

McFarland Road Business District Plan

Prepared for

City of Loves Park, Illinois

Prepared by

PGAV  **PLANNERS** LLC

December 10, 2021

CITY OF LOVES PARK

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SECTION 1

INTRODUCTION

BACKGROUND

The City has long recognized the benefits of having a strong and diversified economic base. In furtherance of this goal, the City continuously promotes opportunities for private investment that results in sound and stable commercial and industrial growth.

The purpose of this document is to set forth a plan to induce the development of the property located at 4191 McFarland Road and neighboring outlots. This area, to be known as the McFarland Road Business District (or the “Business District”), includes a number of existing structures, some vacant, and two vacant lots. The intent of this Business District Plan (the “Plan”) is to encourage businesses to locate in this part of the City.

The City has determined that the Business District Development and Redevelopment Law (65 ILCS 5/11-74.3-1, et. seq.) (the “Business District Law”) is an appropriate vehicle to be used as an inducement for funding a portion of the costs associated with building rehab, new construction, and providing the supporting infrastructure needed for development in the Business District. Designating the area as a Business District will move the City, at least in part, toward completing its goal of creating a resilient economy that retains and expands quality businesses that, in turn, bolster both the real property and sales tax base of the City.

AREA BOUNDARY AND NEED FOR THE BUSINESS DISTRICT

The boundaries of the area to be addressed in this Plan are delineated on **Exhibit A – Business District Boundary** and a legal description is included as Attachment B in the Appendix of this Plan. The business district will be named the McFarland Road Business District and is referred to herein as the “Business District”. The Business District contains approximately 20 acres of land. **Exhibit B – Current Land Use** shows the existing land uses in the McFarland Road Business District.

