

Minutes of the Redevelopment Agency meeting held on Tuesday, March 20, 2012 at 4:00 p.m. in the Murray City Council Chambers, 5025 South State Street, Murray, Utah.

Present: Darren Stam, Chairman Mayor Snarr
 Jim Brass Jan Wells, Chief of Staff
 Brett Hales Doug Hill, Public Services Director
 Jared Shaver Frank Nakamura, City Attorney
 Dave Nicponski Michael Wagstaff, Executive Director
 Tim Tingey, Executive Director
 Chad Wilkinson, City Planner
 Mary Ann Kirk, Cultural Arts
 Citizens

Chairman Darren Stam opened the meeting.

APPROVAL OF MINUTES

Jim Brass made a motion to approve the minutes from January 17, 2012. Seconded by Jared Shaver.

A voice vote was made. The motion passed, 5-0.

DISCUSSION AND DECISION ON THE FIRECLAY VILLAGES PROJECT COLOR SCHEME

Tim Tingey stated that this item was discussed last month, and highlighted a few of the points contained in his memo to the RDA dated March 14, 2012. He said that the RDA has been involved in this project due to the Participation and Development Agreement that was entered into with the developer. He said that there is wording in the agreement that states that the participant, which is Fireclay Investment Partners, agrees to develop the commercial and residential properties substantially in accordance with the concept plan and development standards. He said that the colors placed on the buildings recently are not consistent with the original color scheme presented in the concept plan. Mr. Tingey said that he has communicated his concerns about the color choices to the developer and their representatives. He stated that he recognizes the importance of vibrant colors in a project, and that they work well as accents. He said that the colors originally presented were earth tones that fit in the area and are more aesthetically pleasing and timeless. He said that he is recommending denial of the current color scheme configurations, and requests that the developer use colors similar to the original proposal or submit additional concept plans and colors for review.

Jared Shaver asked if the colors have been discussed with anyone else besides the developer. Tim Tingey stated that staff has discussed the color scheme and are in agreement with his recommendation. Mr. Shaver said that in relation to the tour of the site earlier in the day, it has been mentioned that vibrant colors used in similar developments are attracting a specific demographic resulting in higher rent and lease rates. He asked if this increase is related to location, color or style of the project or if this can be accurately determined. Mr. Tingey stated that he understands color choices are subjective, and his concern relates to the timeless appearance of the development. He said that he thinks the proposed colors are trendy and would be more appropriate as accents.

Mayor Snarr stated that the exterior colors could be changed in the future if it is determined that the project is not attracting the level of occupancy desired. He said that viewing the marketing materials for the development and seeing the environment firsthand changed his perspective. Tim Tingey stated that

this development is near TRAX, and numerous people will see it every day. He wants to ensure that the project is conducive to the environment that the RDA has envisioned for this area.

Dave Nicponski said that the developer's interest is financial. Darren Stam agreed and said that the color scheme could be changed quickly if it is determined that there is a negative impact on leasing. Jared Shaver asked if there is anything specified in the agreement related to color scheme besides the rendering that was originally submitted. Tim Tingey reiterated that the agreement states that the property will be developed substantially as presented in the Concept Plan. Mr. Shaver stated that it seems there is some leeway based on the wording in the agreement. Mr. Nakamura stated that the initial rendering is an exhibit to the development agreement, and that the RDA is in a position to have input on the color scheme because of their financial contribution.

Jay Minnick is the developer of this project. He said that they have a project in Herriman called Farm Gate that has 495 units and a similar, bold color scheme. He stated that Farm Gate stays almost fully leased and has been very successful. He said that the target market is the age group from eighteen to forty years old and exhaustive studies have been done that indicate this is the type of development this age group is interested in. Mr. Minnick said that the colors can be changed in the future if it is necessary to do so. He stated that there are varying opinions related to the color schemes due to individual tastes and that the primary objective is to attract the identified rental profile and bring people to Murray. He said that his corporation is a taxpayer in Murray and has some employees that reside in this City.

Jim Brass stated that there are two projects completed in Herriman, and one has bold colors and the other does not. He asked if there is any difference in rental income between the two. Mr. Minnick said that the rents are within \$100, with the Farm Gate project being more expensive to rent.

Dennis Poole stated that as Legal Counsel, he believes his job is to offer an objective perspective. He said that the RDA has provided objective standards through the Design Guidelines that were adopted for the Transit-Oriented District. He stated that the guidelines have some vibrant colors, and that this project shouldn't be viewed in terms of personal preference. He said that the guidelines allow diversity and color, and there is an adjacent project that has bold colors. Mr. Poole said that the design professional will attest that the proposed colors make business sense and that simply not liking a color is not sufficient reason to deny its use in a project. He said that the RDA is representing Murray citizens and therefore decisions must be based on objective reasoning. He stated that these vibrant colors can be found in various locations throughout the City.

Jared Shaver stated that in his opinion the objective decision that needs to be made is whether the project has been substantially changed, and it is not about using blue, green or orange. He said that the wording in the agreement states "substantially" and that this word needs to be clarified because the project was represented in one way, and has now been changed.

