

COUNCIL ACTION FORM

REQUEST: **DEVELOPMENT AGREEMENT FOR RIVER CADDIS
DEVELOPMENT PROJECT LOCATED AT 2700, 2702, 2718 & 2728
LINCOLN WAY, 112 & 114 S. HYLAND AVENUE, AND 115 S.
SHELDON AVENUE**

BACKGROUND:

River Caddis, Inc, contract purchaser and developer, are requesting the approval of a development agreement for a mixed use project for properties located at 2700, 2702, 2718 & 2728 Lincoln Way, 112 & 114 S. Hyland Avenue, and 115 S. Sheldon Avenue. The subject site consists of seven properties with a total area of 1.8 acres that were recently rezoned to the Campustown Service Center (CSC) zone. A location map is included as Attachment 1.

River Caddis will remove the existing buildings and consolidate the lots with the intent of developing a single mixed residential and commercial project on the subject area. In support of the project the developer requested the City establish a unique Urban Revitalization area for the site based upon their redevelopment plan. Additionally, the developer is interested in entering into a development agreement to ensure that the URA and its criteria for partial property tax abatement are maintained through the completion of the project. City Council gave direction on September 27th to proceed with a public hearing on creating the 2700 Block of Lincoln Way Urban Revitalization Area and to consider a development agreement on the November 15th meeting.

The Development Agreement, as prepared by the Applicant and reviewed by Planning Staff and the City Attorney's Office, is intended to secure incentives through the Urban Revitalization Area and Plan (as approved tonight under separate agenda item) in exchange for certain project specific requirements desired by the City for the redevelopment area. The agreement does not restate all of the requirements of the URA Plan, but references compliance with the Plan and the additional elements of the agreement. The attached development agreement addresses the follow items listed below (*see Attachment 2 – Development Agreement*):

- Maintaining transparency of first floor commercial storefront windows to address street visibility in commercial tenant spaces;
- A small commercial tenant space between 1,000 square feet and 1,500 square feet is required along Lincoln Way. The agreement has a provision that if the space is not leased within 2 years of original construction the developer may request and adjustment to the tenant space configuration and size. After the initial term, if the space is not leased for 1 year then the space may be reconfigured as well.

- Construction of required mechanical equipment necessary to allow for at least one full service restaurant use;
- A minimum 20 hotel rooms;
- Staffing on site for the hotel and to have additional staffing for stacked valet parking as was approved under Special Use Permit by the Zoning Board of Adjustment;
- Limitations on the days and hours of use to 11 pm for the amenity deck to address potential issues with noise and/or disturbances. The agreement also allows the City control over revisions to such hours if regularly occurring complaints or disturbances occur. In addition, the Agreement includes a provision that allows for the Police Department to pre-emptively require closure of the deck in advance of occasional events or if there is an immediate need because of a general event in the area. This provision is meant to limit potential risk during high levels of activity of special events related to sports activities or events occurring in or around Campustown;
- Agreement for sidewalk easements along Lincoln Way and Sheldon Avenue to provide for the requested increased width for the shared use path and pedestrian sidewalks along the commercial street frontages;
- The developer will be responsible for all public improvements associated with the project, such as sidewalks, utilities, traffic signal infrastructure, streetscape, parking meters and signage;
- The agreement also spells out areas of responsibility regarding maintenance for the loading/valet areas, parking spaces, and sidewalks within the rights-of-way for the project;
- A Construction Management Plan, a Sign program, and Public Security Plans are also addressed in the agreement to manage construction, and future signage for the project and security lighting and cameras for the project.

The agreement states the City has an obligation to maintain the URA and its eligibility criteria as adopted, without consent of the developer to amend the Plan.

The agreement states that City staff must inspect the property for compliance when it is substantial complete to allow the developer to complete the project in accordance with the criteria to ensure there is adequate time for compliance before filing for final eligibility determination for property tax abatement. The agreement has no specified end date and will continue beyond the initial life of the tax abatement program.

ALTERNATIVES

1. The City Council can approve the attached Development Agreement for the River Caddis Development Inc. subject to the City’s establishment of the 2700 Block of Lincoln Way Urban Revitalization Area.
2. The City Council may decline to enter into the Development Agreement if it finds that the proposed agreement does not meet the City’s interest.
3. The City Council can defer action on this request and refer it back to City staff

