

Staff Report

**DEVELOPMENT AGREEMENT STATUS FOR AMES COMMUNITY DEVELOPMENT
PARK IV WITH DAYTON PARK, LLC**

July 28, 2015

BACKGROUND:

The City of Ames and Dayton Park, LLC, entered into a development agreement on February 4, 2009, in order to establish an urban renewal area and tax increment finance (TIF) district for the construction of the Ames Community Development Park 4th Addition (Attachment A Location Map). This development created 14 lots for industrial development and completed the connection of S. Bell Avenue between E. Lincoln Way and SE 16th Street.

The agreement, among other things, requires the developer to construct a series of speculative buildings with a minimum value of \$350,000, exclusive of land. The agreement required that the first building was required within 18 months after the completion of the public improvements. The second speculative building was required to be constructed within 12 months of the occupancy of the first (July 23, 2013). Subsequent speculative buildings are required to be 12 months after occupancy of the prior speculative building.

The requirement to build a second speculative building within 12 months was not met by the developer, Dayton Park LLC. **City Council approved an amendment to the agreement on July 22, 2014, to account for the late completion of the second speculative building and to require construction of the next required (third speculative building) by December 31, 2014,** as a consideration for accepting the late completion of the second speculative building.

The developer completed the second speculative building last summer and submitted plans for construction of the third building. **However, the applicant did not start or complete construction prior to December 31, 2014.** The developer outlines in the attached letter (Attachment B) the series of events from last fall that for them delayed completion of the third speculative building.

The developer recognizes that they are currently not in compliance with the development agreement and proposes an amendment to the agreement to change the term for construction of the third speculative building. Accordingly, they have offered a financial consideration to address the noncompliance as they work towards construction of the required third speculative building. The offer described by the developer is:

1. Make a payment in lieu of taxes this year of \$11,340, based upon the minimum building valuation of \$350,000; and

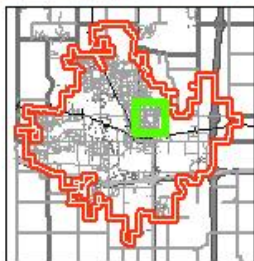
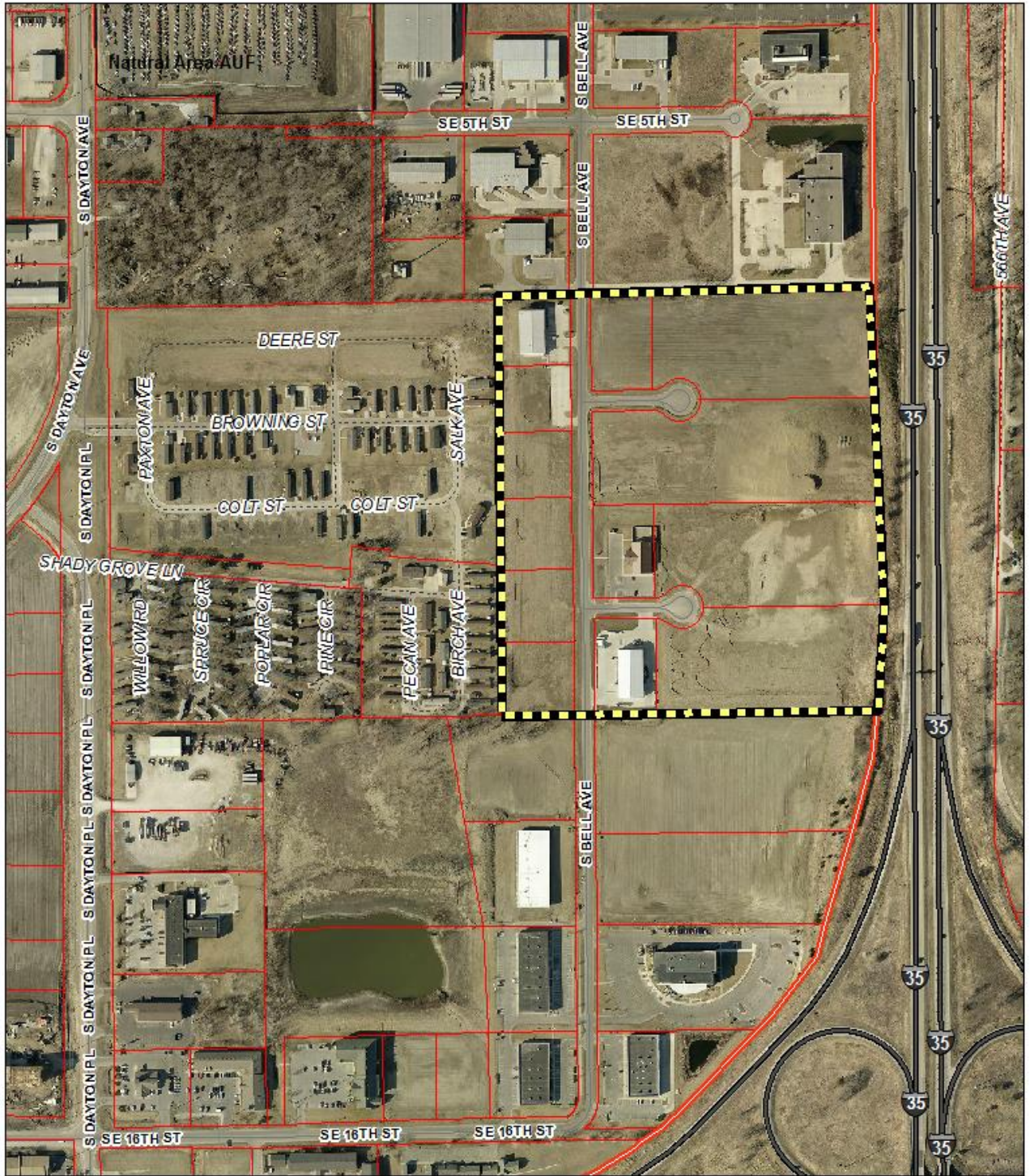
2. Create a minimum assessment agreement of \$350,000 retroactive to January 1, 2015 for property tax payment in September 2016; and
3. Construction of the third speculative building will be complete by December 31, 2015.

