

Tompkins County Industrial Development Agency

ADMINISTRATION PROVIDED BY 

MINUTES OF PUBLIC HEARING

Arrowhead Ventures, LLC

November 29, 2010

5:30 p.m.

Village of Lansing Board Room
2405 N. Triphammer Road, Ithaca NY

Present: Heather Filiberto (for Tompkins County Industrial Development Agency), Bob Lama, Nels Bohn, Gary Ferguson, Jean McPheeters, David McKenna, Pam Mackesey, Carolyn Peterson, John Benthowler, Gina Speno, Mack Travis, Martha Robertson, Brad Grainger, Will Burbank, Philly DeSarno, Dan Cogan, Dooley Kiefer, Don Hartill, Eric Goetzmann, Jim Bold

The Public hearing was opened at 5:45pm.

Heather Filiberto read an overview of the assistance contemplated by the Tompkins County Industrial Development Agency (IDA) as follows:

“The IDA is contemplating issuing its up to \$2,321,000 aggregate principal amount Recovery Zone Exempt Facility Bonds for the benefit of Arrowhead Ventures, LLC, to assist in financing a Project consisting of (i) the acquisition of an approximately 11-acre parcel or parcels of land located in the Village of Lansing, New York and any existing improvements thereon; (ii) the acquisition, construction and equipping on the Land of a mixed-use residential facility comprising, twelve (12) senior housing units, a bird habitat and a BJ's wholesale club and related parking, infrastructure and improvements; and the funding of a debt service reserve fund as security for the Bonds, if necessary. In addition, the IDA is contemplating a payment-in-lieu-of-tax agreement Increment Financing, or PIF, pursuant to which all or a portion of the payments thereunder, with the consent of the affected tax jurisdictions, will be made available to pay debt service on the Bonds or other financing mechanism, or otherwise available for other qualifying Project Costs.”

Ms. Filiberto then opened the floor for comments.

Bob Lama of 524 Cayuga Height Road – has concern about this project. We work, grow up in Ithaca, and aspire to move to Cayuga Heights, the northeast. There has been some zoning to limit commercial development. It is troubling that these funds are being used for development in this quadrant of the county. I don't know of any project in the City of Ithaca that has been eligible for these kinds of incentives. We have issues in the City. There are more vacancies now than ever. My fear is there will be displacement of sales tax revenue in the City. We should be working within properly zoned districts, paying taxes, paying mitigation for infrastructure, and leaving low traffic commercial districts to protect

surrounding neighborhoods. We should be allowing the flow of commercial development to the City. I support continued growth of the county, putting it where it should be, in the City and protecting this location from further development.

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Nels Bohn, Director of Community Development, Ithaca Urban Renewal Agency – read written comments as follows:

1. This Retail Project Does Not Appear to be Eligible for IDA Assistance

It is not clear that the proposed retail/commercial project is eligible for assistance under the IDA's own adopted Policies for providing incentives to businesses (last revised on 12/8/09), which establishes minimum eligibility criteria.

In particular, it is not clear how it satisfies one of the six listed exceptions to the blanket prohibition on assisting retail projects. This project:

1. is not a tourism destination facility,
2. is not operated by a not-for-profit corporation,
3. is not capturing a project that would otherwise locate outside the State,
4. is not located in a distressed area,
5. does not offer goods not already reasonably accessible,
6. does not significantly preserve or increase permanent jobs.

2. Double Standard for Projects Outside City Vs. Projects Inside City of Ithaca

When a non-industrial project located within the City of Ithaca seeks IDA assistance, the applicant has been required to demonstrate that the project provides a broad variety of public benefits beyond increased tax revenues that warrant IDA assistance, such as “living wages” paid to employees, LEED-certification as a “green” building, inclusion of affordable housing, and use of local and/or union labor during construction. It does not appear that any of these criteria that City projects had to address are being applied to this application located outside the City.

3. IDA Has Not Developed a Policy For Use of PIFs

(PIF = Payment-in-lieu-of-tax agreement Increment Financing)

A PIF may be a good tool to accomplish the IDA's goals to “create and retain quality employment opportunities and strengthen the local tax base”, but no PIF policy has been developed to guide its use. In contrast, the *IDA's Downtown Density Incentive Program* was adopted at both the City and County level after substantial public input and vigorous debate. In this case, it appears that PILOT funds will largely be earmarked to pay debt service on bonds issued to construct 12 market-rate senior housing units to be owned by the developer. It is questionable whether a PIF policy would support such a modest public benefit in exchange for over \$2.7 million in PIF assistance.

