



County of El Dorado

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July 20, 2011

Board of Supervisors
County of El Dorado
330 Fair Lane
Placerville, CA 95667

Re: Placerville Redevelopment Project

RECOMMENDATION

Staff recommends that the Board, with Supervisors Briggs and Sweeney recusing themselves due to a conflict of interest, (1) consider introduction, and waiver of first reading, of an ordinance (attached as Exhibit "A") repealing Ordinance 4952, an Ordinance Authorizing the Redevelopment of Certain Territory of the County of El Dorado by the City of Placerville ("City") and the Redevelopment Agency of the City of Placerville ("Redevelopment Agency"), and readopting its provisions; and, (2) consider introduction, and waiver of first reading of an ordinance (attached as Exhibit "B") approving the Redevelopment Plan for the Placerville Redevelopment Project as it pertains to the unincorporated territory included in the Redevelopment Plan.

DISCUSSION

The Project:

In May 2010, the City of Placerville initiated the process to prepare a redevelopment plan for certain commercial areas of the City that suffer from physical and economic blight. This action stemmed from the completion of a Redevelopment Feasibility Study completed in January 2010 which recommended that the City proceed with formation of the City's first redevelopment plan and project area encompassing the Placerville Drive, Downtown and Broadway commercial districts. The Redevelopment Feasibility Study also recommended redevelopment of the adjacent unincorporated areas of Smith Flat, Motor City, and two small areas on the westerly boundaries of the City (the "County Areas"), which are within the City's sphere of influence.

Establishment of a redevelopment project area and adoption of a redevelopment plan would establish a 30-year program for revitalization and redevelopment. With this tool, the Redevelopment Agency could assist private property owners and businesses with a variety of infrastructure, façade, and more substantial improvements to alleviate blighted conditions in a

manner that complements the City's role in the implementation of the regional economic development mission in the County to attract jobs and stimulate the commercial base.

The process to adopt a redevelopment plan and project area is prescribed in the California Community Redevelopment Law, Health and Safety Code Section 33000 *et seq.* (the "CRL"). The process involves preparation of several documents, meetings with the City's Planning Commission, Redevelopment Agency, and City Council, and consultations/notices to affected taxing agencies and the general public, culminating in a noticed public hearing at the conclusion of the plan adoption process. Because the project area includes the County Areas, the Board of Supervisors must be included in the process.

CRL Section 33213 provides the authority for the Board of Supervisors to authorize the redevelopment of the County Areas by the City and Redevelopment Agency. That section contemplates the adoption of two ordinances by the Board of Supervisors — a first ordinance authorizing the redevelopment of the County Areas by the City and Redevelopment Agency and a second ordinance approving the redevelopment plan as it pertains to the County Areas.

On October 26, 2010, the Board of Supervisors adopted Ordinance No. 4952 authorizing redevelopment of certain territory of the County of El Dorado by the City of Placerville and the Redevelopment Agency of the City of Placerville, provided, however, that any redevelopment plan that includes the County Areas shall not be effective unless and until it has been approved by a future ordinance adopted by the County. The attached ordinance approving the redevelopment plan is being presented to the Board of Supervisors for consideration at this time. (Because of certain conflict of interest issues, staff is recommending repeal of Ordinance 4952 and re-adoption of its provisions as discussed below.)

The proposed Redevelopment Plan presents a process and framework from which the Redevelopment Agency may implement redevelopment in the proposed Project Area over a 30-year period. Due to its long-range perspective, the Redevelopment Plan follows the customary approach of providing the Redevelopment Agency the authority and tools to implement projects and programs that would be formulated by the Redevelopment Agency and considered over the term of the Redevelopment Plan. The Redevelopment Plan has been prepared in accordance with the Redevelopment Law. The proposed Redevelopment Plan is attached to the ordinance as Exhibit D.

The Redevelopment Plan consists of nine sections and includes four attachments, as further described herein:

1. Section 100 (Introduction): This section describes the purpose and goals of the Redevelopment Plan. It specifies that unless and until the County Areas are annexed to the City, the Plan permits a continuation of the land use designations under the County General Plan as set forth in Section 401 of the Plan.
2. Section 200 (Description of the Project Area): This section references the official map and legal description of the Project Area.

3. Section 300 (Proposed Redevelopment Actions): This section describes the general nature of redevelopment actions that may be undertaken by the Agency over the 30-year duration of the Plan. These include, but are not limited to: providing for participation in redevelopment by property owners and business occupants in the Project Area, cooperation with other public bodies as appropriate, property acquisition (excluding the power of eminent domain over real property occupied as a residence), relocation of persons, businesses or other displacees as a result of redevelopment, guidelines for property disposition and development, and affordable housing obligations.

The Plan provides that the Redevelopment Agency shall not use the power of eminent domain to acquire real property within the County Areas until the County Areas shall have been annexed to the City. In addition, on June 28, 2011, the Redevelopment Agency adopted a resolution prohibiting the use of eminent domain to acquire any property in the Project Area.

4. Section 400 (Uses Permitted in the Project Area): In general, all land uses and land use policies shall be those set forth in the General Plan, as it exists today or is hereafter amended. The Redevelopment Plan does not propose a different set of land use controls from the General Plan, zoning ordinance or other community guidelines and standards.

Within the County Areas, uses that are in conformity with the County General Plan, as it currently exists or as it may from time to time be amended, shall be permitted uses under this Plan until such time as the County Areas shall have been annexed to the City. The County retains land use and building permit approval authority over projects in the area, unless and until the areas are annexed to the City. With respect to Agency projects, the County retains jurisdiction over its public rights of ways and any redevelopment project affecting those rights of way are subject to County approval, unless and until the areas are annexed to the City.

5. Section 500 (Methods of Financing the Project): Although the Agency is constitutionally prohibited from levying or raising tax rates, the Agency is permitted to use a number of different sources of financing for redeveloping the Project Area, and the Plan permits the Agency to collect tax increment revenue for a 45-year period following adoption of the Redevelopment Plan. The Agency may issue bonds using such financing sources, subject to the limitations of the Plan including a \$70 million limit on the amount of bonded debt that may be outstanding at any one time. Any bonds issued by the Agency are not a debt of the City or other public agency, and only Agency funds or properties may be used to meet these obligations.
6. Section 600 (Actions by the City): The City shall cooperate in the implementation of redevelopment of the Project Area, and may be responsible for undertaking actions to facilitate project and program completion, such as provisions of loans or advances to the Agency if necessary, revision of zoning or other land use policies, and providing administrative enforcement of the Plan. Each year, the City will receive an annual report from the Agency, consisting of various financial and performance metrics as required by the Redevelopment Law, and such reports shall be prepared based on independently audited financial statements and transmitted to the State Controller and Department of Housing and Community Development.

7. Section 700 (Enforcement): The Agency is authorized to enforce the Redevelopment Plan, as well as the City, as necessary.
8. Section 800 (Duration of this Plan): The Plan is effective for 30 years, and the Agency may collect tax increment revenue to pay for project costs for a period of 45 years.
9. Section 900 (Procedure for Amendment): The Plan may be amended from time-to-time, in a manner prescribed by the Redevelopment Law.
10. Attachments 1-4: The Plan contains four attachments, a legal description of the Project Area, a Project Area map, a map of General Plan land uses within the Project Area, and a list of the proposed public improvements and facilities projects.

The proposed Redevelopment Plan and related program-level environmental impact report (“EIR”) were considered at a joint public hearing of the Redevelopment Agency and City Council on April 12, 2011. On that date the Redevelopment Agency certified the Final EIR. On May 10, 2011, the City Council adopted the Redevelopment Plan, which will go into effect 90 days following the adoption.

The Redevelopment Agency is the lead agency for purposes of complying with the California Environmental Quality Act. On April 12, 2011, the Redevelopment Agency certified a Final Environmental Impact Report for the project. The certified EIR is a program EIR. As a responsible agency, the County need not certify an EIR. But, it must consider the EIR prepared by the lead agency and make findings and a statement of overriding considerations if warranted. A responsible party is responsible for only those environmental impacts of those parts of the project which it decides to carry out, finance, or approve. Since the redevelopment plan is not project specific, but only provides a broad outline of the powers of the Redevelopment Agency, it is not possible to segregate out the environmental effects of adopting the redevelopment plan for the County Areas as opposed to those parts of the redevelopment plan that apply to property in the City. Therefore, it is recommended that the Board of Supervisors adopt the same findings the City made. Since the City and the Redevelopment Agency will be carrying out the redevelopment activities in both the incorporated City territory and the unincorporated County territory, and the County’s only action is to authorize that redevelopment activity, staff recommends that the Board adopt the same mitigation monitoring plan as the City adopted with the same monitoring parties responsible for monitoring the mitigation, with the following clarifications and modifications as to projects in the County Areas:

