



# Common Council

## Agenda Item

### Cover Sheet

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**MEETING DATE:** June 25, 2024

- Previously Discussed Ordinance
- Proposed Development Presentation
- New Ordinance for Discussion
- Miscellaneous
- Transfer

**ITEM or ORDINANCE:** #26-06-24

**PRESENTED BY:** Amy Smith

- Information Attached
- Bring Paperwork from Previous Meeting
- Verbal
- No Paperwork at Time of Packets

ORDINANCE NO. 26-06-24

**ORDINANCE OF THE NOBLESVILLE COMMON COUNCIL AUTHORIZING THE CITY OF NOBLESVILLE, INDIANA, TO ISSUE ONE OR MORE SERIES OF ITS TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO  
(HAZEL DELL APARTMENTS)**

WHEREAS, the City of Noblesville, Indiana (the “City”), the Noblesville Redevelopment Commission (the “Redevelopment Commission”), and Hazel Dell Apartments, LLC (the “Developer”), have entered into an Economic Development Agreement (the “Development Agreement” as herein incorporated by reference) relating to the development of certain real property in the City (such real property referred to herein as the “Site” as more particularly described in the Development Agreement) which shall include an approximately \$78MM mixed-use development consisting of approximately: (a) 284 market rate apartments (the “Project”); (b) up to 150 for sale townhome units; and (c) 30,000 square feet of commercial/retail space; and

WHEREAS, the Redevelopment Commission has created (or expects to create) the Noble West Allocation Area (the “Allocation Area”) within the Noblesville Consolidated Economic Development Area (the “Area”) in accordance with Indiana Code 36-7-14-39 for the purposes of capturing incremental *ad valorem* property taxes levied and collected on all taxable real property in such Allocation Area (the “TIF Revenues”); and

WHEREAS, the Site is located within the Allocation Area; and

WHEREAS, as an inducement to the Developer to undertake the development of the Project, the City proposes, pursuant to the Development Agreement, to lend to the Developer certain funds from the sale of bonds to be issued by the City for use in the development of the Project; and

WHEREAS, the Developer has advised the City, the Noblesville Economic Development Commission (the “EDC”) and the Redevelopment Commission concerning the Project, and has requested that the City authorize and issue its economic development revenue bonds under the Act (as hereinafter defined), to be designated as the “City of Noblesville, Indiana, Taxable Economic Development Revenue Bonds, Series 2024 (Hazel Dell Apartments Project)” (with such further series or different series designation as determined to be necessary or appropriate) (the “Bonds”), and lend (or be deemed to lend) the net proceeds of the Bonds to the Developer for the purpose of financing a portion of the costs of the Project; and

WHEREAS, the EDC has rendered its report regarding the proposed financing of a portion of certain economic development facilities for the Project to be undertaken by the Developer; and

WHEREAS, the EDC has heretofore (i) conducted a public hearing in accordance with Indiana Code 36-7-12-24; and (ii) adopted a resolution subsequent to such public hearing, which resolution has been transmitted hereto, finding that the financing of a portion of certain economic

development facilities to be developed by the Developer through the issuance of one or more series of the Bonds complies with the purposes and provisions of Indiana Code 36-7-11.9 and Indiana Code 36-7-12 (collectively, the “Act”), and that such financing will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens; and

WHEREAS, the EDC has heretofore approved and recommended the adoption of this form of ordinance by this Common Council (the “Council”), has considered the issue of adverse competitive effect and has approved and has transmitted for approval by this Council, the forms of: (1) Loan Agreement between the City and the Developer (the “Loan Agreement”); (2) a Trust Indenture between the City and a trustee to be selected by the City Controller (the “Trustee”) (the “Trust Indenture”); and (3) the Bonds (collectively hereinafter referred to as the “Financing Documents”); and

WHEREAS, the Redevelopment Commission has agreed to pledge a portion of the TIF Revenues (the “Pledged TIF Revenues”) to the repayment of the Bonds; and

WHEREAS, no member of this Council has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to this Council, and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-16;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Noblesville, Hamilton County, Indiana as follows:

1. It is hereby found that the financing of a portion of the economic development facilities for the Project referred to in the Financing Documents previously approved by the EDC and presented to this Council, the issuance and sale of the Bonds (which shall bear interest that is not excludable from gross income for federal tax purposes), the use (or deemed use) of the proceeds of the Bonds by the Developer for the financing of a portion of the costs of the Project as described in the Development Agreement, the payment of the Bonds from the Pledged TIF Revenues and other sources pursuant to the Financing Documents, and the securing of the Bonds under the Trust Indenture comply with the purposes and provisions of the Act and will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens.
2. At the public hearing held before the EDC, the EDC considered whether the Project would have an adverse competitive effect on any similar facilities located in or near the City. This Council hereby confirms the findings set forth in the EDC’s resolution, and concludes that the Project will be of benefit to the health, prosperity, economic stability and general welfare of the citizens of the City.
3. The substantially final forms of the Financing Documents shall be incorporated herein by reference and shall be inserted in the minutes of the Council and kept on file by the Clerk of the City (the “Clerk”) or the City Controller. In accordance with the provisions of Indiana Code 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Clerk for public inspection.

