

CITY COUNCIL/REDEVELOPMENT AGENCY

TUESDAY, FEBRUARY 16, 2010
AGENDA ITEM No. 24

POLICY AND ACTION

RDA RESOLUTION

Revised Timeline to implement Incubator Program at Cummings Park (Russell Averhart, Project Manager-Redevelopment Agency)



CITY OF EAST PALO ALTO

OFFICE OF THE CITY MANAGER

REDEVELOPMENT AGENCY

2415 University Avenue • East Palo Alto, CA 94303

TO: Honorable Agency Chair and Redevelopment Agency Board Members (the Board)

FROM: Russell Averhart, Project Manager
Carlos Martínez, Redevelopment Division Manager
VIA: Alvin D. James, Redevelopment Agency Executive Director
SUBJECT: Revised Timeline to Implement Incubator Program at Cumming Park
DATE: February 16, 2010

RECOMMENDATION:

Receive the report, and direct staff to prepare a draft lease agreement with Incumentor, subject to meeting specific performance milestones, and under the terms outlined by staff, or as modified by the Board.

BACKGROUND

At the February 2 joint meeting, after hearing a report from staff on the status of the Incubator Program, the agency directed staff to 1) take steps to start discussing and drafting terms to assume ownership of the Benefitted Retail Space at Cummings Parks development, for future Board consideration, and 2) return at the Board's February 16 meeting with a revised timeline for implementation of an Incubator program by Incumentor.

Staff met with Ph.D. McNair Knox, who presented a revised work plan, and expressed a strong interest in continuing Incumentor's fundraising effort to implement an Incubator program within the next nine months. The workplan includes the following key milestones:

- [Securing funding to build the tenant improvements by July 20, 2010.](#)
- [Begin paying HOA fees by August 1, 2010.](#)
- [Submitting tenant improvements \(T.I.'s.\) construction drawings, by August 15, 2010](#)
- [Complete construction of T.I.'s., by November 20, 2010.](#)
- [Begin Program Operations by November 23, 2010.](#)

Incumentor's revised work plan is attached to this report. The work plan identifies the dates mentioned above.

The revised work plan is ambitious and shows Incumentor's desire to implement the Incubator program promptly. In sum, it requires completing the fundraising in about five (5) months, submitting construction drawings in six (6) months and beginning operations in nine (9) months.

As a result, staff is recommending that the Board directs staff to develop a draft lease agreement with Incumentor, with the lease to be effective, subject to Incumentor meeting the above stated deadlines.

A fact worth noting is that according to Incumentor's work plan, its board is still contemplating whether or not to locate within the Incubator space at Cummings, or to find an alternative location somewhere else. See Work Plan Task 3b.

For your information, the Owner Participation Agreement (OPA) indicated that an alternative location would be considered if the Shopping Center CC&R's do not allow the incubation program. The OPA states:

“In the event that the Shopping Center's CC&R's do not allow the Program as a valid use, the Developer will lease the Benefitted Retail Space to an interested user at market rate. The Developer will pay the market rate lease revenue from the Benefitted Retail Space, to the Operator to run the Program at some other appropriate location within the City of East Palo Alto.”

Thus, the space could be rented to another user at market rate, and the revenue generated by the Benefitted Retail Space could be allocated by the Board for the operation of the Incubator program at an alternative location; if either, a) the retailers oppose to having this use within the shopping center; or, b) a more suitable space, in a better, more accessible location could be secured, and renting the space at Cummings becomes a financially efficient and desirable way to finance the operation of the Incubator.

Therefore, staff would like the Board to also state whether or not the Board is open to considering an alternative location for the Incubator program in either situation, so that Incumentor's board concentrate its efforts in a direction that is consistent with the Redevelopment Agency Board's desire and direction.

NEXT STEPS

If it is the Board's direction to pursue a lease agreement with Incumentor, we will return with a proposed lease agreement at a future Agency meeting.

Staff will be meeting shortly with a representative from Cummings Park Associates (CPA) to discuss the terms of transferring title to the Agency of the benefited retail space. We will keep the Board abreast of the status of the transfer discussion as the terms are defined and developed.