- a. For any redevelopment activities carried out by the Agency or the City, the respective Agency or City officers shall be the monitoring parties as specified in the Mitigation Monitoring Plan;
- b. For any private development projects which have entered into a participation agreement or is otherwise receiving Agency funding or assistance for said project, upon notification to the County by the Agency, the mitigation measures shall be implemented as specified in the Final EIR, except that County officials shall be substituted for City officials as

the monitoring parties. With respect to such projects, the County's Director of Development Services shall be substituted for the City's Community Development Director, the County's Chief Building Official shall be substituted for the City's Building Official, and the County's Director of Transportation shall be substituted for the City's Public Works Director, in the Mitigation Monitoring Plan. Such projects shall be referred to the Agency for a determination as to whether the proposed project is consistent with the Redevelopment Plan and for comment as to whether the complies with the Final EIR. Nothing shall prevent the County from requiring additional environmental review for such projects.

- c. For any private development projects not participating in redevelopment activity, the normal County approval processes shall apply, except that such projects shall be referred to the Agency for a finding of consistency with the Redevelopment Plan; provided that such finding shall be made if the project is consistent with the County's General Plan. The County hereby finds that such projects not participating in redevelopment activity either by means of entering into a participation agreement or otherwise receiving Agency funding or assistance for said project are not encompassed within the scope of the Final EIR, and such project shall not be subject to any special review pursuant to the Final EIR.

The referral to the Agency for a finding of consistency with the Redevelopment Plan of projects not involved with redevelopment activity is the only additional processing requirement for such projects. The Agency is bound to find a project consistent if it is consistent with the County's General Plan. Projects which are involved with redevelopment, either through a participation agreement or receipt of funding or other redevelopment assistance, in addition to referral to the Agency for a finding of consistency with the Redevelopment Plan, may have mitigation measures from the Final EIR applied in addition to those typically applicable to the County's CEQA process.

Conflict of Interest:

Because several members of the Board had potential financial interests in or near the Redevelopment Area, an advice letter was requested from the Fair Political Practices Commission ("FPPC") to get a clear understanding of the potential conflict of interest issues involved, and to determine whether any or all of the Supervisors were prohibited from acting on the Redevelopment Plan. Those were Supervisors Briggs, Sweeney and Nutting. Supervisors Knight and Santiago had no financial interests in the Redevelopment Area. The advice letter received from the FPPC is attached as Exhibit "C." In summary, the letter concludes that Supervisor Briggs and Supervisor Sweeney have disqualifying conflict of interests due to their ownership of real property in and near the Redevelopment Area. The FPPC concludes that Supervisor Nutting does not have any conflict of interest because his only relationship to the Redevelopment Area is the fact that he acts as trustee for his brother's trust which holds property in the Redevelopment Area. Since a person who acts solely as a trustee of a trust is not deemed to have any interest in the property of the trust (Regulation 18234), Supervisor Nutting does not have a conflict of interest.

For this reason, it is recommended that Supervisors Briggs and Sweeney recuse themselves from any action on the Redevelopment Plan. Because there are a sufficient number of supervisors who do not have a conflict of interest to constitute a quorum of the Board, and to act on the ordinance, there is no need to apply the doctrine of “legally required participation.”

The FPPC advice letter did not expressly consider the action of the Board on October 26, 2010, to adopt Ordinance No. 4952. There are some differences in the situations between that action and the one contemplated today. Also, there were enough votes of supervisors without conflicts of interests to pass the ordinance. However, out of an abundance of caution it is recommended that the Board, with Supervisors Briggs and Sweeney not participating, adopt an ordinance which repeals Ordinance No. 4952, and readopts its provisions if it wishes to proceed with the authorization to redevelop property in the County.

FISCAL IMPACT

The costs to prepare and adopt the redevelopment plan are the responsibility of the City of Placerville and Redevelopment Agency of the City of Placerville. There may be loss of some portion of tax increment from the County Areas. This loss is speculative, however, since there is no indication of when the property would develop absent redevelopment, or even with redevelopment, and a portion of the tax increment will be returned to the County.

ACTIONS TO BE TAKEN FOLLOWING APPROVAL

Staff will bring the item back for adoption of the ordinances. They will then be transmitted to the City.

We would be pleased to answer any questions the Board might have.

Respectfully submitted,



Theresa Daly
Chief Administrative Officer

- Cc: Cleve Morris, Placerville City Manager w/o att. D, E &F
.: Exhibit A - Ordinance Repealing Ord. No. 4952 and Readopting its Provisions
Exhibit B - Ordinance Approving Redevelopment Plan w/ Findings and Mitigation
Monitoring Plan
Exhibit C - FPPC Letter
Exhibit D - Draft EIR
Exhibit E- Final EIR
Exhibit F - Agency's Report to City Council