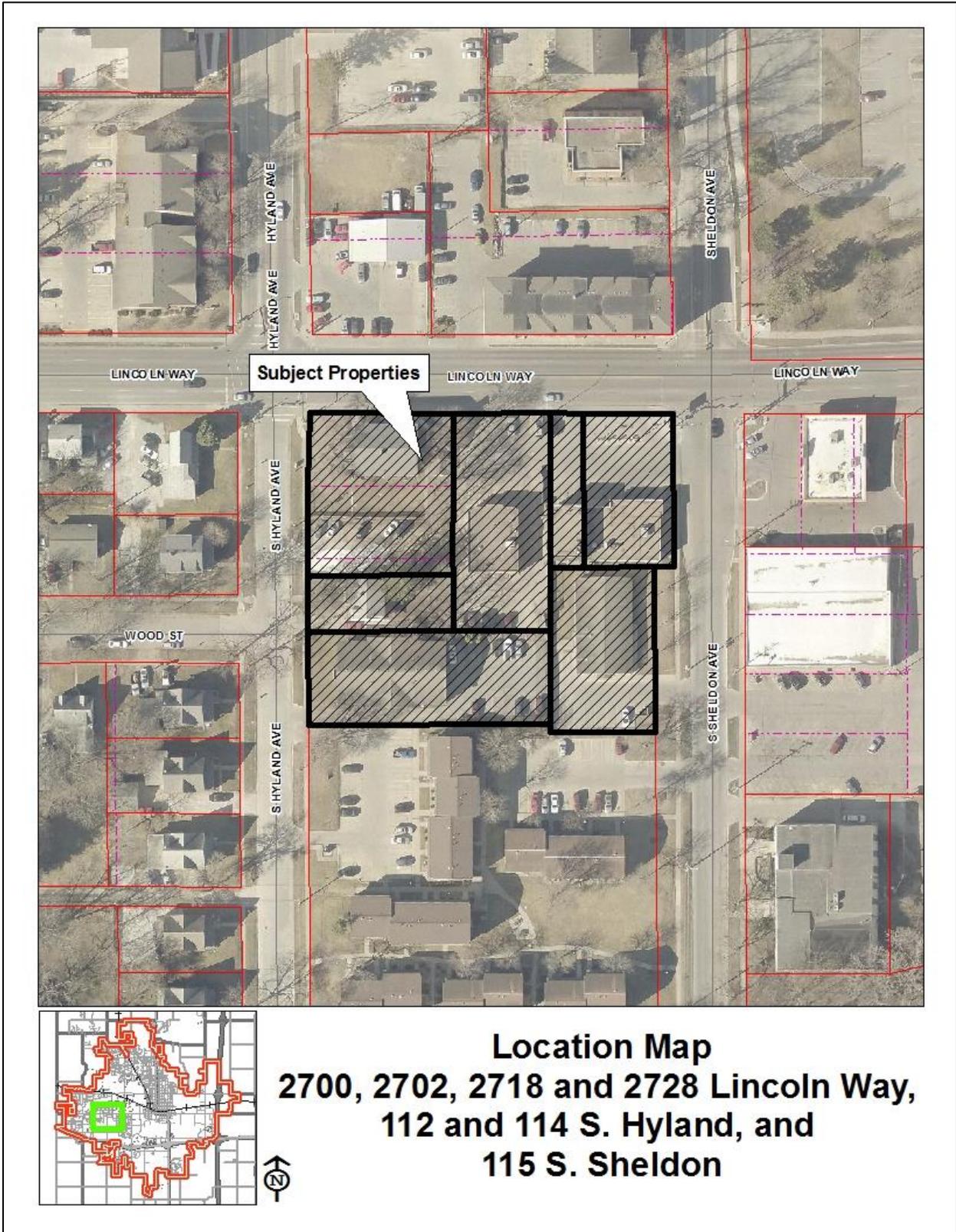
and/or the applicant for additional information.

CITY MANAGER'S RECOMMENDED ACTION:

Assuming that the City Council desires to commit to the developer on maintaining the 2700 Block URA, this agreement spells out City assurances for the operation of the project while also providing security to the developer of the requested financial incentives.

Therefore, it is the recommendation of the City Manager that the City Council act in accordance with Alternative #1, thereby approving the attached Development Agreement for the River Caddis Development.

Attachment 1: Location Map



Location Map
2700, 2702, 2718 and 2728 Lincoln Way,
112 and 114 S. Hyland, and
115 S. Sheldon

DO NOT WRITE IN THE SPACE ABOVE THIS LINE; RESERVED FOR RECORDER

Prepared by: Judy K. Parks, Ames City Attorney, 515 Clark Ave., Ames, IA 50010 (515-239-5146)
Return to: City Clerk, City of Ames, 515 Clark Ave., Ames, IA 50010

**DEVELOPMENT AGREEMENT WITH IOWA CADDIS, LLC, REGARDING
PROJECT DEVELOPMENT REQUIREMENTS FOR THE PROPERTY AT 2700, 2702,
2718 & 2728 LINCOLN WAY, 112 & 114 SOUTH HYLAND AVENUE and 115 SOUTH
SHELDON AVENUE**

THIS AGREEMENT is made and entered into this _____ day of November, 2016, between the City of Ames, Iowa (hereinafter called the “City”) and Iowa Caddis, LLC, their successors and assigns, (hereinafter called the “Developer”),

