

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

Agenda Date: 2/6/06

Reviewed by: ____

SUBJECT: Golden Gate Fields property

REPORT BY: Beth Pollard, City Administrator
Robert Zweben, City Attorney
Ann Chaney, Community Development Director

STAFF RECOMMENDATION

1. Receive and discuss information regarding the City process for review of the anticipated application from Caruso Affiliated for development on the Golden Gate Fields property.
2. Provide staff with direction on the televising of City Commission meetings regarding the Caruso proposal.

BACKGROUND

At your meeting of October 10, 2005, the City Council directed staff to establish a consultant team to advise the City on the Golden Gate Fields property; this team would cover areas such as law, land use and park planning, economics, environmental review, and any other specialized services that pertain to a potential development application, property acquisition, community plan development, and/or other processes directed by the City Council. The purpose of the report is to provide Council with a status report on this direction, and an opportunity to ask questions and add any further direction on this matter.

A further purpose is to obtain Council direction on the televising of Commission meetings scheduled in February to receive a presentation on the Caruso proposal, ask questions, and make comments.

REVIEW PROCESS

Caruso Affiliated has advised City staff that it intends to file an application to allow development on a portion of the Golden Gate Fields property. The application will probably not be filed before mid-April. The type of development they have indicated they are seeking does not conform to the property's waterfront zoning, otherwise known as Measure C. Under the provisions of Measure C, any waterfront plans, zoning amendments, or development agreements requires the approval of the voters of Albany.

The City and its voters are under no legal obligation to approve requests for legislative changes. Thus, if after a full review of the Caruso application, it can be determined to reject, accept, or modify the proposed changes.

The applicant is obligated to reimburse the City for all the costs, including the EIR process and cost of election, if held, for the application review process. The obligation to reimburse the City does not give the developer control over the process, and in no way limits the City in its consideration of the application. It does mean that the City's taxpayers will not shoulder the cost for the review process of the application.

In determining the appropriate process, staff has considered the following factors:

1. The voters of Albany have the approval authority over any waterfront plans, changes in allowed uses, or development agreements.
2. Any property owner in Albany, including owners of property in waterfront/Measure C zoning, has the right to file an application for a zoning amendment and/or General Plan amendment, and to expect that such an application will receive a fair review.
3. In order to provide an applicant with a fair process, while recognizing that the Albany voters have final approval authority, the appropriate process would be one in which an application is processed similar to an application on any property in the City, with one process exception: rather than its final vote being whether to approve or disapprove the project, the City Council vote would be whether or not to present the proposal or modifications to the voters.
4. Because the application is for what is considered a discretionary legislative act, the City Council and the City voters are under no obligation to approve any proposal for amending the General Plan, zoning ordinance, or approving any plan or development agreement. The only obligation that staff believes that the City is under is to provide the applicant an opportunity to submit an application and have the application be fairly processed.
5. Because of the complexity of the project, Golden Gate Fields' prominence in the City as a significant piece of property, and the voters' control over its future, there will be a need for extensive public process that provides information about the proposal and its potential impacts to the environment and community.

Considering the above factors, the process that staff has drafted to date is generally as follows, noting that some of the steps will overlap and will be adjusted to accommodate the goal to obtain information:

1. Facilitate the opportunity for City Commissions whose purview includes elements of the anticipated application to hear a presentation from Caruso Affiliated, ask questions, and make comments. As the City Council appointed officials charged with advising the Council on programs, policies and projects,

the Waterfront Committee, Parks & Recreation Commission, Traffic & Safety Commission, and Planning & Zoning Commission have scheduled presentations that could help enable them to:

- a) Understand what is being proposed;
 - b) Make comments on the proposal relevant to their areas of expertise, including any guidance on what information they will need to perform their evaluations of the proposal in order to make recommendations to the City Council.
2. If the applicant chooses to proceed, the applicant will probably submit applications for a General Plan amendment, zoning ordinance amendment, and specific plan.
 3. City staff and consultants will review the applications for completeness.
 4. A Notice of Preparation is sent to notify responsible agencies and others that the City plans to prepare an EIR for the project, and to invite them to provide input on the scope and content of the EIR.
 5. Once the application is deemed complete, the City conducts a scoping process to solicit, from the community, the environmental impact concerns to study in the preparation of the Environmental Impact Report (EIR). The scoping process will also elicit from the community the alternatives to study in the EIR.
 6. Commence the EIR drafting process, which is estimated to take at least nine months, after which the Draft EIR is circulated for public comment for not less than 45 days.
 7. After receiving comments from the public and from other agencies, the City will prepare a Final EIR including those comments, responses to comments, and any revisions to the Draft EIR that are made in response to the submitted comments.
 8. City staff and consultants will prepare recommendations regarding action on the proposed project, and conditions of approval and mitigation measures, for consideration by the City Commissions and City Council.
 9. The City's Waterfront Committee, Parks & Recreation Commission, and Traffic & Safety Commission review and make recommendations to the Planning & Zoning Commission and/or City Council.
 10. The completed EIR and other elements of the project application are reviewed by the Planning & Zoning Commission, for recommendation to the City Council.
 11. At some point in the process, subject to the direction of the City Council, the City would negotiate a development agreement with the applicant for possible submission to the Albany voters. The purpose of the development agreement would be to establish the requirements that would be placed on the developer if the project were to be approved by the Albany voters. Such requirements

could include matters such as, but not limited to, parkland and easement dedications, maintenance requirements, and fiscal guarantees to the City.

