Louisville Metro Government

Legislation Details (With Text)

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Title: AN ORDINANCE ESTABLISHING A DEVELOPMENT AREA PURSUANT TO PROVISIONS OF KRS 65.7041- 65.7083 TO BE KNOWN AS THE MERCY DEVELOPMENT AREA, DESIGNATING THE METRO DEVELOPMENT AUTHORITY, INC. AS AN "AGENCY", ADOPTING A DEVELOPMENT PLAN, APPROVING ENTERING INTO A LOCAL PARTICIPATION AGREEMENT, AUTHORIZING THE PAYMENT OF THE "RELEASED AMOUNT" PURSUANT TO THE TERMS AND CONDITIONS OF THE LOCAL PARTICIPATION AGREEMENT, REQUIRING THE SUBMISSION OF REGULAR REPORTS TO LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF ANY OTHER DOCUMENTS AND THE TAKING OF ANY OTHER ACTIONS NECESSARY TO ACCOMPLISH THE PURPOSES AUTHORIZED BY THIS ORDINANCE.

Sponsors: David Tandy (D-4)

Indexes:

Code sections:

Attachments: 1. O-235-16 EXHIBIT A DEVELOPMENT PLAN.pdf, 2. O-235-16 EXHIBIT B MAP OF DEVELOPMENT AREA, 3. O-235-16 EXHIBIT C LOCAL PARTICIPATION AGREEMENT, 4. 7-19-16 Mercy Academy, 5. 080216 Preservation Louisville Statement to Metro Council by Charles Cash, 6. ORD 142 2016

Date	Ver.	Action By	Action	Result
8/11/2016	1	Metro Council	passed	Pass
8/2/2016	1	Labor and Economic Development Committee	recommended for approval	Pass
8/2/2016	1	Labor and Economic Development Committee	called the question	
7/28/2016	1	Metro Council	referred	Pass
7/19/2016	1	Labor and Economic Development Committee	recommended for approval	Pass
7/14/2016	1	Metro Council	assigned	

ORDINANCE NO. , SERIES 2016

AN ORDINANCE ESTABLISHING A DEVELOPMENT AREA PURSUANT TO PROVISIONS OF KRS 65.7041- 65.7083 TO BE KNOWN AS THE MERCY DEVELOPMENT AREA, DESIGNATING THE METRO DEVELOPMENT AUTHORITY, INC. AS AN "AGENCY", ADOPTING A DEVELOPMENT PLAN, APPROVING ENTERING INTO A LOCAL PARTICIPATION AGREEMENT, AUTHORIZING THE PAYMENT OF THE "RELEASED AMOUNT" PURSUANT TO THE TERMS AND CONDITIONS OF THE LOCAL PARTICIPATION AGREEMENT, REQUIRING THE SUBMISSION OF REGULAR REPORTS TO LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AND AUTHORIZING THE EXECUTION AND DELIVERY OF ANY OTHER DOCUMENTS AND THE TAKING OF ANY OTHER ACTIONS NECESSARY TO ACCOMPLISH THE PURPOSES AUTHORIZED BY THIS

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ORDINANCE.

SPONSORED BY: Council Member Tandy

WHEREAS, the Kentucky General Assembly enacted KRS 65.7041- 65.7083 (the "Act") relating to tax increment financing and urban redevelopment, which Act establishes local development areas to increase property values, increase employment opportunities, and increase economic activity;

WHEREAS, Louisville Broadway Apartments, LLC, an Ohio limited liability company, (the "Developer") plans to undertake a major project within the Mercy Development Area (the "Development Area") to complete the Mercy Redevelopment Project (the "Project"), as more particularly described in the Development Plan attached hereto as Exhibit A;

WHEREAS, the Project, which qualifies as a development area under the Act, will involve new capital investment of approximately $26,500,000 when fully developed;

WHEREAS, in accordance with the provisions of the Act, a Development Plan for the Development Area has been prepared and a public hearing has been conducted to seek public comment on the Development Plan;

WHEREAS, the legislative council of the Louisville/Jefferson County Metro Government (the "Council") finds that the Project to be undertaken in the Development Area by the Developer will result in an increase in the value of property located in the Development Area, will result in increased employment within the Development Area, Louisville and the region and will increase the tax base of Louisville;

