
CITY COUNCIL MEETING
AGENDA ITEM VIII



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

City Council Meeting September 2016

From: Elizabeth Dragon – City Manager

Subject: Tax deed sale of 196 Central Street-Map/Lot # 117/131/000

Sale of property Recommended Motion:

Councilor moves:

“I move that the Franklin City Council Authorize the City Manager to dispose of Tax map 117/131/000 at 196 Central Street through a negotiated direct sale to an abutter for \$19,296.13 (which is equal to taxes and utility charges due) with the following conditions:

1. The two subject lots [City – 117-131-00, and Birke – 117-135-00] shall be merged immediately following the recording of the deed from the City to Birke for the Ciao Pasta parcel.
2. Birke shall submit a parking plan which will demonstrate compliance with the required number of parking spaces per the zoning ordinance. The location of the proposed parking spaces to be created shall be limited to the existing paved parking or driveway areas associated with the former commercial building.
3. The parking lot area for the restaurant shall be improved with, at a minimum, a top layer of asphalt so the parking spaces on the City parcel and the Birke parcel are uniform and safe for the public. All of the parking spaces shall be properly sized and stripped before the re-opening of the restaurant.
4. Any expansion of the restaurant shall trigger a new site plan application to the Planning board.
5. Birke shall, prior to the closing on the property, submit a comprehensive plan for the re-use or re-development of the portion of the newly merged property that is not utilized by the restaurant. This plan shall include a plan for the full cleanup of the property and removing all trash, debris, and other items that can be a safety issue. The plan shall include details on how the portion of the property not dedicated to the restaurant shall be secured with fencing or other protective measures. The City shall review the plan and must sign-off on the plan prior to the deeding of the property to Birke.
6. No new auto sales or repair businesses shall be allowed on any of the merged properties. If the merged property was subdivided and a portion was sold to the abutting auto repair shop, then an expansion of the auto repair shop would be permitted through a special use permit from the Planning Board.
7. The sale of the City’s parcel to Birke is an “as is” sale with Birke recognizing the brownfields issues that were identified during the investigations associated with the earlier proposal for a new Cumberland Farms store on the combined site. Birke shall not

hold the City of Franklin responsible for any contamination on the two parcels to be merged.

8. The City agrees to provide assistance, contingent on time and staffing constraints, to Birke, for possible future brownfield investigation or clean up grants.
9. Once Birke has agreed to all of the Conditions of Sale, then the City Attorney will have a proper Purchase and Sales Agreement prepared. Birke shall pay for all legal expenses and recording fees associated with this sale. ”

Mayor calls for a second, discussion, and vote.

Discussion: For failure to pay property taxes the above property was taken by tax deed. The parcels have been vacant for some time.

The greatest value/best use of this lots is when its combined with an abutting piece of property. Ciao Pasta had issues operating a restaurant in the building because it lacked space for adequate parking. By negotiating with an abutter we are able to place requirements on the transfer that they complete a lot line merger with their existing lot and restrict other potential uses that could be problematic for the site.

Mr. Birke approached my office to make an offer of purchase. An offer to sell to other abutters has not been made. However, Mr. Birke currently owns the property that abuts this lot and had historically been used for parking. Mr. Birke has an interest in putting in another restaurant in the former Ciao Pasta building (see attached Proposal to the city).

The above listed conditions of sale were prepared with the assistance of the City's Attorney-Paul Fitzgerald.

Attachments/Exhibits:

1. Property card
2. Tax Deed disposal letter sent July 2015
3. Proposal to purchase from Mr. Birke

PROPOSAL TO CITY OF FRANKLIN

FOR 196 CENTRAL STREET

August 15, 2016

Abutting property owner, M. Lenard Birke, Trustee of the M. Lenard Birke Trust dated February 19, 1999 proposes to purchase 196 Central Street for the sum of \$19,296. It is agreed that immediately upon closing, 196 Central Street will be merged with 202 Central Street, Franklin, NH (owned by M. Lenard Birke, Trustee of the M. Lenard Birke Trust dated February 19, 1999).

Mr. Birke seeks the reopening of a restaurant and proposes to utilize the parcel currently known as 202 Central Street for parking. There is also adequate space to expand the existing restaurant structure to accommodate a function hall.

