



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 02/22/00
AGENDA ITEM 5
WORK SESSION ITEM _____

TO: Redevelopment Agency Board
FROM: Director of Community and Economic Development
SUBJECT: Adoption of Resolution of Necessity to Initiate Eminent Domain Proceedings to Acquire Property Located at 22517 Mission Boulevard (APN No. 428-0051-057)

RECOMMENDATION:

It is recommended that the Redevelopment Agency Board adopt the attached Resolution of Necessity to acquire property located at 22517 Mission Boulevard, including an appurtenant easement interest in Prince Street alley.

BACKGROUND:

22517 Mission Boulevard is a developed parcel owned by Mr. John S. Shiells. The parcel is located on a site that is the subject of a Disposition and Development Agreement (DDA) between the Agency and Albertsons, Inc. (the Developer) dated November 10, 1998. The site is approved for the development of a retail center to be anchored by an Albertsons/Sav-on supermarket. As stipulated under the DDA, the Developer is obligated to pay all costs to acquire the property, including legal fees and relocation costs.

Prior to considering approval of the DDA with the Developer, the Redevelopment Agency issued a Request for Proposals for development of the site in accordance with the Agency's Rules for Business Tenant Preference and Owner Participation. Mr. Shiells did not submit a proposal with respect to the site. Subsequent to entering into the DDA, the Developer attempted to acquire the property from Mr. Shiells on a voluntary basis but was not successful. In addition, Agency staff has also offered to acquire the property for fair market value in the amount of \$248,000 plus \$45,525 for furnishings and equipment. Mr. Shiells has responded that the Agency's offer is not acceptable but has not submitted a counter-offer to date. Albertsons seeks to clear the site and begin construction on its project as soon as possible. At this time it is anticipated that construction will begin in July 2000.

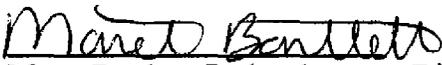
Tenants on the property include The Turf Club and New Global Communications. Both tenants have been notified of their eligibility for relocation, although contact with New Global Communications has been limited. Both staff and the relocation consultants have been actively working with the owners of the Turf Club to meet their relocation needs. The tenants are known to be on month to month rental agreements, but would be named on the eminent domain suit as a precautionary measure.

Prince Street alley extends in an east-west direction from Mission Boulevard to Watkins Street and lies adjacent to Mr. Shiells's property. The alley was dedicated as a public right-of-way in 1926. Prior to dedication of the alley as a public street the owners of the alley granted an access easement to the owner of the property at 22517 Mission Boulevard. This easement was not extinguished when the alley was dedicated as a public right of way, and the proposed eminent domain action includes the acquisition of this appurtenant easement. It should also be noted that underlying fee title to the alley remains private, and will need to be acquired as a separate matter.

Staff recommends that the Agency Board hold a public hearing, as required by law, to consider testimony on the following points: 1) whether there is a public interest and need to acquire the property, 2) whether the proposed retail center project has been planned in a manner which is the most compatible with the public's interest and results in the least private injury, and 3) whether an offer to acquire the property on a voluntary basis has been made to the owner before the public hearing. Staff further recommends that upon the conclusion of the public hearing the Agency Board adopt the attached Resolution of Necessity to authorize commencement of an eminent domain proceeding to acquire the subject property.

A notice of the hearing was sent by certified mail and hand delivered to the office of Mr. Shiells. In addition, notices of the hearing were sent to the tenants.

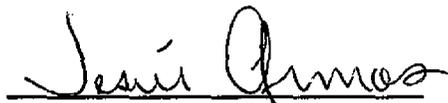
Prepared by:


Maret Bartlett, Redevelopment Director

Recommended by:

