

DATE ISSUED: April 17, 2002

REPORT NO. RA-02-06
CMR-02-088

ATTENTION: Honorable Mayor and Members of the Council
Honorable Chair and Members of the Redevelopment Agency
Docket of April 23, 2002

SUBJECT: Disposition and Development Agreement (DDA) for the North Park
Theatre Rehabilitation Project

SUMMARY :

Issue - Should the Redevelopment Agency Enter into a Disposition and Development Agreement (DDA) with North Park Theatre, LLC for the North Park Theatre?

Executive Director's Recommendation –

Approve the DDA for the North Park Theatre Project;

Approve Basic Concept Drawings for the Project;

Certify that the Final Environmental Impact Report has been Reviewed and Considered and Make Certain Findings;

Amend the North Park Project Area Budget for Fiscal Year 2002 to Accept an Advance of \$100,000 from North Park Theatre, LLC; and

Accept an Advance of \$100,000 from North Park Theatre, LLC.

Fiscal Impact – The Developer will advance to the Redevelopment Agency \$100,000 for the seismic retrofit of the building. The Redevelopment Agency will reimburse the

Developer for funds advanced to the Agency, not to exceed (1) property tax payments for three (3) successive years beginning with the issuance of the certificate of occupancy and (2) \$100,000, subject to conditions.

Environmental Impact – Stating for the record that the final Environmental Impact Report (EIR) prepared for the North Park Redevelopment Project, adopted by the City Council of the City of San Diego on January 28, 1997 by Resolution Number R-288303 and the Environmental Secondary Study for the Proposed North Park Theater Rehabilitation Project has been reviewed and considered prior to approving the project and covers the activities of the project.

BACKGROUND:

The North Park Theatre is located within the North Park Redevelopment Project Area at the corner of University Avenue and 29th Street. The Theatre opened in 1928 as a single screen motion picture theatre with approximately 1,200 seats. The Theatre has been designated as a historic structure by the City's Historic Resources Board. The North Park Theatre is currently subject to a tri-party agreement between the City of San Diego, State Office of Historic Preservation (SHPO) and the National Advisory Council for Historic Preservation.

The North Park Theatre was purchased by the City of San Diego in 1990 for approximately \$900,000 using Federal Community Development Block Grant (CDBG) funds. The theatre was investigated by Ferver Engineering Company in 1988 and was characterized at that time as an "unsafe structure" as defined by the City of San Diego Municipal Code. In addition, a structural analysis and retrofit development guide was completed last year by the structural/civil engineering firm of Curry Price Court. The building has been vacant since 1989. Since the City's acquisition of the building in 1990, the City/Agency have spent between \$134,500 to \$184,500, excluding staff time, for consultant services, for trash and graffiti removal, security improvements and expenses, building repairs due to vandalism/burglaries, replaced locks and windows, and repairs to the roof.

DISCUSSION:

The proposed development program includes the exterior and interior rehabilitation of the North Park Theatre for live theatre. The live entertainment tenant identified is the San Diego Comic Opera. However, other non-profit and for profit users would periodically lease the facility for performances. The Theatre building would also be rehabilitated to accommodate approximately 5,800 square feet of ground floor restaurant/retail space along University Avenue and approximately 6,700 square feet of office space on the second floor.

The Developer is Arnold G. "Bud" Fischer under the development entity of North Park Theatre, LLC. Mr. Fischer is an experienced developer having successfully completed historic building renovations and new construction. Mr. Fischer has completed Single Room Occupancy (SRO) hotel projects, commercial/office buildings downtown and the former Lafayette Hotel in North Park. Mr. Fischer came forward during the second solicitation of the Theatre in the summer of

2000. The first solicitation for the rehabilitation of the Theatre occurred in the fall of 1999 and included an exhaustive national developer/operator search and proposal evaluation process. The two proposers interviewed included development beyond the Theatre footprint. The recommended proposer failed to secure an ancillary anchor tenant (Rite-Aid) to be located on an adjacent block and withdrew from the project.

Separate from this DDA and prior to the conveyance of the Theatre to the Developer, the Redevelopment Agency will acquire the Property (land and building) and make seismic/structural and hazardous materials abatement improvements to the Property. It is proposed that the Redevelopment Agency purchase the Theatre from the City for its original purchase price of \$900,000. The Theatre was purchased in 1988 with Community Development Block Grant (CDBG) funds. With the purchase of the Theatre, the CDBG funds will be loaned back to North Park Project Area for redevelopment improvements. Upon receiving title to the Property, the Redevelopment Agency will make seismic/structural and hazardous materials abatement improvements to the building/property. These improvements are estimated to cost \$1,280,000. The Developer will advance \$100,000 towards the improvements.

Also, separate from this DDA, it is proposed that the Redevelopment Agency acquire an approximate 25,000 square foot parcel located behind the Theatre (which includes a single story office building) and construct a surface public parking lot. The cost of the surface public parking lot project is estimated not to exceed \$1,240,000.

DISPOSITION AND DEVELOPMENT AGREEMENT SUMMARY:

The major elements and responsibilities of the Developer and the Redevelopment Agency, under the DDA, are summarized below.

Exterior Rehabilitation

Under the DDA, the Redevelopment Agency has 12 months following the execution of the DDA to close escrow and convey the Property to the Developer. The Property will be sold to the Developer for \$1. Upon close of escrow, the Developer is to submit plans for the exterior rehabilitation to the building department no later than 120 days and to begin commencement of construction within 30 days of receiving a permit. Upon issuance of the permit, the Developer has 12 months to complete the exterior rehabilitation. The major elements of the exterior rehabilitation include a new Theatre entrance (fronting 29th Street) and the remodeling of the Theatre marquee.

