

DATE ISSUED: February 23, 2005 REPORT NO. CCDC-05-03

ATTENTION: Chair and Members of the Redevelopment Agency
Docket of March 1, 2005

SUBJECT: Lofts @ 722 Market (block bounded by Seventh and Eighth avenues
and Market and "G" streets) - Exclusive Negotiation Agreement With
OliverMcMillan - East Village Redevelopment District

REFERENCE: Site Map
Exclusive Negotiation Agreement

STAFF CONTACT: Eli Sanchez, Senior Project Manager

SUMMARY

Issue - Should the Redevelopment Agency approve the proposed Exclusive Negotiation Agreement ("ENA") with OliverMcMillan?

Staff Recommendation - That the Redevelopment Agency of the City of San Diego ("Agency") approve the proposed Exclusive Negotiation Agreement ("ENA") with OliverMcMillan.

Centre City Development Corporation Recommendation - On January 26, 2005, the Corporation Board voted unanimously to support the staff recommendation.

Centre City Advisory Committee ("CCAC") - On January 19, 2005, the CCAC voted 23 in favor and three recused to support the staff recommendation.

Other Recommendations - None.

Fiscal Impact - No fiscal impact at this time. Should the proposed Exclusive Negotiation Agreement ("ENA") result in a DDA, Developer would be responsible for all acquisition and development costs, including acquisition, relocation, environmental removal and remediation costs (to the extent such costs cannot be recovered from a responsible party) ("Acquisition and Relocation Costs"), and development and construction costs for the proposed development on the Site and public improvements in the public right-of-way. The Developer will advance to the Agency the estimated Acquisition and Relocation Costs ("Developer's Advance") associated with the 5,000 square-foot Cline Parcel (APN 535-105-05).

BACKGROUND

The Lofts @ 722 Market is located in the East Village District on the southwest corner of the block bounded by Market and G streets and Seventh and Eighth avenues ("Site"). The Site is currently improved with a 10,000 square-foot surface-parking lot owned by the Developer and a warehouse on the 5,000 square-foot Cline Parcel. The Site is surrounded on the north by the 35,000 square-foot site of The Lofts @ 677 Seventh Avenue, an approved project under construction; the historic Hotel Arthur building to the east; a surface-parking lot (Park-it-on-Market South) to the south; and the Park-it-on-Market-North parking structure to the west. The Site is zoned Mixed Use Residential Emphasis, which requires that projects provide at least 80% residential land uses.

In August 2001, the Developer proposed to develop and construct an approximately 198,000 square-foot, mixed-use, residential/commercial project on a 45,000 square-foot site located on the block bounded by Seventh and Eighth avenues and Market and "G" streets. See Site Map (Exhibit A). At that time, the Developer owned a 10,000 square-foot parcel and was under contract to purchase an additional 25,000 square feet. The Developer had unsuccessfully attempted to purchase the 5,000 square-foot Cline Parcel (APN 535-105-05) and the 5,000 square-foot Leon Parcel (APN 535-105-04). The Developer requested that the Agency assist with the purchase of the Cline and Leon Parcels at the sole cost and expense of the Developer and proposed to advance the necessary funds to purchase the property.

On September 5, 2001, the Projects Committee directed staff to initiate the owner participation process for the Leon and Cline Parcels. The Leons sold their property through a negotiated private sale to the Developer. The Clines indicated that they were interested in submitting an alternative development proposal and, per the Agency's Rules Governing Participation by Property Owners and Preference for Businesses to Reenter in the Centre City Redevelopment Project ("OP Rules"), were provided with an opportunity to submit an alternative proposal prior to January 15, 2002. However, the Clines did not submit an alternative proposal.

Notwithstanding the owner participation process, the Clines and the Developer entered into negotiations for the private purchase of the Cline Parcel by the Developer. The negotiations for the purchase and sale of the Cline Parcel are complicated by the fact that electro-plating and chrome-plating operations were previous tenants of the Cline Parcel. A further complication is that the Clines also live in the existing warehouse on the site. After a diligent and good faith effort, the Developer was not able to finalize the purchase

of the Cline Parcel. Subsequently, the Developer renewed his request that the Agency assist with the purchase of the Cline Parcel.