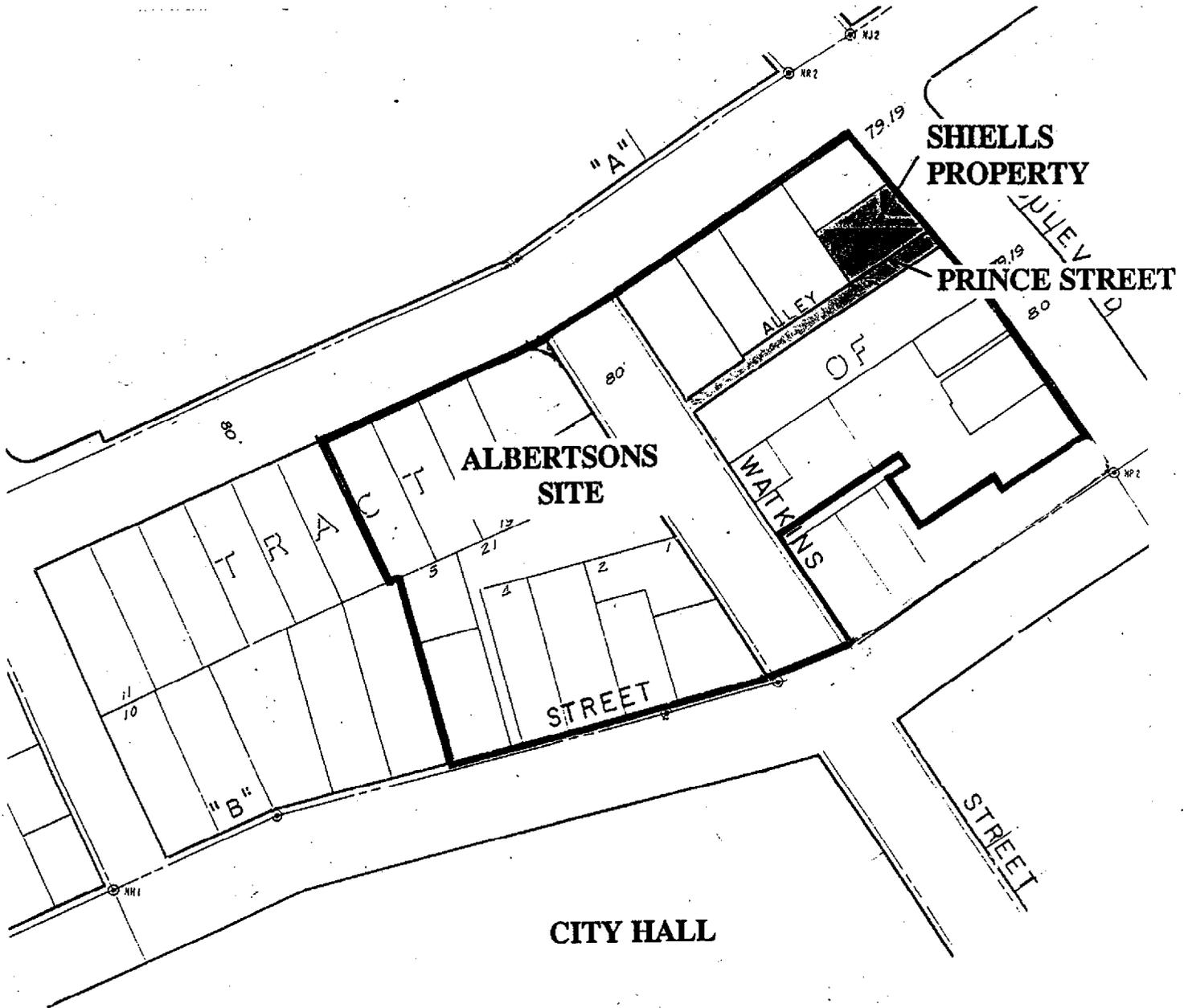

Sylvia Ehrenthal, Community and Economic Development Director

Approved by:


Jesús Armas, City Manager

Attachments: Exhibit A - Site Map
Resolution

EXHIBIT A - SITE MAP



DM 2-15-00

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. RA- _____

Introduced by Board Member _____

RESOLUTION OF NECESSITY DECLARING A PUBLIC NEED FOR AND AUTHORIZING THE ACQUISITION AND IMMEDIATE POSSESSION BY EMINENT DOMAIN PROCEEDINGS OR OTHERWISE OF REAL PROPERTY LOCATED AT 22517 MISSION BOULEVARD IN FURTHERANCE OF THE DOWNTOWN HAYWARD REDEVELOPMENT PLAN

WHEREAS, prior to consideration of adoption of this resolution, the Redevelopment Agency staff has negotiated with John S. Shiells, the owner of the improved property located on the west side of Mission Boulevard, between "A" Street and "B" Street, bearing the address of 22517 Mission Boulevard, Hayward, California (APN 428-0051-057), as well as an adjoining right of way on Prince Street (jointly "the Property"), which is more particularly described in Appendix 1 to this Resolution, regarding the Redevelopment Agency's acquisition of such Property for development of a retail center project on a site located west of Mission Boulevard between "A" and "B" Streets, located in the Downtown Hayward Redevelopment Project area (" the 'B' Street Retail Center"); and