WHEREAS, it is therefore in the interest of Louisville/Jefferson County Metro Government ("Metro") and Metro Development Authority, Inc. (the "Authority") that there be a plan for the optimal

revitalization and development of the Development Area in a most efficient manner;

WHEREAS, the redevelopment of previously developed land, within the meaning of Act and as presented by the Developer and the Authority, enables Louisville Metro to use tax increment financing to encourage major economic development projects, is a worthy public purpose;

WHEREAS, Louisville Metro is authorized under the Act to execute a local participation agreement with an agency in acknowledgement of benefits to be derived by Louisville Metro within a development area in order to promote the public purpose of Louisville Metro;

WHEREAS, the Authority is organized and incorporated as a nonprofit, nonstock corporation pursuant to KRS Chapters 58 and 273 to act as an “Agency” under the Act;

WHEREAS, Louisville Metro has determined that based on the benefits to be derived from the Project that it is in furtherance of its public purposes to assist Developer, through the Authority, with the costs of the Project and agrees to enter into the Local Participation Agreement in order to pay to the Authority the Released Amount (as hereinafter defined) for use solely for purposes of the Project.

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/ JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

Section 1. The Development Plan, attached hereto as Exhibit A, is hereby adopted.

Section 2. That the Council finds as follows:

A. All statements of fact set forth in the recitals to this Ordinance are found true and correct and are incorporated herein by reference.

B. The Development Area, as depicted in Exhibit B, is a contiguous parcel of property, approximately 3.052 acres in size, and is less than three (3) square miles in area as required by the Act.

C. The Development Area constitutes previously developed land as required by KRS 65.7043(2).

D. The establishment of the Development Area shall not cause the assessed value of taxable real estate in all development areas located in Louisville Metro to exceed 20% of the assessed value of all taxable real property in Louisville Metro. To date Louisville Metro has established several other development areas with a combined taxable real property assessment at the time they were established of approximately $1.487 billion. The taxable real property assessment of the Development Area for calendar year 2015 is approximately $2,321,300, and that amount combined with the previous development areas established by Louisville totals $1.489 billion, while the total taxable real property assessment for Louisville exceeds $53 billion, 20% of which is $10.6 billion.

E. The conditions within the Development Area meet more than two (2) of the seven (7) factors of blight as set forth in KRS 65.7049 as follows:

1. **A substantial loss of residential, commercial, and industrial activity or use has occurred within the Development Area.** The Development Area is the site of a former academy that has sat vacant since 2008, when the school moved to another location.

2. **More than fifty percent (50%) of the residential, commercial, or industrial structures are deteriorating or deteriorated.** More than fifty percent (50%) of the structures in the Development Area were deteriorating, as a result of the lack of investment provided for by the owners prior to the Developer. Those structures have recently been demolished.

3. **A combination of factors substantially impairs or arrests the growth and economic development of the city or county and impedes the development of commercial or industrial property due to the Development Area's present condition and use.** Development of the Project site without assistance as provided by the Act is not feasible due to the large scale costs associated with the redevelopment of the proposed Project. Potential revenue alone cannot underwrite the costs of redevelopment of this site. No other adequate funding mechanism affords the proposed improvements absent the incentives provided under the Act. These improvements cannot be facilitated with private investment alone. The aesthetic improvement resulting from the development of the proposed Project will have a positive effect

on the city and surrounding area, especially the impact on East Broadway.

F. The Development Area will not reasonably be developed without public assistance, including incentives as provided by the Act. The high cost of site development expenses needed for the Project makes public incentives critical to the financing of the Project when compared with low potential revenue generated by these improvements.

G. The public benefits of redeveloping the Development Area justify the public costs proposed. The investment in the Development Area will result in significant returns through increased property valuations for the surrounding area, facilitate secondary and tertiary re-development within the area, and bring additional residents, diners and other visitors to Louisville. The Development Area has a 2015 taxable assessed value of approximately $2,321,300 but annually generates $0 in real estate taxes to Louisville Metro because it was owned by an entity exempt from property tax. The Project will increase capital investment by approximately $26,500,000, which will provide significant new taxes to Louisville Metro and the other taxing districts. While Louisville Metro will pledge 80% of the incremental increase of the local ad valorem real property taxes from the Development Area, up to a cap of $2,605,559, to provide redevelopment assistance to the Project, it will retain 20% of the new incremental increase of the local ad valorem real property taxes from the Development Area. The property is currently generating no revenue to Louisville Metro, and has not for several years. Therefore, even when considering the requested incentives for the Project from Louisville Metro, the Project will be financially beneficial to Louisville Metro. The Project will also be a catalyst for additional development in the area surrounding the Development Area.

