



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: May 3, 2021

SUBJECT: Memorandum of Understanding Between The Town Of Johnstown And Developer Concerning Plaza Gardens At Johnstown

ACTION PROPOSED: Consider Approval of the Memorandum of Understanding as presented

ATTACHMENTS: 1. Memorandum of Understanding

PRESENTED BY: Matt LeCerf, Town Manager

AGENDA ITEM DESCRIPTION:

Enclosed for your review and consideration is a non-binding Memorandum of Understanding (MOU) between the Town and Developer (The Plaza of JC, LLC) to develop a commercial/retail development at the I-25 and Highway 60 on the southeast corner of the interchange. The MOU would allow for the developer to begin preliminary site planning and engineering in preparation for the development when the Town takes ownership of the property as part of a planned dedication from Occidental, the current property owner.

The MOU presented provides that, within 6 months from the date of execution, the developer would be required to create and provide a Project Summary to the Town that includes a description of the mix of uses to be included in the proposed project, the proposed square footage of new retail uses, estimated revenue generation, an illustration of the project layout, an estimate and general description of the public improvement costs required to support the project, a timeline for the development and absorption of the uses proposed within the project, the organization of one or more new metropolitan districts, a financing plan for new public debt, and other critical path elements for the Project.

Following the Project Summary, the document provides that the Town will engage a consultant to perform a 3rd party economic analysis regarding the prospective development to determine its viability, which would take into consideration the additional services from the Town that would be necessary to deliver to the property, the anticipated revenues, public improvements necessary for the project, and the level of incentives to provide based on the improvements. If the

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economic incentive analysis is favorable, based on the Town's sole discretion, the Town would then enter into a purchase and sale agreement for the delivery of the property to the developer or the new district and a development and reimbursement agreement that would set forth, among other matters, the incentives available to the project and the developer's performance commitments. Incentives that may be provided as part of the prospective development would only be available to the commercial/retail component of the development since the overall layout of the project consists of a combination of both commercial and residential uses.

In addition, to assist in funding the public improvements for the project, Johnstown Plaza, LLC, a related developer, seeks to have the Johnstown Metropolitan District refinance the existing bonds and, as a part thereof, issue "new money" bonds to cover unreimbursed public improvement expenses, funds that would not have been repaid, if at all, until after the current bonds are paid off. Johnstown Plaza, LLC would then contribute those additional funds for the public improvements associated with the new project. The MOU provides that the Town would engage a third-party consultant to perform an economic analysis of the impact on Johnstown Plaza. If, in the Town's sole discretion, the economic analysis is favorable, the Town would then enter into amended agreements with the Johnstown Plaza Metropolitan District and Johnstown Plaza, LLC.

Outside Counsel has been retained for this project working in concert with the Town Attorney and Town Staff on this project. Costs associated with this work will be reimbursed by the developer. A corresponding expenditure will need to be appropriated for this project and scope of work in what is being characterized as the due diligence period.

LEGAL ADVICE:

The MOU presented was drafted by the Town Attorney in consultation with outside Counsel and Town Staff.

FINANCIAL ADVICE:

Funds have been allocated in FY 2021 for this project.

RECOMMENDED ACTION: Approve the Memorandum of Understanding as presented.

SUGGESTED MOTIONS:

For Approval: I move to approve the Memorandum of Understanding Between The Town Of Johnstown And Developer Concerning Plaza Gardens At Johnstown as presented.

For Denial: I move we deny the Memorandum of Understanding Between The Town Of Johnstown And Developer Concerning Plaza Gardens At Johnstown as presented.

Reviewed and Approved for Presentation,



Town Manager

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