



MEMORANDUM

DATE: February 5, 2014

TO: Housing Commission

FROM: David Hogan, Contract Planner

RE: **Agenda Item B1: Recommendation of a Below Market Rate Housing In-Lieu Agreement with the Sobrato Organization for commercial linkage fees for 151 Commonwealth Drive and 164 Jefferson Drive**

SITE LOCATION

The project site is approximately 13.3 acres and is identified as Assessor's Parcel Numbers 055-243-240 and 055-243-050. The subject properties are addressed as 151 Commonwealth Drive and 164 Jefferson Drive.

PROJECT DESCRIPTION

The applicant is requesting a Conditional Development Permit (CDP) and Tentative Parcel Map for the demolition of the existing buildings located at 164 Jefferson Drive and 151 Commonwealth Drive, a subdivision map to create an additional lot, and the construction of two four-story office buildings. The parcels are located in the M-2 (General Industrial) zoning district, and the project would require a rezoning of the parcels from M-2 (General Industrial) to M-2(X) (General Industrial, Conditional Development District), approval of a CDP to exceed the maximum height limit of 35 feet and to establish the required parking, allowed signage, and required setbacks. A copy of the site plan and elevations for the project are contained in Attachment B of this staff report.

The developer is required to comply with Chapter 16.96 of City's Municipal Code, ("BMR Ordinance"), and with the BMR Housing Program Guidelines adopted by the City Council to implement the BMR Ordinance ("Guidelines"). The BMR Ordinance requires the applicant to submit a Below Market Rate Housing Agreement for review by the Housing Commission.

RESIDENTIAL DEVELOPMENT CONSIDERATION

Residential use of the property is not allowed by the applicable zoning regulations. The developer does not own any sites in the city that are available and feasible for construction of sufficient below market rate units to satisfy the requirements of the BMR Ordinance, which in this case would be six units. Based on these facts, staff has found that development of such units on-site or off-site in accordance with the requirements of the BMR Ordinance and Guidelines is not feasible.

BMR HOUSING PROGRAM REQUIREMENT

The developer shall pay the applicable in lieu fee as provided in the BMR Ordinance and Guidelines. The draft BMR Agreement (Attachment A) has been reviewed by the City Attorney for compliance with the BMR ordinance. The in lieu fee will be calculated as set forth in the table below; however, the applicable fee for the Project will be based upon the per square foot fee in effect at the time of payment.

	<u>Use Group</u>	<u>\$/SF</u>	<u>Total SF</u>	<u>Total Fee</u>
Existing Building Office Portions	A-Office/R&D	\$14.92	19,173	(\$286,061.16)
Existing Building Non-Office Portions	B- Non-Office C/I	\$8.10	218,685	(\$1,771,348.50)
Proposed Office Buildings	A-Office/R&D	\$14.92	259,920	\$3,878,006.40
Total Estimated Fee				\$1,820,596.74

RECOMMENDATION

Staff recommends that the Housing Commission recommend to the Planning Commission and City Council that they approve the proposed Below Market Rate Housing In-Lieu Fee Agreement.

ATTACHMENTS

- A. Proposed BMR Housing In Lieu Fee Agreement
- B. Project Plan Reductions (Select Sheets)

BELOW MARKET RATE HOUSING IN LIEU FEE AGREEMENT

This Below Market Rate Housing In Lieu Fee Agreement (“Agreement”) is made as of this ___ day of _____, 2014 by and between the City of Menlo Park, a California municipality (“City”) and The Sobrato Organization (“Applicant”), with respect to the following:

RECITALS

- A. Applicant owns property located in the City of Menlo Park, County of San Mateo, State of California, consisting of approximately 13.3 acres, more particularly described as Assessor’s Parcel Numbers: 055-243-050 and 055-243-240 (“Property”), more commonly known as 151 Commonwealth Drive and 164 Jefferson Drive, Menlo Park, California.
- B. The Property currently contains multiple buildings containing a combination of manufacturing, warehouse, and office spaces. The existing gross floor area of these buildings is 237,858 square feet.
- C. Applicant proposes the construction approximately 259,920 square feet of office space in two buildings. The Applicant has applied to the City for planning approval to demolish the existing buildings and construct the two proposed office buildings.
- D. Applicant is required to comply with Chapter 16.96 of City’s Municipal Code (“BMR Ordinance”) and with the Below Market Rate Housing Program Guidelines (“Guidelines”) adopted by the City Council to implement the BMR Ordinance. In order to process its application, the BMR Ordinance requires Applicant to submit a Below Market Rate Housing Agreement. This Agreement is intended to satisfy that requirement. Approval of a Below Market Rate Housing Agreement is a condition precedent to the approval of the applications and the issuance of a building permit for the project.
- E. Residential use of the property is not allowed by the applicable zoning regulations. Applicant does not own any sites in the City that are available and feasible for construction of sufficient below market rate residential housing units to satisfy the requirements of the BMR Ordinance. Based on these facts, the City has found that development of such units off-site in accordance with the requirements of the BMR Ordinance and Guidelines is not feasible.
- F. Applicant, therefore, is required to pay an in lieu fee as provided for in this Agreement. Applicant is willing to pay the in lieu fee on the terms set forth in this Agreement, which the City has found are consistent with the BMR Ordinance and Guidelines.

NOW, THEREFORE, the parties agree as follows:

1. Applicant shall pay the in lieu fee as provided for in the BMR Ordinance and Guidelines. The applicable in lieu fee is that which is in effect on the date the payment is made. The in lieu fee will be calculated as set forth in the table below; however, the applicable fee for the project will be based upon the amount of square footage within Group A and Group B at the time of payment. The estimated in lieu fee is provided below.

	Use Group	Fee/SF	Square Feet	Component Fees
Existing Building - Office Areas	A-Office/R&D	\$14.92	19,173	(\$286,061.16)
Existing Building - Non-Office Areas	B- Non-Office C/I	\$8.10	218,685	(\$1,771,348.50)
Proposed Buildings Office Areas	A-Office/R&D	\$14.92	259,920	\$3,878,006.40
Total Estimated In Lieu Fee				\$1,820,596.74

2. Applicant shall pay the fee before the City issues a building permit for the project. The fee may be paid at any time after approval of this Agreement by the City Council. If for any reason, a building permit is not issued within a reasonable time after Applicant's payment of the fee, upon request by Applicant, City shall promptly refund the fee, without interest, in which case the building permit shall not be issued until payment of the fee is again made at the rate applicable at the time of payment.
3. This Agreement shall be binding on and inure to the benefit of the parties hereto and their successors and assigns. Each party may assign this Agreement, subject to the reasonable consent of the other party, and the assignment must be in writing.
4. If any legal action is commenced to interpret or enforce this Agreement or to collect damages as a result of any breach of this Agreement, the prevailing party shall be entitled to recover all reasonable attorney's fees and costs incurred in such action from the other party.
5. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the venue for any action shall be the County of San Mateo.
6. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by all of the parties hereto.

7. This Agreement supersedes any prior agreements, negotiations, and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof.
8. Any and all obligations or responsibilities of the Applicant under this Agreement shall terminate upon the payment of the required fee.
9. To the extent there is any conflict between the terms and provisions of the Guidelines and the terms and provisions of this Agreement, the terms and provisions of this Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

CITY OF MENLO PARK

The Sobrato Organization

By: _____
City Manager

By: _____



Tree Disposition Data		
Description	Quantity	Notes
Total Existing Trees		
Commonwealth	27	
Jefferson Forest	18	
Existing Trees to Remain		
Heritage	1	
Non-Heritage	0	
Existing Trees to Remove		
Heritage	23	
Non-Heritage	21	
Heritage Replacement Trees Required	46	24" Box min. size
Proposed New Trees	472	
Net Trees for Project	473	Includes heritage tree to remain



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A Planning Department Submittal for
COMMONWEALTH CORPORATE CENTER
 151 Commonwealth Drive and 164 Jefferson Drive
 Menlo Park, California 94025

SOBRATO

DATE	DESCRIPTION
07.26.12	PLANNING DEPARTMENT SUBMITTAL
11.02.12	ISSUING PERMITS PRESENTATION
12.11.12	CITY INFO PRESENTATION
04.12.13	PLANNING DEPARTMENT SUBMITTAL
06.14.13	ISSUE
08.26.13	PLANNING DEPARTMENT SUBMITTAL

ILLUSTRATIVE LANDSCAPE PLAN

SCALE: 1/4"=1'-0"



Illustrative Landscape Plan

L1.0

PROJECT NO: 11577

