

STAFF REPORT
October 23, 2014

No. 14TI001 – Appeal Creating Tax Increment District

ITEM 7

GENERAL INFORMATION:

APPLICANT	Hani Shafai – Technology Housing 2, LLC
AGENT	Dream Design International, Inc.
PROPERTY OWNER	Multiple property owners
REQUEST	No. 14TI001 – Appeal of Tax Increment Committee’s decision to Create a Tax Increment District
LEGAL DESCRIPTION	Lots 1 – 16 and the adjacent rights-of-way to Lots 1 – 16 of Block 5 of Denman’s Subdivision, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota.
PARCEL ACREAGE	Approximately 3.170 acres
LOCATION	South of East St Joseph Street between Maple Avenue and Myrtle Avenue
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	High Density Residential District
East:	General Commercial District
West:	General Commercial District
DATE OF APPLICATION	9/4/2014
REVIEWED BY	Patsy Horton

RECOMMENDATION: Staff recommends approving the request to create a tax increment district to assist in the development of property located along E. St. Joseph Street and that the Planning Commission direct staff to prepare the project plan.

GENERAL COMMENTS: The applicant has requested the creation of a tax increment district to assist in the development of property located along E. St. Joseph Street through the demolition of blighted property, public infrastructure improvements, and the redevelopment for housing. The tax increment funds will be utilized for property acquisition, demolition, alley reconstruction, engineering, contingency, and necessary and convenient costs. The developer will obtain funding for the project costs of the tax increment district and be repaid from increment revenues.

On September 23, 2014, the Tax Increment Review Committee denied the applicant’s request to create a tax increment district. The approved Tax Increment Guidelines identifies the following approval/appeal process for a new tax increment district:

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1. Resolution to create tax increment district

- a. The Tax Increment Review Committee determines whether the proposal meets the established criteria and makes recommendations on proposed project cost adjustments.
- b. The Tax Increment Review Committee makes a decision on whether to create a new tax increment district.

Appeal process:

- a. If the Tax Increment Review Committee does not approve creating a tax increment district, the applicant may appeal the Committee's decision to the Planning Commission.
- a. If Planning Commission approves creating the district, staff prepares the resolution to create the district and prepares the project plan for review by the Planning Commission (at a future meeting).
- b. The Planning Commission's decision on creating the district is final.

2. Resolution to approve Project Plan

- a. Staff prepares the project plan meeting the statutory requirements, including a resolution defining the proposed district.
- b. Staff forwards the draft resolution and project plan along with the Tax Increment Review Committee's recommendation to the Planning Commission.
- c. If the Planning Commission approves the draft resolution and project plan, the City Council sets a public hearing at a future City Council meeting.
- d. The recommendation of the Legal and Finance Committee is forwarded to the City Council for its consideration following the public hearing.
- e. After the resolutions to create the district and approve the project plan are approved, the City Attorney drafts a development agreement.

Appeal process:

- a. If Planning Commission denies the request to authorize the preparation of the project plan, the applicant may appeal the Commission's decision to the Legal and Finance Committee, who provides a recommendation to the City Council.
- b. If the City Council authorizes the preparation of the project plan, the proposal shall be reviewed as outlined above.
- c. If the City Council does not authorize the preparation of the project plan, no further action shall be taken.

The City Finance Officer will review and analyze the proposed financing terms and forward a recommendation for approval or disapproval to the City Council along with the development agreement or proposal for refinancing. For purposes of development of the project plan, all interest expenses shall be calculated utilizing a fixed rate not to exceed 9 percent annual interest as directed in the adopted Tax Increment Financing Guidelines. This interest amount shall be included in the project plan and at no time during the term of the project shall the actual interest expense exceed the amount budgeted in the project plan.

The approved Tax Increment Guidelines state that an Imputed Administrative Fee in the amount of \$20,000 shall be charged by the City of Rapid City to every tax increment district

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for which a Project Plan is approved. Such fee shall be paid to the City as a project cost from the tax increment fund balance in year five of the tax increment district.

It is anticipated that one or more of the properties in this proposed tax increment district will be used for commercial purposes. The property is currently zoned General Commercial District and will need to be rezoned to accommodate the proposed development. The apartment will be identified as a commercial structure. As such, the creation of this tax increment district for economic development purposes will not require an additional levy to make up for the School District's share of the property taxes included in the Tax Increment. The redevelopment of blighted property will enhance the ability for new development to occur and increase the community's economic vitality and expand the City's property tax base.

The proposed District boundary incorporates approximately 3.17 acres located south of E. St. Joseph Street from Maple Avenue to Myrtle Avenue and includes all adjacent rights-of-way.

STAFF REVIEW: The Tax Increment Financing Project Review Committee reviewed this proposal on September 23, 2014 and denied the creation of the E. St. Joseph Street Housing 2 Tax Increment District. The applicant has appealed their decision. Staff's review follows.

