

# Memorandum



**To:** Mayor and Town Council

**From:** Ryan Spitzer

**Date:** 2/4/2021

**Re:** US Development Project

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## **Update from Work Session:**

There were several items discussed at the Work Session:

1. The building will be 5 stories with the top floor set back about 70 feet from Main St.
2. Non-residential uses will be between 5,000sqft-20,000sqft. This will be determined through the due diligence phase, but will likely be around 5,000sqft due to the economy
3. The College St. frontage will have a similar look to the Main St. frontage to provide a “main street look”.
4. Design of the building will be collaborative with Planning and Zoning with the ultimate design having to come back before Council for approval. Buyer has 240 days to work on design. The building has to follow the criteria set out in the Overlay District.
5. The overall concept follows the Downtown Masterplan adopted in 2005.
6. There will be 73 units with some being on the first floor.
7. Parking requirements will not be met for commercial space even with the expanded parking. As discussed at prior meetings staff is working on new downtown parking guidelines for future developments to take in to account the urban nature of parking mandates. Currently our parking guidelines only take in to account suburban parking criteria.

## **Overview:**

As you know staff has been negotiating with US Developments for the sale and development of land around Church and College in our downtown area. Due to the fact that we are using the State Statute for Economic Development Projects for the sale of this property several changes have had to be made from the original document. I will go over those changes as well as important items in each section below.

### **Section 1. Property**

This has to do with the sale of the 1-acre property at the corner of Main and Church St. It sets out the boundaries for this property.

## **Section 2. Purchase Price**

Price for 1 acre lot - \$505,000. US Developments also must put down a non-refundable deposit of \$495,000 for the “option property” if they decide to proceed with the purchase of the 1-acre lot (these two amounts are due at Closing). The non-refundable deposit does not go back to buyer if they do not follow through with purchase of the option property. The Town had to structure the deal this way so we could sale all the properties for fair market value at the time of the contract.

The rest of the section outlines the earnest money payments and time schedule

## **Section 3. Due Diligence...**

Due Diligence Period – 60 days from signing of contract

Property has to be mixed use with 5,000 – 20,000 sqft of commercial space and a maximum of 73 residential units.

## **Section 4. Entitlements**

Buyer is entitled to build a 5 story building.

Buyer has 365 days from the end of the Due Diligence Period (up to 425 days) to obtain building approvals from Town and County. Buyer can terminate the agreement during this time if design standards can not be agreed to.

They must follow the Downtown Overlay District Guidelines adopted on March 11, 2008

Buyer has to submit to Town within 60 days of signing of the contract a site plan. The Town has 60 days to respond to this site plan.

Buyer has 240 days from signing of the contract to submit architectural and engineering plans to the Town. The Town has 60 days to respond to these plans.

## **Section 5. Closing...**

### Closing

After Expiration of Entitlements Period (365 days from end of Due Diligence Period) Buyer and Town have 30 days to finalize sale of the 1-acre property.

### Option Agreement

Upon Closing of the 1-acre property the Buyer has the option to purchase the other 5.5 acres. The total purchase price for the Option Property is \$2.495million (\$2million and \$495,000 deposit). The cost increases by 1% each year (changed due to the increase in option property price).

Option is good for 5 years. Buyer has to purchase all of the option property after first block unless Buyer demonstrates to Seller economics have changed and purchasing rest of property is not feasible. Buyer can not purchase option property until construction on the 1-acre parcel is complete.

Option property is for industrial, commercial or mixed use and construction must commence within 18 months of closing on each “chunk” of option property. If construction does not commence Seller has the right to repurchase at fair market value.

Buyer must follow all design guidelines.

### Parking Easement

Upon Closing on the 1-acre lot Buyer has a perpetual easement to park on the adjacent lot.

Buyer is responsible for grading and improving Parcel A and will have up to 70 spaces (1 per each residence).

A Parking Deck may be constructed on Parcel A. In the Parking Deck 1 space will be reserved for each residential unit in 1-acre development and 80 spaces will be reserved for public parking. (See Section 5(k)(i) for more details).

Buyer is responsible is responsible for grading and improving lots F and G for additional parking. Within 35 days from the signing of the contract Seller must propose to Buyer a Temporary Parking Easement Agreement.

Either the Buyer, Seller, or 3<sup>rd</sup> Party picked by Seller can construct a Parking Deck on Parcel A. If a parking deck is constructed the Option Period extends for 36 months from date Parking Deck is completed.

- A. Buyer Constructs – They control the fair market costs to park. Must allow 80 spaces on first floor for downtown customer usage at fair market value. Buyer can sell to the Town or 3<sup>rd</sup> party after construction.
- B. Seller Constructs – Town controls payments and costs to park. Does not have to have downtown customers pay to park. Can control when people pay and don't.
- C. 3<sup>rd</sup> Party Constructs – Town will work with a 3<sup>rd</sup> party to run the garage and set payment terms. This can be done only if Town and Buyer both elect not to construct garage.

If parking deck is not built, Buyer will have the option to increase the density (mutually agreeable to both Buyer and Seller) on the option property.

If construction of a parking deck does not commence within the Option Period (5 years) then the 18-month construction period is extended to 36 months. This will not apply to any option property where the Buyer fails to adhere to the regulations set out in the document.

The rest of the document is standard language to cover lawsuits etc.