Due to the breakdown in the negotiations with the Clines and the complications associated with the Cline Parcel, the Developer revised the proposed scope of development into two phases. Phase 1 provides for the private assembly, development and construction of the Lofts @ 677 Seventh Avenue (formerly G Lofts West), a mixed-use residential development of 148 apartment units on a 30,000 square-foot parcel. The Phase 2 program provides for the Lofts @ 722 Market (formerly Market Street Lofts), a mixed-use residential development of 38 apartment units on a 15,000 square-foot parcel.

On October 29, 2002, the Projects Committee directed staff to work with the Developer to negotiate an agreement whereby the Agency would employ its best efforts to acquire the Cline Parcel and sell the Cline Parcel to the Developer for the development and construction of The Lofts @ 722 Market pursuant to a DDA.

Also, in October 2002, Centre City Development Corporation ("CCDC") issued a 60-day notice under the Polanco Redevelopment Act (California Health & Safety Code Section 33459(h)) ("Polanco Notice") to the Clines. The Polanco Notice advised the Clines that, by virtue of their ownership of the Property, they had been identified as a responsible party for the release of hazardous substances within a redevelopment project area.

The Polanco Notice further provided that the Clines had 60 days to respond and provide a remedial action plan ("RAP") and schedule to remedy or remove the release in a manner acceptable to the Agency. In lieu of submitting such a plan and schedule, the Clines indicated that they were willing to negotiate a Cooperative Remediation Agreement ("CRA"), whereby the Clines would agree that CCDC would prepare all necessary plans and remediate the Cline Parcel as necessary for the proposed project. The CRA also provided that the Clines would reimburse CCDC for all of its costs to assess and remedy the Cline Parcel. On April 16, 2003, the Cline's legal counsel, Mr. Sensenig, represented that the Owners were prepared to execute the final form of the negotiated CRA. However, on June 9, 2003, Mr. Sensenig informed CCDC that the Clines had decided not to enter into the CRA.

On June 20, 2003, CCDC notified the Clines that the 60-day time period provided by the Polanco Notice had expired without the Clines submitting a RAP or entering into a CRA. The letter notice also indicated that CCDC continued to maintain a strong interest in the potential redevelopment of the Cline Parcel and requested access to the property to undertake investigation activities on the property to prepare all workplans for assessment and remediation of the Property under the Polanco Redevelopment Act.

Staff has reviewed several potential investigative options and supports the Developer's request for the Agency to assist with the assembly of the Site for development and construction of the proposed project pursuant to the terms and conditions of a DDA. Remediation of the Cline Parcel would be coordinated with CCDC and the Developer to maximize any potential benefits to the Clines and/or CCDC by performing remediation in conjunction with the development of the project.

On October 6, 2004, the Projects Committee considered the proposed ENA with OliverMcMillan. At that meeting, the owner of the Cline Parcel requested that they be allowed to submit an application for the Cal REUse Loan program and to perform the necessary environmental site assessment of the Cline Parcel. The Committee voted to allow the owners of the Cline Parcel thirty (30) days to submit an application for a Cal REUse Loan to finance the environmental site assessment and preparation of a Property Mitigation Plan for the Cline Parcel.

On November 3, 2004, GeoffryCline representing the owners of the Cline Parcel indicated that the Clines had determined that they wanted to develop the 5,000 square-foot Cline Parcel independent from the OliverMcMillan proposed Lofts@722 Market. Mr. Cline further indicated that the Cal REUse Loan program was not suited to their plans and that they wished to pursue a more conventional loan.

The owner participation process, pursuant to the OP Rules, has been complied with and no competing proposals have been received. The OP Rules provide that the Agency has the right to select from a proposal among those available for approval, to further negotiate a proposed development, or elect not to take any further action¹. The Clines were provided with an opportunity to submit an alternative development proposal and did not do so.

