



MEMORANDUM

TO: David A. Hulseberg, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development

DATE: April 21, 2011

SUBJECT: Downtown Retail Business Grant; 14 W. St. Charles Road

BACKGROUND

Staff has recently received a request for a Downtown Retail Business Grant (DRBG) for a home improvement store to be known as Cabinet Depot located 14 W. St. Charles Road. The submitted plans are for renovation of the tenant space with a total estimated cost of \$23,475. The applicant is eligible to receive up to \$11,737.50 from the Downtown Retail Business Grant program.

It is important to note that the work associated with the eligible improvements, excluding signage, has already been completed. The applicant did submit the application prior to the issuance of the building permit. Furthermore, a complete application had been received prior to the issuance of the Certificate of Occupancy/Zoning Certificate. The applicant and property owner were informed that they are proceeding at their own risk as the grant request needed to go through the required process. It should also be noted that this grant request is being reviewed in accordance with the old requirements since the application was made prior to the effective date of the new program.

The ECDC recommended approval of the application at its meeting of April 6, 2011.

Subsequent to the ECDC meeting, the Village received the attached correspondence from a downtown business/property owner concerning the proposed DRBG for Cabinet Depot. Staff offers the following response:

1. Retail vs. Wholesaler - In the letter received by the Village, a concern was raised about the business being a wholesaler and not a retail establishment. Staff has determined that the proposed business is considered a "Home Improvement Store" and is a permitted use within the B5 Zoning District. While the business owner did indicate that they do business directly with contractors that may not be charged a sales tax, staff views this operation no different from other big box home improvement stores, such as Home Depot, Menards and Lowes or store front cabinet dealers such as KDA. Like those businesses, Cabinet Depot will be open to the public and would be responsible for sales tax. Contractors can also purchase items, such as cabinets, at the big box home improvement stores and if those contractors provided their tax number, they would also not pay sales tax. Sales tax would still have to be calculated and collected by the contractor. Staff confirmed with the business owner that the majority of their business is with contractors, and most of them do

pay sales tax directly to Cabinet Depot (to the benefit of Lombard), unless they have a separate tax number. It should be noted that if the cabinets were purchased by a contractor who did not directly pay sales tax to Cabinet Depot, but that contractor's business is located in Lombard or the work was done to a Lombard residence, the Village will still likely benefit from that sales tax. It just will not show when Cabinet Depot reports its taxes to the State of Illinois. This has been confirmed by both the Village's Finance Director and Legal Counsel.

2. Three-year lease - The letter to the Village expressed a concern about the business not having a 3-year lease. For clarity purposes, this grant request is under the old requirements; however, a 3-year lease is still required. When the original application was submitted to the Village, the business and property owner identified on that application that the lease would be for 22 months. Upon staff's review, we told them that the business needed a 3 year lease to be eligible. The business and property owners submitted a copy of the current lease meeting the 3 year requirement (March 1, 2011-February 28, 2014). The application provided in the ECDC packet was not corrected to reflect the 3 year lease. Attached is a copy of the current lease.
3. Application Date- On January 20, 2011, the Village Board approved Ordinance 6572 (attached) amending the DRBG program. According to State Statutes and reaffirmed by Village Counsel, the effective date of the Ordinance is 10 days after it was posted in pamphlet form. Ordinance 6572 was posted in pamphlet form on January 21, 2011. Therefore, the amendments were not effective until January 31, 2011. The application was received by the Village on January 21, 2011. Staff determined that because the latest amendments were not effective, the application would be considered under the old grant provisions.

ACTION REQUESTED

Staff recommends that the Village Board approve a resolution authorizing signatures of the Village President and Village Clerk on an Agreement authorizing the disbursement of funds from The Downtown Retail Business Grant Program in an amount not to exceed \$11,737.50 for the property located at 14 W. St. Charles Road.