Interior Rehabilitation

The Developer has stated that the signing of a lease with a San Diego Comic Opera is dependent upon the Developer and Redevelopment Agency formulating a parking plan, within 150 days following the execution of the DDA, for the provision of developing an approximate 400 space public parking structure.

It is the intent of the Developer to give the San Diego Comic Opera a 1 year period (commencing with the execution of the DDA) to raise the required equity necessary for their participation in the project. The fund raising threshold has been set at \$1.5 million. The Developer will undertake and complete the interior improvements once an agreement has been reached with the San Diego Comic Opera. In addition, the Developer will make their best effort to lease the Theatre for live entertainment performance use for a period of 17 months commencing with the execution of the DDA. If a public parking plan is not formulated within 150 days following the execution of the DDA, the Developer will be able to lease the building for any use permitted by applicable zoning with prior written approval of the Redevelopment Agency Executive Director (City Manager) or Assistant Executive Director (Community and Economic Development Director).

Upon signing a lease with the San Diego Comic Opera, the Developer will complete a historical renovation to the interior of the building. The Theatre space will be remodeled to provide 800 seats. The seating will either be renovated or replaced. The interior improvements will also include air conditioning and heating, electrical service, lighting and rest room facilities for both the artists and the general public. The renovation will encompass enlarging the stage and the basement will be designed to accommodate dressing rooms and an orchestra pit. The first floor retail space will include retail and restaurant tenants with the second floor consisting of office space. The estimated cost of the interior and exterior renovation totals \$2,507,000. The Developer has 24 months following the signing of a lease with the tenant to complete the interior improvements.

The North Park Theatre has been designated a City Historic Site (HSB #245) by the San Diego Historic Resources Board. The proposed project is, therefore, subject to the Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings and Chapter 14, Article 3, Division 2 (Historical Resources Regulations) of the San Diego Municipal Code. The project was presented before the Design Assistance Subcommittee of the City Historic Resources Board on February 6, 2002. Based on preliminary drawings and materials lists, the project is expected meet applicable standards. Agency/City staff will coordinate and consult with appropriate State and Federal agencies, as necessary.

The Redevelopment Agency will either assist in obtaining or grant easements to the Developer for the Theatre building. The Agency will also support a site plan that includes reduced depth of sidewalks to provide for perpendicular parking where angled parking now exists, except along University Avenue. The Redevelopment Agency will reimburse the developer for funds advanced to the Redevelopment Agency, not to exceed (1) property tax payments for three (3) successive years beginning with the issuance of the certificate of occupancy and (2) \$100,000. This reimbursement provision shall only apply if the Developer has secured a live theatre operation as a tenant or has a commitment for a live theatre operator satisfactory to the Agency Executive Director, or designee.

Parking

The Developer and San Diego Comic Opera have stated that in order to secure fund raising commitments and book performances, parking is a crucial element to development program. Approximately 400 spaces within close proximity of the Theatre are needed according to the Developer to support the project. The Redevelopment Agency and Developer will work over the next 150 days on developing a plan for an approximate 400 space public parking structure. A land acquisition, financing and construction feasibility analysis will be prepared by the Agency during that period to ascertain the feasibility of developing a public parking structure. If the parking plan cannot be formulated within the 150 day period, the Developer will be able to lease the building for any use permitted by applicable zoning with prior written approval of the Redevelopment Agency Executive Director (City Manager) or Assistant Executive Director (Community and Economic Development Director).

COMMUNITY INPUT:

The North Park community has received a number of presentations and updates on the proposed project and has provided input. The North Park Project Area Committee (PAC) received a presentation on February 12, 2002. The North Park Project Area Committee voted (7-0-0) to support the North Park Theatre project and the parking structure, and if possible, raise the number of parking spaces within the parking structure. Within this same motion, the North Park Project Area Committee also stated that the community shall be actively involved in the process of the design of the parking structure from its inception. The North Park Project Area Committee will hold a special meeting prior to the Redevelopment Agency/City Council hearing to discuss revisions that have been made to the project since their February 12, 2002 meeting. Any recommendations made at that special meeting will be presented to the Redevelopment Agency/City Council on April 23, 2002.

The Greater North Park Community Planning Committee (GNPCPC) received a presentation of the project on February 19, 2002. The GNPCPC supports the Disposition and Development Agreement in concept and approved a motion (5-1-1) expanding on the draft DDA's provision for oversight of future uses including public hearing requirements, including presenting at the GNPCPC meeting, prior to allowing alternative uses of the Theatre. They also recommended that language be included in the DDA that arts uses should be maintained beyond one year while financially feasible.

ENVIRONMENTAL REVIEW:

A Final Environmental Impact Report analyzing the probable effects of development activity implementing the North Park Redevelopment Project was adopted in January of 1997 (SCH No. 93-121105). 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 has been prepared to identify probable environmental effects of the North Park Theatre Rehabilitation project. The North Park Theatre Rehabilitation Environmental Secondary Study finds no activity-specific environmental effects in excess of those identified in the Final

Environmental Impact Report (EIR) for the North Park Redevelopment Project. Mitigation measures identified in the North Park Redevelopment Project EIR and applicable to the proposed activity are listed in Attachment A of the Secondary Study.

Respectfully submitted,

Todd Hooks
Deputy Executive Director

Approved: Hank Cunningham
Assistant Executive Director

HOOKS / JRD

Note: The attachments are not available in electronic format. A copy is available for review in the Office of the City Clerk.

Attachments:

1. Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and North Park Theatre, LLC
2. Conceptual Drawings for the North Park Theatre
3. North Park Theatre Estimate of Re-Use Value
4. Summary (33433) Report Pertaining to the Sale of Real Property North Park Theatre
5. Environmental Secondary Study for the Proposed North Park Theatre Rehabilitation