On October 29, 2002, the Projects Committee considered whether the Lofts @ 722 Market advances the visions and goals of the Centre City Community Plan and objectives of the Centre City Redevelopment Project. At that time, the Projects Committee exercised its authority under the OP Rules and the Redevelopment Plan to establish a preference for the OliverMcMillan project on the Site and directed staff to negotiate a DDA for the development of the project.

The proposed development of the Cline Parcel by the Clines is in conflict with the reasonable priorities established by the Projects Committee subsequent to the owner

¹The owner participation notification process provides that the property owner receive a letter discussing the Agency's interest in the redevelopment of their property, discusses the current developer's proposal and solicits the owner's interest in redeveloping their property. The owner has 30 days from receipt of the letter to respond as to their interest in submitting a redevelopment proposal. If the property owner desires to submit such a proposal, the owner has an additional 90 days to submit a written proposal describing the development concept and financing for their proposed project. A selection process would then be initiated. The Board/Agency is not obligated to move forward with any of the proposals.

participation process and the selection of the Developer to negotiate a DDA for the development of the Developer's proposed project. The proposed ENA advances the previous action by the Projects Committee to negotiate with the Developer. It is recommended that the Board recommend that the Agency enter into the proposed ENA to facilitate the development of the Site with the proposed Developer through a DDA.

DEVELOPMENT TEAM

The Developer has completed several projects in the area, including the Gaslamp Theatres, Ralphs Grocery Store, Horton-Fourth Apartments, and most recently, the Buca di Beppo Building (Sixth Avenue and "G" Street). The Developer is currently completing the construction of a 97-unit, market-rate, apartment building with approximately 8,000 square feet of commercial/retail space located on the block bounded by 6th, 7th, "F" and "G" streets.

FIRM	ROLE	CONTACT
OliverMcMillan	Developer	Jim McMillan/Jim Reynolds (Privately Owned)
Public	Architect	James Brown (Privately Owned)

DISCUSSION

Scope of the Project - A proposed ENA for the assembly of the 15,000 square-foot Site for the development and construction of the Lofts @ 722 Market, a mixed-use residential development. The proposed project has been revised to increase the density and FAR to be in conformance with the anticipated changes to the Community Plan. The project consists of an approximately 90,000 square-foot, eight-story, building with approximately 78,000 square feet of residential space containing approximately 90-105 apartments. The residential units will be located above approximately 9,000 square feet of retail space. Parking for the project would be provided by three levels of underground parking.

The previous configuration anticipated 38 apartments above approximately 12,700 square feet of ground-floor retail in a four-story building with a floor area ratio ("FAR") of 2.93; and a density of 111 units/acre with a two-level, below-grade parking structure with 60 spaces.

Project Description - The following is a summary of the project:

Type of housing (condo/rental; single- multi-family)	Rental apartments
Total number of units / total square feet	90-105 / 78,000 sq. ft.
Number of bedrooms/unit (and unit size)	87 Studios 12 1-bedroom 6 2-bedrooms
Retail Space	9,700 s.f./Ground Floor
Parking	100 spaces total .95/unit
Stories/Height	8/100 ft.
Floor Area Ratio/Permitted	6.0 / 6.0
Projected rental rates	Market rate for all units
Land Area (i.e., full block, half block, or number of square feet)	15,000 sq. ft.
Project density (in units/acre)	290 units/acre
Number of residential units demolished	1 commercial warehouse used as a residence

Project Budget & Financing- The DDA anticipates that the cost of the development of the Site by the Developer would be approximately \$20,000,000. The ENA anticipates that the costs of the development of the Site and construction of the improvements thereon would be financed with a combination of a conventional construction loan of approximately \$15,000,000, and equity from the Developer in the approximate amount of \$5,000,000. The Developer would be responsible, during the construction period, to provide additional equity funds, if and as needed, to pay for cost overruns and contingencies not otherwise funded by construction financing.

