

**CITY OF MADISON
INTERDEPARTMENTAL
CORRESPONDENCE**

TO: Plan Commission

FROM: Joe Gromacki, TIF Coordinator

DATE: August 21, 2006

SUBJECT: 2006 TIF Policy Draft - Staff Response to Commission Member Comments

At the Plan Commission meeting of August 7, 2006 commission members suggested that staff compile a response to the following commission member comments:

1. Re-word the blight notification letter so that it contains less “legalese” and more information.

First, the blight notification letter is required by state statute. Unfortunately, the statute allows no latitude concerning what constitutes a legal blight notification. The Department of Revenue has advised the City that to do less would invalidate the TID. In short, the City has to be direct and inform the property owner that their property was deemed blighted.

However, staff acknowledges that the blight notification letter causes undue concern and confusion. So the challenge here would be to figure out how to reassure people that a TID has advantages and still stay within the requirements stipulated in TIF Law.

Lastly, the blight notification letter is not a matter of TIF Policy. It is a detailed sub-routine of the TID creation process. While this is likely not an issue that staff would include in the policy document, the following steps could be implemented toward softening the blow of blight notification:

First, we would recommend sending an initial, general-formatted letter prior to the blight letter to all property owners informing them of the City’s plan to create a TID in their neighborhood. A brochure would accompany this letter that explains TIF, blight in a “frequently asked question” format. The first letter would indicate that as a result of a blight study, some property owners would be receiving a follow-up letter.

Second, about a week or so later, the required blight notification letter would be mailed, including the same FAQ brochure. In total this added process could add about two weeks to an already five-month TID creation process. Neither is guaranteed to soften the blow for everybody, especially those who may oppose TIF on principle, alone. **Copies of both the letters and brochure are attached.**

2. Provide insight on the definitions of “speculative office” and “tenant shifting”.

In 1999, the original TIF Policy staff team (about twelve members) reviewed this definition in some detail. The core objectives of this policy were to 1) avoid investment in projects that did not secure anchor tenants (hence “speculative” office) and 2) remain flexible to assist projects that attracted or retained a significant property value and employment growth, i.e. a bank or insurance company headquarters, software company, etc. In addition, as TIF is driven by value growth, a building without a tenant does not generate as much value as one with an anchor tenant. With all that experience and knowledge on the original TIF Policy staff team, they were unable to render anything better than the language that we have today.

“Tenant shifting” is a term coined to describe a situation in which a project that is provided TIF assistance lures tenants from other properties for objectives other than the retention of that tenant. Council instituted this policy some time ago in response to an incident wherein TIF was pledged to a project and the assisted project lured a tenant away from an existing property. In light of the fierce competition for office tenants that still exists in the Madison market, it is unlikely that a more detailed definition would make this occurrence more justified than it was deemed back then.

To date, staff has not received any negative feedback from the development community concerning these definitions. Moreover, during the community-based interviews conducted with the first drafting of TIF Policy, both bankers and developers recommended that the City focus on other market sectors than office development.

3. Provide insight on the following aspects of the TIF Application process:

a. What constitutes a complete application?

There are two parts to the TIF Application. The first is a cover sheet application basically asking general questions and verifying with the developer’s signature that he/she has read the TIF Policy and shall comply with all applicable ordinances concerning the project. There is usually no problem with this section of the document.

The second is the detailed financial spreadsheet. All of the information requirements are clearly indicated on the application. An electronic version of the spreadsheet is also provided in the event that the developer needs to add rows or columns of information. The spreadsheet data includes a unit count, rent and/or sales price assumptions, financing leverage assumptions, a cash flow forecast that includes the timing of sales, rents, expenditures, and detailed schedules of project costs. It also includes a “sources and uses” section, indicating the sources of equity, debt and other non-TIF financing to be used to finance the project as compared total amount of project cost.

The difference between the sources and uses is “gap” or the amount proposed for TIF financial assistance. Most often, the spreadsheet is the part of the application that delays City analysis when the applicant either does not provide adequate information, or events outside everyone’s control change the financial assumptions and thereby the City’s ability to conduct a thorough “but for” analysis.

b. How much time elapses during the process before the analysis is submitted to BOE? What typically happens during application and analysis process to change the timing?

