



THE CITY OF SAN DIEGO
Redevelopment Agency's Report

DATE ISSUED: September 22, 2004 REPORT NO. RA-04-35
ATTENTION: Chair and Members of the Redevelopment Agency
Docket of September 28, 2004
SUBJECT: Condemnation of Property in the North Park Redevelopment Project Area

SUMMARY

Issue - Should the Redevelopment Agency authorize the Executive Director to execute condemnation proceedings with an order of immediate possession as appropriate to acquire fee title to all property and business interests in 3802 30th Street and a portion of 2927 University Avenue, San Diego, as required to provide public parking and support the North Park Theatre Renovation Project?

Executive Director Recommendations

- 1) Authorize the Executive Director to execute condemnation proceedings with an order of immediate possession as appropriate to acquire fee title to all property and business interests in 3802 30th Street and a portion of 2927 University Avenue, San Diego, (the "Subject Properties") as required to provide public parking and to support the North Park Theatre Renovation Project.
- 2) State for the record that the Final Environmental Impact Report has been reviewed and considered prior to approving the project; direct the Legislative Recorder for the Redevelopment Agency to file a Notice of Determination.

Other Recommendations - On September 9, 2004, the North Park Project Area Committee (NPPAC) adopted a motion recommending against the condemnation of parcels 453-122-04 and 453-122-05 (Feldman) by a vote of six in favor, three opposed, and one abstaining. A motion recommending that the Redevelopment Agency adopt a Resolution of Necessity to condemn parcels 453-122-04, 453-122-05, and a portion of parcel 453-122-09, failed by a vote of three in favor, three opposed, and four abstaining. While expressing support for the implementation of the parking facility project, the NPPAC requested that property owners be provided additional time to negotiate mutually acceptable terms of purchase. A special meeting of the Project Area Committee was scheduled for September 23, 2004, to consider the result of additional negotiations with the owner of parcels 453-122-04 and 453-122-05. Any recommendation adopted by the NPPAC on that date will be reported to the Redevelopment Agency during its meeting of September 28, 2004.

Fiscal Impact – Total parking facility project costs are estimated to be approximately \$9,399,000. The project budget of \$10,338,000 includes a contingency for variations in costs subject to

negotiation upon execution of the DDA such as land acquisition and construction. The Redevelopment Agency will provide \$8,338,000 in bond proceeds and the developer will provide a total of \$2,000,000 in the form of cash and/or approved like-kind contributions such as tenant improvements, financing costs, and developer's fee.

Funds in the amount of \$2,800,000 and \$5,538,000 are available, and were previously authorized from the proceeds of the North Park Tax Allocation Bonds, Series 2000 and 2003 respectively, for the Parking Facility Project. For this action, the remaining Series 2000 bond proceeds, in the amount of \$2,595,000, and Series 2003 bond proceeds, in the amount of \$265,000 will be utilized.

Environmental Impact – A Final Environmental Impact Report (EIR), dated April 1995 (SCH No. 93-121105) which analyzed the probable effects of development activity implementing the North Park Redevelopment Project, was certified by City Council Resolution R-288203 on January 28, 1997. Pursuant to the State Guidelines for the Implementation of the California Environmental Quality Act (CEQA) (California Administrative Code, Section 15000 et. seq.) and the San Diego Redevelopment Agency's amended "Procedures for Implementation of CEQA and the State CEQA Guidelines" (adopted July 17, 1990), an Environmental Secondary Study, dated February 15, 2002 was prepared to address the North Park Theater Rehabilitation and another Environmental Secondary Study dated September 13, 2003 was prepared to identify probable environmental effects of the North Park Parking Structure Project (Attachment 5). On February 10, 2004, a Disposition and Development Agreement (DDA) was approved by City Council Resolution R-298904 covering both of these activities within the North Park Redevelopment Project Area. The North Park Parking Structure Environmental Secondary Study identified no probable activity-specific environmental effects beyond those identified in the Final Environmental Impact Report (EIR) for the North Park Redevelopment Project. However, after staff review of the proposed project, it was determined that implementation would require deviations from the Municipal Code not previously identified in the 1995 Final EIR or subsequent Secondary. As a result, disclosure of this change in the proposed project required the preparation and a 14-day distribution of an Addendum to EIR SCH No. 93-121105 (Project No. 23756, dated August 4, 2004). No comments were received as a result of public review. Mitigation measures identified in the North Park Redevelopment Project EIR, Secondary Study and Addendum to EIR SCH No. 93-121105 were incorporated into the project, and adopted by the City of San Diego Hearing Officer on September 1, 2004.

BACKGROUND

Private sector redevelopment in much of the North Park Redevelopment Project Area ("Project Area"), as defined by the Redevelopment Plan for the North Park Redevelopment Project ("Redevelopment Plan"), has been stagnant since the March 4, 1997, adoption of the Redevelopment Plan by the City Council, set forth in City Clerk Document No. OO-18386. The physical and economic conditions of blight in the Project Area have caused a reduction in the proper use of the area to such an extent that it has become a burden on the community that cannot be reversed or alleviated without the assistance of the Redevelopment Agency through the authority of the California Community Redevelopment Law. In order to further the goals outlined in the Redevelopment Plan, it is necessary to acquire property for assemblage of fragmented property interests and to eliminate blight. The assemblage of property interests and the elimination of blighting conditions will improve the neighborhood and the quality of life for residents, visitors, property owners and tenants of this area, consistent with furthering redevelopment goals.

The adverse physical, economic and social conditions which are impairing private reinvestment in the Project Area still prevail since the City Council's adoption of the Redevelopment Plan. The Redevelopment Agency now must give impetus to the development of the Project Area in order to attract desirable private investment into the area.

