



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 03/14/00
AGENDA ITEM 8
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 22589 Watkins Street, 770 "B" Street and 780 "B" Street (APN No. 428-051-79,80 & 81)

RECOMMENDATION:

It is recommended that the Redevelopment Agency Board adopt the attached Resolution of Necessity to acquire property located at 22589 Watkins Street, 770 "B" Street, 780 "B" Street, and an appurtenant easement.

BACKGROUND:

22589 Watkins Street and 780 "B" Street are developed parcels and 770 "B" is a vacant parcel owned by Mr. and Mrs. Darrell L. and Bonnie J. Hunter. The easement is a right of way access to 22589 Watkins Street and extends along the property to the north of it - which is a vacant lot formerly owned by Messrs. Newman and Smalley and now owned by Albertsons. The property is located within the boundaries of a five-acre 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.

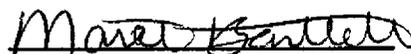
Prior to considering approval of the DDA with the Developer, the Redevelopment Agency issued a Request for Proposals for development of the site in accordance with the Agency's Rules for Business Tenant Preference and Owner Participation. Mr. Hunter did not submit a proposal with respect to the site. Subsequent to entering into the DDA, the Developer attempted to acquire the property from Mr. Hunter 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 \$605,000 plus \$13,345 for furnishings and equipment, and has attempted to mediate a sale between Albertsons and Mr. Hunter. Mr. Hunter responded to the Agency's offer through his attorney, however, the terms of this offer were not acceptable to Albertsons, which has approval rights over the acquisition pursuant to the DDA. 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 currently include Greyhound Lines, Inc. and Lee's Auto Body Shop. Olberg Chiropractic was a tenant up until very recently, but has relocated. All tenants have been notified of their eligibility for relocation. Staff has been actively working with Greyhound since last spring to find a suitable replacement site. There are significant constraints involved, due to Greyhound's budget limitations, their need to be located in proximity to both a BART Station and the I-880 and 580 freeways, and their need for loading space for the buses. Staff will continue to pursue sites in the area. Staff and consultants have recently met with the owner of Lee's Body Shop, Mr. So, who had not previously responded to any of the written notices or the offer to acquire furnishings and equipment. Mr. So indicated a desire to remain in the area. The current tenants will be named on the eminent domain suit as a precautionary measure.

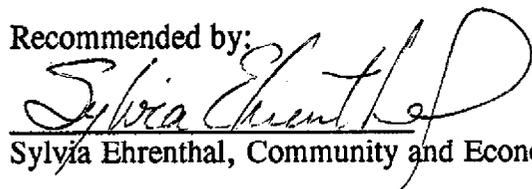
In the spirit of continuing to attempt to negotiate a voluntary sale of the property staff is requesting the authority to execute documents that would result in a transfer of the property at no net additional cost or liability to the Agency. The actual filing of an eminent domain action may be delayed for a brief period to determine whether such a voluntary transfer could be effected in a timely way.

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 to Mr. and Mrs. Hunter and to their attorney. In addition, notices of the hearing were sent to the tenants.

Prepared by:


Maret Bartlett, Redevelopment Director

Recommended by:

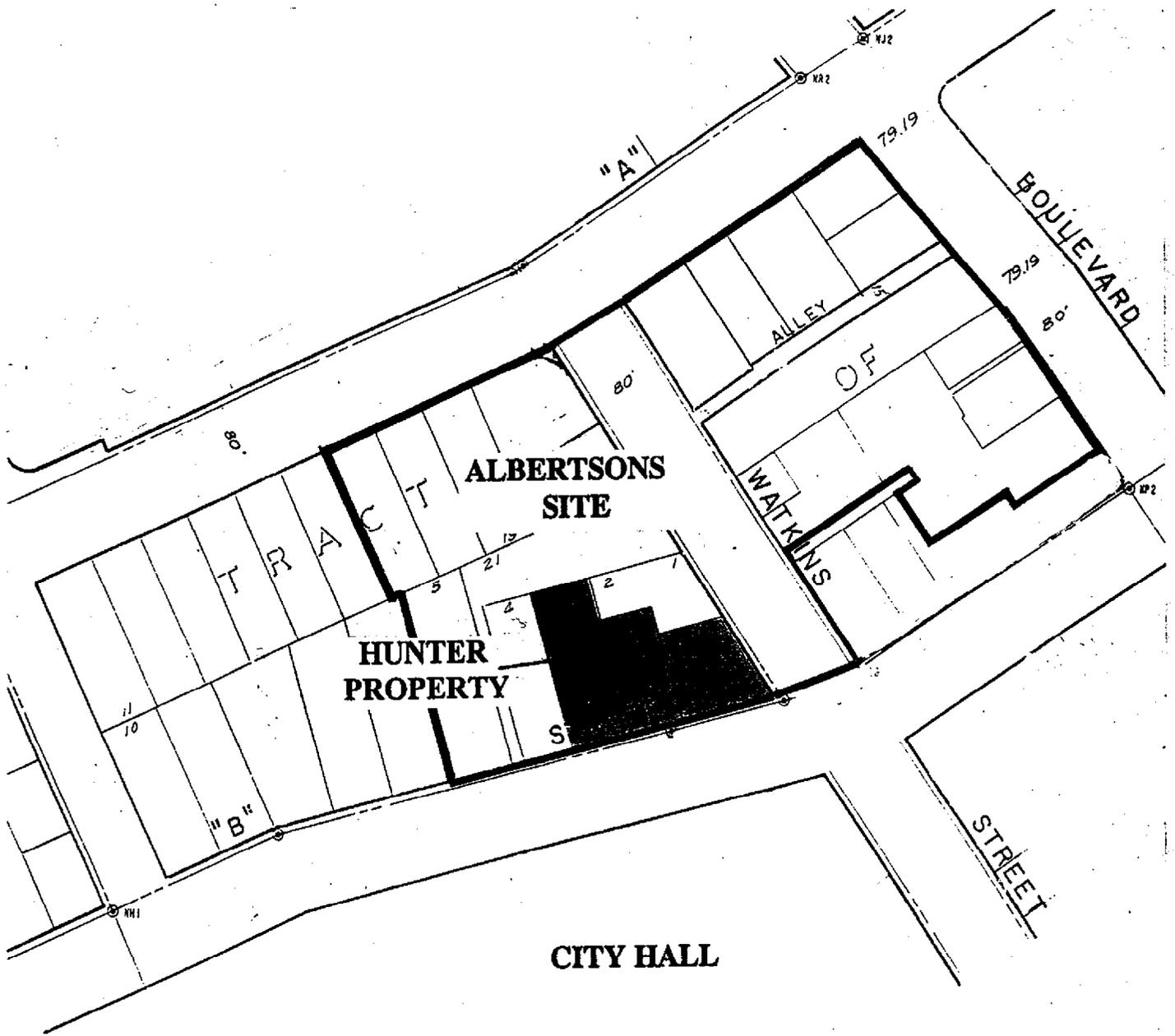

Sylvia Ehrenthal, Community and Economic Development Director

Approved by:


Jesús Armas, City Manager

Attachments: Exhibit A - Site Map
Resolution

EXHIBIT A - SITE MAP



REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. RA- _____

Introduced by Agency Member _____

DRAFT

Rn 3-6-00

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 22589 WATKINS STREET, 770 "B" STREET,
780 "B" STREET AND AN APPURTENANT EASEMENT IN
FURTHERANCE OF THE DOWNTOWN HAYWARD
REDEVELOPMENT PLAN

WHEREAS, prior to consideration of adoption of this resolution, the Redevelopment Agency staff has negotiated with Mr. and Mrs. Darrell L. and Bonnie J. Hunter, the owners of the partially improved property on the west side of Watkins Street, near "B" Street, bearing the addresses of 22589 Watkins Street, 770 "B" Street, 780 "B" Street and an appurtenant easement, Hayward, California the assessor's parcel number designation of APN 428-051-79, 80 & 81 (jointly "the Property"), which is more particularly described in Appendix 1 to this Resolution, and

WHEREAS, the Redevelopment Agency proposes to acquire the 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") that is the subject of a Disposition and Development Agreement; 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 March 14, 2000, on the matters referred to in section 1240.030 of said code, prior notice of which was provided to Mr. Darrell L. Hunter and Mrs. Bonnie J. Hunter, the owners of the subject Property; 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 Mr. and Mrs. Darrell L. Hunter, the property owner, prior to the public hearing held on March 14, 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:

NOES:

ABSTAIN:

ABSENT:

ATTEST: _____
Secretary of the Redevelopment Agency of the
City of Hayward

APPROVED AS TO FORM:

General Counsel