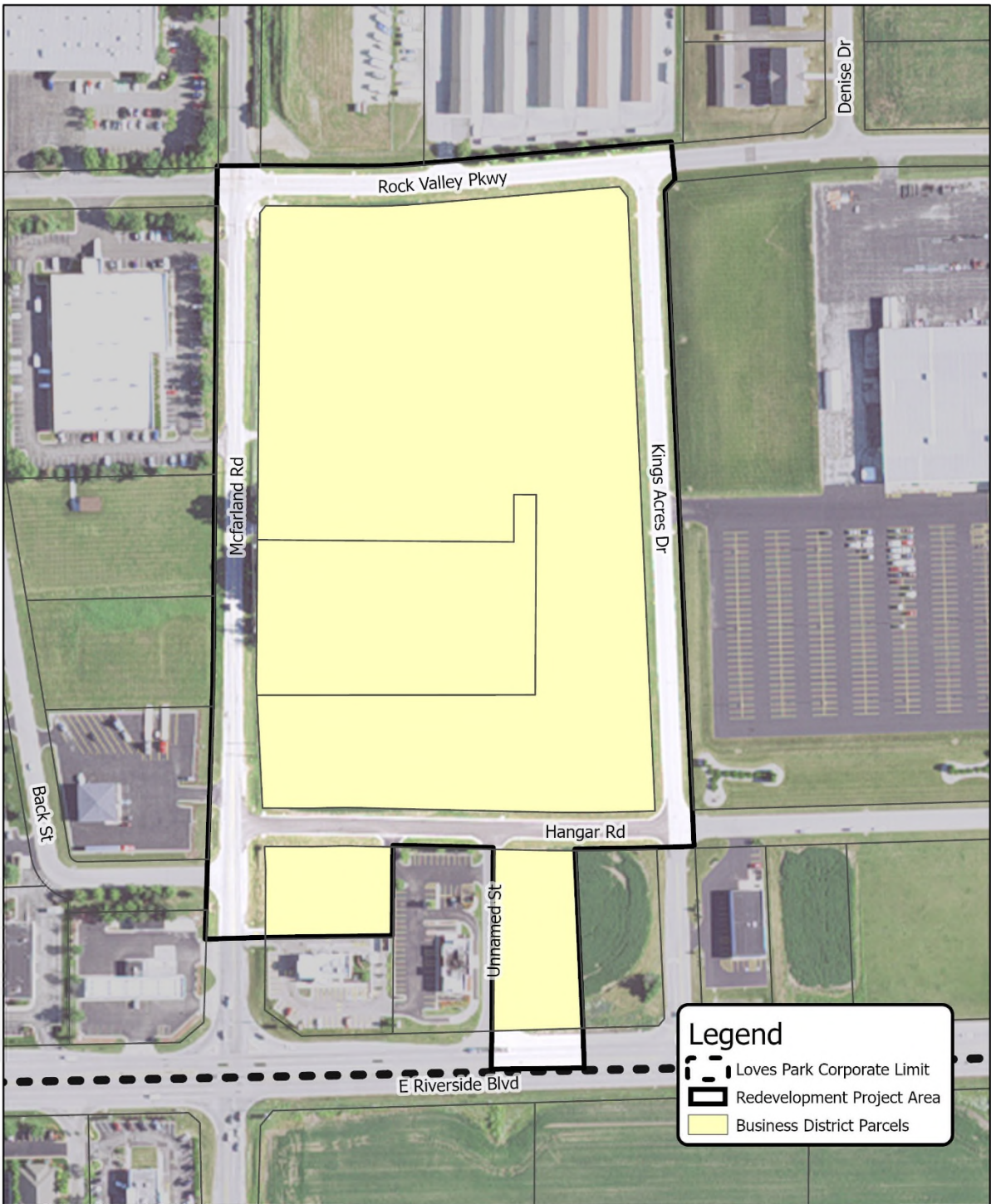


Exhibit A - Business District Boundary

December 2021

Loves Park, IL

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0 80 160 320 US Feet

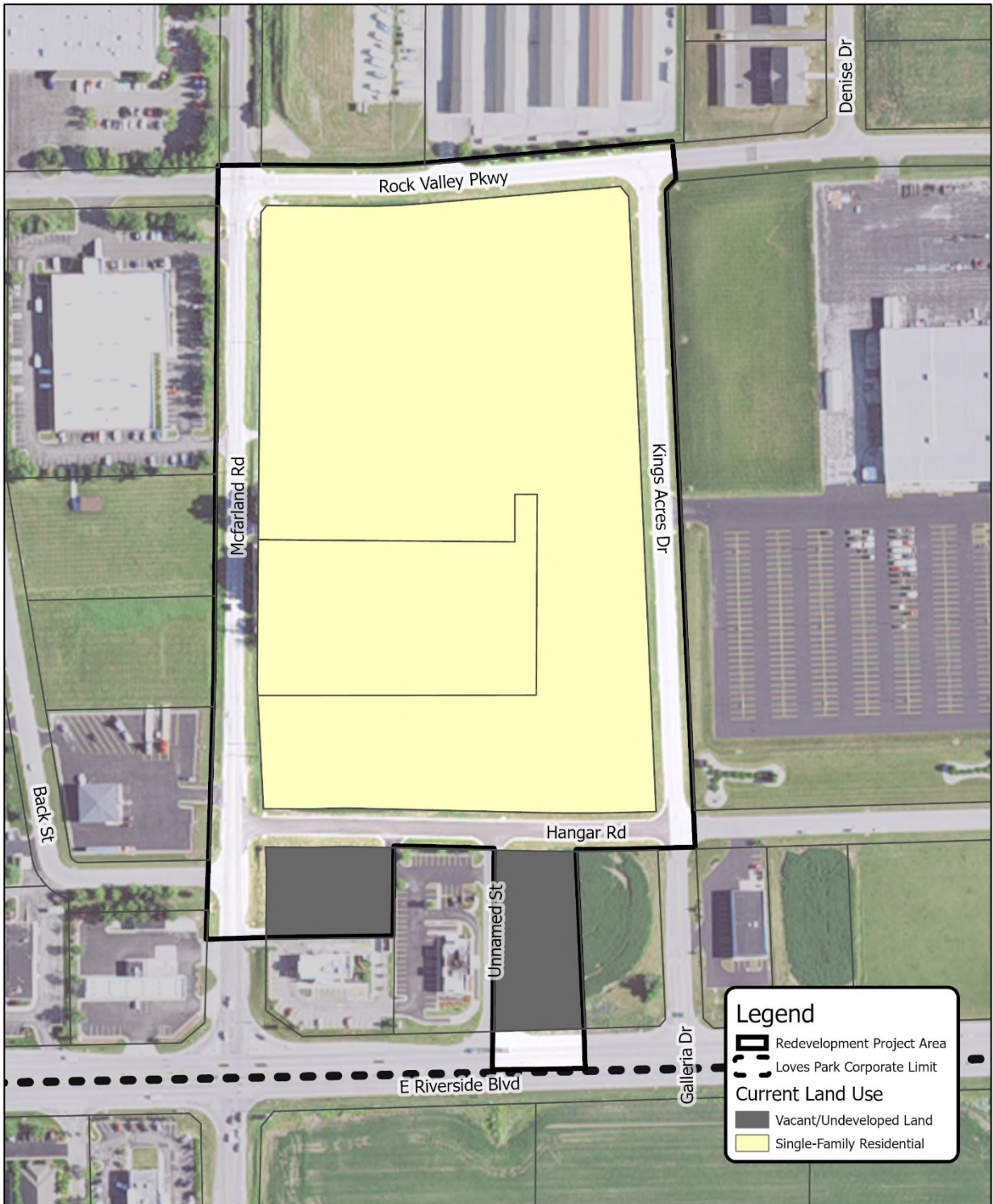


Exhibit B - Current Land Use

December 2021

Loves Park, IL

PGAV PLANNERS uc



0 80 160 320 US Feet

MUNICIPAL AUTHORITY

The Business District Law authorizes Illinois municipalities to designate an area within the municipality as a business district. A business district must be established in conformance with a specific plan officially approved by the corporate authorities of the municipality after a public hearing. A business district must also conform to the municipality's comprehensive plan.

The exercise of the powers provided for in the Business District Law is dedicated to the promotion of the public interest and to the enhancement of the tax base of business districts. The use of such powers for the development and redevelopment of business districts is a public use essential to the public interest. In accordance with the Business District Law, the City may exercise the following powers:

- “(1) To make and enter into all contracts necessary or incidental to the implementation and furtherance of a business district plan. A contract by and between the municipality and any developer or other nongovernmental person to pay or reimburse said developer or other nongovernmental person for business district project costs incurred or to be incurred by said developer or other nongovernmental person shall not be deemed an economic incentive agreement under Section 8-11-20, notwithstanding the fact that such contract provides for the sharing, rebate, or payment of retailers' occupation taxes or service occupation taxes (including, without limitation, taxes imposed pursuant to subsection 10) the municipality receives from the development or redevelopment of properties in the business district. Contracts entered into pursuant to this subsection shall be binding upon successor corporate authorities of the municipality and any party to such contract may seek to enforce and compel performance of the contract by civil action, mandamus, injunction, or other proceeding.*
 - (2) Within a business district, to acquire by purchase, donation, or lease, and to own, convey, lease, mortgage, or dispose of land and other real or personal property or rights or interests therein; and to grant or acquire licenses, easements, and options with respect thereto, all in the manner and at such price authorized by law. No conveyance, lease, mortgage, disposition of land or other property acquired by the municipality or agreement relating to the development of property, shall be made or executed except pursuant to prior official action of the municipality. No conveyance, lease, mortgage, or other disposition of land owned by the municipality, and no agreement relating to the development of property, within a business district shall be made without making public disclosure of the terms and disposition of all bids and proposals submitted to the municipality in connection therewith.*