DISCUSSION

The acquisition of the Subject Properties is necessary to provide an incentive to renovate the North Park Theatre, to construct necessary and proximately-located retail and restaurant businesses, as well as create additional parking, to facilitate the use of those, and existing businesses. The ownership parcels are listed below and illustrated on the map attached as Exhibit 1.

Owner	Parcel No.
Feldman	453-122-04, 05
Goldsmith	453-122-09 (Partial take)
Union Bank (tenant)	453-122-04, 05, 09 (Partial take)

The proposed parking facility project has been in the planning stages for a number of years. Extensive community outreach and input has been received on the planning and design of the facility. Simultaneously with that, Agency staff has met numerous times with the Subject Property owners and tenant (Union Bank of California) regarding the project scope and schedule. The Redevelopment Agency made offers to purchase the property to the owners and tenants listed above on July 16, 2004 (Feldman) and July 19, 2004 (Goldsmith). These offers have not been accepted.

It is determined that negotiations for the Subject Properties are at an impasse and that condemnation proceedings should be initiated to acquire fee interest in the above-referenced parcels. The property owners listed above have been notified of the hearing and invited to appear to be heard on the following issues:

1. Whether public interest and necessity require the project.

The proposed action for condemnation of the above-described property interests parcels are in conformity with the adopted Redevelopment Plan. The assemblage of property interests and the elimination of blighting conditions will improve the neighborhood and the quality of life for residents, visitors, property owners and tenants of this area, consistent with furthering redevelopment goals.

2. Whether the proposed project is planned or located in a manner that will be the most compatible with the greatest public good and least private injury.

The proposed acquisitions will enable the Redevelopment Agency to assemble property interests, eliminate blight, and allow redevelopment of these sites in accordance with the adopted Redevelopment Plan.

3. Whether the property interests are sought to be acquired necessary for the proposed project.

The acquisition of the above-described interests is necessary to facilitate the redevelopment of the Project Area in the vicinity of the subject properties. The necessity of the acquisition is described in documents including the North Park Parking Facility Feasibility Study and any amendments thereto, the North Park Redevelopment Project Environmental Impact Report and other environmental documents generated therefrom, as well as other sources referenced in this report.

4. Whether an offer to purchase the property was made to the property owner of record by the Redevelopment Agency, in accordance with Government Code section 7267.2.

The Redevelopment Agency sent the statutory offers by certified mail to the property owners on July 16 and 19, 2004.

5. Whether all conditions and statutory requirements necessary to exercise the power of Eminent Domain ("the right to take") to acquire the Subject Properties described herein have been complied with by the Agency.

All statutory requirements, including the making of a Government Code section 7267.2 offer, have been satisfied, however, these offers have not been accepted. It is determined that negotiations for the Subject Properties are at an impasse and that condemnation proceedings should be initiated to acquire fee interest in the Subject Properties.

6. Whether the acquisition by condemnation action(s) of the Subject Properties, located within the project, is in conformity with the previously adopted General Plan of the City of San Diego, the adopted Greater North Park Community Plan, the Mid-City Communities Planned District Ordinance, and all local codes and ordinances, including San Diego City Ordinance Nos. O-18386 and OO-18386.

The acquisition is in conformity with, and furthers the goals of, the General Plan of the City of San Diego, the North Park Community Plan, the Mid-City Communities Planned District Ordinance and all related local codes and ordinances.

7. Whether the acquisition, consolidation and assemblage of the Subject Properties described in Exhibits 1 and 2 and the elimination of blighting conditions are consistent with furthering redevelopment goals pursuant to and authorized by the California Community Redevelopment Law, Health and Safety Code sections 33000, et seq.

The acquisition is in compliance with relevant code sections. The physical and economic conditions of blight in the Project Area have caused a reduction in the proper use of the area to such an extent that it has become a burden on the community that cannot be reversed or alleviated without the assistance of the Redevelopment Agency through the authority of the California Community Redevelopment Law.

8. Whether the acquisition of the Subject Properties described and depicted in Exhibits 1 and 2 are deemed necessary for the removal of blighting conditions and influences and for the construction, operation and maintenance of the North Park Redevelopment Project, consistent with the uses permitted by the adopted Greater North Park Community Plan, and whether the proposed project is necessary to revitalize the North Park Project Area.

It has been conclusively determined in the April 1995 North Park Redevelopment Project Environmental Impact Report that the Project Area is blighted. This acquisition is consistent with, and a necessary component of, the North Park Redevelopment Project.

9. Whether the use for which any publicly owned property is to be taken is a use that will not unreasonably interfere with or impair the continuance of the public use as it presently exists or may reasonably be expected to exist in the future, and therefore

authorized by Code of Civil Procedure section 1240.510. The use here will not interfere with or impair any present use or reasonably expected future use of any property appropriated to public use and is consistent with and authorized by Code of Civil Procedure section 1240.510.

10. Whether the use for which any publicly owned property is to be taken is a more necessary public use than that to which the properties are currently appropriated and the taking as to any publicly owned property is for a more necessary public use consistent with and authorized by Code of Civil Procedure section 1240.610.

The use here is a more necessary public use and the taking is consistent with and authorized by Code of Civil Procedure section 1240.610.

ALTERNATIVE

Do not condemn for the necessary property rights, and require that the project be delayed and/or re-designed.

Respectively submitted,

Debra Fischle-Faulk
Deputy Executive Director
Redevelopment Agency

Approved: Hank Cunningham
Assistant Executive Director
Redevelopment Agency

CHIODO/SLG

Attachments:

Exhibit 1	Map of Acquisition Parcels
Exhibit 2	Legal Description of Acquisition Parcels