The fastest that staff has been able to turn around a TIF application from submittal to Council approval is five weeks (University Square). However, at the Mayor’s direction, University Square was prioritized over other projects in staff’s project rotation, i.e. other projects had to wait until the analysis was completed (the analysis alone took about two weeks). Typically, a myriad of things outside of staff’s control can happen to impact the timing of analysis. The following are examples of the types of things that can happen to impact the timeliness of analysis:

- Traffic Engineering informs the developer that the project can’t have a curb cut on the street, so it has to be re-configured, changing all the numbers. (You can insert any agency including Fire, Police, Water, etc. that might have a legitimate issue with the design.)
- Urban Design doesn’t like the height and massing, and reduces the height of the building, the unit count, the number of parking stalls, etc. The design changes, so the numbers change.
- The neighborhood doesn’t like either of the above, and the numbers change etc.

- The developer decides that condos aren't really what he wants to do and changes the project to a grocery, retail and Section 42 apartments. All the assumptions, costs, etc. change.
- During the initial meetings with the neighborhood, planning and other City staff, the cost of construction skyrockets, rents or sales prices decrease. All the costs change and so do most, if not all, of the assumptions.
- The developer submits a hybrid of financing, ownership structure, and/or market mix that has not been done before in Madison, and is not covered by typical underwriting standards or TIF Policy. Time is required to understand the hybrid, its efficacy, risks and impact on future policy as well as determine what projects can be compared to it, if any, to better determine a "but for" standard.
- Prior to submitting an application, the developer sponsors a press conference with alders and neighborhood members in attendance, announcing a dramatic project. The developer announces the amount of TIF requested, having estimated how much TIF that it could support according to the 50% Rule and "backing into" this number as a TIF request. Unfortunately, the developer's 50% Rule estimate is flawed and inaccurate and so is the gap that has been identified. When the staff finally gets a crack at the actual application (after the media, neighborhood and alder(s) apply pressure to "get 'er done") the developer learns that he must re-tool his assumptions. Sound familiar?
- The developer controls 2/3 of the site and is having trouble buying the last property. Could the CDA condemn it? Condemnation requires creation of a redevelopment district. None exists that includes the property and takes three months to create a district. Until the property is condemned by the CDA and purchased by the developer, the TIF application cannot anticipate the final land cost and thus the total cost of the project. Without cost, gap cannot be determined.

4. Provide staff feedback concerning the proposed "Interested Party Registry" for creating TIDs.

TIF Law requires that all potential TIDs be noticed as a Class 2 notice in the City of Madison's designated public record daily newspaper notifying the public of the Plan Commission Public hearing. Currently, the City of Madison has designated The Capital Times as the official record newspaper. Further, the agenda of the Plan Commission is published in advance that all may review electronically. These are one-time costs to the taxpayer that all may read, including interested parties.

That is not to say that the City couldn't do a better job of advance notice in neighborhood association newsletters, the City web page, etc. of a planned TID. Such prior notice is often successful when district alders anticipate that creation of a TID in their district might be sensitive. However, this decision and/or responsibility should remain firmly within the purview of the district alder(s) in representing their districts.

In addition, it is possible, although TIF staff has no authority to commit financial or staff resources here, to create databases of interested parties of persons that may reside outside of a proposed TID and conduct supplemental mailings. However, the cost and management of this activity would have to be determined and evaluated separately as a function of the City's operating budget before such a program is established.

5. Provide insight and a possible draft of the type of staff report that BOE might review prior to the closed session meeting.

Generally, at the closed session meetings of BOE, staff provides an oral report concerning the amount of TIF recommended, underwriting issues, etc. Upon BOE recommendation at this closed

session meeting, staff is currently required by TIF Policy to provide a written TIF Report attached to the actual TIF funding resolution.

Prior to the BOE closed session, the developer is currently provided with information that would be included in this oral report including the actual TIF figure (if any) that will be recommended by staff to BOE. In addition, any underwriting issues will be made known to the developer prior to this meeting.

However, in future, staff could generate a general document, available to the public that indicates the following: 1) The TIF Request 2) The TIF Staff Recommendation and 3) General Comments/Issues Concerning the Project, TIF Policy

6. Add the Inclusionary Zoning withholding language as discussed.

The following language is recommended for the IZ withholding policy as Section 3.1 (d):

Withholding of TIF Assistance for IZ Units. At closing, the City shall withhold the amount of TIF assistance that is attributable to gap caused by reducing the sales prices of owner-occupied IZ housing units such that the unit cost equals or exceeds sales revenue. Upon sale of each IZ unit to a qualified homebuyer, the City shall release a pro rata share of said IZ TIF assistance to the developer per unit. The developer shall not receive TIF assistance for those IZ units that are sold as market rate after the time period prescribed in the City's IZ Ordinance.

