NOTICE OF PUBLIC MEETING

CENTRAL ALBANY REVITALIZATION AREA ADVISORY BOARD
City Hall Council Chambers
Wednesday, June 18, 2014
5:15 p.m.

AGENDA

1. CALL TO ORDER (Chair Rich Catlin)

2. ROLL CALL

3. APPROVAL OF MINUTES
   - May 21, 2014. [Pages 2-5]

   Action:______________________

4. SCHEDULED BUSINESS

   a. Business from the Public

   b. Mikesell Forgivable Loan modification request. [Pages 6-9] (Porsche/Mikesell)
   Action:______________________

   c. Presentation: Results of the OSU Study on Downtown. [PowerPoint] (Porsche/OSU MPP Students)
   Action:______________________

   d. Open House results. [Verbal] (Porsche)
   Action:______________________

   e. Staff updates and issues. [Verbal] (Porsche)
   Action:______________________

5. BUSINESS FROM THE BOARD

6. NEXT MEETING DATE: *Wednesday, July 16, 2014*

7. ADJOURNMENT

City of Albany Web site: www.cityofalbany.net

The location of the meeting/hearing is accessible to the disabled. If you have a disability that requires accommodation, advance notice is requested by notifying the City Manager's Office at 541-917-7508, 541-704-2307, or 541-917-7519.

APPROVED: ____________

CITY OF ALBANY
Central Albany Revitalization Area Advisory Board
City Hall Council Chambers, 333 Broadalbin Street SW
Wednesday, May 21, 2014

MINUTES

Advisory Board Members present: Russ Allen, Rich Catlin, Bill Coburn, Floyd Collins, Loyd Henion, Bessie Johnson, Rich Kellum, Sharon Konopa, Ray Kopczynski, Kevin Manske, Dick Olsen, Mark Spence, Maura Wilson

Advisory Board Members absent: Danon Kroessin (excused)

CALL TO ORDER

Chair Rich Catlin called the meeting to order at 5:15 p.m.

APPROVAL OF MINUTES

April 16, 2014

MOTION: Ray Kopczynski moved to approve the minutes as presented. Dick Olsen seconded the motion, and it passed 13-0.

SCHEDULED BUSINESS

Business from the Public

There was no business from the public.

Request for Contract Modifications: Edgewater Village

Catlin said that his firm is engaged by the owners of the project; he declared a conflict of interest and left the dais. Vice Chair Mark Spence requested a staff report.

Economic Development & Urban Renewal Director Kate Porsche drew attention to the written staff report. She reviewed the history of the Edgewater Village project. The original funding package was for $2.4 million of CARA funds for a $17 million project. The agreement was restructured in 2010 when CARA stepped in as lender and secured the parcels with a first trust deed and contracts secured personally by the applicants. Recently, applicants George and Paula Diamond found that the subordination and forgiveness language in the contract was presenting problems with their lending partners on construction loans. Staff has been working with the applicants on language that would protect CARA's investment but allow them to get a loan to build the houses. The requested contract modifications would better define when and how lots are subordinated; better define forgiveness as $40,000 per lot; extend timing for future phases by ten months; and remove the requirement that 90 percent of units be owner-occupied at time of sale. Diamond has indicated the owner-occupancy requirement is too stringent for the market. Staff is proposing a requirement for a homeowners' association (HOA) to ensure that the neighborhood and public areas will be maintained into the future.

City Attorney Jim Delapoer said that this is one of CARA's long-standing projects and it has been complex. He further reviewed each of the proposed modifications. The goal is to address changing market conditions without fundamentally changing CARA's risk or giving up on the desired development. The modification package is a result of months of negotiations between the applicant and staff, with a significant amount of compromise on the part of the applicant.

Kopczynski asked how the proposed HOA would be enforced. Delapoer said the HOA would probably be enforced internally. Standards of maintenance are difficult to enforce, and the City generally does not get involved in those agreements.

Sharon Konopa said that HOAs sometimes do not stay active. She asked if there could be an option for the homeowners to hire a property management company if they don't want to take on that role themselves. Delapoer suggested that might be a question for the applicant.

