



Staff Report

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF DISPOSITION, DEVELOPMENT AND OWNER PARTICIPATION AGREEMENT WITH BELMONT VIEW, INC.

Honorable Chair and Board Members:

Summary

Staff has completed negotiating the terms and conditions with Mr. Kamangar's company, Belmont View, Inc., ("Developer") of 1300 El Camino Real, to revise the project for improved integration with the Firehouse Square Target Economic Development Site. The Disposition, Development and Owner Participation Agreement (DDOPA) will result in selling a portion of Civic Lane to the Developer in return for cash, improvements, easements and other benefits to the Agency/City.

Staff recommends conducting a Public Hearing for purposes of considering the DDOPA. After hearing public testimony on the matter, the Agency Board should close the Public Hearing and consider adoption of the attached resolution authorizing the DDOPA.

Background

On May 29, 2007, the Developer received approval by the City Council/RDA for a mixed-use project (commercial/residential – six condominiums, 4500 sq. ft. of commercial space, and a 12-space underground garage) at 1300 El Camino Real. These approvals included Planned Development zoning for the site and adoption of the associated environmental study for the project. The project was pending a Detailed Development Plan review and approval by the Planning Commission.

Desiring improved integration of the 1300 El Camino Real project with the conceptual Firehouse Square target site (bounded by El Camino Real, 5th Street, O'Neill and Broadway), staff began meeting with the Developer on revising the project. After reaching common ground on a revised project concept, staff received direction from City Council authorizing negotiations to enlarge the 1300 El Camino Real project to include a down ramp to underground parking beginning at Civic Lane (alley) off O'Neill and modify the site/building plan to potentially yield two additional residential units and 1000 sq. ft. of additional commercial space within his building.

The project objective was to maximize parking spaces in his building and a future underground parking garage that could serve the balance of development within Firehouse Square. Staff was also authorized to negotiate the sale of a portion of Civic Lane, granting of access/easement rights on Civic Lane, and financial considerations for ramp improvements, project delay, and utility relocations within Civic Lane.

On January 8, 2008, staff reported in closed session that terms and conditions of a DDOPA with the Developer had been finalized with the following key provisions:

- The Developer will submit plans, subject to City approval, that will include construction of a ramp to serve his project and the future development of a larger underground parking area for the Firehouse Square site.
- The City will remove or relocate all existing utilities in Civic Lane prior to the close of escrow.
- The Agency will sell to the Developer a portion of Civic Lane, in "as is" condition, approximately 1,800 sf, for the sum of \$40,500. This price reflects project delays, the value of the ramp and fair market value of the property.
- The property will be subject to a non-exclusive public easement in favor of the City for ingress and egress over the ramp to the underground parking.
- In the event the Developer does not begin construction of the improvements within 180 days following the close of escrow, the Agency can terminate the DDOPA and take possession of the property upon repayment of the \$40,500.

Discussion

As discussed above, the City owns Civic Lane, an alley located between El Camino Real and Fifth Avenue connecting O'Neill Street and Broadway, and the Developer owns an adjacent parcel located at the corner of El Camino Real and O'Neill which is adjacent to the alley that the City owns. The Developer wishes to develop the property with a mixed use residential and commercial development and acquire the portion of the alley ("Alley Property") adjacent to his own property so as increase the size of the development and to provide better access to the underground property that will be included as part of the development. The Agency desires to sell the Alley Property to the Developer so as to improve the Developer's development and provide an access point for future possible development south of the property.

In order to accomplish this sale, the Agency will acquire the Alley Property by grant from the City without using any Agency tax increment revenue. In return, the City shall receive the proceeds from the sale of the Alley Property and the Agency will convey to the Developer the Alley Property pursuant to a DDOPA, substantially in the form on file with the Agency Secretary and incorporated in this Resolution by this reference (but subject to such minor changes as shall be approved by the Executive Director and Agency Counsel). In return, the Developer would agree to acquire the Alley Property and develop the property in the manner specified in the City land use approvals.