Statutory Requirements: The applicant has indicated that the proposed project complies with all applicable statutory requirements as well as the City's adopted Tax Increment Policy.

Local Criteria: In addition to the statutory requirements, staff has reviewed the information provided by the applicant and the proposal met two of the six local criteria:

- Criterion #2: The project will eliminate actual or potential hazard to the public. Hazards may include condemned or unsafe buildings, sites, or structures.
- Criterion #3: The project will not provide direct or indirect assistance to retail or service businesses competing with existing businesses in the Rapid City trade area. (Although there are apartments within a close proximity to the proposed project, apartments are not considered a retail or service business, thus the proposed project does not compete with existing retail or service businesses.)

Additional Local Criteria:

- Criterion #1: The project must comply with the adopted Comprehensive Plan and all other appropriate plans and regulations.
- Criterion #2: The use of tax increment financing for the project will not result in the net loss of pre-existing tax revenues to the City and other taxing jurisdictions.
- Criterion #3: The proposed project costs, including land acquisition, environmental cleanup, public infrastructure improvements, engineering, contingency and necessary and convenient costs, are allowable project costs.

Discretionary Criteria: Additionally, staff has reviewed the following discretionary criteria

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submitted by the applicant that meets the adopted Tax Increment Policy:

- Criterion #5: The building or site that is to be redeveloped itself displays conditions of blight as established by the provisions of SDCL 11-9.
- Criterion #8: The project site has displayed a recent pattern of declining real property assessments, as measured by the Pennington County Director of Equalization.

Financial Information: In compliance with the preliminary financial information requirement, page two of the applicant's application states that the developer will fund the TIF component through a loan at Great Western Bank. Although the terms of the loan have not been finalized, the applicant anticipates an interest rate of near 6%, but also referenced a 7.5% rate. As required by the TIF Guidelines, the interest rate will not exceed 9%. The applicant indicated that the financing terms will be provided to the Council prior to approval of the proposed TIF. Additional amortization schedules are attached to reference the 6% rate, as well as 7.5% and 9% rates.

Staff has estimated a 6% interest rate for the financing expenses listed below based on discussions with the developer regarding the anticipated interest rate. The 6% interest rate in lieu of the 7.5% rate more accurately accounts for the current market rates.*

In addition to the preliminary financial information, page ten of the Guidelines further clarifies the specific information the applicant shall provide to the Finance Officer for review of the financial package before City Council considers the application, and includes:

- Fixed or variable interest rate, if variable state frequency of pricing adjustments
- Interest rate index
- Interest rate spread over/under index, if any
- Loan term
- Collateral
- Guaranty requirements from the developer
- All identity of interests between developer and lender

Proposed Project Costs: The applicant has proposed the following costs to be paid by the tax increment generated by the housing development, including a square footage estimate for the 1.27 acre purchase:

TID Project Costs

Description	Total Cost	Cost per Sq. Ft
Property Acquisition	\$800,000	\$14.38
Environmental Cleanup & Demolition	\$100,000	\$1.80
Alley Reconstruction	\$100,000	\$1.80
Engineering	\$30,000	
Contingency	\$30,000	
Necessary and Convenient Costs	<u>\$2,000</u>	
Subtotal	\$1,062,000	

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Financing Expenses	<u>\$451,646</u> (6%)*
Total	\$1,513,646

Appraisal: In 2012, the Council also approved Tax Increment District #72, similar to the current proposal, two blocks east to include capital costs for property acquisition, environmental cleanup and demolition, and alley reconstruction. Language included in the associated development agreement identified reimbursement to the developer for up to \$10,000 for an independent appraisal as part of the property acquisition costs.

On August 18, 2014, the City Council authorized the applicant to submit property acquisition costs in the current proposal for a tax increment project. If this proposal is approved, staff recommends including language in the development agreement related to an independent appraisal and that the City shall have an opportunity to participate in the selection of the appraisal firm.

Land costs: The applicant has indicated that the project identified within the current proposal will be wholly-owned and operated by the applicant, unlike the project funded through tax increment district #72, also known as Rocker Square and Rocker Square #2. Both Rocker Square apartment buildings are leased and operated by the South Dakota School of Mines and Technology. In order to compare the operational costs of TID #72 and this current proposal, one option to address the operational difference is to exclude the land cost as determined by the independent appraisal. There are seven parcels within the proposed district boundary. The total valuation for those seven parcels comprising the proposed tax increment district is \$491,900, which is down from \$758,700 in 2008. The current land valuation for those seven parcels, as determined by the Pennington County Director of Equalization, is \$171,000.

Copies of the adopted Tax Increment Financing Policy are attached for your reference.

The Tax Increment Financing Project Review Committee recommended denial of creating a tax increment district for additional housing on E. St. Joseph Street.

Staff Recommendation: Staff recommends approving the request to create a tax increment district to assist in the development of property located along E. St. Joseph Street and that the Planning Commission direct staff to prepare the project plan.