Rich Kellum asked how a level of maintenance could be required for this area when properties across the street are a mess. Delapoer said the purpose behind the urban renewal agency doing this project was to try to provide a catalyst for change in the area. The HOA is proposed as a requirement of the renegotiated contract with the hope that it will encourage ongoing maintenance. Porsche added that the project is transformational for the waterfront and that the applicants have been outstanding partners.

George Diamond said that staff did a great job of summarizing the negotiation and the proposed loan modifications. He is concerned because this is a large scale project in a problem area; however, if the project is successful in the next five to ten years, the whole area will turn around. He said the modification to the owner-occupancy issue is necessary because he may need to rent some of the homes for several years before he is able to sell them.

In response to an inquiry from Maura Wilson, Diamond said the first homes will be about 1,550 to 1,850 sq. ft. and will cost more than $200,000 each to build. The City requirement for fire sprinklers and the state's BOLI wage requirement are extraordinary costs. He doesn't expect the homes could be sold for much of a profit until the market changes.

In response to an inquiry from Loyd Henion, Diamond said that the development will be geared toward homeowners and, ideally, there will be no rentals; he just needs that safety net.

Kopczynski said he has concerns about the timeline. He said that only five units are proposed to be built the first year, and he asked whether the developer couldn't find five buyers as opposed to renters. Diamond said that five is the minimum number of units to be built; he will be building and selling homes as fast as he can. He hopes to break ground in September.

Konopa asked how the applicant felt about a clause that would allow homeowners to hire a property manager if they didn't want to form an HOA. Diamond said that he has hired a top attorney in the field to do the HOA which would give him some level of control at least until full build-out. Delapoer said the hope is that by the time the subdivision is completed, there will be a nice project that people will want to maintain.

Olsen said he appreciates the applicant's optimism about the neighborhood and he believes the development will be a spark for turning around the area.

MOTION: Henion moved to accept the modifications outlined in the staff report. Russ Allen seconded the motion.

Kopczynski said that he will vote yes on the motion but he is concerned that this project is going on for such a long time; he hopes this action brings some finality.

Spence said that his questions about the original agreement and the process of negotiations have been well answered.

Bill Coburn said the original project was for homeownership on the river and he feels this is a step backward. He will support the motion; however, he hopes that the majority of occupants will be homeowners.

Kellum said he will vote against the motion. In the last two months, he said, CARA has given away $2.9 million. He thinks that because the Board never tells anybody no, it looks bad and makes people ask for more than they might otherwise.

Allen noted that there is no increase in funding requested. Olsen commented that CARA is not a bank but is here to improve the situation in Downtown Albany; he has no qualms with approving the request.

The motion passed 12 to 1, with Kellum voting no.

<u>Policy Discussion: Project Holdback</u>

Catlin returned to the dais. He requested a staff report.

Porsche said that CARA money currently only goes out on a reimbursement basis and there is a 10 percent holdback until the project is completed. A question was raised at the last meeting about whether there should be an additional holdback with the thought that if the application for CARA money is based on a claim of some gap and the overarching projects costs are less than anticipated, perhaps there was not a need for CARA money. One option would be to create more stringent holdback language for forgivable loans of $50,000 or more which would reduce the amount of the Agency's contribution to be proportionate to actual expenditures.

Delapoer gave an example of a $1 million project, 10 percent of which is funded by urban renewal funds. If that project came in 10 percent under budget, the CARA contribution would be reduced by 10 percent. It would be difficult to say that CARA shouldn't contribute anything if the developer through efficiencies saved money on total projects costs. Delapoer described the forgivable loan structure and explained that forgiveness could be reduced proportionate to any unexpected savings on the project. The $50,000 threshold is proposed so that the additional cost and burden for the applicant and staff is not incurred for smaller projects. Brief discussion followed and staff answered clarifying questions.

In response to a question from Kellum, Porsche said that projects tend to come in over budget. Kellum said that contractors can find ways to spend money; if this hasn't been a problem, maybe no fix is needed.

Olsen was concerned that the modification would make it look like Albany is business unfriendly.

