

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: October 1, 2012

Reviewed by: BP

SUBJECT: Referendum Petition – Ordinance No. 2012-04 Approving
University Village Mixed Use Project Development Agreement

REPORT BY: Nicole Almaguer, City Clerk

SUMMARY

A referendum petition to refer or repeal Ordinance 2012-04 was filed with the City Clerk on August 16, 2012. The following details the examination and certification of the referendum petition.

STAFF RECOMMENDATION

That Council receive a report from the City Clerk certifying the results of her examination of the referendum petition, and direct staff to return with a full analysis of City Council options regarding the referendum.

BACKGROUND

A referendum petition to refer or repeal Ordinance 2012-04 was filed with the City Clerk on August 16, 2012. The proponents of this petition submitted 1399 prima facie signatures.

Pursuant to the California Elections Code Sections 9235 – 9247, if during a 30 day period following the passage of a legislative action, a referendum petition is filed with the City Clerk that is signed by not less than 10 percent of the voters of the city according to the county elections official's last official report of registration to the Secretary of State, the effective date of the ordinance shall be suspended and the legislative body shall reconsider the ordinance. The last official report of registration to the Secretary of State identified a total of 9,933 registered voters within the City of Albany. Therefore, a total of 993 signatures are required to satisfy the 10 percent threshold as identified in the Elections Code.

Upon receiving the referendum petition and conducting a prima facie review, staff requested that Alameda County Registrar of Voters (ROV) verify the signatures on the

referendum petition in accordance with the Elections Code. Staff also continued review of the referendum and associated petition to confirm compliance with the Elections Code.

The ROV first conducted a random sampling of signatures in accordance with Elections Code Section 9215. This statistical sampling found 443 valid signatures, which per the ROV, represents 123% of the total number of signatures needed to qualify the petition. The ROV then completed a full examination of signatures to confirm the 10% threshold of 993 signatures. In examining the records of registration in the County, the ROV determined that the petition contained the requisite number of valid signatures. The City received the attached correspondence from the Alameda County ROV on September 12, 2012 reporting its examination and results.

DISCUSSION

Ordinance No. 2012-04 was one of a series of actions taken by the Council in July 2012 associated with approving the UC Village Mixed Use Project. Ordinance No. 2012-04 approved a development agreement between the City and the University of California. The referendum petition does not affect other actions associated with the project. In addition, the referendum petition is not related to the two legal challenges that have been filed in Alameda County Superior Court, challenging the environmental impact report associated with the project. The key elements of the development agreement are:

- A commitment from the University to Albany Little League to use proceeds from the project to pay for relocation of the fields if relocation is triggered by a future UC Berkeley project.
- A commitment from the University to require project developers to comply with the University's general conditions pertaining to prevailing wages, payroll records and apprentices, as well as certain prequalification and binding arbitration requirements.
- Locks in City fees at level in place when the agreement becomes effective.
- References the density bonus application to reduce senior parking to 0.6 spaces per unit and the Municipal Code amendments to reduce parkland dedication requirements for senior housing.
- Provides that the operator of the senior housing will provide priority for Albany residents on at least 10% of the housing units.
- References a height limit of four stories, measured 52 feet from ground level finished floor to top of structure.

Per the Elections Code, a valid referendum effectively suspends the ordinance in question, and the City Council must begin consideration of whether to:

- (1) Repeal Ordinance No. 2012-04 Approving University Village Mixed Use Project Development Agreement.

Council may take action to repeal the Ordinance, and if repealed, the ordinance shall not again be enacted by the legislative body for a period of one year after the date of its repeal. There is not a defined timeline explicit in the Elections Code by which Council would need to take action to repeal the ordinance.

- (2) Submit Ordinance No. 2012-04 to the voters of the City of Albany at an upcoming election.

Council may take action to submit the Ordinance to the voters at the City's next regular municipal election or at a special election subject to election dates outlined within the Elections Code. Should Council wish to submit the ordinance to the voters, a Resolution requesting the Alameda County ROV administer the election would be required a minimum of 88 days prior to the identified election date.

Pending Council direction, staff will develop a full analysis of options and potential next steps for Council consideration. It is anticipated that this follow up analysis will be included as part of the November 19, 2012 City Council agenda.

SUSTAINABILITY IMPACT

N/A.

FINANCIAL IMPACT

As part of the full analysis of options, consideration of potential financial impacts will also be addressed.

Attachments

1. Correspondence from the Alameda County Registrar of Voters Office - Certificate to Petition
2. Correspondence from the Alameda County Registrar of Voters Office - Confirmation of full examination of signatures
3. Referendum Petition against Ordinance No. 2012-04