Mr. Birke wishes to cooperate with the City in continuing efforts to apply to the State of NH for a Brownsfield grant. In this regard, Mr. Birke would still entertain the sale of the merged parcels to Cumberland Farms.

It is understood and agreed that no zoning or planning board applications to the City Boards would be required for the continued operation of the restaurant. Mr. Birke agrees to submit a parking plan to the Town prior to the reopening of the restaurant.

Thank you for your consideration of this offer.

M. Lenard Birke, Trustee

M. Lenard Birke Trust dtd 2/19/1999

428 North Road, Franklin, NH 03235

603-528-5000



CITY OF FRANKLIN, NEW HAMPSHIRE

"The Three Rivers City"

316 Central Street
Franklin, NH 03235

(603) 934-3900
fax (603) 934-7413
cityhall@franklinnh.org

July 15, 2015

Via Certified Mail – Address Service Requested - Return Receipt Requested

Diane Hanley
10 Avery Street
Plymouth, NH 03264

Re: Disposal of Tax Deeded Property
196 Central St – Map/Lot 117/131/000

Dear Ms. Hanley:

This notice is being provided to you pursuant to RSA 80:89 as notification of the City's intention to sell real estate (hereafter "the property") located at 196 Central St (Tax Map 177, Lot 131-000) by sealed bid or public auction or disposition on or about October 13, 2015. The property was acquired by the City pursuant to a Tax Collector's Deed dated April 23, 2015 which was recorded in the Merrimack County Registry of Deeds at Book 3478, Page 3 on May 18, 2015.

You are listed as the former owner of the property.

In accordance with RSA 80:89-I, you, as the former owner, have the right to repurchase the property prior to the City disposing of said property. You may repurchase the property from the City for the sum of **\$45,597.39 (Forty-Five Thousand Five Hundred Ninety-Seven Dollars and Thirty-Nine Cents)***. This figure has been determined as follows:

- **\$19,296.13** representing all taxes and utility charges assessed but unpaid as of the date of the tax deed. See RSA 80:90, I(a);
- **\$792.13** for all statutory interest associated with the back taxes and all interest which would have accrued but for the ownership of the property by the City. See RSA 80:90, I(b);
- **\$10.00** for all fees associated with notice and recording in connection with the tax collection process. See RSA 80:90, I(c);

- \$12.49 for all legal costs incurred by the municipality in connection with the property, including those connected with the municipality's sale or the former owner's repurchase. See RSA 80:90 I(d); and
- \$31.64 representing the incidental and consequential costs incurred by the City in connection with the ownership and disposition of the property. See RSA 80:90, I(e); and
- \$25,455.00 representing the statutory penalty of 15% of the assessed value of the property as of the date of the tax deed, adjusted by the equalization ratio for the year of assessment. See RSA 80:90, I(f).

If you intend to exercise your right to repurchase the property for the amount specified above, you must inform the City of your intention within thirty (30) days of this notice. See RSA 80:89, II. Notification to the City of your intention to repurchase must be by certified mail and shall indicate that you are ready, willing, and able to pay all back taxes, interest, costs and penalties, as defined in RSA 80:90. See RSA 80:89, II. Within 15 days after notifying the City of your intention to repurchase the property, you must tender the repurchase amount by certified or bank check to the City. See RSA 80:89, II.

If you fail to notify the City of your intention to repurchase the property within the time prescribed above or if you fail to tender required payment within fifteen (15) days after notifying the City of your intention to repurchase, the City will proceed with its offering for sale by sealed bid or public auction and disposition of the property. See RSA 80:89, II.

If you should have any questions in this matter you may contact me at the address on this letterhead or by telephone at (603) 934-3900.

Best Regards,



Elizabeth Dragon
City Manager

196 CENTRAL STREET Parcel ID: 117-131-00 SHEET # N8 Number of Units: Class: E - 903 Zoning: B1 Card # 1 of 1

CURRENT OWNER/ADDRESS FRANKLIN, CITY OF LAND DATA: LAND INFLUENCE(S) FACTOR LAND VALUE

TYPE	SIZE	LAND INFLUENCE(S)	FACTOR	LAND VALUE
PRIMARY	0.170	0	0	61,850
TOTAL ACREAGE:	0.170	TOTAL LAND VALUE:		61,900

316 CENTRAL STREET NH 03235
 FRANKLIN DEED BOOK: 3478
 DEED PAGE: 3
 DEED DATE: 20150518
 LAST UPDATE: 20150820
 SALE DATA: PRICE CODE
 DATE TYPE 1 35
 20150518LAND + BLDG 225,000
 20071228LAND + BLDG 0
 OTHER FEATURES/ATTACHED IMPROVEMENTS NO STR/C

