



Legislation Text

File #: 19-0628, Version: 1

TO: Mayor Richard C. Irvin

FROM: Trevor Dick, AICP, LEED AP, Director of Development Strategy and Development

DATE: July 17, 2019

SUBJECT:

An Ordinance Imposing a Business District Retailers' Occupation Tax, a Business District Service Occupation Tax and a Hotel Operators' Occupation Tax Within the Boundaries of the Aurora Business District No. 1 (Pacifica Square Business District)

PURPOSE:

The Petitioner, Pacifica Square LLC is requesting approval of the imposition of an additional 1% sales tax and hotel tax within a Business District on its property. Staff has been working with our consultants, Kane, McKenna and Associates, and Klein, Thorpe and Jenkins, Ltd to assist with the creation of this Business District. The Ordinance imposes a 1% sales tax and hotel tax within the business district.

BACKGROUND:

The Subject Property is generally located north of New York Street, west of Route 59, south of Drexel Avenue and is currently utilized as a shopping center with B-2(S) Business District-General Retail zoning; with special sign district for lots of Yorkshire Plaza subdivision located at 4300-4462 E. New York Street.

The Yorkshire Plaza is a mostly vacant shopping center in the Route 59 corridor. The center has been suffering high vacancies and decreasing sales for approximately ten years. There are approximately 365,000 square feet of space in the center which includes a Best Buy that received an earlier sale tax abatement as a measure to keep them in place. The property is now in control by Pacific Square LLC. The company is controlled by Mr. Eddie Ni who owns properties in Carol Stream, Plainfield, New Lenox, Atlanta and various locations internationally.

DISCUSSION:

Attached to the Ordinances is the Business District Plan prepared by Kane, McKenna and Associates that guides improvements, activities and projects within the subject property in order to stimulate private investment, along with a map of the Business District.

Approving the Ordinance will allow the City to impose an additional 1% in sales tax and hotel tax in the Business District, above the tax rates currently in place. The Development Agreement, approved in February 2018, calls for ownership to recover eligible expenses from future sales tax receipts in the Business District over a period of up to 23 years.

This, together with a sales tax sharing agreement based only on increases in sales taxes will enable the owner to secure its necessary it's financing to compete his purchase. The right to assess additional sales taxes plus allowing the owner to capture increases in sales taxes above the 2017 base to a limit of \$4.0 Million or for 10 years, whichever comes first, could provide approximately \$7.3 million relating to the existing retail (Phase I). In the future, Business District dollars may also be used also for eligible expenses above this \$7.3 Million threshold for a Phase II (a future office building or another approved use for the area that currently houses the Mattress Firm and liquor store) and/or a Phase III (an apartment building in an area within the existing parking lot for the inline retail) as long as the maximum dollar revenue sharing outlay between the TIF and the Business District coupled with the aforementioned \$4.0 Million tax sharing, does not exceed \$15 Million.

Key steps in the process of approving this Business District include:

- Introduce Ordinance and setting the time and place of the public hearing at the Finance Committee on May 28, 2019
- Introduce Ordinance to COW June 4, 2019
- Approval of the Ordinance by City Council June 11, 2019
- Publish notice of Public Hearing June 24, 2019 (30 days prior) and on or before July 14, 2019
- Introduce Public Hearing to Finance Committee July 9, 2019
- Introduce Public Hearing to COW July 16, 2019
- Public Hearing held by City Council July 23, 2019
- Introduce Ordinance designating the Business District and imposing the additional 1% sales tax and hotel tax to Finance Committee July 23, 2019
- Introduce Ordinances to COW July 30, 2019
- Introduce Ordinances to Council August 6, 2019

IMPACT STATEMENT :

Staff anticipates that this project will increase the City's overall tax base, by facilitating investment and development, which will offset any incidental Department or staffing impacts.

RECOMMENDATIONS:

Staff recommends the Ordinance be approved, so the additional 1% sales tax and hotel tax be imposed within the Business District.

ATTACHMENTS:

- Property Research Sheet
- Finding of Facts
- Planning Council Report
- Land Use Petition
- Other file items

- cc: Alderman Robert O'Connor, Chairperson
Alderman Edward J. Bugg, Vice Chairperson
Alderman Carl Franco
Alderman Scheketa Hart-Burns
Alderman Emmanuel Llamas



CITY OF AURORA, ILLINOIS

ORDINANCE NO. _____
DATE OF PASSAGE _____

An Ordinance Imposing a Business District Retailers' Occupation Tax, a Business District Service Occupation Tax and a Hotel Operators' Occupation Tax Within the Boundaries of the Aurora Business District No. 1 (Pacifica Square Business District).

