

MINUTE ITEM

25

10/21/87
WP 4432
Rump
Kouyoumdjian
Kiley

PROPOSED TERMINATION OF LEASE INTEREST - COMMERCIAL USE;
ISSUANCE OF A NEW LEASE FOR A
HOTEL COMPLEX DEVELOPMENT

Calendar Item 25, attached, was pulled from the agenda prior to
the meeting.

Attachment: Calendar Item 25.

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PROPOSED TERMINATION OF LEASE INTEREST - COMMERCIAL USE;
ISSUANCE OF A NEW LEASE FOR A HOTEL COMPLEX DEVELOPMENT

APPLICANTS: Bruce Conn, Mark Scott Annerl
Kenneth Black and
Charles W. Legeman
aka Fountain Plaza Partnership
Attn: Allan E. Tebbetts
211 East Ocean Boulevard
Long Beach, California 90801

Bob Chang, aka Seal Beach Gateway Hotel Inc.
Attn: Douglas S. Draper
30th Floor - Equitable Plaza
3435 Wilshire Blvd.
Los Angeles, California 90010-2897

BACKGROUND:

This item is the result of long term negotiations with the existing Lessees of the State Lands parcel of land located in the City of Seal Beach. This parcel has been under lease for about eight years and, even though the Lessees have attempted to bring a development to fruition, they have been unable to complete any type of development due to permitting problems. Many of the permitting problems have been overcome by the approval of a "Specific Plan" and a pertinent environmental document by the City of Seal Beach approximately one year ago. The "Specific Plan" will allow the development of a proposed hotel on the parcel.

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The present lease does not allow the development of a hotel. At its August 1986 meeting, the Commission approved a new lease with Fountain Plaza, which would provide for a development which is consistent with the Public Trust and the allowable uses under the City of Seal Beach's Specific Plan. At that time, Fountain Plaza intended to assign its leasehold to Super 8 Lodging U, Ltd. (See Calendar Item No. 16, 8/28/86). Super 8 backed out of the deal, however, and the new lease was never executed.

CURRENT SITUATION:

In June 1987, Fountain Plaza entered into escrow with Bob Chang to transfer "that certain leasehold interest belonging to Seller (Fountain Plaza)" in the parcel to Mr. Chang, who proposes to build a Best Western motel on the parcel.

Briefly, the details of the sale are as follows: for a \$550,000 purchase price by Chang, Fountain Plaza would agree that any interest it had in the parcel would terminate, and Chang would be the new lessee. Chang pays a \$100,000 commission to real estate brokers (\$50,000 each); the remaining \$450,000 is divided between the State and Fountain Plaza (\$150,000 to the State, and \$300,000 to Fountain Plaza).

Fountain Plaza and State Lands Commission staff have negotiated an agreement to terminate and release Fountain Plaza's interest in the leasehold. Fountain Plaza agrees to deliver a Quitclaim Deed into escrow and return the lands without liens or encumbrances.

TERMS OF PROPOSED LEASE:

Term: 49 years. Construction period first five years. If construction does not begin in 3 years or does not end in 5 years from date lease is executed, the State has the absolute right to terminate the lease.

Rent: \$12,000 per year for each lease year until the year after the foundation is poured or year 4, whichever occurs first. Rent for that year is \$24,000, and \$36,000 for the following year (year 5 at the latest). Operations period: \$50,000 minimum annual rental payable at the beginning of the Lease year against the following percentages of gross income, the difference, if any, to be paid at the end of the Lease year:

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1. Six percent of the gross rent from room rents.
2. Four percent of the gross income from all food and non-alcoholic beverages accruing from the operation of the restaurant.
3. Three percent of gross income from alcoholic beverages.
4. Fifty percent of the rent received from all sublessees conducting business on the premises.
5. Ten percent of the gross income from all other lessee-operated businesses on the premises.
6. Ten percent of the net income received by or payable to Lessee for telephone surcharges assessed on guest telephone calls.

The minimum annual rent will be adjusted at five-year intervals through the entire term of the lease, so that the minimum rent will be no less than 75 percent of the actual total yearly rent. The minimum annual rent and the difference between it and the percentage rent will be paid in monthly installments.

Surety:

\$50,000. This deposit amount is to be adjusted to an amount equal to the Minimum Annual Rent up to a maximum amount of \$200,000, and performance will be personally guaranteed by Mr. Chang.

