
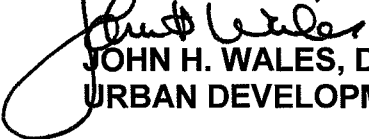


FOR COUNCIL MEETING OF: December 12, 2011
AGENDA ITEM NO.: 4.3 (f)

TO: MAYOR AND CITY COUNCIL
THROUGH:  LINDA NORRIS, CITY MANAGER
FROM:  JOHN H. WALES, DIRECTOR
URBAN DEVELOPMENT DEPARTMENT
SUBJECT: MARION PARKADE LEASE AGREEMENT

ISSUE:

Shall the City Council authorize the City Manager to amend the Marion Parkade Lease Agreement to extend, for a period of 24 months, the dates the tenant is required to commence and complete construction of improvements at Marion Parkade?

RECOMMENDATION:

Staff recommends the City Council not authorize an amendment to the Marion Parkade Lease Agreement to extend, for a period of 24 months, the dates the tenant is required to commence and complete construction of improvements at Marion Parkade.

BACKGROUND:

In 2007, Marion Park LLC (principals, Kevin Lafky, Ida Lafky and Matt Sloan) approached the City of Salem to consider a long term transfer of the Marion Parkade and associated air rights to support a mixed use redevelopment project. Marion Park LLC presented a project concept that included pre-leasing agreements with Western Oregon University (WOU). In December 2008, the City Council authorized the City Manager to execute a long term lease agreement with Marion Park LLC relating to ground and air rights. Phase 1 improvements were anticipated to be: 1) 6,470 sf of education space; 2) ground floor commercial/retail of space estimated to be 33,500 sf; and 3) residential housing comprised of 124 residential workforce units and 20 four-bedroom, dormitory, student housing units. The Lease includes provisions for additional phases of commercial/retail and housing development.

Over the last three years there has been little progress made to satisfy the conditions of the Lease. Staff has provided Council updates on the status of the project, including the developer's reasons for project delays, which have included the inability to secure capital based on the current economic challenges.

FACTS AND FINDINGS:

On November 4, 2011, Ida Lafky, member of Marion Park LLC, submitted a letter (Attachment A) requesting an extension of the "performance deadline" contained in section 13.1(a) of the Lease, that states that Lessee will be in default of the Lease if it fails to commence construction of specified improvements within 36 months of execution of the Lease, and fails to complete construction of the improvements within 60 months. Thirty-six months from the execution date is December 23, 2011.

The lease contains approximately seventeen conditions to commencement that focus on securing financing, submitting final plans/specs and meeting the permitting requirements of the City. Based on the performance of the development team to meet the conditions of commencement over the last three years, staff does not recommend the extension request.

Next steps:

If Council approves staff recommendation, staff will move forward with exercising the City's rights under the provisions of the Lease with respect to this performance requirement.

ATTACHMENT A: Letter dated November 4, 2011

Report Prepared by: Sheri Wahrgren, Downtown Revitalization Manager
G:\URBANDEV\ADMINISTRATION\Final Council Staff Reports\2011\Dec 12\Marion Pkd Lease Extension\Extension Request
Marion Parkade Lease Agreement option 1.doc

Marion Park LLC
429 Court Street NE
Salem, OR 97301

Sheri Wahrgren
City of Salem: Urban Development
250 Commercial Street NE

November 4, 2011

Re: Marion Parkade Project Extension Request

Dear Ms. Wahrgren:

Please consider this letter as a request for an extension of the existing lease/development agreement between Marion Park LLC and the City of Salem and the City's URA. As you know, our current agreement has a performance deadline dated December 31st, 2011, regarding the improvement and redevelopment of the Marion Parkade. The proposed project for Marion Parkade project goals and plans were submitted when agreement between parties were made.

Although the development team has invested approximately \$180,000 in pre-development costs into this project, we have not been able to meet the timeline originally anticipated for some fairly simple reasons. Foremost, the general economic and credit environment has made it very difficult to obtain non-governmental financing for such projects. We have explored various potential ideas for financing, including governmental assistance and private partnerships. We believe that such financing can be accomplished with additional time. Second, the commercial real estate market has been depressed, and that has impacted the ability to get financing for the project.

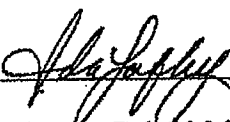
Marion Park LLC respectfully requests a two year extension, until December 31st, 2013 to begin this project. Two years are needed to obtain financing and complete the pre-development tasks. The project is a good project for Salem and can add to Salem downtown vitality. We have made progress on various aspects of the project, including local interest to be a part of the project. The housing piece is still consistent with HUD qualification and opportunity for funding. The retail piece has been effected by economic times and has recently begun an upside. Institutional interest is still there, with more possibilities. The City of Salem and Marion Park LLC, spent a lot of time getting the agreement done and working together for studies on project feasibility. This project is worth the extension after continuous hard work by all parties during hard economic times. Given the opportunity to explore the project further, Marion Park LLC can follow up with recent activity and interest.

As you know, we are also involved in Rivers Condominiums. With the recent commitment of bank funding to that project, including the build out of units, that project is on track and will

ATTACHMENT A

allow us to focus on Marion Parkade going forward.

Marion Park LLC thanks the City of Salem for all the time spent and for consideration of extension request.



Ida Lafky, On Behalf Of
Marion Park LLC