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**TO:** Kent Studebaker, Chair  
Members of the Redevelopment Agency  
Scott Lazenby, Executive Director

**FROM:** Brant Williams  
Redevelopment Director

**SUBJECT:** LORA Resolution 13-03  
Block 137 Project Development Agreement

**DATE:** August 13, 2013

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## **ACTION**

Conduct a public hearing on Resolution 13-03 authorizing the Executive Director of the Lake Oswego Redevelopment Agency (LORA) to sign the Block 137 Project Development Agreement with Evergreen Group LLC for redeveloping the block as a mixed-use residential and retail development. Following the public hearing, consider adopting Resolution 13-03.

## **INTRODUCTION/BACKGROUND**

The redevelopment of Block 137, often referred to as the Wizer block, has been a high priority project for the LORA Board for a number of years. The project is included in the East End Redevelopment Plan as Project J, and as such, it is eligible for financial assistance using urban renewal funds. Several months ago, the owner of the property, Gene Wizer, and his developer, W&K Development, approached LORA for financial support for a new mixed-use development on the site. At the Board's May 7<sup>th</sup> meeting, Pat Kessi, a principal with W&K Development, presented a concept plan for redeveloping Block 137 that included new residential and retail development consistent with Project J in the East End Plan. Based on the proposal, the Board directed staff to negotiate a draft development agreement for the Board's consideration.

## **DISCUSSION**

Since the May Board meeting, the principals at W&K Development formed Evergreen Group LLC, which is the development company now proposing to redevelop Block 137. Over the past three months, the original concept for the project has evolved somewhat and become more detailed in its design.

**Project Description**

The project will be three separate four- to five-story buildings that will have a total of between 215 and 228 higher-end residential units and between 27,000 and 28,000 square feet of quality retail. The total cost of the project is estimated to be \$92.6 million.

Evergreen Group anticipates that approximately one quarter of the residential units will be condominiums and the remaining three quarters will be apartments. This may change based on market conditions. As currently planned, the units will vary in size from 620 square feet for one-bedroom units up to 1,800 square feet for three-bedroom units. The final floor plans may also include some studio units that could be used as executive rental units for visitors.

The retail spaces will be located along both A Avenue and 1<sup>st</sup> Street for active retail uses. These uses must comply with those described in the City's Development Code as Retail Sales and Food and Beverage Services.

The project will have approximately 457 parking spaces on two levels of below grade parking. This includes approximately 322 spaces for the residential component, which is an average of 1.5 spaces per unit. There will be at least 135 parking spaces for public parking. This parking is intended to satisfy the parking requirement for the retail component of the project. The City will lease the 135 spaces to ensure that the project will have public parking. The City will enter into a parking management agreement with the owner of the retail component of the project to ensure the public parking is operated and managed for the benefit of the community and the retail tenants.

The project includes an east-west public walkway between First and Second streets, and a north-south public walkway connecting Evergreen to the east-west walkway.

The project will be designed to a high standard using architecture that will meet both City Code design standards and the community's design expectations for new development in our downtown. Certain exceptions to the Development Code will be required as part of the development review process. The most notable are: a fifth floor on portions of the development; ground floor residential units along portions of Evergreen Street; and the use of public parking to meet the retail component's parking requirements. The project as planned will not exceed the 60-foot height limitation in downtown.

**Draft Development Agreement**

LORA staff and legal counsel have been working with Pat Kessi and the Evergreen Group project team to produce a draft development agreement for the Board's consideration. The draft agreement is based on objectives of the East End Redevelopment Plan, the benefits a project of this type will provide downtown and the community, and the financial assistance from the East End District needed to make the project feasible.

### Community Benefits

The following are public benefits associated with the project:

- 215 to 228 new housing units in downtown
- 27,000 to 28,000 square feet of new quality retail space
- 135 public parking spaces
- A new east-west public walkway connecting First and Second streets made possible by locating all on-site parking below the grade of First Street and A Avenue.
- A key block in downtown completely revitalized
- New opportunities for public art
- An estimated 27 to 38 new jobs and 1000 to 1200 temporary construction jobs
- An increase in annual property tax revenue of approximately \$630,000
- Construction Excise Tax revenue for Lake Oswego schools of approximately \$240,000

### Funding and Financing

The total project cost is estimated to be \$92,600,000. Private investment is estimated at \$87,151,000 with \$60,500,000 being debt and \$26,651,000 being private equity. The draft agreement includes a financial contribution from LORA for all building permit fees, system development charges and construction excise taxes for both construction and initial retail tenant improvements. These fees, charges and taxes are estimated to be \$4,700,000, and will not exceed \$5,200,000. LORA will make these payments at the time they are due, or will reimburse previously-made payments, contingent on all financing documents being deposited into escrow and the Developer's construction lender being prepared to fund construction. The initial LORA payments or reimbursements will be made as a part of that closing escrow. LORA will also pay a portion of the overall construction costs in the amount of \$749,000. This one-time payment will be due at the end of the project once the City has issued the final Temporary Certificate of Occupancy for the project and more than half of the retail space is leased.