Mr. Poole stated that he has not identified anything in the development agreement that addresses color. He said that in one of the amendments, the elevation was attached and it was stated that the RDA approved the elevation. He stated that the elevation had color, but the intent was not to be bound by the color shown on the elevation. He said that everyone has the same interest in making this a good urban project that will attract people.

Ginger Williams stated that in the rendering there is yellow, red, gray and black and in fact every one of the proposed colors are in the rendering. She said that she spent eight years in Boston, which is a historical and timeless city. She stated that Boston is filled with bold color everywhere you look. She stated that the proposed colors are not a fad and that outside of Utah these colors are common and timeless. Ms. Williams stated that using these colors will make this project successful.

Frank Nakamura stated that development agreements rely on exhibits to represent projects because agreements cannot be drafted to address every detail of each project. He said that the RDA has input as to whether the current project meets what was desired and previously approved in the agreement.

Darren Stam stated that there are two decisions that need to be made. The first is whether the current design is consistent with the intent of the agreement, and the second is whether the changes will be accepted.

Tim Soffe stated that the original rendering, which is Exhibit A to the development agreement, was not prepared with the intention of being color specific. He said that the rendering was meant to specify architectural character, motif and building materials. He stated that as far as substantial conformance, the architecture displayed in the rendering is the same as what is being built at the site. Mr. Soffe said that when colors and materials are being proposed, there is generally a board of samples including stucco, trim and glass. He said that the color scheme on the rendering was added to differentiate materials and design aspects. He stated that initially he didn't favor the proposed colors, but seeing them used in the Farm Gate project changed his mind. He said that Daybreak has very vivid colors that are mandated and contribute to the flavor of the area. Mr. Soffe said that he doesn't believe it is the responsibility of the architect to determine color.

Jim Brass said that if the color scheme is accepted then it will likely require a change to the development agreement. Frank Nakamura concurred. Mr. Brass said that he isn't thrilled with the colors, and the handouts don't accurately reflect them. He said that color selection is subjective, and that the RDA doesn't want to create impediments to building. However, he reiterated that the RDA does have a financial interest in this particular project. He stated that the colors will draw attention to the area which is the ultimate goal.

Jim Brass made a motion to accept the changes. Seconded by Brett Hales.

Jared Shaver stated that in this instance he is willing to trust the expert opinions offered related to the color selection.

Call vote recorded by Tim Tingey.

A Jim Brass

A Brett Hales

A Jared Shaver

A Dave Nicponski

A Darren Stam

Motion passed, 5-0.

DISCUSSION AND DECISION ON AN AMENDMENT TO THE FIRECLAY INVESTMENT PARTNERS PARTICIPATION AND DEVELOPMENT AGREEMENT RELATED TO THE COMMERCIAL SPACE IN PHASE 1

Darren Stam introduced this agenda item. Tim Tingey stated that the first amendment to the development agreement contained wording related to the configuration of the phases, including the living unit count and commercial square footage. He said that the agreement states that Miller Development Company and affiliates intend to occupy approximately 6,000 square feet of office space for 25 employees in Phase 1. He stated that the developer has an opportunity for a retail fitness facility to locate in this space and have requested an amendment to the development agreement to allow this change. Mr. Tingey stated that his concern related to the proposed change is ensuring that commercial space is maintained in the development. He said that he would like more information about the company that is looking at leasing the space because he doesn't want this to be an extension of the amenities offered for the residential units. He said that the developer has assured him that this is a separate retail space for a fitness facility, and due to this assurance he is recommending approval of the proposed modification.

Jared Shaver asked what will happen if this space isn't leased for a long period of time and who is responsible for maintaining a commercial tenant there. Tim Tingey responded that it is the responsibility of Miller Development to lease the space either as commercial, retail or office space as allowed by the zone.

Jay Minnick stated that initially his company was concerned about trying to locate commercial or retail businesses in this area so they decided to fill the commercial space with their company headquarters. He said that over the last few months there has been significant interest expressed about this site, and the potential tenant for this space is similar to The Biggest Loser camp currently in St. George. He said that the clients would occupy apartments above the clubhouse facility and commercial space. He explained the daily activities that would take place related to this business.

Jared Shaver stated that it seems confusing that clients will be living on site specifically to use this facility and questioned how this is different from an amenity. Jay Minnick said that people will be coming in from all over the country and staying for a few months. He said the living and commercial uses are separated and confirmed that there will be a lease agreement for each use. He said that the public will be welcome at that facility to participate in classes or training. Tim Tingey stated that he does not want this facility to be converted to an amenity over time and that the space must be maintained as commercial. Jared Shaver requested that this be clearly specified in the amendment language. Dennis Poole clarified that a tenant in the complex can pay to use this facility just like any other individual. Jim Brass agreed.

Jared Shaver made a motion to adopt the proposed amendment to the Fireclay Investment Partners Participation and Development Agreement. Seconded by Brett Hales.

Call vote recorded by Tim Tingey.

