDs. The question is whether the specific development as designed and proposed is likely to happen without government financing or assistance.

Mr. Dettro said this new development may create an additional burden on the schools and various City services such as police and fire. He asked if there has been any analysis of this done. Attorney Herbrand said there is no additional public infrastructure on this site although there may be additional emergency related calls. He said there have not been discussions with the Police or Fire Chiefs as to what they forecast as additional stress on their departments.

Council Member Arnett said he talked to the Business Manager at the Cedarburg School District who informed him that an additional \$10,000 in State Aid is generated for each additional child in the school system. He said the Police and Fire Departments are responding to issues related to the site now and feels this development will not create an additional burden.

Mr. DeRosa said this development is not targeting young families with children.

Steve Brill, W69 N419 Fox Point Avenue, said he is opposed to the TIF because the door is open to other possibilities since the property is still for sale. He suggested the City buy the site and develops a plan for it. He said any public financing for residential projects should include funding for lower income units.

Richard Didier, W60 N859 Sheboygan Road, suggested selling the single family lot for a separate development. He said it does not need TIF. He asked if any units would be handicap accessible.

Mr. DeRosa said all units would be accessible. This is required by building codes.

Ray Bies, W83 N965 Stony Kettle Drive, complimented Mr. DeRosa on his presentation. He said he assumes the square footage cost is the same whether there are 69 units in the development or 89. He said if costs are added desirability is also added.

Mr. Schultz said the one thing that has not been talked about is the return on investment to the community. He said there has been staff time and many meetings involving this issue and all this has an impact on the City. In this situation only the developer wins. He said he has a problem with taxpayer funds being spent on this. Rather than viewing this as one monolithic project, he suggested the single-family lot and the parking lot be separated as they can support individual projects. The boundaries should be revised to exclude these parcels. He also objects to the claim that the site needs environmental remediation as it is not a Superfund site. He said this is an excessive use of tax dollars and urged the Community Development Authority to reject the request for assistance.

Dean Roseland, N56 W6431 Center Street, said a project with 69 units will bring in at least 100 cars. He questioned why the City would want to subsidize a project that will bring 100 cars.

Matthias Hasenauer, N57 W6564 Center Street, said there are other opportunities for this site and the community needs to work together.

David Burkart, W67 N542 Evergreen Boulevard, asked if the site will be sold in 10 years. Mr. DeRosa said HSI is a long term holder of the properties it buys and develops.

Mr. Burkart asked what the site will be worth in 10 years and what would happen if it sells. Mr. DeRosa said it is the desire that the property and development will be worth more than what it costs to build it.

Attorney Herbrand said any possible future sale of the property could be addressed in the developer's agreement such that the City would be made whole in the event the property is sold.

Linda Smith, N32 W7367 Lincoln Boulevard, questioned whether the City would be opening doors to other developers for similar financing requests if this is approved. She said the residents will be paying for this forever.

Vera Brissman, W58 N432 Hilbert Avenue, said in an editorial today in the *News Graphic* Council Member Arnett stated that "one point we all agree on is we wish developer-funded TIF was unneeded". She said most do not wish, but know it is unneeded. She said the development by HSI was unanimously approved by the Common Council without TIF. At the time of the vote in March of 2017, HSI stated the development, as designed and proposed, was viable and financially feasible. In the Wisconsin Supreme Court, there is a case pending against the irresponsible use of TIF in municipalities. She said there is no blight. She said she could move her school safely into the school tomorrow with a little bit of dusting and paint. She said the proposed TIF for this site is a blatant misuse of the purpose of TIF. Ms. Brissman said the neighbors and residents of Cedarburg are not opposed to development, but this development has gone sour and giving the developer \$2 million in assistance is a cop-out. She said the City needs leaders with vision, understanding, clarity, and courage.

Ms. Brissman said the solution is:

- The most common sense solution is that St. Francis Borgia, like any other responsible property owner, should maintain and care for its property until it is sold.
- If the property does not sell in a reasonable amount of time, St. Francis Borgia should lower its sale price to better reflect the monetary value of the property.
- Actively search for creative developers who can mirror the historic character of the downtown and its surroundings, and invigorate the businesses with a classy, tasteful, and useful development as unique as its location.
- Encourage the leaders of the City to have courage and vision regarding this special site that will define the future of our City.

William Bujanovich, W61 N459 Washington Avenue, questioned whether the proposal is the highest and best use for the City or community and whether the development is in the best interest of the community. There is no census data as to whether the City needs luxury apartments. The focus should be on the needs of the community, not developers. A survey done several years ago indicated that more condos, affordable housing, smaller homes, and senior housing is needed, not luxury apartments.

Ryan Hammetter, N32 W7092 Buchanan Street, said he came to the meeting to oppose the TIF although he is in support of the project. He said perhaps a mistake was made in reducing the

number of units without thinking of the economic feasibility of the project. Mr. Hammetter said this is a hard decision either way and City leaders need to keep an open mind, weigh all options, and make informed decisions. A financial incentive may result in providing people with a place to live, bringing business to downtown, and bringing people to the community.

Duey Stroebel, 2428 Covered Bridge Road, said Cedarburg is a great place and a desirable place to build but developers along the way did not require public subsidies. It is all about the “but for” test. If savings can be found is the “but for” test really addressed. He said there are different approaches to development and it is hard to make a decision regarding this based on what was presented.

Council Member Czarnecki, W62 N776 Sheboygan Road, said he would be interested in hearing from residents regarding the idea of the City investing in affordable housing. He said there seems to be the idea out there that there are other developers who are willing to develop this site. He said such a group does not exist. He said this project is exactly what a developer funded TIF is used for. He said this development will bring people downtown and is what makes the downtown vibrant.