Gary Ferguson, Executive Director, Downtown Ithaca Alliance – read written comments as follows:

The proposed request to the Tompkins County IDA by Arrowhead Ventures, LLC to create a PIF for the purposes of issue tax exempt bonds is an undesirable, precedent setting action. Here' why:

- The definition of this project continues to be elusive. Is this a housing project or a big box retail project with a housing component? When the developer and others make the case that this project will generate a windfall of sale tax benefit to the County and present a market assessment to back up this assertion, then it is a big box retail project with a tag along housing component.
- This market assessment says it very clearly. There is real market potential in the County and surrounding trade area for a BJs store. It is why big box stores came here in the first place. This capacity still exists. The reason for BJs to come to the greater Ithaca market is strong and clear. Other big box stores did not receive or seek tax incentives. The market potential was a strong and sufficient enough reason to build.

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- The IDA set up a tax incentive program to encourage downtown and urban core development for two reasons: (a) development simply was not naturally occurring in the urban core; it was happening in the Route 13/ Northeast/ Village of Lansing area; and (b) Even when people expressed interest in the urban core, the costs of developing were disproportionately high, creating very real funding gaps that prohibited projects from occurring.

- The BJs project is so very different from this urban core situation. The location of the BJs project is adjacent to the regional shopping mall, in the fastest growing area of the County. This is not an area that needs help to stimulate growth and development. The development costs for this project are not out of the ordinary—no brown field issues, no urban site assembly problems, no vertical construction needs. The only issue has been a requirement by the Village of Lansing for the developer to build 12 units of elderly housing. This is a municipally imposed burden, an attempt by the Village to extract added benefit to the Village from the developer. The developer, not surprisingly, does not like this added burden and has hence sought tax relief from the IDA using the PIF mechanism.

- For its entire life, the Tompkins County IDA has refrained from subsidizing big box stores. These stores were locating in high growth areas that were developing without the need of public stimulus. The IDA recognized that big box stores, while useful to the community as a whole, also had negative impacts on other parts of the County marketplace. Big box stores were easy to build and finance. There were not the project gaps that existed with more traditional urban core development. For these reasons, the IDA kept away from providing incentives to big box stores. Because the market potential was strong, the store came regardless. This is not the time to change this long standing, successful policy. The Arrowhead/BJs project does not deserve special attention; it is no different from Wall-Mart, Home Depot, Lowes, Target, K-Mart, Dicks, Best Buy or any of the other big box stores that have entered our marketplace without subsidy.

- This project gets murky to some because there is a small housing component to it. The Village has required that 12 units of elderly housing be built. The developer claims the incentive is for the housing and not BJs, but uses BJs as the reason or justification for doing the PIF. The housing provides no significant tax or employment gain— only the BJs portion of the project does.

- Downtown density zone program projects have been subject to an increasing number of added requests from the IDA, ranging from living wage benchmarks, to union jobs, to local labor requirements, to affordable housing requests, as well as green and sustainable project goals. None of these requests have been imposed on this proposal. For example, If BJs was required to offer living wage jobs, the value of the PIF incentive would drop precipitously.

My recommendation is for the IDA to pass on the deal altogether, adhering to its long standing policy of not providing incentives to big box stores. The BJs portion of the project does not need and should not receive public subsidy.

If, however, the IDA feels compelled to act on the housing part of the project, then I recommend that they do so by only looking at or considering the housing portion of the project. Do not consider the BJs. Do not take into account the sales tax revenues from the big box. Simply review the housing project on its own merit. If it justifies a \$2.7 million subsidy, then so be it. But, separate the housing from the big box.

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Jean McPheeters, President, Chamber of Commerce, 904 East Shore Drive and resident of Baylor Road in Brooktondale. Ms. McPheeters spoke in favor of the project. It is extremely complicated. What government has created here is a mess. The issue is the government in the Village has not allowed the developer to just build BJs. They have required other things – housing, a bird sanctuary, etc. Given the financial constraints at the current time, the developer has found a way to bring back tax dollars to this county. I also think the distribution of tax dollars in this county is a mess. It pits the City against everywhere else. I think we are leaking sales tax. I'm in favor of this project. I've seen the sales and market feasibility studies since the 1970s. We need to bring more sales tax back into this community that's leaking. I also don't see BJs saying they want to be located in the City. I wish it weren't the situation.

Carolyn Peterson, Mayor, City of Ithaca, 108 E. Green Street – Over the years I have fielded questions about abating taxes for big box development. The downtown density policy is the only exception and it has strict rules. I was recently approached by a large retailer that was told unequivocally by TCAD that they do not provide incentives for retail. This is a slippery slope. Our community has been careful not to provide incentives for big box retailers. This project is not a result of any hardship on the part of BJs in developing the site, but items imposed by others. The market analysis is so glowing that BJs should clearly come here without incentives. Page 10 of the study analyzes impacts to the region, but doesn't look at the impacts to the City. The City will be hurt. It is better to see a well thought out mixed use section of Lansing. I understand the sales tax problem in the County. The City is in the same boat. Further, BJs did approach the City. We have drawings and a site plan. The sales tax structure is a big argument. The City has a lot of infrastructure, road, bridges, etc. that we maintain for the benefit of all. That infrastructure needs to be paid for.

