



Department of Planning & Development
Planning Unit

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TO: Board of Estimates
Madison Common Council

FROM: Madison Plan Commission

DATE: November 18, 2005

SUBJECT: TIF Policy

The Plan Commission has reviewed the report of the Board of Estimates Subcommittee on Tax Incremental Financing. The Commission has discussed the report on several occasions and offers the following comments and recommendations.

Primary Purpose for the Establishment of TIF Districts and Suggestions for Changes to Current TIF Objectives and Policies.

The Plan Commission generally agrees with the primary TIF objectives as outlined in the draft policy, however, it believes that these objectives should be supplemented with the establishment of a set of annual goals and a five-year plan (possibly in Capital Budget) for the tax incremental financing program. The plan should be flexible and recognize that the Council needs to retain the ability to respond quickly to unforeseen opportunities. The Plan Commission supports the continued use of TIF Districts to support revitalization of the downtown, the revitalization of selected neighborhoods within the City, that are characterized by a significant amount of deteriorating and blighted properties, and as an economic development and job creation tool. The use of TIF Districts throughout the City should be balanced and should work to accomplish all three objectives. The Plan Commission believes that the TIF policy should respond to and reinforce the City's economic development objectives and provide flexibility to staff to respond quickly to development opportunities. The Commission supports the use of TIF for economic development, including job retention and creation through the establishment of Tax Incremental Districts within blighted areas, as well as Tax Incremental Districts for industrial development.

TIF Policies

TIF for Small Projects. The Plan Commission discussed the creation of a small capital assistance program. This proposal recommends that TIF assistance be provided in smaller capital amounts for projects that achieve certain desirable City objectives such as conversion or restoration of historic properties, commercial façade improvements, conversion of architecturally significant property from rental to owner/occupied, etc. Some Plan Commission members expressed concerns about the potential

unintended consequences of TIF assistance leading to the destruction of single-family home character of neighborhoods where this character is intended to be preserved by City-adopted plans. The Plan Commission would like to review the policies, criteria and procedures related to this program if it is pursued.

Affordable Housing Set Aside. The Plan Commission supported the following recommendations from the Housing Committee's November 2, 2005 memo on the 10% set aside for affordable housing.

- a. Budget authority – Establish a capital budget amendment that provides budget authority for the 10% set aside program in an amount that allows assistance to the demand for the budget year as estimated by the CDBG Office, or 20 dwelling units (@ \$40k = \$800,000), whichever is less.
- b. Expenditure time – extend the period in accordance with recently changed State law from 7 to 20 years.
- c. Equity re-capture – recommend no change to the current policy that shares appreciation in proportion to the assistance rendered at the time of dwelling unit creation, and urge the same policy be carried over for IZ units.

Guidelines for Creating TIF Districts. The TIF policy document should include a rewrite of the general guidelines for creating TIF districts to clearly spell out the role of the Plan Commission, Board of Estimates and Common Council, in addition to the basic requirements provided for in State law.

- a. The Plan Commission is responsible for the review and recommendation of the draft TIF District plan to the Common Council.
- b. The Commission is required to make a finding that the TIF plan is consistent with the City's Master Plan (Comprehensive Plan) and to approve the blight findings.
- c. Appending a summary of the provisions within State law to the policy document is also advised.

Exceptions to the Policy. The policy document should provide a clear recognition that some very limited exceptions to the general guidelines within the document may be considered and may be approved if the Common Council finds that the proposed request is clearly in the public interest and not solely for the interest of the applicant after due recognition and consideration of the City's adopted plans for the area. A project that needs an exception to any of the TIF policies must include the following:

- a. The applicant shall submit written reasons for why the Plan Commission, Board of Estimates, and the Common Council should make an exception and specifically state the additional public purpose in making the exception.
- b. In the event that the staff recommends such an exception, the report shall include the policy for which an exception is being requested and the public purpose or justification for making the exception. The public purpose should be a direct result of meeting the goals outlined in the TIF policy or TID project plan, neighborhood plans, or other City plans such as the Economic Development Plan and Comprehensive Plan. The TIF policy should distinguish between provisions which are practices and procedures which can be varied and strict standards which cannot be varied and the reasons for the differentiation.
- c. Clear criteria for granting an exception.

