

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

Agenda Date: 5/1/06
Prepared Date: 4/25/06
Reviewed by: _____

SUBJECT: Waterfront Planning

REPORT BY: Beth Pollard, City Administrator

STAFF RECOMMENDATION

That Council approve Resolution #06-20 endorsing and directing staff to proceed with a City directed Waterfront Planning Process.

BACKGROUND

At the direction of the City Council, in October 2005 staff presented a “Fact Sheet” regarding the history, zoning, and other information pertaining to the Golden Gate Fields property. At that time, the City Council also received a recommendation from the Waterfront Committee that the City undertake a waterfront planning process. Staff did not recommend that the Council proceed with a City waterfront planning process at that time due to the following concerns:

1. The cost of undertaking a City waterfront planning process that was expected to encompass numerous facilitated public meetings; significant public comment to consider and process; planning, architectural and other design services; and the preparation of an Environmental Impact Report, with the entire cost assumed by the City of Albany without an identified and available source of funding; and
2. The potential futility of a City waterfront planning process if the property owner had no interest in participating towards the implementation of the City’s plan; and
3. The end result being an extensive expenditure of public resources including time, money, and effort to plan for an outcome that may never be realized and may only be duplicated in another decade or generation when new residents who did not participate in the 2006 planning process want their own planning process.

Since the Council’s discussion on waterfront planning last Fall, the following have occurred:

1. Caruso Affiliated unveiled what was characterized as preliminary designs for a mixed used development, and continues to meet with residents and prepare for the submission of a development application.

2. The Citizens for Albany Shoreline (CAS) unveiled its initiative petition effort to establish setback requirements and a planning process with a defined task force, and has stated its intention to submit sufficient signatures to qualify for the November, 2006 ballot.
3. The City Council agendaized the subject of a City waterfront planning process.
4. City staff recommended that if Council wished to embark on a planning process, the first step would be fiscal and legal analyses to provide a framework for land use, design, and environmental planning.
5. The City Council authorized the preparation of an impact analysis of the initiative petition, as provided for in Section 9212 of the Elections Code, to analyze the fiscal and legal implications of the initiative petition.
6. CAS submitted a letter to the City Council announcing it would not file its signatures for an initiative if certain conditions related to a City planning process and Caruso Affiliated were to occur by May 8, 2006.

DISCUSSION

In developing a recommendation for City Council action to initiate a planning process, staff considered the following factors:

1. The positive response of the community, irrespective of differing desires for the property, to the City's Fact Sheet on the Golden Gate Fields property; this indicates to staff an interest by the community in having factual information as a basis for evaluating ideas.
2. The likely submission of an application by Caruso Affiliated for a General Plan amendment, Measure C zoning amendment, and Specific Plan, which will require the preparation of an Environmental Impact Report.
3. The likely submission of signatures to qualify an initiative for the November ballot that:
 - Sets a minimum development setback of 500 feet from the western shoreline beyond the existing 100 foot BCDC setback; requires waterfront area commercial development to maximize open space and public access; requires development to be minimized while allowing the property owner a return that meets legal requirements; states that approved commercial development shall be sufficient to generate annual City, School District and Library revenue equivalent to the revenue as of November 7, 2006; and prohibits gambling except for allowable betting on horse races.
 - Requires the City to coordinate and fund a planning process to be undertaken by a task force consisting of one appointee from each member of the City Council (appointed after the November 2006 Council election) and one appointee selected from each of the following groups: Sierra Club, Sustainable Albany, Citizens for Albany Shoreline, and Citizens for

Eastshore State Park. No funding source for the process is associated with the initiative.

4. The concerns stated by members of the community about the contentiousness of the current process as it is unfolding.
5. The Council's interest in undertaking more of a proactive rather than reactive role in waterfront planning.
6. A distrust that exists in the community that any particular view could unduly influence a review process and hinder the opportunity by the voters to decide for themselves what is best for the subject property.
7. The importance of objectively analyzing the fiscal, legal, property value, environmental, and community benefit implications of alternative land uses and regulations on the property.
8. The likelihood of the City being involved in litigation should either the initiative petition or the Caruso proposal be approved by the voters.
9. Prior planning efforts on the property, and the observation that the community visioning process that was conducted a few years ago did not result in a community or property owner desired plan, and provides guidance for undertaking a different approach if the City wishes to initiate a new planning process.

ANALYSIS

In considering the above factors, staff has made the following observations:

1. A planning process that encompasses a range of ideas with equal consideration helps address concerns about potential bias during the review.
2. Since the property owner is the entity that initiated interest in amending Measure C to allow additional land uses, the property owner should be expected to pay for the City planning process that considers alternative land uses.
3. It is between the property owner (Magna) and the developer (Caruso) as to the source of payment to the City for the planning process; this is not the City's concern.
4. Having more than one planning process occurring at the same time would be very confusing to residents and time consuming for City staff, and occur at the expense of other City business.
5. A City planning process conducted without the pressure of either a development application or a voter initiative provides residents with a clearer forum in which to plan for the waterfront.
6. By eliminating competing processes for the consideration of ideas, the debate can ideally focus more on the content of ideas for the property rather than the process for consideration of those ideas.

FINANCIAL IMPACT

Based on consultation with consultants active in waterfront planning, the rough order of magnitude estimate of the base cost of the City-directed planning process is \$900,000 to \$1,200,000. The main elements of the process include:

Technical Studies and Specification of Alternatives: \$100,000-\$200,000
CEQA Analysis/EIR: \$550,000-\$650,000
Project Management: \$150,000
Legal Analysis: \$100,000 - \$200,000

A variety of factors could result in a change in costs, including additional technical studies, expanded community outreach and meetings, complexity of legal issues, and the length of the decision-making process.

CONCLUSION

There are many potential ways for the City, community, and property owner to approach planning for the future of the waterfront. No one way is the absolute correct way, and no one way is free from risk, criticism, or failure. Staff is endeavoring to provide Council with an analysis of the direction the City could take in order to conduct an objective, thoughtful and fact-based planning process, within the context of environmental, financial, and legal consequences, towards the goal of achieving the outcome most desired by the Albany community.

Staff is recommending that the City Council approve the attached resolution directing staff to proceed with a City directed waterfront planning process, and calling upon both the Citizens for Albany Shoreline and Magna/Caruso Affiliated to not submit their initiative petition and development application respectively, but instead participate in a City-conducted planning process.

The planning process is described in the attached reports and resolution. In summary, the City would:

1. Invite Magna/Caruso Affiliated to submit its proposal (not an application) for the property; this is expected to include continued operation of the racetrack,
2. Ask Magna to submit a concept alternative for the entire property that encompasses land uses without the existence of the racetrack.
3. Invite the Citizens for Albany Shoreline to submit its proposal for the property.
4. Prepare a concept alternative for the property that includes the continued operation of the racetrack.
5. Prepare a concept alternative for the property without the presence of the racetrack.

6. Prepare an Environmental Impact Report equally analyzing each of the five alternatives.
7. Prepare an analysis of the fiscal, legal, property value, and any other applicable consequences from the proposed alternatives that are not normally part of an environmental impact report.

The end result would be one where the community would have factual information with which to analyze the value and results of changes to the zoning and/or property, and evaluate its interest in voting to implement those changes. The property owner would be expected to engage in the discussions in an effort to achieve the community choices for the waterfront.

Attached is a report from City Attorney Robert Zweben providing narrative background and description of the recommendation and resolution. Also attached is a general concept of the proposed planning process; this process is subject to refinement should Council give direction on pursuing a City waterfront planning process.

Attachments

Report from City Attorney

Resolution #06-20

Waterfront Planning Process Concept