12. If/when the applications proceed to the City Council, the City Council determines whether to certify the EIR and also whether to submit the General Plan amendment, zoning ordinance amendment, specific plan, and development agreement to the Albany voters.

CONSULTANT AGREEMENTS

As directed by City Council, staff has begun to identify the types of expertise that will be needed to assist in the processing of the application.

Legal services

In the area of legal services, the City Attorney has contacted the following firms with expertise in certain various aspects of the application process:

- Hanson, Bridgett, Marcus, Vlahos, & Rudy
- Goldfarb & Lipman
- Morrison & Foerster
- Shute, Mihaly & Weinberger

Mike Zischke, of Morrison & Foerster, has begun assisting the staff in advising on the environmental review process. He will be present at the Council meeting in order to be introduced and to answer questions from Council. A resume summarizing his experience is attached.

Planning & Economic Analysis Services

Planning services are needed to advise City staff, Commissions, Council, and community on various aspects of the application, including but not limited to overall layout, uses, amenities, and design.

The City is in the process of hiring a new Planning Manager. The particular skills, knowledge, and abilities of that person will have a bearing on what outside consultant services will be needed. Staff expects to be hiring the services of individuals or firms with general and/or specialized knowledge in planning waterfront development, waterfront park space, and the components of the application that are expected to include retail space, housing, and other facilities. Staff will also be issuing a request for proposals for an individual or firm to perform fiscal analysis on the project, in terms of feasibility, marketability, and cost/benefit to Albany.

In the meantime, architect/planner Boris Dramov, of the ROMA design group, who has been involved in waterfront planning for many years, will be present at the February 6th Council meeting, should the Council be interested in asking him any questions about waterfront planning.

Environmental Impact Report

Staff will be issuing a request for qualifications (RFQ) for a planning/environmental firm to conduct the environmental review and to prepare the environmental impact report. Staff will evaluate the expertise and experience of the responding firms to perform the environmental review on a project of this scope and will select the firm it determines to be most technically qualified to accomplish this work. Staff intends to exclude from the RFQ list firms that have performed work for the applicant.

COMMISSION MEETINGS

Three City of Albany Commissions will hold public meetings during February to hear a presentation by Caruso Affiliated on their conceptual proposal for the Golden Gate Fields property, gather information, ask questions, and make comments.

Park and Recreation Commission

Wednesday, February 8, 2006, 7:30 p.m., City Hall Council Chambers

The purpose of this meeting is to ask questions and provide feedback on park, recreation and open space elements of the conceptual proposal.

Traffic and Safety Commission

Thursday, February 9, 2006, 7:00 p.m., City Hall Council Chambers

The purpose of this meeting is to ask questions and provide feedback on traffic and safety elements of the conceptual proposal, including vehicular, pedestrian and bicycle circulation.

Planning and Zoning Commission

Wednesday, February 22, 2006, 7:30 p.m., City Hall Council Chambers

The purpose of this meeting is to gather information and ask questions on land use and related planning and zoning elements of the conceptual proposal.

The Waterfront Committee previously conducted a similar meeting on December 1, which included a presentation by Caruso Affiliated, public comment, and an opportunity for each Committee member to ask questions and make comments. The meeting was well attended by the public.

Because of the public interest shown in the Waterfront Committee meeting about the proposal, and the location of the upcoming Commission meetings in the Council Chambers – which is equipped with televising equipment, the City has the option of having these meetings televised in a similar manner as the City Council meetings. There is no City budget for the costs to televise the meetings, and therefore it would be staff's intent to charge Caruso Affiliated for the televising costs.

Staff has heard some concern from individuals in the community that televising the Commission meetings is a biased approach, and staff therefore believes that the City

Council needs to provide direction on whether you wish to have the meetings televised. Staff believes televising the pre-application meetings serves the public interest, but it is not a requirement.

FINANCIAL IMPACT

There is no cost to the City from the staff recommendations. Costs related to the City's review and processing of the applications, including the televising of the City Commission meetings, are borne by the applicant.

CONCLUSION

An application that seeks development on the Golden Gate Fields property is a more complex matter than is typically handled by the City of Albany. First of all, the Waterfront/Measure C zoning requirements have not previously been put to the test through an application process, which means the City, Council and community do not have a related history of experience on which to draw. Secondly, the City has not conducted an environmental review process that resulted in the preparation of an Environmental Impact Report in several years and therefore the Council and community may not be accustomed to the process. Lastly, there appears to be a wide range of opinion in the community as to the desired scope of the review process for the proposed application.

For the above reasons, staff felt it was timely to undergo a check-in with the Council to address, or begin to address questions or concerns you may have regarding the application review process, and to receive your direction regarding the televising of the meetings at which the proposed project will be presented.

Attachments

Michael Zischke, Morrison & Foerster, Attorney Bio