

Legislation Text

File #: 090851-A, Version: 2

Authorizing the Commissioner of Public Property on behalf of the City to execute and deliver a deed conveying fee simple title to certain parcels of land, located at 745-47 North 19th Street; 801-35 North 19th Street; 1825-45 Wylie Street; and 1851 Wylie Street; amending the Philadelphia Zoning Maps by changing the zoning designations of certain areas of land located within an area bounded by 19th Street, Vineyard Street, Cameron Street, Francis Street and Shirley Street; and amending Section 14-1402 of the Zoning Code, entitled "Parking in Residential Districts," all under certain terms and conditions.

WHEREAS, The City issued a publicly advertised and competitive request for proposal for the development of market rate and affordable housing on certain City owned land located in the block bounded by 19th Street, Vineyard Street, Wylie Street, and Cameron Street; and

WHEREAS, Cameron Square Neighborhood Development, L.P. was selected based on a proposal dated May 8, 2009, as amended to construct at a minimum a 69-unit homeownership development with a combination of townhouses and a condominium building with a requirement that seven of the homeownership units will be affordable for households earning less than 150% of the Area Median Income ("Development Proposal"); now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Commissioner of Public Property on behalf of the City of Philadelphia is hereby authorized to execute and deliver a deed conveying fee simple title to parcels of land with any improvements thereon, located at 745-47 North 19th Street; 801-35 North 19th Street; 1825-45 Wylie Street; and 1851 Wylie Street and as more specifically described in Exhibit A (the "Properties"), for nine hundred thousand dollars (\$900,000.00).

SECTION 2. The deed shall provide that the Properties will be used in substantial conformity with the Development Proposal and that any resale of the seven homeownership units designated as affordable for households earning less than 150% of the Area Median Income ("Affordable Units") shall be to buyers that meet the same eligibility requirements.

SECTION 3. Pursuant to Section 14-103 of The Philadelphia Code, the Philadelphia Zoning Maps are hereby amended by changing the zoning designations of certain areas of land within an area bounded by 19th Street, Vineyard Street, Cameron Street, Francis Street and Shirley Street from the existing zoning designations indicated on Map "A" set forth below to the zoning designations indicated on Map "B" set forth below.

SECTION 4. The City Solicitor is hereby authorized to review and approve all instruments and documents necessary to effectuate this Ordinance, which instruments and documents shall contain such terms and conditions as the City Solicitor shall deem necessary and proper to protect the interests of the City and to carry out the purposes of this Ordinance.

SECTION 5. This Ordinance shall become effective immediately.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.

EXHIBIT A:

DESCRIPTION OF PROPERTIES

EXHIBIT B:

ATTACHMENT A: COMMUNITY BENEFITS AGREEMENT

COMMUNITY BENEFITS AGREEMENT

THIS COMMUNITY BENEFITS AGREEMENT (the “Agreement”), is dated the 10th day of December, 2009, by and between, **CAMERON SQUARE NEIGHBORHOOD DEVELOPMENT, L.P.** a Pennsylvania limited partnership (the “Developer”);

AND

FRANCISVILLE NEIGHBORHOOD DEVELOPMENT CORPORATION, a Pennsylvania nonprofit corporation (“FNDC”).

W I T N E S S E T H:

WHEREAS, Developer is the equitable owner of real property located at 745-47 North 19th Street; 801-35 North 19th Street; 1825-45 Wylie Street; and 1851 Wylie Street, in Philadelphia; is the legal owner of property located at 743 N. 19th Street and 1849 Wylie Street; and seeks to acquire the parcel of land located at 749 N. 19th Street (all parcels shall be collectively referred to as the “Property”), and as more particularly described in Exhibit “A” attached hereto;

WHEREAS, Developer intends to develop the Property with a condominium building containing between approximately 55 and 62 residential units and a commercial use; and 26 semi-detached townhouse units (the “Project”), as shown generally in the project description attached hereto as Exhibit “B” (the “Concept Plans”) ;

WHEREAS, the City of Philadelphia is considering the enactment of or has enacted an ordinance to rezone a portion of the Property to the RC-4 Zoning District and a portion of the Property to the R10-B Zoning District to permit the development of the Property;

WHEREAS, Developer and FNDC acknowledge that the City of Philadelphia has in no way conditioned the rezoning of the Property on the execution of this Agreement;

WHEREAS, Developer and FNDC seek to preserve and improve the quality of life of the residents of Francisville;

WHEREAS, the Francisville community created and adopted a comprehensive neighborhood plan called “Moving Francisville Forward” (the “Neighborhood Plan”), Section 5.1 of which explains Francisville’s priorities and goals for the redevelopment of the Francisville Playground and Recreation Center (the “Rec Center”), which is located on the 1800 block of Wylie Street;

WHEREAS, the Developer intends to fund certain improvements to the Rec Center and contribute the time and efforts of Developer’s in-house staff to assist in the the redevelopment and rehabilitation of the Rec Center;

WHEREAS, FNDC and Developer also seek to create jobs for the residents of Francisville, and Developer seeks to use its best efforts to support such job creation as described more fully herein;

WHEREAS, FNDC is authorized to negotiate an agreement by and between FNDC and Developer, which Agreement is intended to define the relationship between such parties;

WHEREAS, the Developer’s commitments herein are voluntary and are not a direct result of or in exchange for the Francisville community’s support of the Project.