Allen said that he thinks the Advisory Board could do a better job of making sure CARA money is going out because it is needed for a gap.

Floyd Collins said there are examples where CARA has funded a percentage of an entire project. In those cases, when a project doesn't use the full contingency, maybe they didn't need all of the public money. He thinks there should a protection built in for those cases, understanding that it may be used rarely if at all.

Konopa asked if staff had looked at past minutes to see if this issue had been decided previously. Porsche said she did, and it was her understanding that the holdback policy had been added to address the concerns. She asked if a majority of the Advisory Board would like to continue this forward for discussion next month.

MOTION: Allen moved to direct staff to draft policy language for further consideration by the Advisory Board. Wilson seconded the motion, and it passed 12-1 with Olsen voting no.

Spence left the meeting at 6:50 p.m.

<u>Request for Public Project Funds: Main Street Infrastructure Project</u>

City Manager Wes Hare said that during the CARA budget presentation, he raised the notion of using CARA resources to help cover some of the costs associated with the Main Street project. Since that time, members of the Advisory Board have raised some good questions about how CARA funds would be used and which criteria should be used in the decision. He said that staff will come back with a more specific proposal and additional information to help in the decision-making process. Catlin thanked staff for responding to the concerns. He suggested that any additional questions be e-mailed to staff in advance of the next meeting.

Staff Updates and Issues

Porsche gave a brief update on the Woodland Square project. The developers are currently removing the last two mobile homes and plan to begin construction in June.

Porsche said that an open house is scheduled for Wednesday, June 4, to get feedback on public projects. It has been suggested that in order to encourage attendance and input, the event be held somewhere other than City Hall. Following brief discussion, Porsche agreed to check on the availability of the Wheelhouse Event Center, a previous CARA-funded project.

BUSINESS FROM THE BOARD

Kellum said there were comments at a previous meeting about whether some buildings are so far gone that it's not viable to use CARA funds to bring them back; he would like to consider that further. Catlin said that the threshold would be subjective. Olsen said that the question is how improving a blighted building affects the rest of the neighborhood. Wilson said it's hard to say no to enthusiastic people who have a vision and she has had second thoughts about some of her votes. She asked if the Board would consider some percentage of compliance with the criteria that would have to be met for a proposal to get past staff. Porsche said the question has been how does the Advisory Board set policy which allows staff to filter out mediocrity so only the best projects come forward. If the Board has an interest, she would be willing to delve into that issue again. Catlin said that he supports tools to help the Advisory Board make decisions but he struggles with taking away too much discretion. Brief discussion followed.

NEXT MEETING DATE

The next meeting of the CARA Advisory Board is scheduled for Wednesday, June 18, 2014, 5:15 p.m., in the Council Chambers.

ADJOURNMENT

Hearing no further business, Chair Catlin adjourned the meeting at 7:15 p.m.

Submitted by,

Teresa Nix
Administrative Assistant

Reviewed by,

Kate Porsche
Economic Development & Urban Renewal Director

TO: CARA Advisory Board

FROM: Kate Porsche, Economic Development & Urban Renewal Director Kate

DATE: June 11, 2014, for June 18, 2014, CARA Advisory Board Meeting

SUBJECT: Forgivable Loan Modification Request

Background

The request coming before you is from Mr. Rick Mikesell, owner of R3 Development and the JC Penney building at 317 First Avenue SW. Please find attached Mr. Mikesell's letter outlining his circumstances and request.

By way of background, CARA participation in this project included both a Developer Partnership in the amount of $542,500 to assist with project costs of $5.4 million as well as a forgivable loan in the amount of $200,000. The latter piece is the portion of the CARA funding package that is coming before you for modification.

The forgivable loan was put into place to incent the building owner to work to fill the space with a restaurant—a use that was desirable to staff and the CARA Advisory Board. The contract, dated December 3, 2008, outlined the specific terms of forgiveness as follows:

- A lawfully operating restaurant must be located within the subject premises.
- The restaurant must have seating area of at least 2,500 square feet and must be equipped to serve not fewer than 200 patrons at any one time.
- The restaurant must be open for business a minimum of five days a week, and provide regular lunch and dinner service.
- The restaurant must have cooking, cleaning, and storage facilities on site.
- The restaurant must have a lease with not fewer than five years remaining on all of its premises and facilities.
- Documentary proof has been provided to CARA that not less than $200,000 has been expended in the construction of restaurant facilities on the premises.