Don Hartill, Mayor, Village of Lansing, 896 Cayuga Heights Road – on behalf of the Village of Lansing, I enthusiastically support this project. We've gone to a lot of trouble to develop a Planned Development Area that has all the desirable land use controls. I inherited the Village zoning, which has the low traffic commercial zone. It is difficult to develop. This project very effectively uses the zone without the need for new roads. The housing is a very attractive part of the project as well as easy

walking distance, open space, and I would hope the IDA can support this project. I looked back at the history of projects supported by the IDA and found that Rothchilds was supported in the 1970s.

Mack Travis, owner of Center Ithaca at 171 E. State Street and offices at 323 North Tioga Street. I am sorry to speak against this project. In some respects it is very creative. I am the recipient of two tax abatements from the IDA. I was the first project to receive incentives under the downtown density policy, which has since become more difficult to achieve. Our strategy downtown has been to create specialty retail – it is struggling against the big boxes. I think anything like this outside the City will be quite rough on our downtown retail. The other thing is that the primary criteria for IDA assistance has always been job creation. The level of jobs created by this store are low paying jobs. They are not the kind that industry would typically create. The IDA should be focusing on where density really is or needs to be.

Ms. Filiberto adjourned the hearing at 6:20pm.

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Following are two written comments submitted via e-mail:

**VILLAGE OF LANSING
2405 NORTH TRIPHAMMER ROAD
ITHACA, NEW YORK 14850**

OFFICE HOURS
TELEPHONE

MON. -WED. -THR. -FRI. 9-1
607-257-0424

November 30, 2010

Ms. Martha Robertson
Chair, Board of Directors
Tompkins County Industrial Development Agency
200 East Buffalo Street, Suite 102A
Ithaca, New York 14850

Dear Martha

I am writing to you in support of the proposed PDA for a combined senior housing development coupled to the construction of a BJ's Wholesale Club on a site adjacent to the Shops at Ithaca Mall in the Village of Lansing. After a very thorough review process by the Village Planning Board, the Board of Trustees passed the resolution modifying our zoning law to allow such a combined project. The parcel to be developed is in our low traffic commercial zone and as such basically only permits sit down restaurants and office buildings. The proposed project in effect up zones the portion of the parcel adjacent to the Shops at Ithaca Mall and down zones the portion of the parcel along Oakcrest Road to medium density residential to provide a smooth transition to the adjacent residential areas. The project also includes a creative way of dealing with the federally designated wetlands that are on the parcel by constructing a combined walking trail and bird sanctuary as part of the wetlands. The twelve units of senior housing

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will also be a very welcome addition to the Village. Being adjacent to the shopping district and the YMCA all within easy walking distance will be a very strong selling point. The units will be rental units and will be maintained by the developer.

I listened with interest to the concerns expressed by the speakers at the public hearing last evening. They all centered on the possible loss of sales tax revenue for the City of Ithaca and did not address the merits of this particular project. It was also stated that this would set a bad precedent with respect to other possible retail development. According to the TCAD website, the Rothchilds Department Store received \$2,500,000 from the IDA in 1975 which is far more than is being proposed for this project so there is precedent. There is a valid argument that retaining the sales dollars in Tompkins County and attracting customers from adjacent counties like Cortland will benefit all of us including the City of Ithaca.

If the project doesn't go forward, the assessed value of the property will remain at its current value and the increased sales tax revenue will not occur. The PIF process to help finance the residential portion of the project will enable both the increased property tax revenue although not at the full value for a period of up to 20 years and the very significant increase in sales tax revenue. There will also be a significant number of jobs associated with the project both in the construction phase and in the operation of the store after the construction is complete.

On behalf of the Board of Trustees and the residents of the Village of Lansing I strongly urge you and the IDA Board of Directors to support this project.

Sincerely yours

Don Hartill
Mayor, Village of Lansing

Tompkins County Industrial Development Agency

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November 29, 2010

Martha Robertson - Chair
Tompkins County Industrial Development Agency
1655 Ellis Hollow Road
Ithaca, NY 14850

Dear Ms. Robertson,

Thank you for taking the time to talk with me yesterday. As I explained, I am interested in the IDA's current consideration of the Arrowhead Project, which would bring a BJ's Wholesale Club and 12 units of senior housing to Lansing. I'm currently a Ph.D. student in the City and Regional Planning department at Cornell, where I am taking courses on both real estate development and economic development. Having read the project overview and MFA's report, I had a number of questions about the project and whether it is appropriate to use County or state funds (or tax breaks) to subsidize it. I would have come to tonight's meeting but I need to be in class. Please feel free to share this letter with other members of the IDA.