WITNESSTH THAT:

WHEREAS, the City has established the 2700 Block Urban Revitalization Area (the “Urban Revitalization Area”), and has adopted a Plan for Urban Revitalization (the “Plan”) that includes criteria for partial property tax abatement eligibility for the Property (as defined below); and

WHEREAS, the Developer owns certain real property (the “Property”), which is situated within the Urban Revitalization Area, that is locally addressed as 2700, 2702, 2718 & 2728 Lincoln Way, 112 & 114 South Hyland Avenue, and 115 South Sheldon Avenue, and which is specifically described as shown on Attachment A, and;

WHEREAS, the Developer proposes to construct a commercial mixed use facility for retail, office, hotel, and apartment uses on the Property (the “Project”); and

WHEREAS, the City is willing to provide incentives to the Developer for this major Revitalization project in accordance with the Plan and to promote certain types of uses within the Project to serve the needs of the Campustown community; and

WHEREAS, Chapter 404 of the Code of Iowa authorizes cities to establish Urban Revitalization Areas to support redevelopment, economic development, and construction of housing.

NOW THEREFORE, the parties hereto agree as follows:

A. Development Conditions. Developer's receipt of the abatements, incentives and benefits for the 2700 Block Urban Revitalization Area and the Plan as contemplated by this Agreement shall be conditioned upon Developer's completion of the following requirements with respect to the initial development of the Project (the "Development Conditions"):

1. The Project shall be constructed, maintained and used as a commercial facility incorporating residential uses throughout the term of this Agreement.

2. Project Features. The following elements shall be incorporated in the Project, in addition to the City's standard development and permitting requirements:

- a. A Construction Management Plan shall be submitted to the City prior to the demolition of the existing buildings and the new construction of the Project, which shall address how management of on- and off-site transportation, parking, and construction general coordination issues with the Developer's General Contractor will be done.
- b. The windows along the ground level retail storefronts shall be kept open and clear from any sort of obtrusive visual obstructions to allow for visibility into or through to the interior spaces.
- c. One tenant space on the conceptual floor plan shall be pre-planned and constructed for use as a restaurant. This shall include provision of necessary mechanical space, chases, and other necessary physical accommodations needed to serve as a full service restaurant use.
- d. There shall be a minimum of one tenant space that is between 1,000 and 1,500 square feet to support small business needs along Lincoln Way. This space shall be available for at least two years past the completion date of the Project. If after that time, it becomes vacant despite reasonable efforts to lease it, the Developer may seek City approval to reconfigure that tenant space.
- e. There shall be a minimum of 20 hotel rooms.
- f. Hotel must be staffed adequately to serve the hotel guests, including but not limited to the requirement that, at a minimum, there will be an employee on site at all times. In addition, an individual valet will be provided for parking of hotel guests during times of high demand.
- g. The Developer shall include a Public Safety Security Plan for lighting and surveillance cameras for the site, and shall use and maintain the security features of that plan once the Project is constructed. Security camera footage shall be recorded and retained for a minimum of two weeks and shall be made available to the Ames Police Department upon reasonable request.

- h. A signage plan for the Project, which shall contain intended sign locations, awnings, sign materials, and finishes, for the complete building and site shall be submitted to the Director of Planning and Housing for approval prior to issuance of a sign permit, or if no sign permit is required, prior to the application of the first tax abatement. The approved signage plan shall be binding upon all tenants and shall be incorporated into Developer's tenant commercial/retail lease agreements.
 - i. There shall be no signage on the south facade.
 - ii. There shall be no signage along the Hyland facade.
 - iii. The sign program may be approved to allow for direction signage or entrance identification signage for the Hyland facade and south facade.
- i. Apartment Amenity Deck: The amenity deck on the 2nd floor shall not be open later than 11:00 pm on weekdays and midnight on weekends, and shall be closed earlier if reasonably requested by the Ames Police Department due to valid complaints of excessive noise and or disturbance. The City may further restrict the regular hours of use for the amenity deck when there have been a significant number or regularly occurring complaints or disturbances received by the Ames Police Department. The Ames Police Department may notify the property manager and require closure of the amenity deck on occasions when there are pre-planned events in the community where the police believe that the deck poses additional public safety risks, or they may require the deck to be closed immediately during existing or developing events that have such risks.
- j. Provide sidewalk easements for area between Lincoln Way and Sheldon Avenue and the Building Façade.
- k. Developer is responsible for completing all public improvements specified by the City for the rights-of-way abutting the Project, including but not limited to the relocation of traffic signal infrastructure, construction of parking areas, sidewalks, shared use paths, street paving, streetscape elements, parking meters, and signage.
- l. Developer is responsible for maintenance and upkeep, including snow removal, of any signed loading areas abutting the Property.
- m. Developer is responsible for any snow removal for angled parking spaces abutting the Property in accordance with the performance requirements of the City.