A _____ Jim Brass

A _____ Brett Hales

A _____ Jared Shaver

A _____ Dave Nicponski

A _____ Darren Stam

Motion passed, 5-0.

DISCUSSION ON FIRECLAY AREA TRANSPORTATION ISSUES

Mr. Tingey stated that these issues were recently outlined in Council communications. UDOT and UTA have voiced concerns related to the safety of the rail crossing at Fireclay Avenue. City staff has met with representatives of both entities and were advised that a number of issues need to be addressed prior to occupancy of the Fireclay Villages apartments. Mr. Tingey asked Doug Hill, Public Services Director, to provide details related to this situation.

Doug Hill said that City staff is still in the process of negotiating with UDOT and UTA and that there is a meeting scheduled for this coming Thursday. He said that there is a State law mandating that any development within 1,000 feet of a railroad crossing needs to be approved by UDOT and UTA. He said that City staff was unaware of this law, and that plans were not submitted to either entity for approval. He said that UDOT and UTA have determined that this railroad crossing unsafe and he concurs with the safety concerns. He said that the gates are not the correct type and the road plan is not in compliance with what UDOT and UTA want in this area. Mr. Hill said that he has been advised that these improvements must be made before occupancy is permitted at this site. He stated that this is challenging because the developer plans to start allowing occupancy within the next month. He said that the City doesn't own right-of-way for some of this property and staff would have to work with property owners to purchase land. He stated that funding is the primary concern because nothing has been budgeted to make these improvements. He said that as this issue is negotiated, funding will be discussed in more detail. Mr. Hill said that funding may be requested from the RDA as this site is in a redevelopment area. He stated that he also recommends having a discussion with Miller Development regarding participation with funding. He said that typically these types of improvements are required up front prior to City approval and at the developer's expense. He said that the City might also want to explore funding options and that staff will be requesting that UTA participate with funding as well. Mr. Hill stated that although the City has some responsibility by not submitting the plans to UDOT and UTA for approval, that those entities also have a responsibility to contact the City when they see a development of this type near TRAX.

The RDA Board asked for further detail on the safety concerns. Doug Hill explained that the roads in this area run parallel to the tracks and UTA is concerned that this angle will allow people to drive over the tracks even if the gates are down. He said that six improvements have been identified by UTA, one of which is to close the road on the northeast side of the crossing near the proposed medical facility. He said that the road on the northwest side is being used by Miller Development as an access point to this project. UTA is requiring that islands and double gates be installed and that modification of the crossing gates will be in excess of \$100,000, and the island and sidewalk improvements will cost between \$30,000 and \$50,000. Mr. Hill said that he hopes to obtain a better understanding from UDOT and UTA on what improvements they are going to require and if they are willing to participate in funding.

Jim Brass stated that he recalls taking the plan to UDOT to discuss the number of roads being connected to State Street. Doug Hill stated that he believes the requirement was missed by various entities because UTA had to approve the retaining wall that runs along the Union Pacific tracks, and UDOT had to

approve the bridge across 4500 South. He said everyone was aware of the project, but in relation to the recent public awareness campaign these crossings are being evaluated more closely.

Jared Shaver asked what other improvements were proposed. Frank Nakamura said that the list is currently in draft form and he will share that information once it is finalized.

Darren Stam stated that the road leading to the new medical facility has already been taken out of the agreement and is not built. Tim Tingey agreed and said that there is a portion of the road to the south of the medical facility connecting to Fireclay Avenue that was not amended out. Doug Hill said that the City Engineer has looked at this road and agrees that it does create a problem. He said that there may be a modification requested to the Transportation Master Plan if it is determined to be a safety issue.

Dennis Poole stated that when this project was in the development stages, a modification was requested on the western portion of the site due to changes on the Frontrunner line. He said that there were specific negotiations with UDOT on behalf of UTA, and discussions took place about modifying the Frontrunner system to accommodate everyone's needs. Mr. Poole said that it is extremely important to have these issues addressed so as not to deny a certificate of occupancy. He stated that this project is designed to accept tenants within the first two weeks of April. He requested involvement with these discussions in order to effectively communicate the developer's position.

Jay Minnick stated that Greg Hughes is the Chairman of UTA and wrote a letter to the Department of HUD expressing his support of the Fireclay project.

Jared Shaver said that the primary concern is safety, and although negotiations need to take place related to specific improvements and funding, safety needs to remain the priority.

DISCUSSION ON THE ORE SAMPLING MILL SITE LOCATED AT 5510 SOUTH 300 WEST

Tim Tingey stated that there has been interest expressed in this site. He said that in the future it may be beneficial to create a redevelopment area around this site. He stated that this issue will be discussed in more detail at a later date.

Jared Shaver asked about the size of the site. Tim Tingey stated that it is two or three acres, and that interest has been expressed from a developer in Park City. Darren Stam asked for more information from staff related to redevelopment processes and requested that this item be included on the next agenda for additional discussion.

Meeting adjourned.

B. Tim Tingey, Executive Director