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HONORABLE CITY COUNCIL

RE: Community Benefits Ordinance process analysis for The Mid 3750 Woodward project



BACKGROUND AND PROPOSAL

In November of 2016, the Proposal B ballot initiative passed with 53% of the vote, effectuating the enactment of the City of Detroit’s Community Benefits Ordinance (CBO) Ordinance No. 35-

16. The expressed purpose of this ordinance is to garner *“outreach and engagement that promotes transparency and accountability and ensures development projects in the City of Detroit benefit and promote economic growth and prosperity for all residents.”*

Section 14-12-3, subsection (a)(5) of the ordinance states that, *“the City Council shall appoint a liaison from the Legislative Policy Division to monitor the community engagement process and provide updates to the City Council.”* This report has been prepared by the Legislative Policy Division (LPD) to provide an update as contemplated by the ordinance prior to Council’s consideration of any financial incentives associated with these developments.

The subject development qualifies for the Community Benefits Ordinance process because the project is estimated to incur an investment of over \$75 million and it is seeking a Commercial Rehabilitation Exemption (PA 210) and a Neighborhood Enterprise Zone (PA 147). The total amount of tax abatements being sought from the city is approximately \$27 million (not inclusive of abatements from other taxing jurisdictions). These abatements

Summary of Tax Abatements

Requested Abatements	Estimated Abated Taxes		Time Period
	Detroit	All Jurisdictions	
CRE (PA 210)	\$12M	\$24M	10 Yrs
NEZ (PA 147)	\$1.5M	\$3M	15 Yrs
TOTAL	\$13.5M	\$27M	
NET FISCAL BENEFIT TO THE CITY	\$52M		30 Year Analysis

Sec. 14-12-2 of the Community Benefits Ordinance defines a Tier 1 development project as follows:

“Tier 1 Development Project means a development project in the City that is expected to incur the investment of Seventy-five Millions Dollars (\$75,000,000) or more during the construction of facilities or to begin or expand operations or renovate structures where the developer of the project is negotiating public support for investment in one or both of the following forms.

- (1) Any transfer to the developer of City-owned land parcels that have a cumulative market value of One Million Dollars (\$1,000,000) or more (as determined by the City

Assessor or independent appraisal) without open bidding and priced below market rates (where allowed by law) or

- (2) Provision or approval by the City of tax abatements or other tax breaks that abate more than One Million Dollars (\$1,000,000) of City taxes over the term of the abatement that inure directly to the Development, but not including Neighborhood Enterprise Zone tax abatements.*

The Mid project is an approximately \$310 million project. According to the Detroit Economic Growth Corporation estimates, the project is expected to have a net fiscal benefit to the city of \$52 million over 30 years after accounting for revenues, abatements, services and utilities that the project will generate and utilize. The project is also seeking a \$20 million Brownfield TIF for the removal and remediation of contamination on the subject site.

The remainder of this report includes the analysis and conclusions of Council's liaison's report for The Mid CBO process which entailed five (5) meetings and spanned from April 16th to June 4th. See details below:

COMMUNITY BENEFITS ORDINANCE PROJECT DETAILS

Proposed Development and Location:

3750 Woodward The Mid

The project that is being proposed at 3750 Woodward is a \$310 million large scale mixed-use development in the heart of Midtown. The plans for the approximately 3.78 acre L shaped site include 60 Luxury Condominiums, 313 Multifamily Apartments and 520 beds for student residences. Of the multi family apartment units, 54 are planned as efficiency units of approximately 515 sq. ft. each; 172 are 1-bedroom units of approximately 671 sq. ft. each; and 87 are 2-bedroom units of approximately 1,190 sq. ft. each.

Retail Anchor- 50,581 sf total, 23,747 sf 1st floor, 26,834 sf 2nd floor

Retail Grocer- 29,640 sf

Retail Pavilion (West)- One (1) story (3,870 sf.)