WHEREAS, pursuant to negotiations between FNDC and Developer, the parties have agreed upon certain terms and conditions.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN CONTAINED, AND

INTENDING TO BE LEGALLY BOUND, AND IN CONSIDERATION OF OTHER GOOD AND VALUABLE CONSIDERATION, DEVELOPER AND FNDC HEREBY PROMISE, COVENANT AND AGREE AS FOLLOWS:

SECTION I - DEFINITIONS

- A. Developer:** Developer is Cameron Square Neighborhood Development, L.P., a Pennsylvania limited partnership, its successors and assigns to the Property, excluding the ultimate purchasers of residential units in the Project.
- B. Project:** the proposed development of the Property for both commercial and residential uses with accessory parking, as is more particularly described in the Concept Plans.
- C. Concept Plans:** The plans attached as Exhibit "B" hereto that will form the basis for the plans and drawings to be submitted by Developer as part of the application for zoning, use registration and building permits (collectively, the "Plans").
- D. Francisville Neighborhood Development Corporation:** A Pennsylvania nonprofit Corporation, dedicated to, *inter alia*, maintaining and improving conditions in Francisville.

SECTION II - COMMUNITY BENEFITS

- A.** The Developer and FNDC agree that it is in the parties' collective best interest for the Developer to support the Francisville Community's efforts to redevelop and rehabilitate the Rec Center.
- B.** Developer and FNDC agree as follows:
- (1) Feasibility and Cost Assessment** - Developer shall contribute to FNDC, at its sole expense and discretion, a reasonable amount of time and effort of Developer's in-house staff (including architecture, engineering and legal) to assist FNDC in assessing the feasibility and estimated costs of the Neighborhood Plan's Rec Center improvement priorities.
- (a) Within 90 days of execution of this Agreement, Developer and FNDC shall arrange a meeting with the Philadelphia Recreation Department officials and staff to jointly inspect all existing Rec Center facilities, discuss goals with FNDC, and make recommendations to FNDC as to how FNDC can best accomplish the Rec Center redevelopment goals.
- (b) FNDC agrees to provide to Developer with all existing documentation, studies, quotes, related to FNDC's prior investigation of Rec Center improvements.
- (c) Following the initial inspection, Developer shall prepare a written report to FNDC, explaining the scope of their study, recommendations on feasibility, cost analysis (if possible), etc. FNDC acknowledges that Developer's professionals may not at all times be able to render a professional opinion on certain topics. If such a situation arises, the particular professional shall alert FNDC in writing that he/she is not able to render an opinion and give a brief explanation as to why it is not possible to provide an opinion.
- (d) If FNDC engages the services of Developer's in-house attorney to assist FNDC in obtaining permits, licenses, drafting legal documents, appearing before any governmental body or at meetings with government staff or perform legal work of any kind, FNDC agrees such services shall be conditioned upon FNDC countersigning an agreement stating the terms of FNDC's engagement of Developer's in-house counsel, and any other documents, such as a conflict waiver, which might be required by the Rules of Professional Conduct for attorneys practicing within the Commonwealth of Pennsylvania.
- (e) Exhibit "C" to this Agreement is a Memorandum of Understanding (the "MOU") between the Developer and FNDC, which commits the Developer to developing with the FNDC and the City Recreation Department, a detailed Park Improvement Plan.

- (f) The Developer and FNDC shall execute an amendment to this Agreement upon completion of the Park Improvement Plan, which amendment shall set forth in greater detail than described below the improvements that the Developer's capital contribution shall fund.
- (2) **Grants and Government Funding.** The Developer shall dedicate, at its sole cost and discretion, the time and effort of Developer's in-house staff to assist and collaborate with FNDC in applying for grants and government funding for Rec Center improvements.
- (3) **Developer's Contribution.**
- (a) **Timing.** The Developer has informed, and FNDC acknowledges, that the exact start date of the Project is largely determined by the condition of the residential townhouse and condominium market in Philadelphia, and more particularly, the market in Francisville. FNDC acknowledges that those market conditions are beyond the Developer's control. FNDC acknowledges that at the execution of this Agreement, market conditions still are recovering. Accordingly, the parties agree that actual start date of the Project (the "Start Date") is at the time of execution of this Agreement unknown.
- i. Without limiting the foregoing, once Developer has selected the Start Date, it shall notify FNDC in writing.
 - ii. Within a reasonable amount of time after selecting the Start Date, Developer shall notify FNDC in writing of its proposed schedule to complete any Developer-funded improvements (as described below) to the Rec Center.
 - iii. It is the Developer's intent to substantially complete the Developer-funded improvements prior to occupancy of the Project by the ultimate purchasers of the proposed residential units.
- (b) **Funding.** The Developer agrees to fund \$250,000 of improvements to the Rec Center (the "Funding Limitation"), which improvements may, subject to the Funding Limitation, include:
- i. Removal of unnecessary impervious surfaces, as shown on the Park Improvement Plan;
 - ii. Trees planted, as shown on Park Improvement Plan;
 - iii. Assessment and disassembly of playground equipment as necessary, and installation of new playground equipment, which depending upon feasibility and budgetary restraints may include water fountains and "water play fixture" (sprinkler pond/mist tent);
 - iv. Upgraded lighting;
 - v. Improvements to the baseball field, including removal of grass throughout infield and replacement with baseball sand mix; and
 - vi. Refurbishing of the Iron fence, as needed.
- (4) The improvements to the Rec Center shall not be a precondition to the permitting or construction of the Project.
- (5) Developer agrees that if improvements listed in Section II.B (2) cost less than the Funding Limitation, Developer shall direct excess funds toward other Rec Center improvement goals, as outlined in the Park Improvement Plan.

SECTION III - EMPLOYMENT

A. Developer seeks to provide employment opportunities as part of the development of the Project. To assist it in accomplishing that goal, Local 1073 of the Carpenters' Union and the Developer have agreed to create a procedure for the recruiting of qualified individuals from the Francisville community, who wish to apply for apprenticeship with the

Carpenters. The Carpenters also seek to provide entree into the Carpenters' Union for Francisville's established carpenters and carpentry companies, if any. It is expected that at least 1 full time job with the Carpenters' Union will be created. To facilitate the foregoing:

- (1) Developer shall coordinate with the Carpenters' Union and FNDC to arrange a community outreach meeting. At the outreach meeting, the Carpenters' Union membership will provide information to the community on recruiting qualifications, testing, training and placement.
 - (2) Language disclosing the Developer's agreement with the Carpenters' Union shall be included in the Developer's contract with its General Contractor. Developer will require its General Contractor to work collaboratively with the Carpenters' Union to implement neighborhood recruiting.
 - (3) The Carpentry job or jobs created are not specific to the Project and are intended to be permanent, long-term careers.
- B. Other Building Trade Unions -** The Developer and, when selected, its General Contractor, shall attempt to replicate the agreement established with the Carpenters' Union with the other Building Trade Unions that may work on the construction of the Project.
- C.** Developer shall also make best efforts to hire residents of the Community to work as laborers on the Project during construction.

SECTION IV - PLANS

A. Prior Review of Plans: Developer shall present the Project plans to FNDC before Developer's filing an application to the Philadelphia Department of Licenses and Inspection for final building permit. FNDC shall review the Project plans solely for determining whether Project plans align with the goals set forth in Sections _____ of the Neighborhood Plan. In the event the FNDC shall determine, in good faith, that an aspect of the Project plan does not align with the Neighborhood Plan, then in such event, the FNDC shall provide, as set forth more fully below, a "Notice of Disagreement" to Developer. Upon receipt of the Notice of Disagreement, Developer shall, in good faith, consider modifications to Project to attempt to address the concern in the Notice of Disagreement, or communicate to FNDC why (in Developer's sole discretion) such a change is impracticable. FNDC's role shall be *advisory only*, and pursuant to Section V.G. below, FNDC shall not prevent the Developer in any way from applying for or obtaining its building permit or constructing the Project.

(1) Thirty (30) Days' Minimum Notice by Developer: Developer shall provide FNDC with a minimum of thirty (30) days' notice of its intention to submit Plans for final building permit (the "Final Permit Application Notice").

(2) Thirty (30) Days for FNDC Review and Comment: FNDC shall have thirty (30) days from the Final Permit Application Notice date to arrange for and review the Project plans. In the event the FNDC determines, in good faith, that the Project plans do not comply with the Neighborhood Plan, FNDC shall issue its Notice of Disagreement to the Developer within said thirty (30) day period. The Notice of Disagreement shall identify:

- (a) with specificity the Project-related item, which the FNDC believes does not conform to the Neighborhood Plan;
- (b) the specific section of the Neighborhood Plan with which the Project plan item allegedly does not conform; and
- (c) propose a modification, which would be acceptable to the FNDC to make the plans compliant with the terms hereof.