Permit me to present a number of my concerns, in no particular order. They are as follows:

1. I recognize the need to generate sales and property taxes here in the county, particularly with the in-coming Governor seeking to impose a cap on property taxes. Based on the report from Market and Feasibility Advisors (MFA) the overview of the project says that the project will generate \$40 million in sales and \$1.6 million in sales tax. I would ask you to double check these figures. Let me explain why. The \$40 million figure comes from page 10 of the MFA report, which says that they assume sales of which somewhere between \$34 million and \$40 million will be "direct incremental sales gain," that is to say, spending new to Tompkins County. I don't question the ability of BJ's Warehouse to sell that amount of goods, as I believe their location analysts know exactly what they are doing. What I question is how much of those sales will really be new to County tax coffers and so translate into added tax dollars.

The question of added tax dollars has two parts. The first is how much of the sales will be taxable in the first place. The report says that \$18 million of the \$40 million will be spent on grocery and pharmacy. The IDA may want to take this figure with a grain of salt, as BJ's 2009 annual report states

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that sales of food (not including pharmacy) comprise 65% of all sales (p. 21). This would translate to closer to \$26 million of the \$40 million figure, leaving \$14 million for remaining sales, rather than the projected \$22 million. As the MFA report notes, Tompkins County already has a surplus of food providers, so this revenue is likely to be a shifting of sales, rather than a significant influx of new customers. Note, too, that the \$40 million figure comes from average store sales, and include gas sales at 104 of BJ's 187 stores, so the overall figure may be lower if gas is not sold at this location.

The second part of the question has to do with the non-food sales and whether they will be for things that the County does not already have in strong supply. From BJ's 2009 annual report we see that "In addition to perishables, we had strong sales of non-edible consumer packaged goods including health and beauty aids, household chemicals, paper products and pet food. In general merchandise departments, sales were strong in computers, domestics, housewares, small appliances and televisions (p. 17)." Looking closely at the Demand/Supply/Opportunity chart on page 10 of the report, we can see that health aids, computers, and small appliances are all well-supplied in the County. It is harder to judge with regard to paper products, household chemicals, and domestics, since this may be included in grocery store sales as people tend to buy taxable items like toilet paper at the grocery store. All this is to say, that it is likely that the estimate in the report of a maximum of \$6 million dollars in "sales shift from existing retailers," which represents 15% of the \$40 million in predicted sales, seems to be a gross underestimate. If it was an Ikea store or LL Bean Outlet that was going to fill the lot, then sure, the figures show that these would offer something really new to the County. I don't doubt that BJ's will have the promised level of sale, but I would urge the Authority to expect most of those sales to be untaxable, with those that are taxable likely to have been taxed elsewhere in the County if the BJ's does not come.

2. It is not clear to me why BJ's deserves a tax break by fixing the rate of assessment at 2.3%. I gather this rate is based on the average tax rate growth in Tompkins County over the past 20 years. Shouldn't such an assessment be based on the average increase in land value over the past 20 years? If there is a property tax cap, then, depending on what the cap looks like, this reasoning could become moot. I suppose it's a question for Sheldon Silver...

3. I was surprised to see that the developer has offered to put up senior housing nearby. Obviously, this makes the project both more interesting and unusual. What also seems unusual to me, however, is that none of the housing units are expected to be subsidized. Given the cost of housing and the need of seniors to move from their homes, in part, because of affordability issues, shouldn't a portion of the units be subsidized if the developer is going to ask the County for financial help?

4. In my real estate class we learned that developers often give large, warehouse-type stores below-market rent in order to use them as a draw for customers in other, higher rent shops in the same or nearby mall. So, a Wal-Mart, for instance, might be given a very nice deal, in order to bring in customers who might shop at the restaurants or specialty stores nearby, some of whom will be paying twice the rent. Although the BJ's is not in a mall, given the developer's connection to The Shops at Ithaca Mall, and the proximate location, you might look into the rent that BJ's is being offered to make sure that this development isn't really being used as a kind of loss-leader for the larger mall. If that's the case, then perhaps the developer could boost the rent a little closer to market rate and use those

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funds to subsidize his needs, rather than asking the County or State to use their sparse resources for the project. Or, the owners of the mall could be asked to help fund the project.

In my estimation, BJ's will likely bring its store (with its jobs) to Tompkins County with or without the subsidy. From what I've learned in my classes, it is clear that they have a very savvy, demographically-driven location analysis department. The presence of comparable stores as well as somewhat higher-end shops like Panera Bread make clear that Tompkins County offers a very desirable demographic. Given that the deal offers them little in the way of actual financial savings (unless the rent is quite low, or they see real savings in the fixed increase in assessments) it would seem that your help is probably not required to make this happen.

Thank you for taking the time to consider this, and for serving the County,

Sincerely,

Peter Wissoker