Retail Pavilion (East)- 1story (4,256 sf)

Student Residence- twelve (12) stories (228,526 sf)

Multi-Family Residence- 35 stories (325,474 sf)

Hotel- (209,485 sf,) and **Luxury Condominiums** (100,381 sf) which together comprise 24 stories of the development.

Underground Parking- One (1) story below grade (139,420 sf) and **Above Ground Parking-** five (5) stories above grade (172,723 sf) total

The total gross square footage of all structures is estimated to be 1,124,936 sf (excluding underground the parking)

The project plans to include affordable units according to the department of Housing and Urban Development standards. Of the total number of multiple family dwelling units, 62 units would be affordable, which is 20% of the total unit number.

In addition to the housing component of the development, the plan is to create outdoor plazas, a hotel, and multiple retail spaces that include a large scale big box retail, large scale grocer and also small boutique retailers.

To support all of the components of the development, the plan proposes 743 parking spaces, with the large majority of 728 spaces being structured parking (5 structured stories above grade and one (1) level of structured parking would be below-grade. The remaining 15 spaces would be surface lot parking housed outside of the structure.

The developer would like to begin the project as soon as possible, and complete construction by 2021 anticipates that this project would spur approximately 1300 to 1500 temporary jobs and 400+ permanent jobs.

Current Zoning:

3750 Woodward Avenue (Subject property)- PD- Planned Development This district will permit planned developments throughout the City and will be particularly useful in urban renewal areas. Such planned developments shall be substantially in accord with the goals and objectives of the Master Plan, by having a major land use that corresponds to the most general category of land use, which are Residential, Retail and Local Services, Industrial, Mixed Use, Parks and Open Space, and Other, proposed in the Master Plan for the area involved. Such planned developments shall provide a desirable environment for the uses proposed and shall not be out of harmony with their general surroundings. The regulations of the district are designed to accomplish this by permitting flexibility in overall development while ensuring adequate safeguards and standards for public health, safety, convenience, and general welfare and, where applicable, encouraging historic preservation. Developers in both private and urban renewal areas are advised to confer with the Planning and Development Department or the City Planning Commission before investing large amounts of time and energy in preparing plans and proposals.

The Mid project has also undergone a Planned Development modification which is essentially a rezoning under the PD zoning classification, to allow for the subject development. The PD modification was voted for approval by the City Planning Commission. The matter has since been referred and recommended for approval by the Planning and Economic Development Committee on Thursday July 18th and will be considered by the Committee of the Whole on July 23rd for final approval.

Developer Representatives:

Emery Matthews, Managing Principal, Real Estate Interests, LLC

Estimated Cost:

\$310 million which qualifies this project as a Tier 1 project.

Census Tract(s):

The Impact Area includes Census Tracts 5203, 5175, 5173 and 5225.

Impact Area Boundaries:

The impact area stemming from 3750 Woodward, the subject site, is determined by the Planning and Development Department, and is defined as Warren Avenue, I-375, 2nd Avenue, Temple Street, Edmund Place, and Wilkins Street.

CBO Facilitators:

Vince Keenan Department of Neighborhoods (DON) Julio Cedano, Planning and Development Department (PDD) Karen Gage, (PDD)

Legislative Policy Division Liaison(s):

Marcell R. Todd, Jr., Kimani Jeffrey, LPD

Neighborhood Advisory Council (NAC):

Bernice Smith – Elected by Impact Area Residents

Elliot Broom – Elected by Impact Area Residents

Deidra Anderson – City Council President Brenda Jones Appointee

Michael Boettcher – City Council Member Janeé Ayres Appointee

Cynthia Redmond – D5 President Pro Tem Sheffield Appointee

Chris Jackson – PDD Director Appointee

Mike Essian – PDD Director Appointee

James Harrigan – PDD Director Appointee

Melissa Corrigan – PDD Director Appointee

This report serves the following purposes:

1. Provides an update relative to the standing of the CBO process and to inform the City Council as to what has transpired as a result of several meetings that have been held throughout this process.
2. Provides the additional perspective of the legislative staff which may be considered alongside the mandated PDD Director's report submitted to Your Honorable Body for review to complete the initial engagement phase of the CBO requirements.
3. The Legislative Policy Division respectfully offers recommendations to this Honorable Body for potential areas of improvement in the CBO process based upon observations and input during CBO proceedings. The report also identifies things that were executed well during this process.