- (2.5) To acquire property by eminent domain in accordance with the Eminent Domain Act.*

- (3) *To clear any area within a business district by demolition or removal of any existing buildings, structures, fixtures, utilities, or improvements, and to clear and grade land.*
- (4) *To install, repair, construct, reconstruct, or relocate public streets, public utilities, and other public site improvements within or without a business district which are essential to the preparation of a business district for use in accordance with a business district plan.*
- (5) *To renovate, rehabilitate, reconstruct, relocate, repair, or remodel any existing buildings, structures, works, utilities, or fixtures within any business district.*
- (6) *To construct public improvements, including but not limited to buildings, structures, works, utilities, or fixtures within any business district.*
- (7) *To fix, charge, and collect fees, rents, and charges for the use of any building, facility, or property or any portion thereof owned or leased by the municipality within a business district.*
- (8) *To pay or cause to be paid business district project costs. Any payments to be made by the municipality to developers or other nongovernmental persons for business district project costs incurred by such developer or other nongovernmental person shall be made only pursuant to the prior official action of the municipality evidencing an intent to pay or cause to be paid such business district project costs. A municipality is not required to obtain any right, title, or interest in any real or personal property in order to pay business district project costs associated with such property. The municipality shall adopt such accounting procedures as shall be necessary to determine that such business district project costs are properly paid.*
- (9) *To apply for and accept grants, guarantees, donations of property or labor or any other thing of value for use in connection with a business district project.*
- (10) *If the municipality has by ordinance found and determined that the business district is a blighted area under this Law, to impose a retailers' occupation tax and a service occupation tax in the business district for the planning, execution, and implementation of business district plans and to pay for business district project costs as set forth in the business district plan approved by the municipality.*
- (11) *If the municipality has by ordinance found and determined that the business district is a blighted area under this Law, to impose a hotel operators' occupation tax in the business district for the planning, execution, and implementation of business district plans and to pay for the business district project costs as set forth in the business district plan approved by the municipality.”*