IDENT. UNITS STRUCTURE TYPE: 321 RESTAURANT

ASSESSMENT INFORMATION:

PRIOR	CURRENT
LAND 61,900	61,900
BUILDING 107,900	107,900
TOTAL 169,800	169,800

DATA COLLECTION INFORMATION: -
 20150514 RD UNOCCUPIED
 20100618 TC OCC. NOT HOME
 20080320 RD ESTIMATED

COST APPROACH DETAIL:

LEVELS	USE	PERIMETER	HEATING	A/C	W/H	AREA	SF RATE	RCN	% GOOD	RCNLD
01 TO 01	31	147	HOT AIR	CENTRAL	14	1530	132.23	202,300	.70	141,610
01 TO 01	31	87	HOT AIR	CENTRAL	10	464	135.11	62,690	.70	43,880
TO			NONE	NONE			0.00	0	.00	0
TO			NONE	NONE			0.00	0	.00	0
TO			NONE	NONE			0.00	0	.00	0
TO			NONE	NONE			0.00	0	.00	0
TO			NONE	NONE			0.00	0	.00	0
TO			NONE	NONE			0.00	0	.00	0
TO			NONE	NONE			0.00	0	.00	0

Building # 1
 Year Built 1930
 # Units 1
 QUALITY GRADE C+
 # IDENT. UNITS 1
 # EFFICIENCIES 1
 # 1-Bedrooms 1
 # 2-Bedrooms 1
 # 3-Bedrooms 1

TOTAL UNADJ. RCNLD 103,050
 AVE % GOOD 0.70
 Grade Factor 1.08
 # Ident Units 1
 FUNC/ECON FACTOR 0.95
 Rcnld 105,700

OUTBUILDING/YARD ITEM DETAIL:

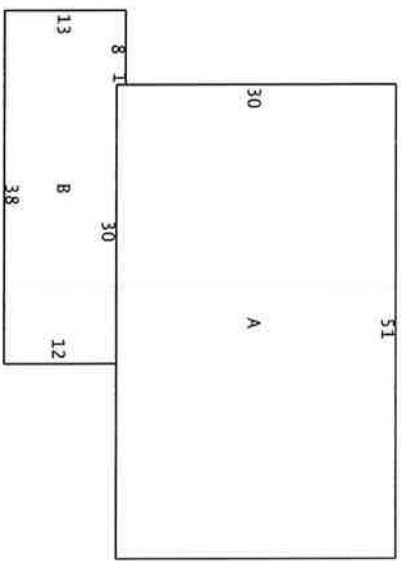
DESCRIPTION	Width	Length	QUAN.	YEAR BUILT	PHYS. COND.	FUNC. UTIL.	VALUE
RS1	8	8	1	1990	NORMAL	NORMAL	400
PAL	1	2000	1	1985	NORMAL	NORMAL	1,800

Gross Building De [TOTAL OBY/YARD VALUE: 2,200]

PERMIT DATA:
 DATE # PRICE PURPOSE
 20101103 R10-127 500 MOVE KIT DOOR
 20080117 R08-01 REMOVE INT WAL
 20050207 R03-11 15,000 INSTALL BAR

NOTES: COST
 CODE 2 = FF TIF DISTRICT
 TAKEN BY TAX COLL DEED 5/18/15
 COMM NOTE: DBA: FORMERLY CIAO PASTA

INCOME APPROACH SUMMARY:
 TOTAL RENTABLE SQUARE FEET:
 MARKET RENT/SQUARE FOOT:
 POTENTIAL GROSS INCOME:
 TOTAL EXPENSES (INCL. MNGMT.):
 TOTAL NET OPERATING INCOME:
 OVERALL RATE:
 INCOME INDICATED VALUE: 112,300



SKETCH
 A 1S CB AREA 1530 I
 B 1S CB AREA 464 J
 C K
 D L
 E M
 F N
 G O