



Legislation Text

File #: 17-1758, **Version:** 1

Resolution to Approve the 1140 Broadway Brownfield Plan

Attached is a resolution to approve the 1140 Broadway Brownfield Plan. Approval of this resolution will allow the Brownfield Plan to advance to the Washtenaw County Brownfield Redevelopment Authority (WCBRA), which may authorize Tax Increment Financing (TIF) to reimburse the developer for the eligible activities identified within the Plan.

1140 Broadway is a proposed development located on 6.4 acres at the northeast corner of Maiden Lane and Broadway Street. The existing site is largely vacant, with only a few remaining paved areas and below ground infrastructure present. The proposed development will include two apartment buildings, with one wrapping around a five story parking structure, and the second connected by an above grade pedestrian tunnel. An additional building will be constructed with near-grade parking below 71 condominium units for ownership. In addition to the residential uses, over 4,000 square feet of commercial space is being proposed, with some opportunity for expansion based on market factors at the time of permitting the last building.

The site is a facility as defined in the Michigan Natural Resources and Environmental Protection Act based on the presence of volatile organic compounds, principally tetrachlorethene, and metals at concentrations greater than the generic use criteria specified by the Michigan Department of Environmental Quality (MDEQ). It is presumed that this contamination has been caused by previous commercial activity at the site, including operation by a dry-cleaner.

Through an evaluation process that included input from the Chief Financial Officer, City Treasurer, Community Services Administrator, Environmental Coordinator, and County Brownfield staff, the petitioner has submitted a proposed Brownfield Plan that includes a total reimbursement of up to \$10,898,443. This Brownfield Plan includes revisions from the earlier version considered by the City's Brownfield Review Committee in June 2017, which recommended approval of a previous Brownfield Plan to City Council totaling approximately \$9.1 Million of proposed costs.

Recent changes by MDEQ in standards for vapor intrusion are reflected in the Brownfield Plan as now proposed. The Brownfield Plan proposes tax increment financing support for \$5,673,683 in environmental activities. This includes support for BEA Activities, Due Care Activities, Additional Response Activities, and support for submission of two work plans to MDEQ. This includes an additional \$176,300 in support for Due Care Activities from the earlier Brownfield Plan considered by the Brownfield Review Committee. The increased cost reflects an increase in square footage for the proposed vapor intrusion barrier, extending it to the proposed condominium building, where previously this building was not included.

The Plan includes tax increment financing support for \$5,204,760 of non-environmental activities. Activities under this category include demolition, infrastructure improvements, site preparation

activities, additional activities (i.e. parking structure and urban stormwater systems), and eligible soft costs.

The Plan also differs from the recommendation of the Brownfield Review Committee: 1) Infrastructure improvements have increased by \$729,000 to include additional signalization requirements based on the completion of traffic review recommendations and the provision of a new gas line main to provide increased service to both the development site and the surrounding neighborhood; 2) The addition of \$520,000 in eligible soft costs, including portions of architectural, engineering, design, and surveying, site construction management, and general conditions.

Within the non-environmental activities is support for \$2,761,760 toward the construction of a parking structure. While support of the parking structure is an eligible additional activity, here the amount is reflecting a City-agreed amount based on the impact to the project of providing 15 units of housing at a level affordable to households at or below 60% Area Median Income. The developer has expressed interest in providing these units, or alternatively, 30 units targeting higher AMI household affordability levels, for a comparable impact to the project. Based on the City's adopted goal around units at or below 60% AMI, staff recommended the current approach of 15 units responsive to the City's goal, which was supported by the Brownfield Review Committee. Support of this activity in this amount is based upon the satisfactory completion of instrument or other mechanism to ensure affordability of the units for a period of 99 years.

The final developer reimbursement activity proposed in the plan is \$20,000 in support for the Brownfield Plan.

In addition to the requested developer reimbursement, the proposed plan includes estimated capture of \$1,689,680 for the State Revolving Fund as specified by State law, and \$2,260,626 in capture for the Local Brownfield Revolving Fund. No administrative support is being proposed for this Plan.

