

RESOLUTION NO. 73765

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AUTHORIZING THE CITY MANAGER, BASED ON CERTAIN FINDINGS, TO NEGOTIATE AND EXECUTE AGREEMENTS NECESSARY TO ACCEPT FROM SOBRATO GROUP LP: (A) AN AGREEMENT TO DEDICATE TO THE CITY A 3.1-ACRE SITE AT THE SOUTHEAST CORNER OF RACE STREET AND PARKMOOR AVENUE, TO OCCUR NO LATER THAN MAY 15, 2013, WHICH DEDICATION WILL SATISFY SOBRATO GROUP'S INCLUSIONARY HOUSING OBLIGATION FOR THE DEVELOPMENT OF 627 RENTAL APARTMENT UNITS ON THE EAST SIDE OF RACE STREET BETWEEN AUZERAIS AVENUE AND PARKMOOR AVENUE PROPOSED IN PENDING PLANNED DEVELOPMENT PERMIT APPLICATIONS PD07-025 AND PD07-026; AND (B) A PAYMENT OF \$4,476,780 TO THE CITY AS A CONDITION TO ALLOWING FOR A DEFERRAL OF THE DEDICATION OF SUCH PROPERTY

WHEREAS, Sobrato Group, a California limited partnership ("Sobrato"), is proposing the development of 627 apartment units on the east side of Race Street between Auzerais Avenue and Parkmoor Avenue, which is located in a redevelopment project area and subject to the City of San Jose and Redevelopment Agency's joint Inclusionary Housing Policy ("Policy"); and

WHEREAS, the Policy, as amended by Council on this same date, provides for the dedication of land in lieu of construction of affordable units provided certain criteria have been met; and

WHEREAS, to satisfy its obligation under the Policy to provide 125.4 affordable units (20% of the total units in the proposed development), Sobrato is proposing to dedicate to the City a 3.1-acre parcel at 1290 Parkmoor Avenue, adjacent to Sobrato's proposed development ("Dedication Parcel") in lieu of constructing the required units; and

WHEREAS, since the Dedication Parcel will not be transferred to the City for a period of six years, Sobrato is proposing to make an immediate payment to the City in the amount of \$4,476,780 (“Upfront Payment”). The Upfront Payment is equal to 50% of the “In-Lieu Payment Obligation” (as defined below); and

WHEREAS, staff has determined that the Dedication Parcel is presently estimated to be valued at \$10,275,000, which is greater than the product of the present in-lieu fee of \$71,400 multiplied by 125.4 (“In-Lieu Payment Obligation”); and

WHEREAS, the Dedication Parcel could accommodate up to 155 residential units under the General Plan, which exceeds the otherwise required 125.4 affordable units; and

WHEREAS, Sobrato has requested the City to acknowledge that if, upon transfer of the Dedication Parcel, the value of the Dedication Parcel then exceeds the future value of the remaining 50% of the In-Lieu Payment Obligation, such excess shall be a donation to the City above the amounts otherwise required under the Policy; and

WHEREAS, the agreements necessary to conclude the proposed arrangement between the City and Sobrato include (1) an agreement to delineate the purpose, terms and conditions of the transfer of the Dedication Parcel and Upfront Payment, (2) an agreement to secure the obligation to transfer of the Dedication Parcel, and (3) an acknowledgement by the City that, upon transfer of the Dedication Parcel, any amount by which the value of the Dedication Parcel then exceeds the future value of the remaining 50% of the In-Lieu Payment Obligation is a donation to the City above the amounts otherwise required under the Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The Dedication Parcel, and the arrangement proposed to be entered into between the City and Sobrato regarding the transfer thereof, satisfy the applicable criteria under the Policy for the dedication of land in-lieu of constructing affordable units with respect to Sobrato's proposed development, based upon the fact that:
 - (a) The Dedication Parcel will be subject to an agreement between Sobrato and the City which sets forth a date within six years for transfer of the Dedication Parcel, and entering into such agreement with the additional criteria more fully described below is in the best interests of the City;
 - (b) The Dedication Parcel is presently estimated to be valued, and is expected to remain valued at the time the proposed agreement is entered into, at an amount greater than the In-Lieu Payment Obligation;
 - (c) The Dedication Site could accommodate at least 125.4 affordable units;
 - (d) The Dedication Parcel is adjacent to Sobrato's proposed development;
 - (e) The date by which the Dedicated Parcel will be transferred by Sobrato to the City, May 15, 2013, is acceptable to the City;
 - (f) The Upfront Payment will be made prior to commencement of construction of Sobrato's proposed development, and is a substantial and sufficient percentage of the In-Lieu Payment Obligation; and
 - (g) If, upon transfer of the Dedication Parcel, the value of the Dedication Parcel is not at least equal to the future value of the remaining 50% of the In-Lieu Payment Obligation, Sobrato shall immediately pay the shortfall in cash.

2. The City Manager is authorized to negotiate and execute agreements necessary to:

(a) delineate the purpose, terms and conditions of the transfer of the Dedication Parcel and Upfront Payment;

(b) secure the obligation to transfer of the Dedication Parcel; and

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(c) acknowledge that, upon transfer of the Dedication Parcel, any amount by which the value of the Dedication Parcel then exceeds the future value of the remaining 50% of the In-Lieu Payment Obligation is a donation to the City above the amounts otherwise required under the Policy.

ADOPTED this 15th day of May, 2007, by the following vote:

AYES: CAMPOS, CHIRCO, CONSTANT, CORTESE,
LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS;
REED

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

VACANT: DISTRICT 4

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk