



MEMORANDUM

“...meeting community needs...enhancing quality of life.”

TO: Community and Economic Development Committee
FROM: Matt Rehbein, Economic Development Specialist
DATE: March 30, 2015
RE: Request for Waiver of Repurchase Rights for Lot Five (5), Northeast Business Park No. One (1) - Retroactive

Gasman Enterprises, LLC acquired Northeast Business Park Lots 5 and 6 from the City of Appleton on July 17, 2006 for \$133,650 or \$45,000 per acre. Subsequently, Happy Joes was built on Lot 6 in 2009 which is currently assessed at \$859,300 (Land \$138,600, Improvements \$720,700). Lot 5 was sold to S & J Enterprises Fox Cities, LLC on December 2, 2014 for \$92,000 (\$66,503.82 per acre). The current assessed value of the land is \$120,000 (\$96,744.11 per acre). No improvements have been built on the site. A map of these parcels is attached.

An action was taken by Council on December 3, 2008 to rezone the parcel as general commercial (PD/C2), which removed all Deed Restrictions except for the Repurchase Rights (Repurchase language attached). The City was not first offered the land for repurchase prior to the sale as required per the Deed Restriction. A copy of the Deed Restrictions was provided to the buyer in a meeting at City Hall on Sept. 11, 2014. A Real Estate Inquiry Form was provided to Nova Title on November 11, 2014 which notes the City's Rights (attached) and the Deed Restrictions were recorded April 23, 1997. In speaking with the closing agent from Nova Title, he indicated they have since changed their internal policies to ensure these rights are enforced in the future.

S & J Enterprises Fox Cities, LLC has met with Staff and is interested in building an aquatics center on this site. Plans are too preliminary to warrant bringing forward details of construction cost or renderings, but all indications are they have purchased the land in good faith to establish a business at this location. A final Implementation Plan will be required, including approval by Plan Commission and Common Council prior to any construction.

S & J Enterprises Fox Cities, LLC is requesting a waiver of the City's repurchase rights according to Section XII of the Declaration of Deed Restrictions to retroactively allow for the sale of the property.

Staff Recommendation:

The Community and Economic Development Committee waive the City's Repurchase Rights for Lot Five (5), Northeast Business Park No. One (1), retroactively allowing the transfer from

Gasman Enterprises, LLC to S & J Enterprises Fox Cities, LLC. This waiver of repurchase rights is not transferable, survivable, or assignable. The City's Repurchase Rights would remain on this property.

XII. Repurchase Rights:

Failure to Build: In the event the owner of land purchased from the City of Appleton does not commence construction of a building within one (1) year after the date of purchase, ownership shall revert to the City. The City shall pay the following repurchase price: the sum of the original purchase price and all special assessments which may have been paid by the buyer or levied against the property after the date of purchase minus the sum of any unpaid property taxes, proration of the current years property taxes to date of closing, title insurance policy premium or cost of warranty abstract, and any liens and encumbrances on the property of a definite or ascertainable amount. Further, repurchase price shall be adjusted by the amount equal to the amount of an option fee for that year had the property been under option between the City and the Buyer. Conveyance shall be by warranty deed.

Resale of Vacant Land: In the event the owner of land purchased from the City of Appleton elects to sell any portion thereof which is vacant, the property shall first be offered, in writing, to the City of Appleton. The City of Appleton shall have sixty (60) days from date of receipt of such offer to accept or reject repurchase of the property unless an extension of time may be mutually agreed upon and set forth in writing. In the event the City does not elect to repurchase the property, the owner may sell the land, but these Declarations of Covenants and Restrictions shall run with the land and be binding on the subsequent owner. The purchase price shall be computed as in Article XII above. Conveyance shall be by warranty deed. The seller shall furnish a title insurance policy at the seller's expense.



REAL ESTATE INQUIRY FORM

This standard form provides information available at City Center concerning the subject property as of the date noted, and is supplied at your request. It is understood that this form is issued subject to potential errors and omissions and shall not be binding upon the City of Appleton, subject to Sec. 19.35, Wisconsin Statutes you are entitled to examine the public records in the following offices and verify the information to the persons' own satisfaction.