### Project Schedule

Evergreen anticipates submitting an application for Development Review at the end of September. Construction is expected to begin September 2014 and take 22 to 24 months with completion September 2016. Any delay in the project schedule of over 180 days requires approval by the LORA Board.

### Property Control

Evergreen Group currently controls the property with a ground lease option. Prior to construction, Evergreen will exercise its option for a 99-year ground lease for the property. Evergreen also has the option to purchase the property once the project is built, which Evergreen expects to do. If it does, Mr. Wizer then has the option to purchase the retail component of the project, which includes the public parking spaces.

### Pedestrian Easement

Evergreen and the City will work in good faith to agree on terms of the pedestrian easement to allow reasonable pedestrian access to the public walkway corridor on the site. The terms will balance the residential nature of the improvements with reasonable public access.

#### City Parking Lease Terms

The development agreement specifies certain terms for the City's parking lease. The City will lease the 135 public parking stalls from the owner of the retail component for a nominal amount of one dollar. This lease will be for 75 years with two 10-year renewal options. Public parking will be tax exempt, but should the state law change for this exemption, the retail owner will be responsible for paying the property taxes with the option of charging for parking to cover the additional expense. The City will be responsible for enforcing the public parking, except for towing, and the retail owner will be responsible for all other costs associated with maintaining and operating the public parking.

#### Parking Management Agreement Terms

The development agreement specifies certain terms for the parking management agreement. Key terms include:

- Up to 48 of the 135 parking spaces will be dedicated for tenants, employees and patrons of the retail uses. These spaces will be reserved during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, and will be available to the public at all other times.
- Parking shall be free to all users. However, if paid parking becomes the norm in downtown, the City and the retail owner may mutually agree to establish a parking fee. The net revenue, after expenses and taxes, shall be divided equally between both parties.
- The retail owner will manage the public parking; the City will not pay a management fee.
- Public parking time limits are anticipated to be 3 hours. The retail owner and the City Manager may mutually agree to change these time limits.
- The retail owner will be responsible for all maintenance and capital improvements to the public parking including all utility costs and towing.
- The public parking will be open and available for use a minimum of:
  - 7:00 a.m. to 10:00 p.m., Monday through Thursday;
  - 7:00 a.m. to midnight, Fridays and Saturdays; and
  - 7:00 a.m. to 10:00 p.m., Sundays and holidays
- The City will have the right to manage, operate and maintain the public parking if the retail owner fails to do so and to bill the costs to the retail owner.

#### Public Art

LORA will pay 1.5%, or \$11,235, of its Construction Payment to the City's Public Art Trust Fund for the purpose of funding public art as part of the project. Evergreen shall integrate public art into the project as approved by LORA and the City. The design will include opportunities for future placement of public art in the project.

### LORA Design Review

The LORA Board will review and approve the design development drawings prior to Evergreen submitting an application for Development Review. If there is a conflict between LORA's review and the Development Review process, the Development Review process supersedes.

### Project Contingencies

There are eleven project contingencies that must be met before Evergreen is obligated to build the project and before LORA is obligated to make any financial contribution to the project.

These contingencies are:

1. Funding and financing necessary for the project are secured.
2. Evergreen shall have acquired or ground leased the property at closing of its debt financing for construction.
3. Evergreen shall have received final approval of all necessary land use requirements and entitlements.
4. The City shall be prepared to issue a building permit, subject only to the payment of applicable fees.
5. The City and Evergreen shall have approved the City's parking lease.
6. The City and Evergreen shall have approved the parking management agreement.
7. The City and Evergreen shall have approved the pedestrian easement for the two public walkways.
8. The lease, parking management agreement and pedestrian easement shall be executed at the closing of debt financing for construction.
9. If sought by Evergreen, Evergreen shall have received a decision from the Bureau of Labor and Industries stating that the project is not subject to prevailing wages. Evergreen will indemnify, defend and hold harmless LORA against all claims, etc. regarding Oregon prevailing wage rate laws.
10. The City shall not have adopted any ordinance, regulation, rule or requirement before the contingencies are satisfied or waived that could, in Evergreen's judgment, have a material, adverse effect on the project.
11. The property owner and LORA shall have executed restrictive covenants or other documents ensuring that certain conditions and obligations in the development agreement run with the land and not just with the term of the development agreement.

### **RECOMMENDATION**

Adopt Resolution 13-03 authorizing the Executive Director of LORA to sign the Block 137 Project Development Agreement with Evergreen Group LLC for redeveloping the block as a mixed-use residential and retail development.

### **ATTACHMENTS**

1. Resolution 13-03 including Exhibit 1 – Block 137 Project Development Agreement with Exhibits A through I

Reviewed by:

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David Powell  
LORA Counsel

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Scott Lazenby  
Executive Director