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Insurance: Liability - \$5,000,000 Broad Form. Fire and Extended coverage - an amount equal to 100 percent of the full replacement cost of all buildings and improvements.

Assignment: Assignments would require consent of the Commission. After a 15-year freeze, in case of assignment the Commission could adjust the required percentage of rent, from room rental to the current market rent at the time of approval.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. The City of Seal Beach prepared and circulated an initial study which addressed the maximum development which could occur under the approved Specific Plan for this parcel. The City found no significant environmental impact from the allowable developments and has adopted a Negative Declaration. The staff of the Commission has reviewed the above document and believes that it complies with the requirements of CEQA.

EXHIBITS: A. Negative Declaration.
B. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT A NEGATIVE DECLARATION WAS PREPARED AND ADOPTED FOR THIS PROJECT BY THE CITY OF SEAL BEACH AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. DETERMINE THAT THE PROJECT, AS APPROVED, WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.

CALENDAR ITEM NO. 25 (CONT'D)

3. AUTHORIZE THE TERMINATION OF THAT LEASE BETWEEN THE COMMISSION AND BRUCE CONN, MARK SCOTT ANNERL, KENNETH BLACK AND CHARLES W. LEGEMAN DATED SEPTEMBER 18, 1981 APPROVED BY THE COMMISSION ON JUNE 24, 1981 AND RECORDED IN ORANGE COUNTY AS INSTRUMENT NO. 82-250298.
4. AUTHORIZE THE ACCEPTANCE AND RECORDATION OF A QUITCLAIM OF THE ABOVE LEASE.
5. AUTHORIZE THE EXECUTION ON BEHALF OF THE COMMISSION OF THAT LEASE FOR THE CONSTRUCTION AND OPERATION OF A HOTEL COMPLEX BETWEEN THE COMMISSION, AS LESSOR, AND SEAL BEACH GATEWAY HOTEL, INC. (BOB CHANG) AS LESSEE, IN SUBSTANTIALLY THE FORM WHICH IS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION, FOR THE CONSIDERATION OUTLINED ABOVE. FAILURE TO EXECUTE SAID LEASE WITHIN FIVE (5) CALENDAR DAYS OF THE OCTOBER 21, 1987 COMMISSION MEETING (BY OCTOBER 26, 1987) SHALL CAUSE AUTOMATIC REVOCATION OF COMMISSION AUTHORIZATION FOR THE LEASE. DELIVERY OF AND ENTITLEMENT TO THE LEASE SHALL BE EFFECTED THROUGH THE ESCROW BETWEEN FOUNTAIN PLAZA AND MR. CHANG. IF SAID ESCROW DOES NOT CLOSE AND PAYMENT OF ALL SUMS DUE THE STATE ARE NOT MADE WITHIN 45 DAYS OF THE OCTOBER 21, 1987 COMMISSION MEETING, THE LEASE SHALL BE NULL AND VOID.
6. APPROVE AND AUTHORIZE THE AGREEMENT TO TERMINATE AND RELEASE INTEREST OF FOUNTAIN PLAZA IN PARCEL OF LANDS AT SEAL BEACH, CALIFORNIA, WHICH IS ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.
7. DELEGATE TO THE EXECUTIVE OFFICER (OR DESIGNEE) AUTHORITY TO ACT AS LEASE ADMINISTRATOR FOR THE PURPOSE OF PROVIDING STATE APPROVALS WHERE REQUIRED UNDER THE TERMS OF THE ABOVE LEASE; SUCH DELEGATION SHALL NOT INCLUDE THE AUTHORITY TO APPROVE NON-EXEMPT ASSIGNMENTS OR SUBSTANTIVE AMENDMENTS TO THE LEASE.

CALENDAR ITEM

NO. 25

W.O.: MP 4432

CAL. DATE: 10/21/87

NEGOTIATOR: Rump
Kouyoumdjian
Kiley

aka FOUNTAIN PLAZA PARTNERSHIP
BRUCE CONN, MARK SCOTT ANNERL, KENNETH BLACK, AND CHARLES W. LEGEMAN
(TITLE)

EXHIBIT "A" NOT AVAILABLE AT TIME OF PRINT
"B"

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