ADDITIONAL STATUTORY PROVISIONS

In accord with the provisions of the Business District Law stated above, a municipality may enter into contracts necessary or incidental to the implementation and furtherance of a business district plan. This contracting power includes entering into an agreement with a developer or other nongovernmental person that provides for the sharing, rebate, or payment of retailers' occupation taxes or service occupation taxes the municipality receives from the development or redevelopment of properties in the business district.

Also, the corporate authorities of a municipality may impose a retailers' occupation tax, service occupation tax, or hotel operators' occupation tax by ordinance pursuant to subsection (10) or (11) of Section 11-74.3-3 of the Business District Law. However, in order to establish such taxes, the business district area must qualify as a "blighted area" as that term is defined in Section 11-74.3-5 of said law, to wit:

*"**Blighted area**" means an area that is a blighted area which, by reason of the predominance of defective, non-existent, or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire or other causes, or any combination of those factors, retards the provision of housing accommodations or constitutes an economic or social liability, an economic underutilization of the area, or a menace to the public health, safety, morals, or welfare."*

Furthermore, a business district plan shall be prepared. As defined in Section 11-74.3-5 of the Business District Law, a "business district plan" is the written plan for the development or redevelopment of the area identified as the district and must contain the following information:

- (i) a specific description of the boundaries of the proposed business district, including a map illustrating the boundaries;*
- (ii) a general description of each project proposed to be undertaken within the business district, including a description of the approximate location of each project and a description of any developer, user, or tenant of any property to be located or improved within the proposed business district;*
- (iii) the name of the proposed business district;*
- (iv) the estimated business district project costs;*
- (v) the anticipated source of funds to pay business district project costs;*

(vi) the anticipated type and terms of any obligations to be issued; and

(vii) the rate of any tax to be imposed pursuant to subsection (10) or (11) of Section 11-74.3-3 and the period of time for which the tax shall be imposed.”

This document constitutes the McFarland Road Business District Plan. It sets forth the necessity for the designation of the Business District, the qualifications of the Business District as a “blighted area,” a statement of objectives and policies to achieve these objectives, and a description of proposed projects for the Business District.

SECTION 2

ANALYSIS OF BLIGHTING FACTORS

QUALIFICATIONS ANALYSIS FOR THE BUSINESS DISTRICT

Because the City intends to implement an additional retailers' occupation tax, service occupation tax, and hotel operators' occupation tax of up to 1.0%. In accordance with the provisions of the Business District Law, an evaluation of the conditions within the Business District was conducted. Information gathered for this analysis was derived from inspecting the conditions of the property, information from the Illinois Department of Revenue regarding sales tax revenue, and visitation data for the businesses within the Business District. The following discussion in this section of the Plan summarizes the existing conditions within the Business District that allow it to qualify as a "blighted area" as defined by the Business District Law.

Deteriorated Site Improvements and Economic Underutilization

The Business District contains 4 parcels of real estate, 2 of which are vacant lots and 2 are occupied with a single-family residence and accessory structures. The buildings are in an advanced state of deterioration, with a few of them exhibiting signs of irreversible damage to roofs, windows, and exterior walls.

The pictures found in Attachment A of the Appendix are indicative of the deterioration and dilapidation found on several structures. The deteriorated structures, if left undisturbed, will likely be detrimental to the overall economic health of the City and the negative impact may be felt by surrounding businesses and properties.

In addition to the deteriorating quality of the structures, they represent an economic liability to the City and surrounding properties. The properties are underutilized and will likely require assistance from the Business District to return to productive use and generate the tax revenue needed to fund public services. **Exhibit C – Existing Conditions**, on the following page, shows the location of parcels containing site improvements that exhibit signs of deterioration and those vacant lots whose values are adversely impacted by the deterioration and underutilization.