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, pursuant to its home rule authority and the Illinois Business District Development and Redevelopment Law, 65 ILCS 5/11-74.3-1, et seq., the City of Aurora has the authority to levy certain additional taxes within a business district, including the Aurora Business District No. 1 (Pacifica Square Business District);

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows:

SECTION 1: The Mayor and City Council find as follows:

A. That on July 23, 2019, August 13, 2019 and August 27, 2019, a public hearing was held by the Mayor and City Council relative to the designation of Aurora Business District No. 1; and

B. That notice of said public hearing was published in the Aurora Beacon News of the Chicago Tribune, on July 2, 2019 and July 9, 2019 (a copy of the Publisher's Certificate in regard to said publications is attached as Exhibit A and made part hereof); and

C. That at said public hearing, City staff and a representative of Kane, McKenna and Associates, Inc. made presentations in regard to the proposed Plan for Aurora Business District No. 1; a "blighted area" designation, pursuant to 65 ILCS 5/11 74.3 5, for Aurora Business District No. 1; and proposed redevelopment within Aurora Business District No. 1; and

D. That at said public hearing, all members of the public who desired to speak relative to the designation of proposed Aurora Business District No. 1, the "blighted area" designation in relation thereto, or the proposed Plan in relation thereto, were given an opportunity to speak; and

E. That the area legally described below is an area in need of commercial redevelopment so as to maintain and revitalize stable commercial growth within the City; and

F. That, for the reasons as more specifically set forth in the Plan, entitled “City of Aurora Pacifica Square Business District No. 1 Plan” and prepared by Kane, McKenna and Associates, Inc., attached hereto as Exhibit B and made part hereof:

- (1) the area legally described below on the whole has not been subject to growth and development by private enterprises or would not reasonably be anticipated to be developed or redeveloped without adoption of the Plan; and
- (2) the Plan confirms to the City’s Comprehensive Plan for the development of the municipality as a whole; and
- (3) the area legally described below is qualified as defined in the Illinois Business District Development and Redevelopment Law, 65 ILCS 5/11-74.3-1, et seq., as amended (“Law”), by reason of the predominance of obsolete platting or subdivision, defective or inadequate street layout, and deterioration of site improvements; and
- (4) the area legally described below is a “blighted area,” as defined in the Law; and
- (5) the area legally described below constitutes an economic liability to the City in its present condition and use; and
- (6) the area legally described below is a contiguous area.

G. That in light of Subsection F. above, the City should impose a Business District Retailers’ Occupation Tax upon all persons engaged in the business of selling tangible personal property at retail within Aurora Business District No. 1 at the rate of one percent (1%) of the gross receipts of sales made in the course of said business, pursuant to and in accordance with 65 ILCS 5/11-74.3-6; and

H. That in light of Subsection F. above, the City should impose a Business District Service Occupation Tax upon all persons engaged in the business of making sales of service within Aurora Business District No. 1 who, as an incident to making those sales of service, transfer tangible personal property within Aurora Business District No. 1, either in the form of tangible personal property or real estate, as an incident to a sale of service, at the rate of one percent (1%) of the selling price of tangible personal property so transferred, pursuant to and in accordance with 65 ILCS 5/11-74.3-6.

I. That in light of Subsection F. above, the City should impose a Hotel Operators’ Occupation Tax upon all persons within Aurora Business District No. 1 engaged in the business of renting, leasing, or letting rooms in a hotel, as defined in the Illinois Hotel Operators’ Occupation Tax Act, 35 ILCS 145/1, et seq., at the rate of one percent (1%) of the gross rental receipts from the renting, leasing, or letting of hotel rooms within the Aurora Business District No. 1, excluding, however, from gross rental receipts the proceeds of renting, leasing, or letting to permanent residents of a hotel, pursuant to and in accordance with 65 ILCS 5/11-74.3-6.