For this to happen, the Agency has to conduct a duly notice public hearing on the DDOPA pursuant to Health and Safety Code Section 33431 for the purpose of receiving the input and comments of the public on the DDOPA and the City must consider the environmental impacts of the proposed development in connection with Developer's applications for development of the property. The Agency has noticed the public hearing and the City previously considered the environmental impacts. Furthermore, the Agency must make a series of findings which are enumerated in the attached resolution.

One matter not fully addressed in the DDOPA involves project delays. The Developer has stated the Agency/City has caused his project to be delayed one year. When staff was reaching common ground on the revised project, staff offered compensation for five months delay. Staff believes there may be merit to the Developer's claim for a full year of delays. This would result in additional compensation to the Developer. More recently, the Developer has discussed further revising his project which may involve additional density and units. This discussion may render the Developers request moot. Nonetheless, should the Developer's request still have merit, it will be considered upon project submission for plan check and staff may seek authority from the Agency Board Members to offset fees.

General Plan/Vision Statement

Distinctive Community Character

- Its small-town ambience sets it apart as a tranquil, safe and desirable place to live.

Natural Beauty

- Our natural surroundings inspire us to play, create, and contemplate.
- Our actions today preserve and enhance Belmont's beauty to make it even lovelier for our grandchildren.

Fiscal Impact

The purchase price for the Alley Property is \$40,500 and is the fair market value of that property subject to the easement interest that the Agency will retain in the project. This amount is also equal to the fair reuse value of the Alley Property under the terms and conditions of the DDOPA and is subject to the Executive Director obtaining confirmation from a qualified appraiser.

Public Contact

The Public Hearing was properly noticed.

Recommendation

Staff recommends conducting a Public Hearing for purposes of considering the DDOPA. After

hearing public testimony on the matter, the Agency Board should close the Public Hearing and adopt the attached resolution authorizing the DDOPA.

Alternatives

1. With direction, request staff to negotiate alternative terms and conditions.
2. Take no action.

Attachments

- A. Resolution of the Redevelopment Agency of the City of Belmont Approving and Authorizing Execution of Disposition, Development and Owner Participation Agreement with Belmont View, Inc.

Respectfully submitted,

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Finance Director

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Executive Director

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REDEVELOPMENT AGENCY RESOLUTION NO. _____

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF BELMONT
APPROVING AND AUTHORIZING EXECUTION OF DISPOSITION,
DEVELOPMENT AND OWNER PARTICIPATION AGREEMENT WITH BELMONT
VIEW, INC.**

WHEREAS, the City Council of the City of Belmont (the "City Council") has adopted the Redevelopment Plan for the Los Costanos Redevelopment Project Area the City Council of the City of Belmont (the "City Council") has adopted the Redevelopment Plan for the Los Costanos Redevelopment Project Area (the "Project Area"), as adopted by the City Council by Ordinance No. 039-91 on July 15, 1991, and as currently amended (the "Redevelopment Plan"); (the "Project Area"), as adopted by the City Council by Ordinance No. 039-91 on July 15, 1991, and as currently amended (the "Redevelopment Plan"); and,

WHEREAS, the Agency is vested with responsibility pursuant to the Community Redevelopment Law (Part 1 of Division 24 of Health and Safety Code of the State of California) (the "Law") to implement the Redevelopment Plan in the Project Area; and,

WHEREAS, the City owns a former alley located between El Camino Real and Fifth Avenue connecting O'Neill Street and Broadway which is located in the Project Area. Belmont View, Inc. ("Developer") owns a parcel (the "Developer Property") located at the corner of El Camino Real and O'Neill which is adjacent to the alley that the City owns. The Developer wished to develop the Developer Property with a mixed use residential and commercial development. The development of the Developer Property can be improved if Developer can acquire the portion of the alley (the "Alley Property") adjacent to the Developer Property so as increase the size of the development and to provide better access to the underground property that will be included as part of the development. The Agency desires to sell the Alley Property to the Developer so as to improve the Developer's development and so as to provide an access point for future possible development south of the Developer Property; and,