4. The City shall issue the Bonds in one (1) or more series in the maximum aggregate principal amount not to exceed Six Million Seven Hundred Thousand Dollars (\$6,700,000), each series of Bonds shall mature no later than twenty-five (25) years after the date of issuance of such series of Bonds, and shall bear interest at a per annum rate not exceeding eight percent (8.0%) per annum. Each series of Bonds shall (i) be dated as of the date of their delivery, (ii) be issuable in such denominations as set forth in the Financing Documents, (iii) be issuable only in fully registered form, (iv) be subject to registration on the bond register as provided in the Trust Indenture, (v) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Documents, and (vi) contain such other terms and provisions as may be provided in the Financing Documents. The Bonds are to be issued for the purpose of procuring funds to pay (a) the costs of a portion of the acquisition, construction, installation and equipping of the Project, as more particularly set out in the Financing Documents, (b) capitalized interest on the Bonds (if necessary), and (c) costs of issuance of the Bonds. Each series of the Bonds shall be lettered and numbered R-1 upward. The Bonds of a series shall be special and limited obligations of the City, payable solely from the trust estate created and established under the Trust Indenture (the "Trust Estate"), which Trust Estate shall consist of the funds and accounts created under the Trust Indenture together with a pledge of the Pledged TIF Revenues and other sources pursuant to the Loan Agreement and upon such terms and conditions as otherwise provided in the Financing Documents and this Ordinance. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City.
5. The Mayor, the City Controller and the Clerk are, and each of them is, authorized and directed to execute, attest and affix or imprint by any means the seal of the City to the Financing Documents approved herein on behalf of the City and any other document which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The Mayor and the City Controller are, and each of them is, hereby expressly authorized to approve any modifications or additions to the Financing Documents which take place after the date of this Ordinance without further approval of this Council or the EDC if such modifications or additions do not affect the terms set forth in this Ordinance or the terms required to be addressed in the Financing Documents pursuant to Indiana Code 36-7-12-27(a). The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof. The signatures of the Mayor and the Clerk on the Bonds may be either manual, facsimile or electronic signatures. The Clerk is authorized to arrange for delivery of such Bonds to the Trustee, and payment for the Bonds will be made to the Trustee, and after such payment, the Bonds will be delivered by the Trustee to the purchaser thereof. If the Bonds of a series are sold to a purchaser that so agrees, the City may receive payment for such series of Bonds in installments, and principal shall not be payable and interest shall not accrue on such series of Bonds until such principal amount has been advanced pursuant to requests made by, or on behalf of, the City to such purchaser. In the event that the total principal amount of the Bonds sold to such purchaser is not advanced to the City, the principal amount of such series of Bonds shall be reduced accordingly.

A bond purchase agreement, between the City and the purchaser of the Bonds (the "Purchase Agreement"), is hereby authorized and approved in a form and substance

acceptable to the City Controller with the advice of counsel. The Mayor and the City Controller are hereby authorized and directed to execute and deliver the Purchase Agreement in a form and substance acceptable to them and consistent with the terms and conditions set forth in this Ordinance, with such acceptance of the form and substance thereof to be conclusively evidenced by their execution thereof.

6. The provisions of this Ordinance and the Financing Documents securing the Bonds shall constitute a contract binding between the City and the holders of the Bonds, and after the issuance of the Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as the Bonds or the interest thereon remains unpaid.
7. This Council does hereby acknowledge and approve the pledge of the Pledged TIF Revenues to the payment of the Bonds pursuant to the Trust Indenture. Pursuant to Indiana Code 5-1-14-4, the pledge of the Pledged TIF Revenues pursuant to the Trust Indenture is intended to be binding from the time the pledge is made, with such Pledged TIF Revenues so pledged and thereafter received by the City to be immediately subject to the lien of the pledge without any further act, and the lien of such pledge to be binding against all parties having claims of any kind, in tort, contract, or otherwise against the City, regardless of whether the parties have notice of any such lien.
8. This Council hereby finds that (a) the Project and the related financing assistance for the Project provided in the Development Agreement are consistent with the economic development plan for the Area; (b) the Developer would not develop the Project on the Site, and the Site could not be developed pursuant to the economic development plan, without the financing assistance provided in the Development Agreement; (c) the Project furthers the economic development and redevelopment of the Area; and (d) the Project will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens.
9. For and on behalf of the City, any of the Mayor, Clerk, City Controller, or any other officer of the City is authorized and directed to execute and attest for and on behalf of the City such additional papers (and to receive the same for and on behalf of the City), including certificates, closing papers, documents, filings, forms, instruments, receipts and statements, and to do all such acts and things, as may be necessary or desirable to carry out the intent of this Ordinance.
10. This Ordinance shall be in full force and effect from and after its passage.

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Approved on this 25th day of June, 2024 by the Common Council of the City of Noblesville, Indiana:

AYE		NAY	ABSTAIN
	Mark Boice		
	Michael J. Davis		
	Evan Elliott		
	David M. Johnson		
	Darren Peterson		
	Pete Schwartz		
	Aaron Smith		
	Todd Thurston		
	Megan G. Wiles		

ATTEST: \_\_\_\_\_  
 Evelyn L. Lees, City Clerk

Presented by me to the Mayor of the City of Noblesville, Indiana, this \_\_\_\_ day of \_\_\_\_\_, 2024 at \_\_\_\_ .M.

\_\_\_\_\_  
 Evelyn L. Lees, City Clerk

MAYOR'S APPROVAL

\_\_\_\_\_  
 Chris Jensen, Mayor

\_\_\_\_\_  
 Date

MAYOR'S VETO

\_\_\_\_\_  
 Chris Jensen, Mayor

\_\_\_\_\_  
 Date

ATTEST: \_\_\_\_\_  
 Evelyn L. Lees, City Clerk