KEY NO.: 31-1-6510-05 Sale Refinance

PRESENT OWNER'S NAME: GASMAN ENTERPRISES LLC

ADDRESS OF PROPERTY: 0 E EVERGREEN DR

CORNER LOT: Yes No **OTHER STREET OF CORNER LOT:**

YEAR BUILT: 0 **PRESENT USE:** commercial lot

LOT SIZE: 60260.00 **PRESENT ZONING CLASSIFICATION:** PDC2

Does not include any delinquent special assessments held in Trust by the Counties. Does not include obligations for services provided by not yet billed (i.e., snow removal, weed cutting, etc.). Does not include subdivision fees which are recorded liens. If between 11/15 and 12/31 may not include S/A added to tax roll. **NOTICE:** City licenses or permits cannot be issued for real estate locations if current or previous businesses/individuals at that location have outstanding amount due to the City. Said amounts are not reported herein and may not be recorded liens. Contact the Finance Department, if property use will require City licenses or permits.

REAL ESTATE TAXES	Year <u>2013</u> Taxes Levied	\$ 2,858.48
	Special Assessments on Tax Roll	\$ 00.00
	State Credit	\$ 172.64
	Less: Lottery Credit	\$ 00.00
	1 st Dollar Credit	\$ 00.00
	Total Tax Bill	\$ 2,685.84
	Amount Paid	\$ 00.00
	Interest Due	* \$ 00.00
	Balance Due	* \$ 00.00

* After 8/1 contact appropriate County for amount due.

PERSONAL PROPERTY	Taxes Levied	\$
	Total Tax Bill	\$
PP Key #	Amount Paid	\$
	Delinquent Taxes	\$
	Year _____	
	Amount Due	\$

City Service Invoice Account # N/A

Amount of Last Utility Bill \$ Dates Covered

Are there any outstanding to date Yes No (including all past finals)

If Yes, Amount Outstanding: \$ Acct No. if Final

Has Final Been Taken Yet? Yes No

Name on Account if different than owner:

YOU MUST SCHEDULE A FINAL UTILITY(WATER/SEWER) METER READING FOR THE DATE OF CLOSING.

OUTSTANDING SPECIAL ASSESSMENTS

If yes, type and amount outstanding:

Yes

No

Amounts good thru:

Call 920-832-6438 for updated figures, if needed.

Legal Description of Property:

NORTHEAST BUSINESS PARK NO 1 LOT 5 1.38 AC M/L

County: Outagamie

Assessed Value as of January 1, 14 Same as last year Yes No

Land: \$120,500.00 **Improvements:** \$0.00 **Total:** \$120,500.00 **Assessment:** Partial

This property is under construction and/or being remodeled or is in a revaluation district and may be subject to change in assessment next year. Not final until Board of Review meets.

Proposed Change: **Land:** **Improvements:** **Total:**

Permit administratively closed (\$35 fee to re-inspect) Yes No

http://www.appleton.org/i/d/public_works/old_open_permits.pdf

One or more open permits Yes No

Open orders of non-compliance Yes No

Lot meets current area requirements for present occupancy Yes No

Property is located in Flood Plain Yes No

Sidewalks are required six (6) months after occupancy Yes No

Clearwater/driveway inspection required Yes No

If yes, please go to http://www.appleton.org/i/d/public_works/clearwater_city_letter_and_form_for_website_12-7-11.pdf

Vacant Lot. Can't answer w/o property use info.

If an approved Clearwater/driveway inspection was done in the past five (5) years please go to

http://www.appleton.org/i/d/public_works/5_year_exemption_letter.pdf

Planned or commenced public improvements Yes No

If yes, type of assessment.

PLEASE NOTE: If current owner decides to sell, the City has right of first refusal pertaining to any sale. (11/20/08)

FIRE DEPARTMENT INFORMATION:

Routine Inspections Required Yes No Outstanding Violations/Orders Yes No

Smoke Detectors Required Yes No

Is this property required to have a monitored, smoke detection system in accordance with a development agreement on file with the City? Yes No