FISCAL IMPACT

A decision regarding this matter would not have an impact in the General Fund. However, the estimated HOA fees are \$617.73 per month, or \$7,412 per year. The Redevelopment Agency, depending on the timing of the acquisition of the Incubator space and Incumentor's ability to perform, may have to cover the HOA fees for a period of time, still to be determined pending Board direction and negotiations with both Incumentor and CPA.

ATTACHMENT

- **Revised Work Plan Update from Incumentor (dated February 9, 2010)**

Revised Work Plan Update for Implementation of Owner Participation Agreement Incubator Requirements:

A Report to the East Palo Alto Redevelopment Agency (February 9, 2010)

Pursuant to a request from Carlos Martinez and Russell Averhart, staff members of the City of East Palo Alto's (EPA) Redevelopment Agency, this document presents a revised plan for implementing an incubator program. The plan details tasks, including associated timelines, to be conducted in fulfillment of Owner Participation Agreement (OPA) requirements for benefited retail space provided to Incubator, a nonprofit organization formed by Cummings Park Christian Methodist Episcopal Church.

Task	Timeline
1. OPA Requirements	
a. Proof of 501(c)(3) tax-exempt status	
(1) Federal 501(c)(3) application in progress for Incubator, Employer Identification Number (EIN) 74-3219459	January 31, 2008
(2) Proof of exemption from state franchise or income tax (California) for Incubator as charitable organization number 3004737	Completed
b. Obtain EPA business license	March 31, 2010
c. Operator ByLaws	Completed
(1) By agreement of Incubator Board of Directors at meeting of November 11, 2007, a policy will be created stipulating that 60% of board members must be EPA residents	July 30, 2008; Completed 7/9/08
d. Full program description	
(1) Review program description in OPA and recommend revisions to be incorporated into a working draft detailed Incubator program description (to be completed by November 15, 2009)	Completed & Submitted December 7, 2009
(2) Confer with Renaissance Center, partner and subcontractor, and finalize plans for collaboratively implementing initial incubator operations	Completed November 3, 2009
(3) Draft incubator description for first year of operation	Completed December 7, 2009
(4) Finalize incubator description, obtain Incubator board approval & submit full incubator program description to East Palo Alto Redevelopment Agency, including first year operating plan	March 31, 2010
e. Board of Directors membership roster	June 30, 2008; Completed 6/30/08
2. Fundraising – Incubator is partnering with Renaissance Center to identify prospective donors for space build-out/tenant improvements and & Year 1 operations. Preliminary talks have been held with Wells Fargo Bank Community Development division.	
a. Secure funding for completing space build-out/tenant improvements and for covering costs of initial operating expenses (including Homeowners' Association [HOA] fees)	July 20, 2010
3. Lease Agreement with City of East Palo Alto Redevelopment Agency (RDA)	

Task	Timeline
a. Confer with City of East Palo Alto RDA to determine process of reaching closure on lease agreement	February 16, 2010 Completed February 9, 2010
b. Obtain Incu mentor board decision to occupy benefited retail space or secure alternative location	March 16, 2010
c. Begin review of draft benefited retail space lease agreement to be provided by City of East Palo Alto RDA by April 20, 2010	April 20, 2010
d. Secure Incu mentor board approval of and sign-off on benefited retail space lease agreement, to be effective August 1, 2010	July 20, 2010
4. Program Development/Implementation: Operations/Status Timelines	
a. Board Recruitment/Appointment – no current plans to recruit/appoint members [NOTE: Currently, Incumentor Board comprises five (5) members, representing four (4) EPA residents and one (1) non-resident. Incumentor bylaws require that “The Board of Directors shall consist of no less than 5 nor more than 11 people....”	Completed
b. Begin paying HOA Fees	August 1, 2010
c. Submit space build-out/tenant improvement construction plans to City of East Palo Alto planning department	August 15, 2010
d. Finalize staffing – paid or volunteer – Current considerations involve subcontracting incubator operations to Renaissance Center	August 31, 2010
e. Receive approval of space build-out/tenant improvement construction from City of East Palo Alto building and planning departments	September 17, 2010
f. Implement and complete space build-out/tenant improvement construction	September 18, 2010 – November 20, 2010
g. Begin program operations	November 23, 2010
h. Annual Report to the City re: Incubator Status	December 31, 2010