In addition to the direct tax impact of the Project, the Project will provide unique and currently unavailable residential offerings and support to the surrounding neighborhood.

H. The area immediately surrounding the Development Area has not been subject to growth and development through investment by private enterprise. The proposed improvements within the Development Area will have a positive effect on the surrounding area, which faces stagnation in development without the Project.

I. The pledge and use of a portion of Louisville Metro's incremental revenues, as defined in the Local Participation Agreement, derived from the Development Area to provide redevelopment assistance to the Project and the Development Area will increase capital investment and employment in Louisville Metro, and therefore constitutes a public purpose.

Section 3. The Development Area as illustrated and described in Exhibit B is designated as a development area pursuant to the Act and shall be named the Mercy Development Area. The Development Area shall be established as of the effective date of this Ordinance and shall terminate on the earlier of (a) the termination of the Local Participation Agreement, attached hereto as Exhibit C, or (b) 25 years from the date hereof, provided that in no case the termination date will be more than 20 years from the activation date.

Section 4. That the Metro Development Authority, Inc., a Kentucky nonprofit, nonstock corporation (the "Authority"), (a) is designated as the Agency, pursuant to the terms of the Act, (b) shall be the recipient of the Released Amount under the Local Participation Agreement and (c) shall be required to oversee and administer the implementation of the Project within the Development Area.

Section 5. That the Mayor is authorized to negotiate and enter into a Local Participation Agreement with the Authority for the release to the Authority of a portion of the new ad valorem real property taxes expected to be derived by Louisville Metro from the Project to be constructed in the Development Area ("Released Amount"), substantially in the form attached hereto as Exhibit C.

Section 6. That the Office of Management and Budget is designated as the department in Louisville Metro to oversee the payment of the Released Amount and to review all documentation concerning the Project, its progress, costs and development. The Office of Management and Budget shall annually submit to the Council a report concerning the Development Area ("Report"). The Developer shall provide to the Office of Management and Budget, on a timely basis, all information required by the Office of Management and Budget to prepare the Report. The Report shall include but not be limited to:

A. An accounting of all payments made to the Authority pursuant to the Local Participation Agreement;

B. An analysis and review of development activity within the Development Area;

C. The progress made toward meeting the stated goals of the Development Area;

D. An accounting of the Approved Project Costs and other Project Costs incurred by the Developer.

Section 7. That the Council authorizes Louisville Metro to pay annually to the Authority, the Released Amount which shall be calculated as provided in the Local Participation Agreement, not to exceed a sum equal to 80% of the Louisville Metro Ad Valorem Real Property Tax Increment, subject to the following condition: in no event shall the total of the Released Amount paid to the Authority over the term of the Local Participation Agreement exceed $2,605,559 as set forth in the Local Participation Agreement.

Section 8. That the Authority shall establish a Special Fund pursuant to the Act for the Development Area as set forth in the Local Participation Agreement.

Section 9. That the Mayor and other appropriate Louisville Metro officials, and each of them, for and on behalf of Louisville Metro, are hereby authorized, empowered and directed to do and perform any and all things necessary to effect the execution of the Local Participation Agreement, the performance of all obligations of Louisville Metro under and pursuant to the Local Participation Agreement and related documents, and the performance of all other actions of whatever nature necessary to effect and carry out the authority conferred by this Ordinance and the Local Participation Agreement. The Mayor and other appropriate Louisville Metro officials, and each of them, are hereby further authorized, empowered and directed for and on behalf of Louisville Metro to execute all papers, letter, documents, undertakings, certificates, assignments, forms, instruments and closing papers that may be required for the carrying out and effectuation of the authority conferred by and for the purposes of this Ordinance and the Local Participation Agreement, or to evidence said authority and purposes, and to exercise and otherwise take all action necessary to the full realization of the rights and purposes of Louisville Metro under the Local Participation Agreement and related documents and to perform all of the obligations of Louisville Metro under the Local Participation Agreement and related documents.

Section 10. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

Section 11. This Ordinance shall take effect upon its passage and approval.

