



Community Services Department
701 Laurel Street/Menlo Park, CA 94025-3483
(650) 330-6706/Fax (650) 327-1759

MEMORANDUM

DATE: September 1, 2010
TO: Housing Commission
FROM: Cherise Brandell, Community Services Director

SUBJECT: Proposed Below Market Rate (BMR) Agreement for Beltramos

SITE LOCATION

The developer, Beltramo's Investment Company, has obtained entitlements to build a mixed use development of 26,800 square feet in two stories of office at 1460 El Camino Real and 16 townhomes with garages one-half story down extending to San Antonio Avenue on property adjacent to their retail wine facility.

BACKGROUND

On August 1, 2006, the City Council approved (4-0, with Council Member Cohen recused) land use entitlements for development of a 26,800 square-foot, two story commercial building and 16 attached residential units on four parcels, containing the addresses 1452 and 1460 El Camino Real and 1457 and 1473 San Antonio Street, which are collectively known as 1460 El Camino Real. The specific entitlements are listed below:

1. Rezoning – The property was rezoned from C-4 (General Commercial District, Applicable to El Camino Real) to PD (Planned Development District);
2. Planned Development Permit (PDP) – The permit established specific uses and development regulations and architectural designs;
3. Vesting Tentative Subdivision Map – The map merged four parcels and subdivided the land into 18 lots, including 16 residential lots, one common

lot for the residential units, and one commercial lot for condominium purposes with a maximum of 40 commercial condominium units;

4. Below Market Rate (BMR) Housing Agreement – The agreement provided three below market rate units on-site;
5. Heritage Tree Permit – The permit allowed for the removal of one heritage tree; and
6. Environmental Impact Report (EIR) – The EIR analyzed potential environmental impacts as a result of the project.

Those entitlements are due to expire on August 1, 2010. Beltramo's has applied for an extension of those entitlements.

Residential Development Component

The applicant is proposing to construct 16 residential units and a separate recreation building on the rear half of the property facing San Antonio Street. The development would offer five different floor plans, ranging in size from 1,390 square feet to 1,481 square feet (excluding the garages). Fourteen of the proposed dwelling units contain two stories of living area above a partially submerged, two-car garage. Two of the units would have a surface-level, two-car garage on the same floor as the first floor living area. These two units would be three-bedroom, three bathroom units while the remaining 14 units would be two-bedroom units with two and one-half bathrooms.

As part of the proposed project, the applicant is requesting approvals that would allow for the creation of fee simple lots for each of the residences, which then could be individually sold. Each lot would belong to a homeowners association (HOA) and would adhere to CC&Rs developed for the proposal. Since CC&Rs are required to be prepared for both the commercial and residential portion of the project, the applicant will have the option to prepare separate CC&Rs for the two portions of the project or a single document that addresses both the commercial and residential portions of the project. The CC&Rs are required to be recorded simultaneously with the Final Map that serves to create the lots.

The 16 townhouse-style, residential units have been arranged on the site in five separate groups, including two buildings of two units, two buildings of three units, and one building of six units. The front entry for each residential unit would vary throughout the development. Along San Antonio Street, two of the units would have front entrances facing the street while the remaining four would have side entrances with a covered porch feature facing San Antonio Street. Since the finished first floor of many of units would be above grade, a short flight of steps would lead up to each covered entry porch. The front entries and porches along

San Antonio Street put eyes on the street and tend to create a more inviting streetscape.

In general, the front entries of the residential units would not face one another, but instead the garages would face one another. Building 5 with three units, however, would have front entrances on the same side as the garage doors. This is typically the rear elevation of other units, and therefore, does not have as many details and articulation as the other front elevations. Since the last Planning Commission meeting, the applicant has made a modification to Building 5. The previous west elevation included a break in the second story roofline that softened the appearance and broke up the massing of the structure. The proposed elevation of the two similar units would be on one plane. The Planning Commission may wish to consider whether the design is appropriate and comparable to the other units in the development.

The proposed residential units would have a contemporary townhouse design. The proposed materials include stucco finish, vinyl windows with simulated divided light, and clay tile roofs. Staff has asked for further clarification on the proposed windows and would recommend vinyl clad wood windows or better quality condition. Design features would include covered porches with wood railing and posts, wooden trellises over the outdoor patio areas, chimneys with a stucco finish matching the rest of the building, and a mix of gabled and hipped roof features. Shallow curved arches over the front entries and over the covered porches would be repeated in the curved arched windows. The height of the residential buildings would be approximately 33 feet from average natural grade measured to the topmost point of the structure. As further discussed below, the proposed height requires an exception through the PD zoning request.

The proposed exercise building is a separate sixth building located at grade, adjacent to the pedestrian access from the commercial lot. The exercise room would be approximately 300 square feet and the exterior of the building would utilize matching materials such as stucco finish and clay tile roofing. The one-story building would be 11feet, 10 inches in height, which would be in scale and context of the residential buildings. The exercise room is an amenity that would be used to serve the residences and their guests only.

BMR Housing Program Requirement

The BMR Program requires that 10 percent of all units be sold as part of the BMR Program at a price determined by a formula that takes into account a prototypical household income and housing expenses that do not exceed 35 percent of that income. In this case, a single whole unit would be expected for the first 10 units, creating a bonus unit that would be exempt from in-lieu fees. The remaining five units would contribute in-lieu fees in the amount equal to

three percent of the sales price of those units. If the units sold for \$850,000, the total in-lieu fees for those five units would be \$127,500.

