



Request for MCDA Board of Commissioners Action from the Department of Community Planning and Economic Development - CPED

Date: May 1, 2007
To: Council Member Lisa Goodman, Community Development Committee

Referral to: MCDA Operating Committee

Subject: Public Hearing on Grant of Easements and Consent to Amendment of Dain Plaza (501 Nicollet Avenue) Agreement

Recommendation: Approve the grant of easements and consent to the amendment of the easement and construction agreement. Authorize the proper MCDA officials to execute this agreement and any related documents necessary to implement the above referenced transactions.

Previous Directives: The MCDA approved the settlement with Brookfield Properties LLC on Nov 7, 2003 and the mayor approved on Nov 10, 2003. The MCDA approved a reciprocal easement on Nov 8, 2002 and the mayor approved on Nov 14, 2002. The MCDA rejected a Brookfield offer for settlement on May 20, 2002 (02-122M) The MCDA executed a grant of easements and consent to the original easement agreement in June 1989. In 1988, the MCDA approved financial assistance to a Brookfield entity in connection with the Dain Plaza/Neiman Marcus project on the Nicollet Mall between 5th and 6th Streets.

Prepared by: Beth Grosen _____
Approved by: Mike Christenson, Economic Development Director _____
 Chuck Lutz, Deputy CPED Director _____
Presenter in Committee: Beth Grosen _____

Financial Impact

This action has no financial impact on the MCDA budget.

Community Impact

Neighborhood Notification-Not applicable
City Goals-Complies with Connected Communities and Premier Destination goals
Sustainability Targets-NA
Comprehensive Plan-NA. Complies with Downtown 2010 plan
Zoning Code-Use complies with zoning.
Living Wage/Business Subsidy Agreement Yes _____ No X _____
Job Linkage Yes _____ No X _____

Supporting Information

The MCDA initially entered into redevelopment agreements with Brookfield development entities in 1988 for the redevelopment of the one-half block along the easterly side of Nicollet Mall between 6th and 7th Streets (Gaviidae I). This entire block had been left vacant after a catastrophic fire destroyed both the Northwestern Bank Building and Donaldson's Department Store in late 1982. (The other half of this block was redeveloped as the Wells Fargo Center.)

In 1989, an easement agreement (the "Original Easement Agreement") was done to accommodate the construction and operation of the Neiman Marcus/Dain Plaza project and the immediately adjacent property at 520 Marquette Avenue. The MCDA has a ground lease with Brookfield DB Inc., which is successor in interest to one of the parties in the Original Easement Agreement.

The Marquette property is now owned by 520 Marquette Hotel, LLC, which is in the process of converting the old bank building and the adjacent office tower into a Westin Hotel. To facilitate the conversion to a hotel, 520 Marquette requested that Brookfield make certain changes in the Original Easement Agreement. In the proposed amendment, Brookfield has accommodated 520 Marquette's request, but it has used the opportunity to improve its position under the Original Easement Agreement in a number of ways. These include shifting maintenance responsibilities and costs for the loading dock and service elevator, underground ramp and delivery facilities, trash removal, and improvements to the rooftop appearance. The amendment also addresses the airspace over the alley for air intake and exhaust, and access for building maintenance.

The MCDA's and Brookfield's interests are the same under the proposed amendment, because if Brookfield were to default under the sublease, or it did not repurchase the ground leasehold interest from the MCDA at the end of the sublease, MCDA would "step into the shoes" of Brookfield.

The proposed amendment improves Brookfield's (and therefore the MCDA's) position in several respects. While Brookfield (and MCDA) grants some new easements to accommodate the hotel, these are not significant and are clearly outweighed by the benefits Brookfield (and MCDA) is receiving.