Disposition of Property - Pursuant to the proposed ENA, the Agency will seek access to the Cline Parcel for the purpose of performing a Phase II Environmental Site Assessment. If access cannot be obtained through voluntary agreement with the Clines, the Agency will, if necessary, seek access to the Cline Parcel pursuant to its authority under the eminent domain law (Cal. Code of Civil Procedure Section 1245.010 et seq.) to perform tests and studies (not requiring demolition of the building on the Cline Parcel). Upon selection of an

appropriate environmental consultant and access to the Property, the Agency will cause to be performed the Phase II Assessment work.

Upon completion of the Phase II Environmental Site Assessment work, the environmental consultant will prepare recommendations regarding preparation of a Property Mitigation Plan ("PMP"), negotiations with the appropriate regulatory agency for the approval of the PMP, and an estimate of the cost of remediation. Based upon review of the Phase II Environmental Site Assessment results and the estimate of remediation costs, the Developer will elect either to proceed with the DDA or not proceed with the DDA.

Participation by Agency - If the Developer elects to proceed with the DDA, the Agency would agree to use its best efforts to acquire title to the Cline Parcel, and may acquire title by negotiation or by condemnation, if necessary. The Agency acquisition would be contingent upon a thorough due diligence and utilization of the Polanco Redevelopment Act to protect the Agency from any liability relating to the costs for environmental investigation or remediation that might occur.

The Developer would apply for an approximately \$125,000 CalReUse Loan to pay for environmental site assessment and characterization and associated regulatory oversight costs for the Cline Parcel. If the loan is awarded, the Developer would be responsible for repaying the loan at the end of the term, with the exception of the portion of the loan required to be repaid by the Agency as the Agency's required matching share per the Loan Program.

Proposed Schedule of Performance - The ENA anticipates that the Agency would convey title to the Cline Parcel subject to satisfaction of all conditions precedent to the closing. Developer to complete development of the Site within 730 days after closing.

Project Benefits - The Project will eliminate blight through the remediation of land contaminated with hazardous substances and the demolition and redevelopment of underutilized properties. The assembled Site provides for a highly valuable large floor-plate retail space at the corner of Seventh Avenue and Market Street that is vital to the livability of the neighborhood. The project provides an attractive, contemporary architecture and provides for an enhanced urban design to stimulate the continued quality development in the East Village Redevelopment District.

The Project is consistent with the Centre City Planned District Ordinance ("PDO"), Centre City Redevelopment Plan and it also implements CCDC's Five-Year Strategic Plan. The DDA further provides for covenants and conditions to ensure the accomplishment of Agency objectives such as:

- Limitations on the sale, transfer, or assignment of any portion of the Developer's interest in the Site;

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- Adherence to an established Scope of Development and Schedule of Performance for development of the Site;
- The remediation and development of a Brownfield site;
- Implementation by the Developer, on a voluntary basis, of an Equal Opportunity Program;
- The improvement of the street-scape along the Site frontage; and
- Conditions for maintenance of the improvements on the Site.

Environmental Impact - Under the 1992 Master Environmental Impact Report ("MEIR") and Final Subsequent Environmental Impact Report ("SEIR"), an Environmental Secondary Study is prepared for all developments in the Centre City area in order to evaluate the project's compliance with the Community Plan and PDO and, therefore, the findings and conclusions of the MEIR and SEIR. Unless the project is found to be out of compliance with those planning documents, no further environmental review is required.

SUMMARY/CONCLUSION

The owner participation process, pursuant to the OP Rules, has been complied with and no competing proposals have been received. The Agency has the authority to assist with the assembly of the Site for the development of the project proposed by the Developer.

The preliminary design concept is consistent with the Centre City Community Plan and East Village Focus Plan. It provides an attractive architecture program compatible in scale and materials with the surrounding neighborhood.

Therefore, staff recommends that the Redevelopment Agency approve the proposed ENA.

Respectfully submitted,

Concurred by:

Eli Sanchez
Senior Project Manager

Peter J. Hall
President

Attachments:

- A - Site Map
- B - ENA