

City Council Agenda Summary Sheet (Non Purchases)

Agenda No: 2004-0458 Brownfield Redevelopment Plan for Madison Park
Date: 5-12-04
Prepared By: Derek L. Delacourt, ext. 2573
City File No: 03-023

Meeting Date: May 19, 2004

PURPOSE:

Review and approve Brownfield Redevelopment Plan for the proposed Madison Park Development.

ADDITIONAL INFORMATION:

This is the second review and public hearing associated with the proposed site. After the previous approval of the plan Staff determined that the taxing jurisdictions required to be noticed by Act 381 were not noticed. Due to that fact, at its April 21, 2004 meeting, City Council rescinded the approval of the Plan.

Based on concerns expressed at the April 7 City Council meeting, Staff took the opportunity to authorize additional review of the proposed plan. Richard Wendt, a Municipal and Brownfield Attorney for Dickinson Wright, was contacted to provide additional review of the Plan and to provide comment on some of the materials that were presented at Council's April 7 meeting. Mr. Wendt provided suggestions to improve the language in the proposed plan. The copy of the Plan included in the packet indicates those changes in a strike-thru and bold format. None of the proposed changes alters the content of the originally approved plan. The proposed changes only clarify and strengthen the language. Also included in the packet is a memo Mr. Wendt provided regarding material that was provided to Council at the previous meeting.

As requested, attached is additional information intended to address some of the issues related to the project. The Final Draft of the Baseline Environmental Assessment (BEA) is included in electronic format. This document identifies and reviews the Site Assessment work completed to date. Section 4 of the BEA provides a complete listing of the levels of contamination exceeding the criteria for qualification as a Brownfield Facility. When completed the BEA will be submitted to the DEQ for affirmation. The DEQ has, and continues to be, involved in the amount and type of information gathered on the site.

Included in the packet is a letter forwarded to Staff from the Environmental Protection Agency. After receiving the letter Staff contacted Brooke Furio, EPA staff person in charge of Brownfields for this region. He indicated to staff that, although this site is not considered a priority for the EPA that does not in any way indicate that the EPA does not consider the site contaminated nor do they question the status of the site as a Brownfield. Also Mr. Furio re-emphasized the EPA's support of the use of the Brownfield process for remediation and

development of such sites and the role of the DEQ in determining the type and amount of remediation required for the proposed development.

Since the last meeting Staff has also met with the Avondale School District Finance Director and Assistant Superintendent from the Rochester School District to discuss the proposed plan. They reviewed the plan with Staff and were provided the opportunity to ask any questions or identify any issues they might have. Subsequent to that meeting, the Finance Director from Avondale confirmed on the phone with Staff that the district and its Attorney had no concerns with the approval of the plan nor did they feel approval would have any effect on their financing. Also, because the project falls within the Rochester School District, staff met again directly with the Assistant Superintendent to discuss any issues they may have, and no concern with the approval of the plan was expressed at that meeting.

Additional correspondence and information is included from the Clinton River Watershed Council, Senator Mike Bishop, and from a letter outlining the parameters under which the DEQ has agreed to enter into a covenant not to sue regarding the project.

DISCUSSION:

The applicant is requesting approval of a BRA plan that includes both Tax Increment Financing (TIF) and Single Business Tax Credit (SBT). The subject parcels total approximately 100 acres in size of which 70+ acres is the former Cardinal/BFI landfill. The applicant has an approved Consent Judgment with City Council outlining the parameters for redevelopment. The submitted Brownfield Plan is based on that agreement. The subject site is a facility and is a known source of contamination in the Community. A Baseline Environmental Assessment and Phase I Environmental investigation have been completed for the site and additional investigation continues to take place.

The City and its Environmental Consultants have determined that currently the Landfill is not “capped” appropriately; there is no leachate (contaminated groundwater) collection system functioning on the site, and no working methane collection system on the site. The landfill does, and will continue to, produce methane and leachate into the future and is a source of contamination to the Clinton River Watershed and the Gabler Drainage District.

LANDFILL REMEDIATION

The applicant is proposing the remediation of the landfill and to provide clean up required by the City, and DEQ for redevelopment of the subject site. The proposed eligible activities are estimated to cost 30 million dollars. That number is reflected in the tax table attached to the Brownfield Plan. Eligible activities will include but are not limited to:

- The removal of approximately one million yards of waste material and relocation to a licensed landfill
- Installation of an approved cap on the remaining waste material
- Installation of an approved leachate (contaminated groundwater) collection system
- Installation of both passive and active methane collections systems
- Backfill of the excavated area
- All other City and DEQ required activities
- Long term monitoring program for the site
- All necessary site assessment and investigative work

TAX INCREMENT FINANCING

The intent of the Brownfield Plan and the tax table attached is to start the process of remediation of the site and redevelopment of the parcels. The tax table is based on the estimated value of the proposed development. The Brownfield Plan allows the Authority to capture the increased value of the site after the remediation and proposed development are completed. Approval of the Plan by both the Authority and City Council allows the applicant to move forward with Due Care and Work Plan submissions to the City and DEQ for approval of the eligible activities associated with the site. Also, it allows the City to negotiate the Reimbursement Agreement with the applicant regarding the specifics of the TIF payback and other details related to the proposed work.

FISCAL INFORMATION:

None

RECOMMENDATION:

The proposed plan, with conditions, meets all of the requirements for approval of a BRA Plan by the Authority and City Council. The subject site is a known source of contamination within the City and continues to be a concern to the City and the DEQ. The estimated eligible activities' costs and approximate value of the site, when developed, has been reviewed by the City Assessor and the City's Environmental Consultant, and both consider the costs reasonable for the approved development of the subject site.

Based on the above information Staff recommends that City Council approve the proposed plan subject to conditions.

ATTACHMENTS:

Department Authorization: Ed Anzek, Director of Planning and Development

Reviewed by:

Fiscal: *Jean Farris*

Clerks: *Susan Koliba-Galeczka*

Approved by: *Pat Somerville*

RESOLUTION

NEXT AGENDA ITEM

RETURN TO AGENDA