WHEREAS, the Agency will acquire the Property by grant from the City without using any Agency tax increment revenue and the City shall receive the proceeds from the sale of the Alley Property; and,

WHEREAS, the Agency seeks to convey to the Developer the Property pursuant to a (the "DDOPA"), substantially in the form on file with the Agency Secretary and incorporated in this Resolution by this reference (but subject to such minor changes as shall be approved by the Executive Director and Agency Counsel), under which the Developer would agree to acquire the Alley Property and develop the Alley Property and Developer Property in the manner specified in the City land use approvals; and,

WHEREAS, development of the Alley Property and Developer Property pursuant to the DDOPA would serve major Redevelopment Plan goals and objectives by alleviating the existing blight in the Project Area; and,

WHEREAS, the Agency has conducted a duly notice public hearing on the DDOPA pursuant to Health and Safety Code Section 33431 for the purpose of receiving the input and comments of the public on the DDOPA; and,

WHEREAS, the City previously considered the environmental impacts of the proposed development in connection with Developer's applications for development of the Developer Property; and,

WHEREAS, the Agency grants the Executive Director (City Manager) authority to settle any outstanding matters which may arise in closing said agreement;

NOW, THEREFORE, BE IT RESOLVED that the Redevelopment Agency of the City of Belmont does the following:

1. The Agency finds and determines that the above recitals are true and correct, and together with the staff report submitted to the Agency in connection with consideration of this Resolution have served as the basis, in part, for the actions of the Agency set forth in this Resolution.

2. The Agency finds that the sale and the redevelopment of the Property pursuant to the DDOPA will assist in the elimination of blight pursuant to the Redevelopment Plan and the Law and is consistent with the implementation plan adopted by the Agency pursuant to Health and Safety Code Section 33490.

3. The Agency finds that the purchase price for the Property set forth in the DDOPA is equal to the fair reuse value of the Property under the terms and conditions of the DDOPA. This finding is based on the facts and analysis set forth in the Staff Report accompanying this Resolution.

4. Pursuant to Health and Safety Code Section 33431, the Agency approves the DDOPA and the sale of the Property to the Developer pursuant to the provisions of the DDOPA, subject to the following: The Agency authorizes the Chairperson or the Executive Director to execute the DDOPA on behalf of the Agency, substantially in the form on file with the Agency Secretary, together with such revisions as are determined necessary and appropriate by the Executive Director and Agency Counsel and subject to the Executive Director obtaining confirmation from a qualified appraiser that the purchase price that the Developer will pay for the Alley Property, \$40,500 is the fair market value of that property subject to the easement interest that the Agency will retain in the Alley Property.

5. The Agency hereby determines that the prevailing wage policy set forth in Agency Resolution RA-312 shall not apply to the development of the Alley Property and the Developer Property in light of the fact that Developer planned to develop the Developer Property without any participation with the Agency but agreed to include the Alley Property at the request of the Agency so as to facilitate future development of the remainder of the block and the fact

that the Developer will pay fair market value for the property and construct the driveway ramp that will provide access to the properties to the south of the Developer Property.

6. The Executive Director, or his designee, is authorized to take any and all actions as deemed necessary to carry out the purpose and intent of the DDOPA and this Resolution, including without limitation, execution of any ancillary documents referenced in or necessary to implement the DDOPA, and providing the approvals, consents, elections, or waivers on the Agency's behalf.

7. This Resolution shall be effective immediately upon its adoption.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Redevelopment Agency of the City of Belmont at a special meeting thereof held on January 22, 2008 by the following vote:

AYES, DIRECTORS: _____

NOES, DIRECTORS: _____

ABSTAIN, DIRECTORS: _____

ABSENT, DIRECTORS: _____

Secretary, Redevelopment Agency

APPROVED:

Chair, Redevelopment Agency