SECTION V - MISCELLANEOUS

A. Breach of Agreement: In the event of a breach of any provision of this Development Agreement, either party may, upon thirty (30) days' prior written notice to the other, take any and all civil action against the defaulting party.

B. Warranties and Representations of Parties: The undersigned parties expressly warrant and represent to one and other that

in executing this Agreement the undersigned have not relied upon any oral statements made to the undersigned or any agent, servant, workman or employee of the undersigned by the parties or their agents, servants, workmen or employees and that the work to be performed by the undersigned will not be done in reliance upon any oral statement, advice or instruction by the parties or their agents, servants, workmen or employees of any of them to the undersigned or any agent, servant, workman or employee of the undersigned and that all work on the development shall be performed strictly in accordance with the Plans and this Agreement. Developer hereby warrants and represents that it is a limited partnership formed for the primary purpose of acquiring and developing the Property and that Developer is the holder in due course of certain Agreements of Sale for the purchase of the Property. The signatories hereto attest that they are authorized to make the statements contained herein and are authorized to agree to the terms and conditions contained herein on behalf of the parties hereto.

- C. Notice of Assignment of this Agreement:** Developer shall provide written notice of the assignment of this Agreement within ten (10) days of such assignment. Such notice shall be sent via courier, overnight delivery or certified mail to FNDC at its regular place of business.
- D. Condition of Assignment of Agreement of Sale:** Developer hereby agrees that in the event Developer transfers, sells or otherwise disposes of the Property to a third person, natural or otherwise, named or unnamed, such transfer, sale or other disposition shall be under and subject to this Agreement, and this Agreement shall remain in full force and effect notwithstanding the transfer, sale or other disposition of the Property.
- E. Binding Upon Successors, Heirs, Subsidiaries and Assigns:** Developer and FNDC agree that this Agreement shall be binding upon the Developer and FNDC, and their respective successors, heirs, assigns and nominees.
- F. Modifications to Agreement:** Any modification, amendment, changes or corrections to this Agreement shall be in writing and signed by the parties hereto.
- G. Support of Development Project by FNDC:** FNDC shall support in its application for and recommend approval of all permits, approvals, variances and/or other zoning relief or land-use approvals sought by Developer in connection with the Project (collectively, the "Approvals"), provided that such Approvals are in conformity with the Project, as such is described herein.
- H. Governing Law:** This Agreement shall be construed and governed in accordance with the laws of the Commonwealth of Pennsylvania.
- I. Captions:** The Section Headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.
- J. Severability.** In the event any provision(s) of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- K. Entire Agreement:** This Agreement, together with the attachments and/or exhibits hereto, embodies and constitutes the entire understanding between the Parties hereto and all prior agreements, understandings, representations and statements, oral or written are merged into this Agreement.
- L. The Parties hereto affirm that they have read the foregoing Agreement in its entirety and that they have been fully advised by their counsel with respect thereto, and that each of them knows and understands the contents hereto and signs the same as their own free act and deed and with full authority to do so from their respective partnerships or nonprofit corporations.**

IN WITNESS WHEREOF, intending to be legally bound, FRANCISVILLE NEIGHBORHOOD DEVELOPMENT CORPORATION and CAMERON SQUARE NEIGHBORHOOD DEVELOPMENT, L.P. have hereunto set its hands and seals to this Agreement, on the day and year first above written.

FRANCISVILLE NEIGHBORHOOD
DEVELOPMENT CORPORATION

Attest: _____

By:

CAMERON SQUARE NEIGHBORHOOD DEVELOPMENT, L.P.

By: Its sole general partner, Cameron Square Neighborhood
Development, Inc.

Attest: _____

By: _____
Robert S. Hankin, President

COMMONWEALTH OF PENNSYLVANIA :

COUNTY OF PHILADELPHIA :

On this, the ___ day of December, 20___, before me, the undersigned officer, personally appeared _____, who acknowledged him/herself the _____ of _____, a _____, and that s/he, as such _____, being authorized to do so, executed the foregoing instrument for the purposes contained therein by signing the name of the _____ by him/herself as _____.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My commission expires: _____

COMMONWEALTH OF PENNSYLVANIA :

COUNTY OF PHILADELPHIA :

On this, the ___ day of December, 20___, before me, the undersigned officer, personally appeared _____, who acknowledged him/herself the _____ of _____, a _____, and that s/he, as such _____, being authorized to do so, executed the foregoing instrument for the purposes contained therein by signing the name of the _____ by him/herself as _____.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My commission expires:_____

EXHIBIT “A”

PREMISES LIST & LEGAL DESCRIPTIONS

Owning Entity Name: Address: Block #: Lot #:

EXHIBIT “B”

CONCEPT PLANS/PROJECT DESCRIPTION