NEWS

Beach May Invest $9.5 Million for Public/Private Project

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Discussion of a possible development agreement between the city of Miami Beach and developers of the "Potamkin Project" was the topic at a special Finance & Citywide Projects Committee meeting, Monday.

Once approved, the agreement may require the city to invest $9.5 million.

Previously known as "5th and Alton," the project, which will include a supermarket, a parking garage, a bus transit hub and thousands of dollars of public art is bordered by Lenox Avenue and Alton Road between Fifth and Sixth streets.

The "deal," according to City Manager Jorge Gonzalez, has been bifurcated into a separate action for the city's proposed vacation of an alley between Alton Road and Lenox Avenue to the developer, Potamkin/Berkowitz (aka AR&J SoBe LLC), and a second action on the proposed development agreement.

The city has agreed to vacate the alley in exchange for a "public supermarket" and the right to "build out a bus [transit]," Gonzalez said Monday.

"This is a pending item from the last couple of commission meetings," Gonzalez said. "It has developed into a complex piece of negotiation."

The supermarket, according to the city, must be a national or regional supermarket chain and Potamkin/Berkowitz must provide the supermarket with sufficient parking space, as required by city code, for a minimum period of 10 years. Both the Miami Beach Design Review Board and Historic Preservation Board have approved the 179,000 square feet of retail space, of which 40,000 is to be used for a public supermarket. According to the city report, 1081 parking spaces will be available. The city will own 535 spaces and the developer will own 546 spaces. Both parties will have the right to terminate the agreement prior to construction.

The public/private venture will require a 1.5 percent "contribution" as required by the Art in Public Places ordinance. Potamkin/Berkowitz wants a waiver of this cost because the developer has proposed to "provide entryway artwork by Romero Britto valued at $500,000" an the Potamkin family has previously donated art with the value of $600,000 to the Bass Museum of Art, said Assistant City Manager Christina Cuervo.

"The [Art in Public Places] board recommended the waiver," Cuervo told the committee. "But the CAC [Cultural Arts Council] made a motion against the waiver."

> ***Cuervo said the second major issue is the determination of eligibility for Federal Transit Administration funds for the development of a park-and-ride bus transit hub.***

"The CAC is ABB, 'Anybody But Britto,'" remarked Jeff Berkowitz, president of Berkowitz Development Group.

Finance Committee Chairman Jose Smith contended that the developer had not asked for "a complete waiver, only consideration."

Cuervo said the second major issue is the determination of eligibility for Federal Transit Administration funds for the development of a park-and-ride bus transit hub.

There was "uncertainty," she said, because of the public/private aspect of the project.

"We need to be mindful," Cuervo said, "so that we don't preclude ourselves from eligibility."

Miami Beach has already been allocated $1.4 million to develop an "intermodal" park-and-ride center.

According to a City Commission Memorandum, "the City's obligation to proceed with this Agreement is no longer contingent upon approval by FTA. Therefore, the city may be obligated to commit alternate funds to the project."

Those funds would come from the South Pointe Redevelopment District, according to the City Manager's Office. Since the 1970s, property taxes collected south of Sixth Street are collected by the Redevelopment Agency to pay for capital improvement projects.

The bigger issue, according to City Attorney Murray Dubbin, is the fact that the developer 'has the right to terminate the deal within 18 months of construction completion.

"The city is investing $9.5 million in the construction of a parking lot to create public parking," Dubbin said. "If the developer has the option to terminate that portion of the deal, then the city can possibly be charged with using public money to finance private construction."

Dubbin said possible consequences would be public outcry and discrepancies in "policy decisions."

Berkowitz explained, however, that his lender had required him to either complete the construction or pay the city back the full $9.5 million plus four percent interest.

City Manger Gonzalez told the committee that if the city should receive FTA funds that are earmarked for Miami Beach for the Potamkin Project, then the city would be required to reimburse the federal government or replicate the parking spaces if the development agreement was terminated or restricted. Replication, he contended, might not be possible in the future.

"The developer may restrict public purpose if it is detrimental to the retail [operation]," Gonzalez said. "There's no language [in the development agreement] to allow the city to argue, 'No, you don't have a problem.'"

The major asset to the city, Gonzalez said, would be the parking spaces, which would be purchased at approximately $16,395 per space and generate an initial revenue simply from the rent paid by Potamkin/Berkowitz of $290,000 per year with a 2.5 percent "escalator" after three years. The opportunity to buy parking spaces at $16,500 each, he said, was a good deal because all other parking areas were disappearing or exorbitantly expensive.

The determination of "fair market value" in the event that the developer did terminate the agreement after 18 months of operation, however, could not be decided. Fair market value, all agreed, would be the cap that Potamkin/Berkowitz paid the city to terminate the agreement. The low side of fair market value would be the original $9.5 million plus four percent annual interest, the city manager said.

The issue of the vacation of the alley is to be presented on Wednesday, February 23, at the City Commission meeting. The proposed development agreement will go before the commission on Wednesday, March 16.

Comments? Contact the author at bdane@miamisunpost.com.