If this amendment to the agreement is accepted, then each subsequent speculative building will continue on the original development agreement schedule of requiring an additional speculative building 12 months after the prior building is no longer considered speculative. There are four lots remaining after construction of the third speculative building to be completed as potential speculative building sites.

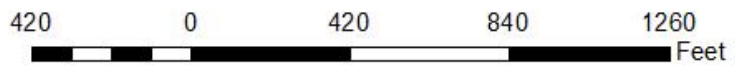
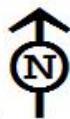
Options

1. The City Council can accept the request to amend the development agreement with the proposed offer of \$11,340 as a payment of taxes in lieu of tax, create a minimum assessment district, complete the third building by December 31, 2015, and direct staff to prepare an amendment to the development agreement to be signed by the developer.
2. The City Council can accept the request to amend the development agreement with the proposed offer in amount greater than proposed in Option 1 as a payment in lieu tax.
3. The City Council can deny the request to approve the amended the agreement and direct staff to pursue a different means of recourse for failure to perform consistent with the obligations of the agreement.

Attachment A



Ames Community Development Park IV



Attachment B-Developer Letter

To: Honorable Mayor and City Council

From: Chuck Winkleblack, Hunziker Companies

RE: TIF District update

Date: June 18, 2015

This letter is a follow up to our discussion last year regarding progress on a spec building in the TIF district on S. Bell. You may remember we came before you to modify our existing agreement to come into compliance with the existing agreement. A number of events occurred last fall that I would like to summarize for you.

We have been working with a company (Climate Corp) that currently is in the TIF district to expand and increase their operations in the district. In fact we scrambled (with the help of city staff and council) to combine two lots (8 and 13) into one in order to accommodate the new building starting out at 32,000 SF with the flexibility to increase in size to 50,000 SF in the near future. We got all of the engineering and architecture done for the building, engineering done for the site plan. We even did the grading on the site so we could start the building. In all our company spent over \$100,000 getting all the things done to start the building. We had a building schedule planned out to finish the new building by July of 2015. The company decided it needed to postpone the project to make sure it was planned out correctly for the future growth it is anticipating.

At the same time we were working on a site plan with city staff for lot one in the district. We decided to hold off on starting construction on lot one and work on lot five because we already have a parking lot on lot 5 that is used for additional parking for the building on lot 6 that would be moving to the new building. That was going to leave us with a parking lot without a building on it so it made sense to put a building there and not leave an abandoned parking lot when the company moves to the new building. The plan was that we would two buildings available in July with the new building on lot five as well as the building they would be vacating on lot six. That would have given us two vacant buildings of over 10,000 SF. The building on lot 6 has an assessed value of \$1,113,300

Additionally we were also working on a site plan and construction of a new building at 1315 S. Bell. I realize that it is just outside the TIF district but it is a 24,000 SF building that we were racing to get started before winter for an existing company in Ames that was growing rapidly. That company has since decided that they are not able to move forward at this time so we set with a vacant 24,000 SF spec building on Bell Ave. The current assessed value for 2015 is \$926,300.

Lastly we were working with a potential customer for the spec building that we have not started but they would not consider going on lot one because they wanted to be further North on Bell (even though none of this is in the flood plain).

Winter started early last fall, it shut down several of our development projects because the weather turned so cold in November that we were not able to finish streets or many other projects planned for late last fall.

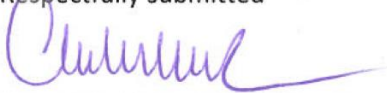
We have ordered a 10,000 SF building that is to be delivered and erected in August of this year for lot 1. I can provide verification from the vendor (Central IA building systems) if needed. We have a site plan that has been approved except for a couple of minor details. Construction on the site will take place

before the building arrives in early August. Staff can verify that we have a site plan that has been through extensive review. The only outstanding issue we have is the requirement for an eight foot tall masonry. We are going to be making a request to change the landscaping requirements for that zone. It was not required lots five and six when those site plans were approved. We plan to start the project regardless but want to modify the code. We don't believe it makes sense to erect an eight foot concrete wall at that property line. Given the topography of the district and the likely uses, this seems like something that is not appropriate.

We propose the following solution to the situation that exists today regarding the developer's agreement. Dayton Park LLC will pay a "fine" or "penalty" equal to the amount of the minimum assessment ($\$350,000 \times \$0.0340069 = \$11,340$) for being in violation of the developer's agreement or we agree to a minimum assessment on lot one in the amount of \$350,000.

It is not now nor has it ever been our intention to be in violation of the developer's agreement. I hope that you will go down to the S. Bell and look at what is happening down there. The development has gone slower than we all hoped it would. The circumstances I have outlined here hopefully will help you understand why we are where we are today. We are currently working with three separate customers for buildings within the district so I don't believe we have lost many opportunities. We continue to advertise and market the district along with our proposed building. I would be happy to meet any of you out there prior to the council meeting to go through the details of my letter.

Respectfully submitted



Chuck Winkleblack, Hunziker Companies