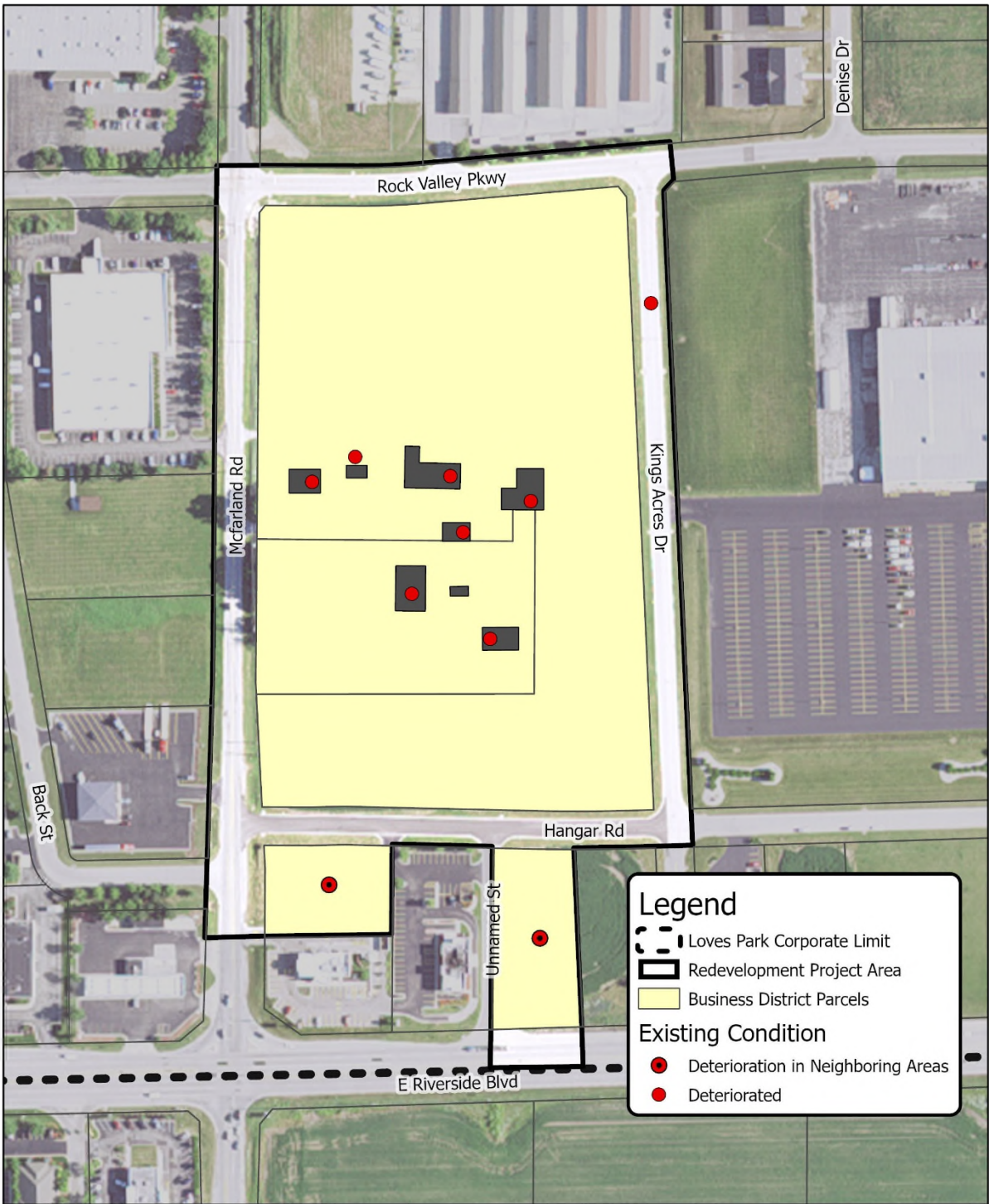


Exhibit C - Existing Conditions

December 2021

Loves Park, IL



QUALIFICATION SUMMARY AND FINDINGS

Based on the “blighted area” definition outlined in the Business District Law, there are enough conditions that represent the required qualifications. These include:

- The Business District currently contains 8 out of 8 (100%) buildings showing varying degrees of deterioration that constitute a public health and safety hazard.
- The properties within the Business District produce no sales tax revenue and very little property tax revenue, especially the vacant ones, but they have the potential to generate considerably more tax revenue. This constitutes an economic underutilization of the properties within the Business District and thus creates an economic liability to the City.

Therefore, the Business District meets the standards as a “blighted area” per Section 11-74.3-5(3) of the Business District Law for designation as a “Business District” for purposes of imposing a tax pursuant to subsections (10) or (11) of Section 11-74.3-3 of the Business District Law. The Business District represents an area of the City, which by reason of deteriorated buildings and other site improvements, in addition to inadequate or non-existent streets, constitutes an economic or social liability and an economic underutilization of the area.