Aaron Olejniczak, W74 N304 Cedar Pointe Avenue, spoke in support of the TID district. This is an investment of \$16 million into the community. There is not another entity that will create an idealistic development that some people are looking for. He urged the Community Development Authority to move forward.

Council Member Mike O’Keefe, N95 W6502 Fieldcrest Street, said Cedarburg is a fantastic place to live, work and play. The City needs to use the tools available to improve and enhance the City. Council Member O’Keefe said this development will create a valuable asset. The City asked HSI to reduce the density and improve the quality. It is not reasonable to think HSI could do this without ramifications.

Dick Wilde, W65 N527 St. John Avenue, said in a discussion with Council Member O’Keefe when the project was first proposed he suggested that TIF be introduced. Council Member O’Keefe responded by saying there was no way he would ask taxpayers to fund this project, but he has done that tonight.

Council Member O’Keefe said that no one is happy about providing assistance; however, it is necessary.

Phil Bail, N47 W8050 Parkland Road, said the issue is that of financing and it is outrageous to say that St. Francis Borgia is part of the problem. He suggested leaders look to the future, approve the financing, and let the project be built.

Mr. DeRosa offered the following in response to comments made:

- The City’s Comprehensive Land Use Plan identifies this site as a Smart Growth area planned for multi-family development;
- No one has called him with better ideas;
- Only “but for” the development is there revenue generated;
- The price of the project goes up as the quantity of units goes down;

- The parking exceeds the parking requirements established in the Zoning Code;
- The bar for quality has been set;
- The site was evaluated for single family homes but it was determined this will not work;
- Many things said tonight have been taken out of context;
- His firm has been held to higher standards than other developers in the City and than in other communities;
- People will benefit from the project as it will help keep taxes down, support businesses, and contribute to the vibrancy of the downtown;
- There will always be debate surrounding these types of developments;
- There are more reasons to say yes than no.

DJ Burns, N105 W8585 Chatham Street, said he has found staff to be very helpful and fair, and it is unfair of Mr. DeRosa to say that he was held to higher design standards.

Mr. DeRosa agreed that staff has been outstanding in this process.

Joe Emmerich, W75 N717 Tower Avenue, said there is an obligation to determine if the project conforms to the neighborhood. He said providing assistance will mortgage the taxpayers for 13 years. The downtown depends on tourism, not the local trade. Mr. Emmerich said there were other viable ideas presented. The City should let the market work.

Motion made by Mr. Lythjohan, seconded by Mr. Stelter, to close the public hearing at 9:35 p.m. Motion carried unanimously.

Council Member Arnett said there is a simple choice today. If the TIF is denied, the existing building will remain or there will be underutilization of a great site. If the City asks for something else, the whole three to four year process that has been ongoing will start over. The fastest way to get tax dollars into the community is to move forward with this project. Sometimes change is necessary. He supports creating the TID district.

Mr. Stelter said the reality is that the City has a vibrant downtown and beautiful homes. The founding fathers scrutinized every property and development. The Council understands how important this site is. If it means a \$2 million contribution, maybe it is not the project the City needs. Mr. Stelter said the community will be vibrant with or without the project. For these reasons he cannot support creating the TID.

Mr. Kassander said he believes in a free market and democracy. Developing commercial properties is a hot market. He said this site is not blighted, but underutilized. He cannot support the TID.

Mr. Lythjohan said a week ago he did not want to say yes. The Council and Plan Commission did all the work on this proposal and he sees the Community Development Authority's action as one small step to determine if this project is fully viable. His hope is that the developer's agreement properly represents the taxpayer and that any possible cost savings are factored in and there is a clause that if the site is sold after development the financing stops, the TID is not transferred to the new owner, and the City is made whole. He supports moving forward with these provisions.

Mayor Kinzel said he hopes any motion made will include these two provisions. He said this project will have a very positive impact on the City as a whole. It will contribute to the vibrancy of the community, which continues to grow. Moving forward is the quickest way to get a return on investment for everyone.

Mr. Arvold said he appreciates the involvement of everyone. His sentiment is that this is a high-quality development that fits in with the City and is a meaningful improvement. TIF makes sense.

Mr. Dettro said HSI did a great job with their presentation. He said he has an issue with the boundaries including the single-family lot and parking lot and the \$1.9 million in assistance. He said he cannot support this at this time.

CONSIDERATION OF RESOLUTION DESIGNATING PROPOSED BOUNDARIES AND APPROVING A PROJECT PLAN FOR TAX INCREMENTAL DISTRICT NO. 5, CITY OF CEDARBURG, WISCONSIN

Motion made by Council Member Arnett, seconded by Mayor Kinzel, that the Community Development Authority adopt Resolution No. 2018-01 designating proposed boundaries and approving a Project Plan for Tax Incremental District No. 5, City of Cedarburg, Wisconsin, contingent upon a provision included in the developer's agreement that there be a refund if the project is under budget because of cost savings and a claw back provision making the City whole in the event of the sale of the site. Motion carried with Mayor Kinzel, Council Member Arnett, Mr. Lythjohan and Mr. Arvold voting aye, and Mr. Stelter, Mr. Dettro and Mr. Kassander voting nay.

ADJOURNMENT

Motion made by Council Member Arnett, seconded by Mr. Stelter, to adjourn the meeting at 10:01p.m. Motion carried unanimously.

Constance McHugh
City Clerk