J. That pursuant to Ordinance No. _____, adopted on August 6, 2019, the following legally described area was designated as Aurora Business District No. 1:

LOT 1 AND PART OF LOT 2 OF YORKSHIRE PLAZA ASSESSMENT PLAT, BEING A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE DOCUMENT RECORDED NOVEMBER 9, 2000 AS DOCUMENT NO. R2000-176188 IN DUPAGE COUNTY, ILLINOIS, EXCEPTING THEREFROM THE FOLLOWING: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 06 DEGREES 46 MINUTES 02 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 2, 206.00 FEET; THENCE NORTH 83 DEGREES 12 MINUTES 38 SECONDS EAST, 347 .61 FEET; THENCE NORTH 01 DEGREES 56 MINUTES 15 SECONDS WEST, 356.80 FEET; THENCE NORTH 00 DEGREES 21 MINUTES 06 SECONDS EAST, 298.40 FEET; THENCE NORTH

45 DEGREES 23 MINUTES 14 SECONDS EAST, 47.81 FEET; THENCE SOUTH 89 DEGREES 38 MINUTES 04 SECONDS EAST, 944.47 FEET; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS WEST, 233.82 FEET; THENCE NORTH 89 DEGREES 41 MINUTES 10 SECONDS WEST, 265.35 FEET; THENCE SOUTH 00 DEGREES 21 MINUTES 35 SECONDS WEST, 462.03 FEET; THENCE SOUTH 44 DEGREES 38 MINUTES 25 SECONDS EAST TO THE SOUTHERLY LINE OF SAID LOT 2, SAID LINE ALSO BEING THE SOUTH LINE OF LOT 6 OF YORKSHIRE PLAZA, BEING A SUBDIVISION RECORDED DECEMBER 13, 1985 AS DOCUMENT NO. R85-109544; THENCE SOUTH 83 DEGREES 14 MINUTES 57 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 2 AND SAID LOT 6, TO THE SOUTHWEST CORNER OF SAID LOT 6, 64 .08 FEET; THENCE NORTH 00 DEGREES 21 MINUTES 35 SECONDS EAST, TO THE NORTHWEST CORNER OF SAID LOT 6, 219.32 FEET; THENCE SOUTH 83 DEGREES 11 MINUTES 19 SECONDS WEST, ALONG THE SOUTH LINE OF SAID LOT 2, SAID LINE ALSO BEING THE NORTH LINE OF LOT 5 OF SAID YORKSHIRE PLAZA SUBDIVISION TO THE NORTHEAST CORNER OF LOT 4 OF SAID YORKSHIRE PLAZA SUBDIVISION, 189.08 FEET; THENCE SOUTH 77 DEGREES 01 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 2, SAID LINE ALSO BEING THE NORTH LINES OF LOTS 3 AND 4 OF SAID YORKSHIRE PLAZA TO THE MOST NORTHERLY WEST CORNER OF SAID LOT 3, 406.05 FEET; THENCE SOUTH 24 DEGREES 00 MINUTES 00 SECONDS WEST

ALONG AN EASTERLY LINE OF SAID LOT 2, SAID LINE ALSO BEING A WESTERLY LINE OF SAID LOT 3 OF SAID YORKSHIRE PLAZA SUBDIVISION, 28.89 FEET; THENCE SOUTH 06 DEGREES 46 MINUTES 39 SECONDS EAST ALONG AN EAST LINE OF SAID LOT 2, SAID LINE ALSO BEING THE WEST LINE OF LOT 3 OF SAID YORKSHIRE PLAZA SUBDIVISION TO THE MOST WESTERLY SOUTHWEST CORNER OF SAID LOT 6, SAID POINT IS ALSO THE NORTH LINE OF A PARCEL CONVEYED TO THE CITY OF AURORA PER DOCUMENT NO. R75-46135, 155.15 FEET; THENCE SOUTH 83 DEGREES 15 MINUTES 31 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 2, SAID LINE BEING THE NORTH LINE OF SAID PARCEL CONVEYED TO THE CITY OF AURORA, 79.86 FEET; THENCE SOUTH 25 DEGREES 50 MINUTES 57 SECONDS WEST, ALONG THE SOUTHERLY LINE OF SAID LOT 2, SAID LINE ALSO BEING THE NORTHWESTERLY LINE OF SAID PARCEL CONVEYED TO THE CITY OF AURORA, 57.71 FEET; THENCE SOUTH 83 DEGREES 12 MINUTES 38 SECONDS WEST, ALONG THE SOUTH LINE OF SAID LOT 2, 329.00 FEET TO THE POINT OF BEGINNING; ALSO EXCEPTING THEREFROM THAT PART TAKEN FOR ROAD RIGHT OF WAY PER CASE NO. 12ED000073 AND RECORDED JULY 11, 2017 AS DOCUMENT NO. R2017-069088; AND