SECTION 3

BUSINESS DISTRICT PLAN

DESCRIPTION OF THE BUSINESS DISTRICT

The McFarland Road Business District consists of approximately 20 acres of land. The boundaries of the Business District are delineated on **Exhibit A – Business District Boundary**, and a boundary description is attached in the **Appendix** as **Attachment B**.

PURPOSE OF THE PLAN

The purpose of the Business District Plan (the “Plan”) is to induce private investment in the construction of buildings and infrastructure related to new commercial development. The Plan establishes the objectives and policies for development of the Business District.

Under the provision of the Illinois Business District Development and Redevelopment Law, the City intends to adopt each of the Business District sales taxes (retailers’, service, and hotel operators’ occupation sales taxes) as provided for in Section 11-74.3-3 (10) of the Business District Law at the level of 1.0%. The Plan also describes the proposed uses of the revenue to be generated by the Business District taxes and lays out policies for using Business District tax revenue to provide incentives to achieve the City’s objectives for the Business District.

BUSINESS DISTRICT OBJECTIVES

It is the overall objective of this Plan to induce private investment in the Business District. More specifically the objectives include:

Objective #1: Expansion of Loves Park’s economic base.

To use incentives to enhance the City’s commercial base by redeveloping several parcels that currently contain vacant and/or deteriorated buildings. It is anticipated that the new Business District will attract additional retail sales within the City. It will also provide additional commercial services to the residents of and visitors to Loves Park.

Objective #2: Encourage investment and grow the City's existing businesses.

The Business District contains many existing businesses that will have the ability to pursue funding for redevelopment projects that expand the City's economic base.

Objective #3: Remedy blighted conditions.

To eliminate the conditions that caused the Business District to qualify as a blighted area as defined in Business District Law.

GENERAL DESCRIPTION AND LOCATION OF PROPOSED PROJECT

There are no proposed developments or projects within the Business District boundary. The Business District will be used to market the community and offer financial assistance to new and existing businesses to expand their operations and grow the City's economic base. Any existing businesses will be encouraged to utilize the funds generated to expand their business or facilities to create jobs and economic opportunities in the City. Attention will also be given to owners or potential tenants of vacant structures and storefronts that may utilize the incentive program.

BUSINESS DISTRICT POLICIES

It is the intent of this Plan to foster development within the Business District in a manner that is consistent with good urban planning practices, the City's economic development goals and objectives, and all applicable codes and ordinances. The policies as set forth below are established to promote these objectives.

Development Agreements or Other Such Instruments

In order to ensure that development occurs in a manner consistent with this Plan, the City and businesses are expected to enter into development agreements or other such instruments that will establish the terms and conditions under which Business District financial incentives are to be provided. Such instruments may establish, among other things:

- the development entity to receive the incentive,
- the public and/or private improvements to be built, and
- identification of the type and amount of project costs to be reimbursed from Business District sales taxes.

The City may enter into multiple development agreements to implement the Business District Plan.

Development Policies

Development within the Business District should occur in a manner that is consistent with good urban planning practices, the City's economic development goals and objectives, and all applicable codes and ordinances

Economic Incentives Policies

To induce private investment in the Business District, the City intends to provide certain economic incentives to private parties. In providing such incentives, it is not the policy or intent of the City to create an unfair advantage of one business over a like-kind business. Instead, incentives will be used to help make projects feasible by helping to offset extraordinary project costs associated with demolishing existing buildings, renovating old ones, mitigating environmental concerns, and any other costs permitted in the Business District Law and as cited earlier in this Section.

BUSINESS DISTRICT PROJECT COSTS

The following costs are anticipated to be incurred in implementing the North Business District. The Business District projects described above may entail a range of public and private activities and associated costs as provided for in Section 11-74.3-5 of the Business District Law, including without limitation the following:

- “(1) costs of studies, surveys, development of plans and specifications, implementation and administration of a business district plan, and personnel and professional service costs including architectural, engineering, legal, marketing, financial, planning, or other professional services, provided that no charges for professional services may be based on a percentage of tax revenues received by the municipality;*
- (2) property assembly costs, including but not limited to, acquisition of land and other real or personal property or rights or interests therein, and specifically including payments to developers or other nongovernmental persons as reimbursement for property assembly costs incurred by that developer or other nongovernmental person;*
- (3) site preparation costs, including but not limited to clearance, demolition or removal of any existing buildings, structures, fixtures, utilities, and improvements and clearing and grading of land;*
- (4) costs of installation, repair, construction, reconstruction, extension, or relocation of public streets, public utilities, and other public site improvements within or without the business district which are essential to the preparation of the business district for use in accordance with the business district plan, and specifically including payments to developers or other*

nongovernmental persons as reimbursement for site preparation costs incurred by the developer or nongovernmental person;

