



SHAKER HEIGHTS

Memorandum

To: Members of City Council

From: William M. Ondrey Gruber, Director of Law
Laura Englehart, Director of Economic Development

cc: David E. Weiss, Mayor
Jeri E. Chaikin, CAO

Date: May 8, 2023

Re: **Legislation Authorizing the City to Transfer Title to the Former Qua Buick Property to SHDC and back to the City in order to facilitate the TIF on the Property**

It is requested that Council authorize a series of two transactions of the City-owned vacant lot at 3393 Warrensville Center Road, known as the former Qua Buick property, in order to meet the requirements of State law and the Ohio Department of Taxation (ODOTx), to enable the City to establish Tax Increment Financing (TIF) on the property for the purpose of providing critical financing for the proposed Arcadia development project.

Upon receipt of Council authorization, the City will transfer title to the property to the Shaker Heights Development Corporation (SHDC), and then immediately (within a day or two) transfer the property back to the City, to enable the City Council to then adopt legislation to place a TIF on the property---as already agreed to previously by this Council, the City, and the School District in 2016. The SHDC Board has approved this transaction.

As Council is aware, the original Development & Use Agreement (D&U) approved by Council in 2016 for the phased Van Aken District development included tax increment financing (TIF) on a portion of the former Qua Buick site, and Council adopted a TIF Ordinance for that property on April 11, 2016 in Ordinance 16-42. The property was intended to be developed at that time for the Fresh Market grocery store, as part of the first phase of the Van Aken development. However, the development of the Qua Buick site for Fresh Market fell through, and the property has remained vacant.

In August 2022, the City entered into a preliminary agreement with Metropolitan Holdings to create a mixed-use, mixed-income building on the Qua Buick property to be known as Arcadia, and the TIF is a significant part of the financing for the proposed project. With development of the property now slated to begin within the next year, the City intends to ask Council to newly adopt the legislation establishing the agreed upon TIF exemptions for the Qua Buick property in order to include the entire property and to re-set the start date of the TIF exemptions on the property.

In anticipation of Council enacting TIF legislation to establish the Qua Buick property TIF and its commencement date, the City has been advised by legal counsel that in the City's TIF application to the State of Ohio it should be shown that the City acquired the property while engaged in urban redevelopment, and the State may require the City to provide an urban redevelopment plan or development agreement for the TIF parcel that was approved or entered into around the same time as the City acquired the property.

The Ohio Department of Taxation (ODOTx) has interpreted Ohio TIF law (ORC 5709.41) to require that, in order to place a TIF on a city-owned property, it must be shown that the city acquired the property while engaged in urban redevelopment. As part of the TIF application process, ODOTx has required, in some circumstances, evidence of an urban redevelopment plan or development agreement for the TIF parcel that was approved or entered into around the same time *as the city acquired the parcel*.

The City obtained title to the Qua Buick property in 2013, and subsequently demolished the buildings on the site. Since a development agreement is expected to be finalized in 2023, the now-vacant property should be transferred to a third party and then transferred back to the City shortly thereafter, so that there is a recent deed showing the transfer of the property to the City to submit to the State. This will also clearly set the base value of the property under the City's ownership at the land-only value.

In order to avoid any potential delay or disapproval of the City's application to the State of Ohio to place a TIF on the Qua Buick property, the City has been advised that it should transfer title to a third party, and then have title transferred back to the City shortly thereafter, so that there is a recent deed showing the transfer of the property to the City to provide to the State.

We have asked the SHDC to serve as this third party to accept title to the property and to then transfer title back to the City the next day. The City will handle the transactions. The SHDC Board has approved of the organization serving in this role.

The City has had to use this method of providing a recent deed for a property or placing the City briefly in the chain of title in other transactions. Council approved a similar transaction with SHDC for the Farnsleigh Lot development in Ordinance 22-10, enacted on January 24, 2022.

In addition, in order to access County demolition funds the City was required to be briefly in the chain of title for the Le Chaperone Rouge property. Also, to establish a TIF on the Van Aken Development property the City had to be in the chain of title, and so a quick transfer to the City and from the City back to RMS occurred after demolition of the old buildings on that property, and prior to the start of construction on the new development.

Therefore, it is requested that Council authorize the City to transfer the parcels comprising the former Qua Buick site at 3393 Warrensville Center Road to the SHDC, and then transfer the property back to the City within a few days thereafter. It is requested that the authorizing legislation be enacted on first reading and as an emergency in order to allow the transaction to occur in the next couple of weeks, so that the TIF legislation can then be adopted by Council as well as approval of a development agreement with Metropolitan Holdings.

ORDINANCE NO.

BY:

Approving and authorizing the City to transfer title to the two parcels comprising the vacant lot at 3393 Warrensville Center Road (Parcel Nos. 736-13-057 and 736-13-058), formerly the Qua Buick property, to a third party and transfer the properties back to the City immediately thereafter, in order to enable Council to subsequently establish Tax Increment Financing on the property, and declaring an emergency.

WHEREAS, the original Development & Use Agreement (D&U) approved by Council in 2016 for the phased Van Aken District development included tax increment financing (TIF) on a portion of the former Qua Buick site, and Council adopted a TIF Ordinance for that property on April 11, 2016 in Ordinance 16-42, which started the 30-year TIF as of that date; and

WHEREAS, in August 2022, the City entered into a preliminary agreement with Metropolitan Holdings to create a mixed-use, mixed-income building on the Qua Buick property, and the TIF is a significant part of the financing for the proposed project; and

WHEREAS, with development of the former Qua Buick property now slated to begin within the next year, the City intends to ask Council to adopt the legislation establishing the agreed upon TIF exemptions for the Qua Buick property to include the entire property and to re-set the start date of the TIF exemptions on the property; and

WHEREAS, in anticipation of Council enacting TIF legislation to establish the Qua Buick property TIF and its commencement date, the City has been advised by legal counsel that in the City's TIF application to the State of Ohio it should be shown that the City acquired the property while engaged in urban redevelopment, and the State may require the City to provide an urban redevelopment plan or development agreement for the TIF parcel that was approved or entered into around the same time as the City acquired the property; and

WHEREAS, the City obtained title to the Qua Buick property in 2013, and subsequently demolished the buildings on the site, and therefore, since a development agreement is expected to be finalized in 2023, the now-vacant property should be transferred to a third party and then transferred back to the City shortly thereafter, so that there is a recent deed showing the transfer of the property to the City to submit to the State.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Shaker Heights, Ohio, as follows:

Section 1. The Mayor is hereby authorized and directed to transfer title to the vacant lot at 3393 Warrensville Center Road (Parcel Nos. 736-13-057 and 736-13-058), formerly the Qua Buick property, to the Shaker Heights Development Corporation (SHDC) and to accept title of the property back to the City in anticipation of the development of the

property. The deeds shall be in the form as approved by the Director of Law.

Section 2. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare for the reason that it is necessary so that the related TIF ordinance can be passed promptly and the development of the project can proceed, and therefore, this ordinance shall take effect immediately upon its enactment and approval by the Mayor.

Enacted

Approved this ____ day of _____ 2023.

DAVID E. WEISS, Mayor

Attest:

JERI E. CHAIKIN
Clerk of Council

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