- n. Developer is responsible for snow removal all sidewalks and shared use paths abutting the Property in accordance with the performance requirements of the City.

3. Use Conditions. Developer's receipt of the abatements, incentives and benefits of the 2700 Block Urban Revitalization Area and the Plan as contemplated by this Agreement shall be subject to Developer's satisfaction of the following conditions with respect to the use and operation of the Project (the "Use Conditions", and together with the Development Conditions, the "Conditions"):

- a. Prohibited Uses. No space in the Project shall ever be used for a casino, an adult entertainment facility (as defined by the Ames zoning regulations), a firearms shooting range, a massage parlor or hot tub facility, or as a gambling or betting office, except that the incidental sale of state regulated lottery tickets approved for sale at retail outlets is permitted.
- b. Drive-thru uses are prohibited for any use.

B. City's Obligations. Provided that the Developer's satisfactorily accomplishes all of the Use Conditions and Development Conditions outlined above, the City agrees to maintain the 2700 Block Urban Revitalization Area designation for the Property and shall not amend the Plan or its criteria for eligibility during the duration of the Plan without prior agreement by the Developer.

Provided that Developer meets the required eligibility prerequisites for the Plan, the City shall provide urban revitalization tax exemption through December 31, 2021, to Developer with respect to any and all completed improvements on the property in accordance with and pursuant to Iowa Code Section §404.3 and the City's Urban Revitalization Program.

The Developer may request that prior to the City Council's final approval of the Property's eligibility for partial property tax abatement in conformance to the 2700 Block Urban Revitalization Plan, representatives of the City shall conduct an on-site walk through of building and property. The walk through shall be requested by the developer upon substantial completion of the Project and the City representatives shall conduct the walk through and provide their assessment of the Project's conformance to the Developer no later than October 1st of the year preceding the request for final approval. For example, the filing of an application for final approval of eligibility prior to February 1, 2019 would require a walk through prior to October 1, 2018.

If at any time during the duration of the Agreement after final approval by the City Council, the Developer shall fail to satisfy any of the Conditions, the City shall provide written notice of any such failure to Developer at the address set forth in the preamble hereof and Developer shall have a period of thirty (30) days in which to cure any such failure to the City's reasonable satisfaction prior to the City exercising any remedies, modifying the 2700 Block Urban Revitalization Area designation or withholding any of the incentives, abatements or

benefits of the Plan; provided, however, if the nature of the failed Condition reasonably requires a period of longer than thirty (30) days to cure, then Developer shall have such longer period as may be reasonably required to cure such failed Condition provided that Developer commences the cure within the initial thirty (30) day period and prosecutes the same to completion with reasonable diligence.

C. Administrative Provisions

1. This Agreement shall run with the land and shall be binding upon the City and the Developer, its successors and assigns. Developer shall be entitled to assign this Agreement along with any sale or other transfer of the Property. Each party hereto agrees to cooperate with the other in executing a Memorandum of Agreement that may be recorded in place of this document.

2. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

3. The parties acknowledge and agree that this Agreement is being executed without review or approval of specific plans for development of the Site. The parties acknowledge and agree that it is not possible to anticipate all the requirements the Developer may be required to complete to properly develop the site. Therefore, the parties agree that all work done by or on behalf of the Developer with respect to, but not limited to, a traffic study and any improvements identified by that study, public streets, sidewalks, bike paths, building design, construction and utilities, both on-site and off-site, shall be made in compliance with the Iowa Code, SUDAS and all other federal, state and local laws and policies of general application, including but not limited to subdivision and zoning codes, whether or not such requirements are specifically stated in this Agreement.

4. This agreement may be terminated only with the express written consent of both parties.

The City and the Developer have caused this Agreement to be signed, in their names and on their behalf, by their duly authorized officers, all as of the day and date written above.

(Signatures on following page)

CITY OF AMES, IOWA

By _____
Ann H. Campbell, Mayor

Attest _____
Diane R. Voss, City Clerk

STATE OF IOWA, COUNTY OF STORY, ss:

On this _____ day of _____, 2016, before me, a Notary Public in and for the State of Iowa, personally appeared Ann H. Campbell and Diane R. Voss, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ames, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation by authority of its City Council, as contained in Resolution No. _____ adopted by the City Council on the _____ day of _____, 2016, and that Ann H. Campbell and Diane R Voss acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Notary Public in and for the State of Iowa

IOWA CADDIS, LLC

By _____
Kevin T. McGraw, Manager

STATE OF IOWA, COUNTY OF _____, ss:

This instrument was acknowledged before me on _____, 2016, by Kevin T. McGraw as Manager of Iowa Caddis, LLC.

Notary Public in and for the State of Iowa