Mr. Mikesell outlines his efforts to find a restaurant to fill the space and meet the terms for forgiveness.

His letter requests two modifications:

1. An additional two years to try to get a restaurant in the space and comply with the terms of the contract.
2. He requests that at the end of the additional two-year term that CARA forgive the loan amount regardless of whether or not they've placed a restaurant in the space.

Budget Impact

Funds for this project have already been expended. This is not a request for additional funding but could affect a receivable of $200,000 should you choose to remove the requirement of repayment of the forgivable loan in the case of noncompliance.

Staff Analysis

Mr. Mikesell has been an excellent partner throughout the entire development process. His building is of top quality and a great example of a public-private partnership. The impacts of the Great Recession are evident in different ways throughout our community, and staff believes a lack of a restaurant in this space is another example. Mr. Mikesell has proven his ability to market and lease-up his building. In the case of the salon and spa, they've even weathered, not one, but two tenant departures in the space and kept it in operation.

Staff supports approval of the two-year extension, but I have hesitations about the total forgiveness of the loan after two years. If your desire is still to incent a restaurant in the space, I would propose that you allow for the two-year extension, then revisit the terms of the agreement only if necessary in the future.

KCP:ldh
Attachments

G:\Economic Development\CARA\CARA Advisory Board\2014\Staff Reports\06.18.2014 Mikesell Forgivable Loan Modification.docx

R3 DEVELOPMENT, LLC
3015 SALEM AVE SE
ALBANY, OR 97321

May 23, 2014

Central Albany Revitalization Area
Attn: Kate Porsche
PO Box 490
Albany, OR 97321-0144

Dear Kate:

I am writing you in response to the letter from Central Albany Revitalization Area (CARA) dated May 5, 2014. In your letter you are requesting repayment of the $200,000 forgivable loan provided to R3 Development, LLC in September 2009. I respectfully request CARA reconsider this request based on a multitude of factors.

R3 purchased the JC Penney Building in 2008 with the idea of rehabilitating an older, run down building and generating activity in downtown Albany. This goal is foundational in CARA's work and therefore R3 requested CARA to come along side and help build something special in downtown.

Something special did happen. R3 was able to keep two professional service businesses in downtown (Post Law, and Acumen Financial), while also drawing two national tenants into downtown (Fidelity Title, and Country Financial). In fact Country Financial did not have a physical presence within Albany at all prior to moving to their space within the building. Additionally, R3 worked very hard to maintain a spa and salon in the building and has fought through two tenant departures in that space which has never gone dark since opening.

Unfortunately, R3 has yet to find a viable restaurant tenant to lease the 3,300 square feet available and designated for restaurant use. At the time of the loan, there was no way to predict the difficulty and limitations of lending for start-up investors. R3 spent well over $200,000 in infrastructure in preparation for a restaurant tenant. The front operational windows, a grease trap system, additional power, and a ventilation system are already in place as we attempt to place a restaurant in the space.

In an effort to satisfy our obligation to CARA, R3 has turned down multiple tenant offers for the space which were not for restaurant use, which cost R3 $173,250 (estimated 30 months rent to date). We understood the parameters of the loan and worked hard to fulfill them, even in a down economy. The only use of the space thus far has been for donations to the City of Albany and other charitable organizations for some of their special events.

Based on this set of facts R3 will dedicate two more years to finding a restaurant tenant for the space, potentially costing us an additional $138,600 if we are unable to secure that specific type of tenant. If, after two additional years we are unable to place a restaurant tenant in the space, then we will place a non-restaurant tenant in the suite. At the end of this two year additional term we request that CARA forgive the loan amount of $200,000.

Please contact me at your convenience to discuss the situation.

Sincerely,

Rick Mikesell
Owner