This Ordinance was given first reading at a duly convened meeting of the Metro Council held on _____, 2016, and given second reading and adopted at a duly convened meeting of the Metro Council held on _____ ___, 2016.

_____ _____
Stephen Ott David Yates
Metro Council Clerk President of the Council

_____ _____
Greg Fischer Approval Date
Mayor

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____

Mercy Academy TIF O-235-16 ROC Draft 1 070816

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Clerk of the Louisville/Jefferson County Metro Council (the "Metro Council"), and as such Clerk I further certify that the foregoing is a true, correct and complete copy of an Ordinance duly adopted by the Metro Council upon second reading at a duly convened meeting held on _____ __, 2016, signed by the Mayor, approved by me as Clerk and in full force and effect as therein stated, all as shown by the official records of the Metro Council in my possession and under my control.

IN WITNESS WHEREOF, I have hereunto set my hand as Metro Council Clerk of the Louisville/Jefferson County Metro Government and the seal of the Metro Government this ____ day of _____, 2016.

_____

H. Stephen Ott, Metro Council Clerk

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Exhibits

A. Development Plan
B. Map of Development Area
C. Local Participation Agreement

EXHIBIT A

DEVELOPMENT PLAN

EXHIBIT B

MAP OF DEVELOPMENT AREA

LEGAL DESCRIPTION

Being a parcel of land on the south side of East Broadway in Jefferson County, Kentucky and being more particularly described as follows:

Beginning at an existing x-cut in a concrete wall in the south right-of-way (r/w) line of East Broadway at the northeast corner of a tract of land conveyed to Jefferson County School District (Jefferson) in Deed Book 7472 Page 643, of record in the Clerk's office of Jefferson County, Kentucky; thence with said r/w line and with the North line of a tract of land conveyed to Ventas Realty, LP (Ventas) in Deed Book 7858 Page 42 of record in the Clerk's office aforesaid, South 85 degrees, 35 minutes, 48 seconds East, 34.72 feet to an existing (ex) mag nail #3005; thence leaving said r/w line South 4 degrees, 24 minutes, 12 seconds West, 73.50 feet to an ex mag nail #3005; thence South 85 degrees, 35 minutes, 48 seconds East, 126.39 feet to an ex mag nail #3005; thence North 4 degrees, 24 minutes, 12 seconds East, 73.50 feet to an ex iron pin and cap #3005 (IPC) in said r/w line; thence with said r/w line and with the north lines of property conveyed to Ventas aforesaid and Louisville Broadway Apartments LLC (Louisville) in Deed Book 10564 Page 989, South 85 degrees, 35 minutes, 48 seconds East, 404.72 feet to an ex mag nail #3005 at the Northeast corner of Louisville aforesaid and the Northwest corner of a tract of land conveyed to Del Prince in Deed Book 9628 Page 966 in the Clerk's office aforesaid; thence leaving said r/w line and with Louisville and Del Prince, South 4 degrees, 24 minutes, 12 seconds West, 169.67 feet to an ex IPC #3005 in the South r/w line of an ex 10 foot Alley, thence with said Alley South 85 degrees, 35 minutes, 48 seconds East, 28.25 feet to an ex mag nail #3005 at the Northwest corner of a tract of land conveyed to Mugavin in Deed Book 9789 Page 944 of record in the Clerk's office aforesaid; thence with Mugavin and Louisville, South 4 degrees, 24 minutes, 12 seconds West, 77.83 feet to an ex mag nail #3005 in the north r/w line of Mercy Way, 15' R/W, at the Southwest corner of Mugavin and the Southeast corner of Louisville aforesaid; thence with said north r/w line and the south line of Louisville North 85

degrees, 35 minutes, 48 seconds West, 594.08 feet to an ex mag nail #3005 at the Southeast corner of Jefferson and the Southwest corner of Ventas aforesaid; thence leaving said r/w line and with Jefferson and Ventas North 4 degrees, 24 minutes, 12 seconds East, 247.50 feet to the point of beginning containing 3.052 acres more or less. Being a part of the same property conveyed to Ventas Realty, LP in Deed Book 7858 Page 42 and all of the property conveyed to Louisville Broadway Apartments, LLC, in Deed Book 10564 Page 989 of record in the Clerk's office aforesaid.

EXHIBIT C

LOCAL PARTICIPATION AGREEMENT

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