WHEREAS, the City Council of the City of Hayward has previously considered the environmental impacts of the Redevelopment Plan in the program Environmental Impact Report certified in 1987 for the Downtown Hayward Redevelopment Project area ("Program EIR"); and

WHEREAS, the City Council has also found and determined that the environmental impacts of the "B" Street Retail Center project are within the scope of the impacts analyzed in the Program EIR: and

WHEREAS, the Redevelopment Agency has complied with the provisions of section 1245.235 of the Code of Civil Procedure of the State of California, including but not limited to a public hearing held on February 22, 2000, on the matters referred to in section 1240.030 of said code, prior notice of which was provided to John S. Shiells, the owner of the subject Property, and to the owner's tenants; and

WHEREAS, the Redevelopment Agency is authorized to acquire real property by eminent domain by the by the Downtown Hayward Redevelopment Plan and the

Constitution and statutes of the State of California, including, but not limited to, Health and Safety Code sections 33342 and 33367.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Redevelopment Agency of the City of Hayward that it hereby finds, determines, and declares as follows:

1. That the public interest, convenience, and necessity require the acquisition by the Redevelopment Agency of the Property described in Appendix 1, attached to this Resolution, for the development of the "B" Street Retail Center project in the Downtown Hayward Redevelopment Project area, which project furthers the goals and objectives of the Downtown Hayward Redevelopment Plan;
2. That the public interest, convenience, and necessity require that a fee simple estate be taken by the Redevelopment Agency in and to said Property or related interests in real property;
3. That the "B" Street Retail Center project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
4. That the Redevelopment Agency's staff has made the offer required by section 7267.2 of the Government Code of the State of California to John S. Shiells, the property owner, prior to the public hearing held on February 22, 2000, regarding the adoption of this resolution of necessity.

BE IT FURTHER RESOLVED that the Redevelopment Agency carry out said "B" Street Retail Center development and acquire the Property for inclusion in the development site; and

BE IT ALSO RESOLVED that the Agency's General Counsel is authorized and directed to take any and all lawful actions which are convenient or necessary to acquire immediate possession of and title to the Property by eminent domain proceedings or otherwise.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2000

ADOPTED BY THE FOLLOWING VOTE:

AYES:

ABSTAIN:

ABSENT:

ATTEST: _____

**Secretary of the Redevelopment Agency of the
City of Hayward**

APPROVED AS TO FORM:

General Counsel

APPENDIX 1

DESCRIPTION OF PROPERTY TO BE ACQUIRED

A fee as to Parcel One and an Easement as to the Parcel Two interest in the land described in this offer is owned, at the offer date, by John S. Shiells, an unmarried man.

Real Property in the City of Hayward, County of Alameda, State of California, described as follows:

PARCEL ONE:

Commencing at the point of intersection of the Northwestern line of "B" Street with the Southwestern line of Castro Street in the City of Hayward, Alameda County; running thence along the said line of Castro Street North $36^{\circ}24'$ West distant 192.89 feet to an angle therein; thence continuing along said line of Mission Boulevard, formerly Castro Street, North $44^{\circ}32'$ West distant 86.98 feet to the Northwestern line of an alley way and the point of beginning of this property; thence running along the said line of said alley way South $53^{\circ}36'$ West distant 112 feet to a stake; thence leaving said line of said alley way North $38^{\circ}54'$ West distant 59.46 feet to a stake; thence North $53^{\circ}36'$ East distant 106.11 feet to the said line of Castro Street; thence along said line of said Mission Boulevard, formerly Castro Street, South $44^{\circ}32'$ East distant 60 feet to the point of beginning.

A.P. No.: 428-0051-057

PARCEL TWO:

A right of way over a strip of land 15 feet wide on the Southeastern side of, and adjoining the above described property, and known as an alley way, and running from Mission Boulevard, formerly Castro Street, Southwesterly to Watkins Street, as conveyed in the Deed to Rosinda Principe, recorded May 5, 1921 in Book 3076, Page 370 of Deeds, Alameda County Records.