

COUNCIL ACTION FORM

SUBJECT: **RELEASE OF DEVELOPMENT AGREEMENT FOR PROPERTY AT
STREETS OF NORTH GRAND SUBDIVISION**

BACKGROUND:

In 2007 the City entered into a development agreement with the owners of North Grand Mall to facilitate the proposed subdivision and redevelopment of that site. The City was given a bond for the proposed public improvements (sanitary sewer and water connections) and for the proposed private improvements (parking lot restriping and fire door).

In 2012 the City Council approved a supplemental agreement with the owners of North Grand Mall. This agreement amended the terms under which the City would release them from the bonding obligations.

In June, 2012, all obligations of the first and supplemental agreements had been satisfied and the Council released the bonds held by the City.

The owners of the Mall are now asking for a resolution formally releasing them from the Development Agreement of 2007 and the Supplemental Agreement of 2012. They need this release in order to clear title issues prior to closing on the Kohl's property.

ALTERNATIVES:

1. The City Council can approve the request to release the owner of North Grand Mall from the terms of the Development Agreement and Supplemental Agreement.
2. The City Council can deny the request to release the owner of the mall from the terms of the two agreements.
3. The City Council can refer this item to staff for further information.

MANAGER'S RECOMMENDED ACTION:

The two development agreements were adopted to ensure that certain public and private improvements were completed for the redevelopment of North Grand Mall. Work is underway on the redevelopment, and several tenants are anticipated to open their doors within a few months. As noted in the attached letter from the City Attorney's office, the terms of the agreements have been satisfied and the bonds were released.

Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1 as described above.



City Attorney's Office

515 Clark Avenue, P. O. Box 811
Ames, IA 50010
Phone: 515-239-5146 • Fax: 515-239-5142

June 7, 2012

The Honorable Ann H. Campbell and
Members of the City Council

Re: Streets of North Grand Subdivision – Developer's Satisfaction of All Obligations

Dear Mayor Campbell and Members of the City Council:

You will recall that in 2007 the City approved a development agreement for the Streets of North Grand Subdivision. The City's approval was conditioned upon the owners reconfiguring the mall parking lot to meet the minimum off-street parking requirements of the adaptive reuse site plan and the Municipal Code. The owners provided the City with a performance bond to guarantee that the parking lot would be reconfigured in a timely manner. The City granted extensions of time in 2008, 2009, 2010, and 2011. Because the parking lot reconfiguration has never been completed, however, the performance bond remains on file with the City.

On January 10, 2012, the City of Ames entered into a supplemental agreement pertaining to the Streets of North Grand Subdivision. The purpose of the supplemental agreement was to provide an alternative means for the owners of the mall to comply with the City's minimum off-street parking standards. The supplemental agreement obligates the mall owners, Grand Center Partners and North Grand Mall Partners, to achieve several milestones in furtherance of redevelopment of the mall. The supplemental agreement provides that upon the owners' completion of the redevelopment milestones, the performance bond required by the 2007 agreement would be released. A copy of the supplemental agreement is attached for your reference.

The first two milestones specified in the supplemental agreement were adoption of an amended adaptive reuse site plan and approval of a remote parking agreement. The owner completed these two milestones last January.

The remaining milestones required the owners to submit evidence of construction financing in an amount not less than \$8,000,000, and evidence of binding leases from tenants for the areas identified as Retail A and Retail D on the attached exhibit to the supplemental agreement. These requirements have now been met.

The owners recently provided satisfactory evidence of construction financing in the amount of \$10,350,000. They also provided satisfactory evidence of tenant leases for Retail A and Retail D. Relevant documents were filed with the Story County Recorder on April 5th and May 9th. With the satisfaction of all of the owners' obligations set out in the supplemental agreement, the security requirement of the 2007 agreement is terminated and the bond on file with the City is released.

Yours truly,

 Digitally signed by Doug Marek
Date: 2012.06.07 14:59:55 -05'00'

Douglas R. Marek
City Attorney

Attachment: Supplemental Agreement

cc: Greg Kveton
Steve Schainker