

Request for City Council Committee Action from the Department of Community Planning and Economic Development – CPED

Date: November 27, 2007

To: Council Member Lisa Goodman, Chair, Community Development Committee

Referral to: Council Member Paul Ostrow, Chair, Ways and Means

Subject: Ivy Tower Conservation & Air Easement

Recommendation: With regard to Ivy Tower: accept the donation of an open space conservation easement that will protect the view shed of the historic Ivy Tower facade; and authorize proper City officers to execute these and all related documents.

Previous Directives: May 3, 2005, approval of Modification No. 2 to the Ivy Tower Tax Increment Financing Plan, approval and authorization to issue Tax Exempt Tax Increment Revenue Bonds, series 2005, and approval and authorization of a Taxable Tax Increment Revenue Pay-As-You-Go Note; September 3, 2004, amendment to Redevelopment Agreement extending time of Developer's performance up to May 31, 2005; October 1, 2002, amendment extending Developer's performance and conditions precedent to acquisition under the Redevelopment Agreement from February 28, 2008 to August 31, 2004 and redeveloper consider adding housing component to enhance project feasibility; December 14, 2001, approval of terms and authorization of Redevelopment Agreement, approval and adoption of related Tax Increment Financing Plan and Redevelopment Plan (Resolution 2001R-516).

Prepared by: Beth Grosen, Senior Project Coordinator 673-5002

Approved by: Charles T. Lutz, Deputy CPED Director _____

Presenters in Committee: Beth Grosen

Financial Impact

No financial impact

Action is within the Business Plan

Community Impact

Neighborhood Notification: Not Applicable

City Goals: A Premier Destination

Sustainability Targets: This will ensure the preservation and re-use of the historic Ivy Tower.

Comprehensive Plan: The historic restoration will preserve a structure that helps define the City's unique identity in the region.

Zoning Code: The Ivy Tower is a permitted use in the B4S-2 district. The project required site plan review by the HPC and Planning Commission.

Other: None

Supporting Information

Ivy Tower Development, LLC has requested that the City of Minneapolis accept the donation of an open space conservation easement that will protect the view shed of the historic Ivy Tower facade. As you know, preservation of the historic Ivy Tower has long been a priority of the City, but the unique structure proved to be very costly and difficult to redevelop, leading prior owners to seek its demolition.

Ivy Tower Development LLC worked with the City to plan for redevelopment of the historic building as part of a mixed use hotel and condominium redevelopment. The adjacent redevelopment provided the essential tax increment assistance to allow the renovation of the Ivy Tower. The historic building was the major factor in the overall project design and it functions as the highly visible center piece of the overall development, set apart by site line view protection of the principal facades through establishment of a courtyard between the old and new construction on the North, similar to the sight line protection on the South afforded by the setback for the driveway access. The idea of this setback, vs. building right to the property line grew out of the design involvement of Charles Nelson, the State Preservation Architect at the Minnesota Historical Society.

Integral to the project financing plan was the assumption that the project would be eligible for Historic Rehabilitation Tax Credits. However, in a surprising decision, the National Park Service, while recognizing the merits of the renovation, rejected the Historic Tax Credit application due to the scale of the surrounding new development. Obviously this was both a huge surprise (since the State Preservation Architect had been very involved and positive) and a bit of a "Catch-22." This has forced Ivy Tower Development to consider an alternate approach to obtain partial benefits to fill the financing hole created by this decision. Fortunately, because National Register listing had not yet occurred, the project is eligible for the standard Rehabilitation Tax Credits (10% vs. 20%). Additionally, the development limitation concessions to preserve the view and prominence of the Ivy Tower offer an alternative donation opportunity.

Ivy Tower Development is seeking to establish and donate a perpetual conservation easement for the open space over the courtyard adjacent to the Ivy Tower and the air-rights parcel above the historic building, both for preservation of the view shed of the north facade and to serve as a perpetual development restriction. Donation of this conservation easement to a qualified holder of such easements will allow the project to obtain tax benefits that will partially fill the hole in the finance plan created by the denial of Historic Tax Credits. Pursuant to Minn. Stat. Ch. 84C, Conservation Easements, the City of Minneapolis is a qualified holder of conservation easements.

Ultimately, it is the intent of the owner to donate the full facade easement for the three visible facades of the building and place the Ivy Tower on the National Register upon completion of the five-year Rehabilitation Tax Credit recapture period. It is not possible to make that donation at this time, because the development is utilizing Rehabilitation Tax Credits which are not available for buildings that have already been listed on the National Register, and facade donations are only available for structures on the National Register.

It was the owner's hope that the Preservation Alliance would accept the immediate donation of the open space easement and subsequent donation of the facade easement. Unfortunately, they were recently informed by the Preservation Alliance that it is not willing to accept the open space easement separately from the facade easement, but will work with them to accept both easements after the five year Tax Credit period.

In order to obtain the needed tax benefits of a conservation donation, the donation must be made in conjunction with the sale of the Rehabilitation Tax Credits, sale of the condominium units, and opening of the hotel for operation, which is planned to occur in December. Thus, postponing donation of the open space easement for five years will undermine the purpose of using it as a substitute financing mechanism for the project. It is for this reason that the owner is requesting that the City accept the donation of the open space conservation easement at this time.

There is precedent for the City accepting open space easements of this type. The City accepted such an easement for the air space over the Calhoun Beach Club Apartments building in the 1980's to insure that no building would ever be built there in excess of the agreed height. Accepting the easement will place no obligations or costs on the City and will serve as another measure to ensure the protection and preservation of the historic Ivy Tower for the visual enjoyment of the public. Ivy Tower will pay all costs of recording, and will reimburse any costs incurred by the City in its review of the easement. In five years, when it is possible to donate the facade easement, the owner will renew its request to the Preservation Alliance to become the holder of both the open space and facade easements.