- (5) costs of renovation, rehabilitation, reconstruction, relocation, repair, or remodeling of any existing buildings, improvements, and fixtures within the business district, and specifically including payments to developers or other nongovernmental persons as reimbursement for costs incurred by those developers or nongovernmental persons;*
- (6) costs of installation or construction within the business district of buildings, structures, works, streets, improvements, equipment, utilities, or fixtures, and specifically including payments to developers or other nongovernmental persons as reimbursements for such costs incurred by such developer or nongovernmental person;*
- (7) financing costs, including but not limited to all necessary and incidental expenses related to the issuance of obligations, payment of any interest on any obligations issued under this Law that accrues during the estimated period of construction of any development or redevelopment project for which those obligations are issued and for not exceeding 36 months thereafter, and any reasonable reserves related to the issuance of those obligations; and*
- (8) relocation costs to the extent that a municipality determines that relocation costs shall be paid or is required to make payment of relocation costs by federal or State law.”*

The City intends to provide limited economic development assistance through the funding of certain development costs to be incurred by businesses under the terms and conditions of development agreements in furtherance of the objectives of this Plan. Economic development assistance may include expenditures for public and private improvements as itemized on **Exhibit D - Estimated Business District Project Costs.**

Exhibit D – Estimated Business District Project Costs

Description	Estimated Cost
A. Public Works <i>(Street improvements and other public improvements)</i>	\$825,000
B. Property Assembly <i>(Acquisition of land and other real and personal property)</i>	\$330,000
C. Site Preparation	\$330,000
D. Improvements	\$825,000
E. Building Renovation, Repair, and Retrofit	\$495,000
F. Planning, Legal, and Professional Services	\$165,000
G. General Administration	\$165,000
H. Relocation Costs	\$165,000
I. Financing Costs	See Note 3
J. Contingency (10%)	\$330,000
Total Estimated Costs	\$3,630,000

Notes:

1. All costs shown are in 2021 dollars.
2. Adjustments may be made among line items within the budget to reflect program implementation experience.
3. Municipal financing costs such as interest expense, capitalized interest and cost of issuance of obligations are not quantified herein. These costs are subject to prevailing market conditions and will be considered part of the total business district project cost if and when such financing costs are incurred.
4. Private redevelopment costs and investment are in addition to the above.
5. The total estimated business district project costs shall not be increased by more than 5% after adjustment for inflation from the date of the Business District Plan was approved, per subsection 11-74.3-2 (f) of the Business District Law.

Exhibit D, above, should not be construed to limit the ability of the City to enter into development agreements, which provide for other costs, additional costs, or a different distribution of these costs among the various line items. Specific limitations on such cost items and any distribution between them will be specified in development agreements by and between the City and any developer(s), property owner, or business tenant.

SOURCES OF FUNDS TO PAY BUSINESS DISTRICT PROJECT COSTS

A portion of the funds necessary to pay for Business District project costs are to be derived from the following Business District Sales Taxes in accordance with Section 11-74.3-3 (10) of the Business District Law:

“...retailers' occupation tax and a service occupation tax in the business district for the planning, execution, and implementation of business district plans and to pay for business district project costs...”

and

...a hotel operators' occupation tax in the business district for the planning, execution, and implementation of business district plans and to pay for the business district project costs...

These taxes are to be imposed at the rate of 1% and are defined in Section 11-74.3-6 of the Business District Law as follows:

“(b) ...a Business District Retailers' Occupation Tax upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail in the business district at a rate not to exceed 1% of the gross receipts from the sales made in the course of such business, to be imposed only in 0.25% increments. The 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.”

“(c) ...a Business District Service Occupation Tax shall also be imposed upon all persons engaged, in the business district, in the business of making sales of service, who, as an incident to making those sales of service, transfer tangible personal property within the business district, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. The tax shall be imposed at the same rate as the tax imposed in subsection (b) [Business District Retailers' Occupation Tax] and shall not exceed a rate of 1% of the selling price of tangible personal property so transferred within the business district, to be imposed only in 0.25% increments. The 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.”