Land Cost Write Downs. The Plan Commission supports the discussion included in the Subcommittee report, item #7 under TIF Process and item #6 under TIF Policy. The City should adhere to the existing policy or an amended land right-down policy to require developers to demonstrate the performance of due diligence, concerning land prices, site remediation, construction costs, building height, density, and other issues prior to the purchase of the property.

Time Period for Expenditures. The Plan Commission discussed the implications of changes to State law which allow expenditures within TIF Districts over a 22-year period rather than the 7-year period under the old law.

- a. The Plan Commission asked the Board of Estimates and the Common Council to retain as much flexibility as the law allows to respond to changing circumstances within districts and the community over time, and unexpected opportunities which may arise within TIF Districts.
- b. The Commission suggests that the TIF policy include a general guideline rather than a strict requirement or standard which acknowledges that there is additional risk in making expenditures in the later years in the life of a TIF District and expenditures within the last five years of a TIF District be carefully considered and evaluated based on the ability of the district to pay off the expenditures.

Process Issues

The Subcommittee report recommends the establishment of a deadline for the creation of new TIF Districts, as well as an annual vetting process for TIF projects within existing districts. The Subcommittee report recognizes that those projects that miss the vetting deadline will still be able to apply later but are subject to a 15-vote budget amendment if the funding for the project has not been included in the budget. The Plan Commission recognizes that a practical deadline already exists for the creation of new TIF Districts, which are required by State law to be established by September 30 of each year. There is about five months of work required leading up to the deadline for each district.

Application Process Stage 1/Screening Process. The Plan Commission strongly supports the Board of Estimates Subcommittee's recommendation to create a formal Stage 1 application process to serve as the beginning of the process and that formal steps should be taken to have the proposed project vetted.

- a. A Stage 1 application form should be completed.
- b. Part of the Stage 1 application process should be formal notice to the alderperson and neighborhood association and business association along with any interested parties registered.
- c. Require developers to meet with the District Alder and Planning staff to discuss the proposed land use, scale and massing of development early in the process.
- d. Provide the Board of Estimates with an earlier opportunity to review potential issues related to the project involving both financing as well as the land use approvals.
- e. Once the project has been vetted and the Board of Estimates determines that the project should move forward, a full final application may be submitted.
- f. This process should be added to the Developer's Handbook..

Process to Create New Districts. The Plan Commission recommends that a formal process be included within the TIF Policy to require public input and to allow property owners, businesses, and residents to be part of the process to establish a TIF District.

- a. The Plan Commission recommends that the Board of Estimates and Common Council consider requiring a resolution to be approved at the beginning of the process prior to the final boundaries being established, the TIF District project plan being drafted, and the blight study being completed.
- b. The public should have input into the potential district boundaries, the study area for the blight study, the budget that is developed, and potential projects to be included within the TIF project plan.
- c. Staff should provide notices to all stakeholders within the district and hold public information meetings to discuss these matters.
- d. Staff should continue their practice of offering to answer questions and discuss the implications of blight findings with property owners. The blight notification letters should also contain a Frequently Asked Questions Factsheet concerning the blight findings.
- e. This formal process should occur prior to staff completing all of the work required in order to prepare a draft TIF project plan and to schedule the public hearing which is required by Statute. By this point, most citizens recognize that it appears to be “done deal.”
- f. The creation of an interested parties registry to be part of the process.
- g. The Commission also recommended that the completed applications be made available through the City’s website as well as the budgets for individual TIF Districts and individual projects.

Link Between Land Use Approvals and TIF. The Plan Commission recognizes the link between the TIF application approval and the land use application approval.