PART OF LOT 2 OF YORKSHIRE PLAZA ASSESSMENT PLAT, BEING A SUBDIVISION OF PART

OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE DOCUMENT RECORDED NOVEMBER 9, 2000 AS DOCUMENT NO. R2000- 176188 IN DUPAGE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 06 DEGREES 46 MINUTES 02 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 2, 206.00 FEET; THENCE NORTH 83 DEGREES 12 MINUTES 38 SECONDS EAST, 347.61 FEET; THENCE NORTH 01 DEGREES 56 MINUTES 15 SECONDS WEST, 356.80 FEET; THENCE NORTH 00 DEGREES 21 MINUTES 06 SECONDS EAST, 298.40 FEET; THENCE NORTH 45 DEGREES 23 MINUTES 14

SECONDS EAST, 47.81 FEET; THENCE SOUTH 89 DEGREES 38 MINUTES 04 SECONDS EAST, 944.47 FEET; THENCE SOUTH 00 DEGREES 18 MINUTES 50 SECONDS WEST, 233.82 FEET; THENCE NORTH 89 DEGREES 41 MINUTES 10 SECONDS WEST, 265.35 FEET; THENCE SOUTH 00 DEGREES 21 MINUTES 35 SECONDS WEST, 462.03 FEET; THENCE SOUTH 44 DEGREES 38 MINUTES 25 SECONDS EAST TO THE SOUTHERLY LINE OF SAID LOT 2, SAID LINE ALSO BEING THE SOUTH LINE OF LOT 6 OF YORKSHIRE PLAZA, BEING A SUBDIVISION RECORDED DECEMBER 13, 1985 AS DOCUMENT NO. R85-109544; THENCE SOUTH 83 DEGREES 14 MINUTES 57 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 2 AND SAID LOT 6, TO THE SOUTHWEST CORNER OF SAID LOT 6, 64.08 FEET; THENCE NORTH 00 DEGREES 21 MINUTES 35 SECONDS EAST, TO THE NORTHWEST CORNER OF SAID LOT 6, 219.32 FEET; THENCE SOUTH 83 DEGREES 11 MINUTES 19 SECONDS WEST, ALONG THE SOUTH LINE OF SAID LOT 2, SAID LINE ALSO BEING THE NORTH LINE OF LOT 5 OF SAID YORKSHIRE PLAZA SUBDIVISION TO THE NORTHEAST CORNER OF LOT 4 OF SAID YORKSHIRE PLAZA SUBDIVISION, 189.08 FEET; THENCE SOUTH 77 DEGREES 01 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 2, SAID LINE ALSO BEING THE NORTH LINES OF LOTS 3 AND 4 OF SAID YORKSHIRE PLAZA TO THE MOST NORTHERLY WEST CORNER OF SAID LOT 3,

406.05 FEET; THENCE SOUTH 24 DEGREES 00 MINUTES 00 SECONDS WEST ALONG AN EASTERLY LINE OF SAID LOT 2, SAID LINE ALSO BEING A WESTERLY LINE OF SAID LOT 3 OF SAID YORKSHIRE PLAZA SUBDIVISION, 28.89 FEET; THENCE SOUTH 06 DEGREES 46 MINUTES 39 SECONDS EAST ALONG AN EAST LINE OF SAID LOT 2, SAID LINE ALSO BEING THE WEST LINE OF LOT 3 OF SAID YORKSHIRE PLAZA SUBDIVISION TO THE MOST WESTERLY SOUTHWEST CORNER OF SAID LOT 6, SAID POINT IS ALSO THE NORTH LINE OF A PARCEL CONVEYED TO THE CITY OF AURORA PER DOCUMENT NO. R75-46135,

155.15 FEET; THENCE SOUTH 83 DEGREES 15 MINUTES 31 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 2, SAID LINE BEING THE NORTH LINE OF SAID PARCEL CONVEYED TO THE CITY OF AURORA, 79.86 FEET; THENCE SOUTH 25 DEGREES 50 MINUTES 57 SECONDS WEST, ALONG THE SOUTHERLY LINE OF SAID LOT 2, SAID LINE ALSO BEING THE NORTHWESTERLY LINE OF SAID PARCEL CONVEYED TO THE CITY OF AURORA, 57.71 FEET; THENCE SOUTH 83 DEGREES 12 MINUTES 38 SECONDS WEST, ALONG THE SOUTH LINE OF SAID LOT 2, 329.00 FEET TO THE POINT OF BEGINNING.