7. Provide insight on the staff providing an annual financial report on each active TID.

Such a report would probably involve at least three elements—financial audit, implementation of infrastructure and implementation of community and economic development (CED) projects. Respectively, three City departments—namely Comptroller, Engineering and Planning & Development supervise the three elements of this report. Such a policy, if implemented, would have to set a timeline for each department to submit their respective information relative to this report so that it could be delivered on a timely basis each year. In staff's view, the Comptroller is best equipped in terms of staffing, authority and purview to supervise and deliver such a report.

8. Comment on the feasibility of requiring developers to finance mailings for TIF related meetings?

Currently, Class 2 notices are paid for by the City and recovered with TIF. Subject to legal review by the City Attorney, it is possible that the City could bill a developer requesting a TID amendment to include his project for the purposes of providing it with TIF assistance for the cost of mailings to inform the public. In other cases, it is uncertain how we would define "TIF related meetings" for example, where a neighborhood might meet to discuss height, massing, TIF and other issues. Staff suspects that it would be unfair to charge the developer for these types of meetings.

(INITIAL LETTER TO ALL PROPERTY OWNERS IN TID)

August 8, 2006

Dear Property Owner:

The City of Madison is considering creation of a Tax Increment District (TID) that includes your property, for the purpose of making capital improvements using Tax Increment Financing (TIF).

The Plan Commission of the City of Madison will hold a **Public Hearing on** at **6:00 p.m., in Room 201 of the City-County Building, 210 Martin Luther King Jr. Boulevard, Madison, Wisconsin**, to consider the proposed Tax Increment District # _____. You will have an opportunity to express your views on the proposed creation of the TID, its boundaries and its project plan at this public hearing.

A copy of the TIF district boundary map is enclosed. **A copy of the TID's proposed project plan will be provided upon request by calling 267-8724.**

If a quorum is not reached on the meeting day, the Commission cannot convene. If you need an interpreter or require an accommodation, please contact this Department at 266-4635, TDD #266-4747.

As a courtesy, the City has taken the liberty to outline some frequently asked questions on the attached brochure. Please take the time to review the brochure in advance.

Sincerely,

Joseph E. Gromacki
TIF Coordinator

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City of Madison
Department of Planning and Development
Community and Economic Development Unit

FREQUENTLY ASKED QUESTIONS CONCERNING TIF

What is TIF?

Tax Increment Finance (TIF) was created in 1975 by the Wisconsin state legislature. It is a method of public financing that enables cities to fund capital improvements within a defined boundary using the City, County, school district and technical college portions of the property tax levy on value growth to pay for improvements to that area. Thus, the City and overlying tax jurisdictions share in both the costs and the benefits of improving an area.

Through TIF, the City creates a geographic boundary where TIF is to be used, called a “tax increment district” or “TID.” The City may borrow funds against estimated value growth in the TID, to be paid for with the entire portion of the tax levy on that growth, called “tax increment”, for up to 27 years.

Typical TIF-funded improvements include but are not limited to street resurfacing or reconstruction, “streetscaping” (i.e., decorative improvements, such as street trees, banners or street lighting that are made to the public right of way), sanitary and storm sewer, water, sidewalk and other public improvements. In some cases, TIF may be used to provide direct financial assistance to fund gaps in private development projects.

For this particular type of TID, TIF Law (Wis. Stats. 66.1105) requires that **at least 50% of the property within a TID boundary** demonstrate blighting conditions by conducting a “blight study” prior to creating the TID.

Why Is Blight Required?

Have you ever seen those “before and after” photos of a house, car or even a person that demonstrates the miraculous physical change? The demonstration of blight, called a “blight study” is like the “before” photo—a one-time-only measure of physical conditions within a TID. TIF Law requires it to ensure that TIF will only be used in areas that need it most.

In that sense, the blight study is a one-time-only measure of conditions within the TID. Once completed, the TID can be created, improvements made and the blight study is filed away and not referenced again.

What is “Blight”?

The term “blight” is broadly defined in TIF Law. Generally, it is the physical condition of property and structures that is measured in degrees as “standard” (i.e. un-blighted), “correctable” or “severe”.

For example, a correctable blighted property demonstrates temporary conditions such as broken or boarded-up windows or unscreened or uncovered garbage cans. A severely blighted property exhibits more significant and permanent issues such as a leaning foundation wall.