- a. The draft flowchart should be revised to clearly indicate the relationship between the land use approval and the TIF approval.
- b. The Commission discussed the difference between projects which are approved in phases such as a Planned Unit Development zoning which could involve a General Development Plan (GDP) approval initially, followed by several Specific Implementation Plans (SIPs) later as the phased implementation of the GDP occurs. Both the GDP and the SIP are approved by the Common Council, but it is not until the SIP stage or sometime between the approval of the GDP and the SIP that the City will obtain all of the information it needs to fully consider TIF financing for the project. It is possible to approve the General Development Plan for projects in the absence of a TIF request and to have the Board of Estimates and Common Council later consider a TIF request at the time the Specific Implementation Plan is reviewed and approved. If the developer is going to submit a request to waive any portion of the inclusionary zoning requirement, the data to support such a request will most likely only be available at the SIP stage.
- c. The Plan Commission recommends that the application requirements for developers be expanded to require any developer seeking TIF assistance to identify their request on their land use applications and to simultaneously apply for TIF at the time of the land use application. The Plan Commission notes that for Planned Unit Developments, the application process already requires the submittal of financial feasibility information as part of the

application. The Plan Commission recommends that where an applicant has requested TIF assistance for a project, that the land use application be considered simultaneously with the TIF request by the Common Council.

Inclusionary Zoning Waivers. The Plan Commission discussed the role of the Board of Estimates and Plan Commission in reviewing the inclusionary zoning waiver requests. The Plan Commission did not come to a conclusion, but did discuss the possibility of a joint role for both the Plan Commission and the Board of Estimates for certain waiver requests.

Other Issues

The Plan Commission also discussed the following issues which should also be addressed within the TIF Policy.

- a. **Public Advisory Committee.** The Plan Commission discussed the possibility of establishing a public advisory committee for some TIF Districts. The Commission members, however, recognized that it would be more desirable to create such a committee in an area such as the Capital Gateway/East Rail Corridor District versus an industrial park TIF on the periphery.
- b. **Blight Studies.** The Commission felt strongly that additional information needed to be provided either as part of the policy document or in separate documents to the public and property owners on the implications of blight findings within redevelopment districts and TIF Districts. A good definition of “blight” is needed along with an explanation of the difference between correctable and non-correctable blight. The Plan Commission suggested that a frequently asked questions brochure be made available to property owners and that staff continue to provide contact information for property owners to get questions answered regarding blight findings.
- c. The Commission discussed the possible desirability of providing a menu or list of public purposes or community benefits.
- d. The final report should use common language and avoid the use of jargon.



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2 November 2005

To: Nan Fey, Chair
Plan Commission

From: Thomas Hirsch, AIA, Chair
Housing Committee

Re: 10% Set-Aside in TIF

During the Plan Commission's October 24 consideration of TIF Policy, I was asked to have the Housing Committee make specific recommendations on the 10% Set-Aside in TIF. At that time I suggested that due to our standard operating procedure of working out complex issues thru our subcommittees we might now report for several months. Tonight, I am pleased to say, the full Committee took on the subject and without dissent passed recommendations to report out:

"Motion to recommend to the Common Council and Plan Commission policy on TIF 10% Set-aside for Affordable Housing,

1. Budget authority - Establish a capital budget amendment that provide budget authority for the 10% set aside program in an amount that allows assistance to the demand for the budget year as estimated by the CDBG Office, or 20 dwelling units (@ \$40k = \$800,000), whichever is less.
2. District Committees – establish the set aside committee at the time each district is created by the Council, and include a representative from the neighborhood association on it.
3. Expenditure time – extend the period in accordance with recently changed State law from 7 to 20 years.
4. Consistency with Section 42 financing – define "affordable" as "30% of gross income based on area median income" for a given target group, and set maximum rents consistent with the Section 42 program.

5. Equity re-capture – recommend no change to the current policy that shares appreciation in proportion to the assistance rendered at the time of dwelling unit creation, and urge the same policy be carried over for IZ units.”

Members present were Brink, Ejercito, Hassel, Kerr, LeTourneau, Mandeville, Merrill, Sparer, Verveer, Wilcox, and myself. The motion passed unanimously.

If we can be of further service to you, please let me know.

c: Mayor Cieslewicz
Brad Murphy, CED
Hickory Hurie, CDBG