CBO MEETINGS

The legally required public notice of the inaugural meeting (as required by Ordinance No. 35-16) was mailed out to tax payers of record, occupants, and business owners within 300 radial feet of the aforementioned impact area by the Planning and Development (see PDD CBO Report).

There were five (5) meetings held for this particular CBO process. There was a possibility to hold additional meeting(s) however, the NAC had reached a conclusion on the CBO agreement already.

The Planning and Development Department hosts a CBO website (<https://detroitmi.gov/departments/planning-and-development-department/citywide-initiatives/community-benefits-ordinance>) and posted the The Mid Community Benefits Meeting dates. The mailing notice was also posted at this site. Notice was sent to the representatives of the City Council, LPD, and the DON. In addition, all presentations and project materials are available to the public on this website and at a Dropbox.

During the process of meetings, Julio Cedano (PDD) and Vince Keenan (DON) led the meetings and administered the requirements of the CBO ordinance. The 1st meeting was largely to introduce the NAC and public to the process of the CBO and the project developer.

One of the new concepts that PDD has now deployed, that the legislative side of government has been requesting for some time, is that in this CBO process, a very in-depth presentation was given on the overview of the process which included a very thorough presentation delivered by the DEGC regarding the incentives that are being sought by The Mid development team. The DEGC staff gave a thorough presentation of the various incentives, how they are calculated, and what the amount is that the developer is seeking.

This is one of the more detailed presentations that LPD staff has seen in regard to this type of information being provided to the NAC and public at the beginning of the CBO process. The DEGC staff also answered all questions that were raised by the public in regard to the requested incentives.

In the past, this has been an issue that has led to some problems, in that some projects did not present the financial incentive information in a timely manner or possibly not in great detail. However, in the process for 3750 Woodward The Mid, the information was provided in a timely manner and in great detail, as to have answered all questions of the NAC and public efficiently, in LPD staff's opinion.

During the remainder of meetings, the project developer presented the elements of the proposed development project and time was given for the public to raise questions and concerns and receive responses from the developer. Of the questions and concerns raised, some were concerning traffic and construction mitigation. While other concerns were raised by a few members of the public as to the financial incentives being sought by the developer and how the community could benefit from financial benefits from the project. One citizen raised the issue of what company would provide the hospitality services for the proposed hotel for the site and if the provider selected could be one that allows collective bargaining.

Ultimately, all of the questions and concerns that were raised by either the NAC or the public were answered by the developer in some form. Some questions were answered at the time of the question or concern being raised and others were responded to in the attached written document that details the NAC's requests and the development team's response.

COMMUNITY BENEFITS

The NAC-Developer signed agreements, solidifies the commitments that were put into a written document by the developer in response to the NAC's concerns. This document outlines concerns that the NAC listed and are concerning the following issues: Public Space, Concept Design, Retail Intake List, Valet Queing, Construction Traffic, Lighting, Pest Control, Dust Control, Hours of Construction, and Sidewalk Closures.

ANALYSIS

CBO process

There are a number of items that have progressed over the life of the Community Benefits Ordinance, since the first project entered through this process. In terms of process, LPD staff believes this CBO project in some ways is the culmination of many of the lessons learned through the trial and error of past CBO projects. As was stated before, many of the requests of the legislative offices of city government and the public, regarding process, were provided in this CBO process and led to a better and less adversarial experience for those involved, in staff's opinion.

Some of the best things that took place in this process is that the NAC and community were given the tools that they needed in order to make a well informed decision about what their request would be in terms of mitigation and benefits for the community.

The DEGC and PDD staff's presentations on the requirements and responsibilities of the CBO ordinance and background education on the abatement legislation and requested incentive packages were very well delivered. This beginning education on development terms, legislation, and incentives left little to be questioned. The information was provided in a timely manner in order for those from the public to form well informed questions and input.