A property may also be impacted by conditions beyond the property owners' control such as crumbling sidewalks, poor intersection signalization or other public safety issues, or other public infrastructure or obsolete or incompatible land uses adjacent to the property that contribute to blight.

The objective of TIF is to take corrective steps through public investment to correct, rehabilitate or eliminate blight wherever possible or practicable.

How Is Blight Determined?

To determine blight, the City engages an independent blight consultant, usually an private urban planning or engineering firm with knowledge of TIF Law to conduct individual surveys of each property in a proposed TID boundary. The blight consultant visually inspects each property from the outside and assigns it a score that is weighted in terms of its lot size in comparison to the proposed district. If the total percentage of property area in the proposed TID boundary is at least 50%, then the City may proceed to create the TID. **Each property owner may request a copy of their individual blight survey form and/or the district-wide blight study.**

What Does It Mean If A Property Is Blighted?

For a neighborhood, a combined blight finding of at least 50% of the TID area means that the City may invest TIF funds in that neighborhood. But for TIF, these funds could not otherwise be invested.

However, it is understandable that some property owners find it unappealing to have their property identified as blighted. To add insult to injury, the City then must notify them in writing of this finding in order to be in full compliance with TIF Law.

In an attempt to ease such discomfort, it is the City of Madison's practice to notify all property owners within a proposed TID boundary of the public hearing. Owners of property deemed blighted also receive a separate, supplemental blight notification letter.

Here's what such a blight notification does not mean:

- A blight finding does not signal building code enforcement any more than would be customary.
- A blight finding does not impact property value.
- A blight finding is not a cloud on title.

Does Blight Mean That Property Will Be Condemned?

No. Not by virtue of creating a TID.

However, the Community Development Authority (CDA), a separate City agency, may create a Redevelopment District under Wis. Stats. 66.1333 "Redevelopment Law." Under Redevelopment Law, the CDA may exercise powers of condemnation to acquire ONLY blighted, non-residential property or blighted residential property that is greater than two units. Though a possibility, the creation of a TID by the City of Madison does not mean that the CDA will create a redevelopment district or exercise condemnation powers.

What If I Improve My Property? Does the Blight Finding Go Away?

Although the City encourages property owners to make improvements within a TID, the blight study is merely a one-time measure to determine if an area is eligible for TIF. After the TID is created, the blight study is not referenced or revisited ever again. Once the TID completes its mission and pays for all improvements, the TID is closed.

(BLIGHT NOTIFICATION LETTER)

Date

Dear Property Owner:

The City of Madison is considering creation of a proposed Tax Increment District (TID) District # _____ that includes your property for the purpose of utilizing Tax Incremental Financing (TIF) to make improvements in your neighborhood.

The objective of TIF is to make public investments to correct, rehabilitate or eliminate blight and stimulate economic development and growth in the area. Since 1977, the City of Madison has invested over \$40 million in 35 TIDs that has leveraged over \$800 million of new property value. However, a prerequisite of state law requires that an area must demonstrate that it is at least 50% blighted before it is eligible for TIF.

The City of Madison conducted a one-time-only visual inspection of all the property in the proposed TID boundary in your neighborhood. The study concluded that enough property, including your own, demonstrated a degree of physical condition that contributed to the state blight eligibility standard. Upon meeting this standard, the City of Madison must then notify all owners of blighted property of a public hearing (Wis. Stats 66.1105) to consider the creation of the proposed Tax Incremental District, project plan and boundary.

The actual required notice with all pertinent information is indicated below:

You are hereby notified of the public hearing on the proposed TIF District # _____ and project plan before the Plan Commission of the City of Madison on _____, 2004 at 6:00 p.m., in Room 201 of the City-County Building, 210 Martin Luther King Jr. Boulevard, Madison, Wisconsin. At this hearing, you will have an opportunity to express your views on the proposed creation of the TIF District, the proposed boundaries thereof, and the project plan. **A copy of the proposed project plan will be provided upon request.** If a quorum is not reached on the meeting day, the Commission cannot convene. If you have questions, please call me at 267-8724. If you need an interpreter or require an accommodation, please contact this Department at 266-4635, TDD #266-4747.

As discomfoting as this may sound, please understand that it serves no other purpose than notify you a public hearing concerning creation of a tax incremental district and that if the TID is approved, the end result could be City investment in your neighborhood. For your convenience, I have attached a brochure that includes answers to the most frequently asked questions concerning TIF and blight.

Sincerely,

Joseph E. Gromacki
TIF Coordinator

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