“(d) ...an occupation tax upon all persons engaged in the business district in the business of renting, leasing, or letting rooms in a hotel, as defined in the Hotel Operators' Occupation Tax Act, at a rate not to exceed 1% of the gross rental receipts from the renting, leasing, or letting of hotel rooms within the business district,...excluding, however, from gross rental receipts the proceeds of renting, leasing, or letting to permanent residents of a hotel, as defined in the Hotel Operators' Occupation Tax Act, and proceeds from the tax imposed under subsection (c) of Section 13 of the Metropolitan Pier and Exposition Authority Act.”

The City shall deposit the proceeds of the aforementioned taxes imposed into a special fund of the City named the **“McFarland Road Business District Tax Allocation Fund”**.

Other sources of funds that may be used to pay the costs of implementation of the Business District objectives include:

- Private capital which is available to the Developer through its own cash reserves or financing entities,
- Improvements funded by third party tenants, and
- Other sources of public financing that may be identified at such time in the future to fund project costs.

The City may issue obligations secured by the Business District Tax Allocation Fund to provide for the payment of Business District project costs. Those obligations, if so issued, shall be retired in the manner provided in the ordinance authorizing the issuance of those obligations and shall be for a term not later than 20 years after the date of issue or the dissolution date of the Business District, whichever is earlier.

SECTION 4

FINDINGS AND AMENDMENTS TO THE BUSINESS DISTRICT PLAN

ESTABLISHMENT AND TERM OF THE BUSINESS DISTRICT

The establishment of the Business District shall become effective upon adoption of an ordinance by the City Council adopting this Plan. The Business District shall expire in accordance with the provisions of the Business District Law in Section 11-74.3-6 (f) that states:

“When business district project costs, including, without limitation, all obligations paying or reimbursing business district project costs have been paid, any surplus funds then remaining in the Business District Tax Allocation Fund shall be distributed to the municipal treasurer for deposit into the general corporate fund of the municipality. Upon payment of all business district project costs and retirement of all obligations paying or reimbursing business district project costs, but in no event more than 23 years after the date of adoption of the ordinance imposing taxes pursuant to subsection (10) or (11) of Section 11-74.3-3, the municipality shall adopt an ordinance immediately rescinding the taxes imposed pursuant to subsection (10) or (11) of Section 11-74.3-3.”

FINDINGS OF THE PLAN

The City hereby finds and determines as follows:

1. This Plan constitutes a specific plan for a business district named the McFarland Road Business District in the City of Loves Park, Winnebago County, Illinois.
2. The designation of the Business District as identified in this Plan and the boundaries thereof delineated on Exhibit A – Business District Boundary, and as described by the boundary description contained in the Appendix, will assure opportunities for development and attraction of quality commercial growth to the City.
3. The Business District is contiguous and includes only parcels of real property directly and substantially benefited by this Plan.
4. The City’s exercise of the powers provided in the Business District Law is dedicated to the promotion of the public interest and to the enhancement of the tax base of the Business District, and the use of the powers for the development and redevelopment of the Business

District as provided in this Plan is declared to be a public use essential to the public interest of the residents of the City of Loves Park, Winnebago County, Illinois.

5. The Business District qualifies as a blighted area because the District represents a portion of the City, which by reason of deteriorated buildings and other site improvements, which constitutes an economic liability and an economic underutilization of the area.
6. The Business District, on the whole, has not been subject to growth and development through investment by private enterprises and would not reasonably be anticipated to be developed or redeveloped without the adoption of this Business District Plan. The Developer has stated that the project will not take place absent the establishment of the Business District and using Business District sales tax revenue to reimburse the Developer for the extraordinary costs to develop the Project.
7. The land uses within the McFarland Road Business District Plan will comply with all applicable codes and ordinances currently used by the City to regulate land use.

PLAN AMENDMENTS

The procedure for amending this Plan shall also be in conformance with the provisions of the Business District Law.

APPENDIX

ATTACHMENT A

Photographic Evidence



Deteriorated structure at 4191 McFarland Road



Deteriorated fencing at 4191 McFarland Road



Deteriorated structure at 4191 McFarland Road



Deteriorated roof on structure at 4191 McFarland Road



Deteriorated structure at 4191 McFarland Road



Deteriorated windows and roof on structure at 4191 McFarland Road



Deteriorated and dilapidated structure at 4191 McFarland Road



Deteriorated structure at 4191 McFarland Road

ATTACHMENT B

Legal Description

[to be added later]