A lack of this basic information has caused many issues in some of the past CBO processes, but were addressed in this process as the elements of the project were transparent.

CBO Timeline

While this CBO process did not use all of the meetings that were originally scheduled, it is seemingly because the NAC was satisfied with how the process was carried out and the response that was received in a timely manner. LPD staff did not get the impression that the NAC was rushed, but instead that they felt an additional meeting(s) would not be necessary given that they had reached a conclusion. Their agreement with this was displayed in their signed agreement with the developer.

Other Observations

Staff does note that some of the requests put forward by the NAC are items that should simply be adhered to as best practices or pursuant to federal, state and local law. Some of those items include the request for the developer to "adhere to the Americans with Disabilities Act" or that the developer "will accept liability for any damages that are caused by their construction or demolition." These items as examples are things that should be automatically expected. So this demonstrates that maybe there are ways that the city may need to improve enforcement of such items in order for Detroiters to not feel that this is something that they need to enforce themselves.

When citizens feel that they have to raise these types of concerns it raises the fundamental question of whether or not, the community benefits ordinance is accomplishing its intended goals when things that are already required statutorily are requested.

However, on the other hand, there are items in the NAC's requests that go beyond what is required by law and goes a step further. For instance, the NAC requests that construction hours be limited to 7:00am-7:00pm when local ordinance allows for construction to extend until 10:00pm. This is an item that can impact the quality of life for surrounding neighbors and since the NAC raised this concern, it is obviously a priority for them. In this instance the developer has agreed to adhere to the NAC's request to stop construction 3 hours ahead of what the law permits on a daily basis throughout the entire construction period. This could be considered a significant concession for the developer.

Another significant request that was considered and ultimately adopted by the developer is that the NAC asked for the building to be redesigned in order to better accommodate valet queuing on the site. While there had already been site plan reviews and traffic impact studies done, the developer, in response to the NAC changed their design in order to give the NAC even more comfort that traffic will not be heavily impacted by the project. LPD staff does not recall another instance where a developer made as substantial level of changes to a project design due to the request of a NAC. Actions such as this, show that the developer has taken the community input seriously and indicates that the CBO process can give community members a voice in differing ways.

Ultimately, the NAC is the body that may request items during the CBO process and it is in this way that community members are given a "seat at the table" that they normally would not have, so it is their prerogative as to what the neighborhood needs as they are appointed/elected to represent their community.

The NAC in this instance, in staff's estimation, was well equipped with the information that they needed in order to make educated decisions regarding what type of requests that they might put forward. The information that they received during this process coupled with the history of past CBO projects provided a wealth of knowledge regarding their role.

CONCLUSION

There are many things that were done very well during this CBO. Typically at this point, LPD staff has given recommendations for improvements to the process. In the case of this CBO, many of our recommendations from past projects such as the Detroit Pistons Palace Sports and Entertainment Corporate Headquarters and Practice Facility, Herman Kiefer Complex, Hudson Site have been implemented in practice. At this point it is simply a matter of those items being adopted in an official manner by either an amendment to the current Community Benefits Ordinance 35-16 or adopted as Standard Operating Procedures or a similar document by the Planning Department. This would ensure that as administrations, staff's or personalities change, that the process would have consistency and continuity from one project to the next. Many of LPD staff's recommendations are currently under consideration through the proposed amendment process being considered by Your Honorable Body.

Should you have any additional questions in this regard, please contact the offices of the Legislative Policy Division directly.



David Whitaker, Esq., Director, Legislative Policy Division

Kimani Jeffrey, City Planner

Attachments

PDD The Mid CBO Report

cc: Arthur Jemison, Chief of Services and Infrastructure
Maurice Cox, Director, PDD
David Bell, Director, BSEED
Lawrence Garcia, Corp. Counsel, Law Department
Matt Walters, JET
Hon. Mike Duggan, Mayor's Office