

Information Item

Date: August 12, 2019

To: Mayor, Mayor Pro Tempore, and Members of the City Council

From: Ben Rowe, Assistant City Manager

Subject:

Update on the City's Acquisition of 202 South Liberty Strollway (former site of United States Bankruptcy Court)

Strategic Focus Area: Economic Vitality and Diversity

Strategic Objective: No

Strategic Plan Action Item: No

Key Work Item: Yes



In April 2019, the Mayor and City Council approved over \$33 million in new financing to address emerging capital needs, including the acquisition and demolition of the former United States Bankruptcy Court building. The Conservation Fund and the Creative Corridors Coalition have been in negotiations with Merz Family Investments, LLC, owners of the property, to purchase the property and develop it into open space. The land is the site of the former farm of Peter Oliver, who was enslaved, joined the Moravian community in the late eighteenth century, and purchased his freedom working as a potter. There has been interest in developing the site into open space that would honor the life of Peter Oliver. Since the Council's approval of the funding, there have been on-going discussions about potential uses for the property, including repurposing the first floor space into a museum. Over the last several months, staff from The Conservation Fund has provided updates to City management on their due diligence process to acquire the property. The site includes four parcels totaling 1.537 acres, and the building includes 18,927 square feet. The building is 27 years old. Currently, there is only one tenant in the building—the State of North Carolina; the U.S. Bankruptcy Court moved to their new location in July. This information item provides an update on the City's process to acquire the property, including assumption of the lease with the State of North Carolina and a framework for a potential lease with a local non-profit organization to develop the first floor space into a museum.

Acquisition of Property from The Conservation Fund

As part of The Conservation Fund's due diligence process, it conducted environmental assessments of the site. Contaminants were discovered in a confined location; however, subsequent assessments did not uncover more widespread contamination. Attachment A shows the property to be acquired with the area of concern at "Foundary-1." The Conservation Fund staff has informed City management that the owners are committed to cleaning the site but will not schedule the remediation until the Mayor and City Council approve the purchase from The Conservation Fund. The environmental consultant indicated the remediation could take place within a week after the Council's approval. The Conservation Fund has negotiated a purchase

price of \$1.55 million and is on schedule to close at the end of August. The appraised value totaled \$1.89 million; the property's tax value currently totals \$1.659 million, generating \$9,911 in City property tax revenue. If the City acquires the property, the reimbursement to The Conservation Fund would total \$1.635 million, which includes the purchase price and The Conservation Fund's costs.

As part of the City's due diligence process, staff from the Property and Facilities Management Department conducted a facility assessment of the building in early July. Overall, the staff found the exterior and interior of the building to be in good condition. Their report noted issues with a HVAC unit, windows, landscaping/fencing, and most significantly the roof. According to their assessment, the roof has exceeded its useful life and eventually will need to be replaced. The staff estimates the cost to replace the roof at \$200,000. Staff from the Stormwater Management Division also assessed the drainage around the property, in particular the slope west of the property and a culvert running under the property. Their report noted that while the slope was stable, the drain pipes emptied flow into the parking lot—an issue that would need to be addressed if that side of the property is developed into open space. The staff further recommended that a toe wall be constructed at the base of the slope if that side of the property is developed into open space. Finally, Property and Facilities Management staff met with NCDOT officials to learn about the future road that will be constructed to access the property. Attachment B provides the plan for the new road.

The City staff's assessments of the property did not produce any findings that would suggest the City should not move forward with acquiring the property. The estimated annual operating costs for the building total \$31,000.

Assumption of Lease with the State of North Carolina

Merz Family Investments, LLC currently leases the second floor of the building (approximately 2,490 square feet) to the State of North Carolina. The current term is one year with two one-year renewal periods; the State of North Carolina is in the first renewal period, which runs from March 1, 2019 through February 28, 2020. The annual lease payment totals \$24,900. Under the terms of the lease, the owner is responsible for all utilities, except telephone, exterior maintenance, adequate parking, and building maintenance, including HVAC and lighting. City staff have met with officials from the State of North Carolina to discuss the framework for an on-going lease, if the City acquires the property. Due to the potential repurposing of the first floor into museum space, City staff have initiated discussions with State officials about how to ensure secure access to the second floor. If the City acquires the property, the proposal would include assuming the current lease with the State. In addition, the City would work with the State on reserving and securing a portion of the parking lot and providing badge access to the building as part of securing their office space.

Potential Lease with New Winston Museum

In the weeks after the Council's approval of funding to acquire the property, representatives from New Winston Museum and the Creative Corridors Coalition met with City management to discuss potential uses of the property. The discussion focused on the concept of entering into a triple net lease whereby the City would lease space to New Winston Museum for ten years for a

nominal amount and the museum would be responsible for the cost to upfit, operate, and maintain the space. The City would be responsible for major maintenance of the mechanical systems and other major building components, including the parking lot. Because the proposed lease would run ten years, the City would have to conduct an upset bid process before entering into a lease with New Winston Museum.

In late June, Dr. Michael Wakeford, Executive Director of New Winston Museum, sent a letter to the City Manager that described the museum leadership's vision for use of the property. New Winston Museum is in the planning stage for a major capital campaign that would commence in early 2020. A copy of the letter from Dr. Wakeford is included with this information item.

Next Steps

City staff will provide additional information, as requested by the Mayor and City Council, and bring an action item forward in September to approve the acquisition of the 202 South Liberty Street property, assume the lease with the State of North Carolina, and initiate an upset bid process for potential lease of the first floor of the building. If New Winston Museum is the successful bidder, City staff will prepare a future action item to approve a lease with New Winston Museum.