The City's BMR Program applies to any commercial development which includes more than 10,000 square feet of new building area or more than 10,000 square feet of building area converted from an exempt use to a non-exempt use or from a Group B use (all other commercial/industrial uses) to a Group A use (office/research and development). Exempt uses are private schools and churches, public facilities, and projects that generate few or no employees. Since the proposal is for new commercial square footage in excess of 10,000 square feet, it is subject to the BMR Program requirements.

Section 16.96.030 of the Zoning Ordinance and Section 3 of the BMR Guidelines provides various alternatives to mitigate the demand for affordable housing created by commercial development projects. The alternatives include: (1) on-site BMR units if housing is allowed by the zoning district in which the proposed project is located; (2) off-site BMR units; and (3) if neither on-site nor off-site units are feasible, payment of an in-lieu fee prior to issuance of building permits. The Commercial Linkage fee for the commercial portion of the project would be approximately \$284,000, depending on the uses in the existing commercial space at the time the building permit is issued.

Beltramo's BMR Agreement and Proposed Changes

There is currently a BMR Agreement in place for the Beltramo's project, approved by City Council at the time the project was approved. The agreement calls for three of the 16 housing units to be included in the City's BMR Program. With the changes in the residential real estate market over the past two years and with a better understanding of the price at which the BMR units would be sold, Beltramo's has determined that the project is infeasible with that agreement in place and has requested that a new BMR Agreement be approved. Negotiations followed their request, as summarized below.

1. Beltramo's submitted a request on April 6, 2010 (Attachment A) that provided a pro forma detailing the fiscal impacts of three BMR units versus in-lieu and commercial linkage fees. The request was that the BMR Agreement be altered to only payment of fees, totaling \$408,000 for the in-lieu fees and \$207,348 in commercial linkage fees (their calculations did not correctly account for existing uses in the existing commercial space).
2. City's staff countered on June 1, 2010 (Attachment B) with the contribution of one BMR unit, to account for the first 10 market rate units and allowing one bonus unit, with in-lieu fees of 3% paid on the remaining five market rate units at the time of sale. Commercial linkage fees of \$284,148 would be paid on the commercial development (this figure may also be erroneous depending on the actual uses of the existing commercial

- properties at the time the building permit is issued). The City also requested that 50 percent of all revenues above the project \$850,000 sales price of the 15 market rate units be given to the City to adjust for the loss of the additional two BMR units.
3. On June 18, 2010 (Attachment C), Beltramo's responded to the City's counter proposal with agreement to the one BMR unit and the in-lieu and commercial linkage fees. Alternatively, they suggested paying a four percent in-lieu fee on all 16 units (rather than one BMR and three percent in-lieu on five units), amounting to a projected \$544,000 based on an average sales price of \$850,000. They rejected any share of revenues above the projected sales price.
 4. On July 9, 2010 (Attachment D), City staff countered with a proposal of the previously agreed upon one BMR unit, in-lieu fee, and commercial linkage fee and requested 35 percent of additional revenues above an average sales price of \$875,000.
 5. Beltramo's responded on July 27, 2010 (Attachment E), again offering the one BMR unit, in-lieu fee, and commercial linkage fee. They also offered 25 percent of additional revenues on average sales above \$1.225 million of the 15 market rate units.
 6. On August 4, 2010, the Housing Commission requested that the City Attorney continue negotiations with Beltramo's to arrive at an acceptable schedule for graduated participation in the revenue sharing component.
 7. Beltramo's responded to the Commission's request with a proposal dated August 13, 2010 (Attachment F), offering 10 percent of additional revenues on an average sales price between \$1,050,000 and \$1,100,000, 15 percent of additional revenues on an average sales price between \$1,100,001 and \$1,150,000, or 20 percent of additional revenues on an average sales price of \$1,150,001 and above, conditional on total project costs at or below \$21,958,351. These revenues would be in addition to the one BMR unit and in-lieu and commercial linkage fees already agreed to by both parties.

Beltramo's defense of their claim of infeasibility stems from their inability to realize an industry standard developer's profit based on a below average construction cost allowance and less than current market land values (Staff summarization of Beltramo's position may not adequately express their opinion, but they will have an opportunity to better state their side at the commission meeting). While the City acknowledges these calculations and the potential that the developer will not be able to realize the profit expected from such a development, Staff maintains that the entitlements were awarded based on the approved BMR Agreement (three BMR units) and the weight of that agreement in the award of those entitlements cannot be known at this point. Staff seeks to ensure that if the project exceeds the developer's current expectations the loss of the two additional BMR units is somewhat compensated beyond the fees paid,

which, alone, will not be sufficient to purchase two comparable units to add to the BMR inventory.

Recommendation

Staff is neutral on the latest proposal by Beltramo's. Staff views the proposal as marginally better than the previous offer and substantially better than the original all in-lieu fee request. The latest proposal appears to meet the objectives proposed by the Housing Commission at the August meeting. Staff will defer to the Housing Commission for their recommendation to send the last proposal to the City Council or to continue negotiations.

ATTACHMENTS

- A. [Beltramo's Proposed BMR Housing Agreement Revision, April 6, 2010](#)
- B. [City Counter Offer, June 1, 2010](#)
- C. [Beltramo's Response to City Counter Offer, June 18, 2010](#)
- D. [City Counter to Beltramo's Response, July 9, 2010](#)
- E. [Beltramo's Offer, July 28, 2010](#)
- F. [Beltramo's Latest Offer, August 13, 2010](#)

H:\\Housing Commission\Memos\2010\090110 – BMR Agreement Beltramos.doc