The proposed Plan is based on projections and assumptions of development, and projects eight years of capture/reimbursement to fulfill the proposed developer obligations and one additional year to capture the Local Brownfield Revolving Fund. The proposed Plan presumes a buildout of approximately five years and an estimated taxable value increase, which won't be confirmed until final assessment at project completion. To this end, staff is proposing a cap on the total number of years for the Brownfield Plan. To accommodate for some differentiation from the projected schedule and/or value, staff recommends a cap on total capture period not to exceed four additional years, not to exceed 13 total years of capture.

Finally, the petitioner requested, in addition to the staff and Brownfield Review Committee recommendations, additional support to the project through tax increment financing support of approximately \$1.8 Million to support the installation of solar photovoltaic system. At the direction of the Brownfield Review Committee, staff investigated alternative valuation approaches the solar system, and concluded that omission from the Plan was appropriate. The Petitioner continues to express interest in this renewable energy system with the financial support of the City.

Upon a favorable recommendation by the City Council, the resulting Brownfield Plan will be

forwarded to the Washtenaw County Brownfield Redevelopment Authority and Washtenaw County Board of Commissioners for final consideration and action.

Prepared by: Brett Lenart, Planning Manager

Reviewed by: Derek Delacourt, Community Services Area Administrator

Approved by: Howard S. Lazarus, City Administrator

Whereas, the Developer, Morningside - 1140 Broadway has requested approval of the 1140 Broadway Plan in order to pursue tax increment financing through the Washtenaw County Brownfield Redevelopment Authority;

Whereas, The Washtenaw County Board of Commissioners established the Washtenaw County Brownfield Redevelopment Authority (WCBRA), which facilitates the implementation of plans relating to the identification and treatment of environmentally- distressed areas within the County of Washtenaw, pursuant and in accordance with provisions of the Brownfield Redevelopment Financing Act, being Act 381 of the 1996 of the Public Acts of Michigan, as amended (the "ACT");

Whereas The ACT requires explicit consent of each local unit of government included in the Authority, which the City of Ann Arbor joined by resolution R-24-1-02;

Whereas, The Developer has submitted a proposed Brownfield Plan which would enable the Developer to seek tax increment capture on the proposed development;

Whereas, Any reimbursement by the WCBRA based on an approved Brownfield Plan is for actual eligible expenses only;

Whereas, The burden is on the development to building the project and pay taxes in order for tax capture and reimbursement to occur;

Whereas, The City is not liable for any costs associated with the project if the project is not built or if it fails to achieve the estimated taxable value;

Whereas, It is understood that neither the initiation of the review process by the WCBRA for development of the Brownfield Plan nor the recommendation of the Brownfield Plan to WCBRA by the City is a guarantee that it will be approved by the Washtenaw County Board of Commissioners, the MDEQ, MSF, or that financial incentives will be obtained; and

Whereas, On June 26, 2017, The Brownfield Review Committee recommended approval of the Brownfield Plan for 1140 Broadway; and

Whereas, Subsequent that approval and prior to the Brownfield Plan submission for consideration by the City Council, changes as articulated in the memorandum above and consistent with updated MDEQ standards were incorporated in the Plan document; and

Whereas, City Staff have reviewed the changes presented and recommend inclusion of these changes to the proposed Brownfield Plan subject to a cap on the total tax capture as identified in the Brownfield Plan and not to exceed a total period of 13 years of tax increment capture;

RESOLVED, That City Council approve the 1140 Broadway Brownfield Plan submitted to the City and

dated October 25, 2017;

RESOLVED, That the Plan be recommended for approval with a proposed cap on total tax capture as identified in the Brownfield Plan and additionally, not to exceed a total period of 13 of tax increment capture;

RESOLVED, That the City Clerk be directed to submit a copy of this Resolution to the Washtenaw County Board of Commissioners as documentation of the City's consideration and approval of the Brownfield Plan; and

RESOLVED, That any changes to the Brownfield Plan after the date of this Resolution will require review by the Brownfield Review Committee and approval by City Council.