P.I.N.s: 07-21-200-050 and 07-21-200-049

with said property being more fully depicted on the map in Exhibit C attached hereto and made part hereof; commonly known as the Northwest corner of the intersection of New York Street and Route

59, excluding the outlots facing Route 59 and New York Street, Aurora, Illinois.

SECTION 2: That pursuant to 65 ILCS 5/11-74.3-6(b), a Business District Retailers' Occupation Tax is hereby imposed upon all persons engaged in the business of selling tangible personal property within Aurora Business District No. 1, other than an item of tangible personal property titled or registered with an agency of the State of Illinois, at retail within Aurora Business District No. 1 at the rate of one percent (1%) of the gross receipts from the sales made in the course of such business. The tax imposed herein shall be in addition to all other applicable taxes. Said tax may not be imposed on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption), prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use.

SECTION 3: That pursuant to 65 ILCS 5/11-74.3-6(c), a Business District Service Occupation Tax is hereby imposed upon all persons engaged in the business of making sales of service within Aurora Business District No. 1, who, as an incident to making those sales of service, transfer tangible personal property within Aurora Business District No. 1, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service, at the rate of one percent (1%) of the selling price of tangible personal property so transferred within Aurora Business District No. 1. The tax imposed herein shall be in addition to all other applicable taxes. Said tax may not be imposed on food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption), prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use.

SECTION 4: That pursuant to 65 ILCS 5/11-74.3-6(d), a Hotel Operators' Occupation Tax is hereby imposed upon all persons within Aurora Business District No. 1 engaged in the business of renting, leasing, or letting rooms in a hotel, as defined in the Illinois Hotel Operators' Occupation Tax Act, 35 ILCS 145/1, et seq., at the rate of one percent (1%) of the gross rental receipts from the renting, leasing, or letting of hotel rooms within the Aurora Business District No. 1, excluding, however, from gross rental receipts the proceeds of renting, leasing, or letting to permanent residents of a hotel, as defined in the Illinois Hotel Operators' Occupation Tax Act, 35 ILCS 145/1, et seq. The tax imposed herein shall be in addition to all other applicable taxes. The City of Aurora shall collect and distribute the taxes imposed pursuant to this Section in accordance with the terms, conditions and requirements set forth in 65 ILCS 5/11-74.3-6 and in accordance with the terms, conditions and requirements set forth in those provisions of Article IX of Chapter 44 of the City of Aurora Code of Ordinances not inconsistent with 65 ILCS 5/11-74.3-6.

SECTION 5: That the Illinois Department of Revenue shall collect and distribute the taxes imposed pursuant to Sections 2 and 3 above in accordance with the terms, conditions and requirements set forth in 65 ILCS 5/11-74.3-6.

SECTION 6: That there is hereby established a special fund, to be known as the Aurora Business District No. 1 Business District Tax Allocation Fund. The proceeds of the taxes imposed in Sections 2, 3 and 4 above, shall be deposited into said Aurora Business District No. 1 Business District Tax Allocation Fund, with said taxes to be used for the purpose of paying business district project costs and obligations incurred in the payment of those costs relative to Aurora Business District No. 1.

SECTION 7: That the City's Chief Financial Officer, or his or her designee, is hereby directed to file a certified copy of this Ordinance with the Illinois Department of Revenue, on or before October 1, 2019, along with such other additional information, as required by the Illinois Department of

Revenue, to allow the Illinois Department of Revenue to determine, by the address of a business, whether said business is located within Aurora Business District No. 1.

SECTION 8: That the City's Chief Financial Officer, or his or her designee, is directed to submit, to the Illinois Department of Revenue, any other information as the Illinois Department of Revenue may require for the administration and enforcement of the taxes imposed by Sections 2 and 3 above.

SECTION 9: That this Ordinance shall be in full force and effect from and after its adoption, approval and publication in pamphlet form as provided by law.

ADOPTED this 27th day of August, 2019 by the City Council, pursuant to a roll call vote as follows:

AYES: _____
NAYS: _____
ABSENT: _____

APPROVED by me this 27th day of August, 2019.

Richard Irvin, City Mayor

(SEAL)

ATTEST:

Alexandra Voigt, Acting City Clerk

EXHIBIT A
PUBLISHER'S CERTIFICATE
(attached)

EXHIBIT B

PLAN

(attached)

EXHIBIT C

MAP

(attached)