

DATE ISSUED: February 4, 2004

REPORT NO. RA-04-01  
CMR-04-002

ATTENTION: Chair and Members of the Redevelopment Agency/  
Mayor and Members of the City Council  
Docket of February 10, 2004

SUBJECT: Disposition and Development Agreement (DDA) and Associated Actions  
for the North Park Parking Facility Project

REFERENCE: Executive Director's Report No. RA-03-33, dated October 15, 2003  
Executive Director's Report No. RA-03-01, dated January 22, 2003

SUMMARY:

Issue - Should the Redevelopment Agency/City Council Authorize the Executive Director to Execute the Disposition and Development Agreement (DDA) with Arnold "Bud" Fischer and Approve Associated Actions for the Proposed North Park Parking Facility Project?

City Manager/Executive Director Recommendations

For the Agency:

- 1) Certify that the Final Environmental Impact Report has been Reviewed and Considered Prior to the Actions.
- 2) Approve the Basic Design Concept for the Project.
- 3) Authorize the Executive Director to Execute the Disposition and Development Agreement (DDA) for the Project.
- 4) Amend the Redevelopment Agency Budget for the North Park Project Area to Authorize the Appropriation and Expenditure of \$8,338,000 for the North Park Parking Facility Project (Fund 98310), to come from \$2,800,000 from the Series 2000 Bonds and \$5,538,000 from the Series 2003 Bonds.
- 5) Authorize Offers and Acquisition of Subject Redevelopment Site.

For the City Council:

- 1) Certify that the Final Environmental Impact Report has been Reviewed and Considered Prior to the Actions.
- 2) Consent to the Redevelopment Agency Entering into the Disposition and Development Agreement (DDA) for the Project.

Other Recommendations - On November 11, 2003, the North Park Project Area Committee (PAC) adopted the following motion regarding the project by vote of 8 in favor, 1 opposed, 0 abstaining.

“The North Park Project Area Committee recommends that the Agency take affirmative action to approve a DDA consistent in benefit to that represented to the Committee by Staff, because it appears to offer the best outcome for completing the North Park garage that will be integral to the success of the North Park Theatre project.”

Fiscal Impact – Total 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 from the proceeds of the North Park Tax Allocation Bonds, Series 2000 and 2003, respectively.

Development cost overruns may be funded with available Agency sources, or, at the discretion of the Agency, will be financed by the developer at a rate calculated as prime plus two percent (2%), not to exceed twelve percent (12%) per annum. If financed by the developer, the Agency will be obligated to repay the developer’s loan to the Agency by the last day of the first full calendar year following issuance by the Agency of a Certificate of Completion for the construction of the improvements. The developer will pay ten percent (10%) of increased costs that are the result of errors, conflicts, ambiguities or omissions in designs, and that arise from circumstances other than the negligence of a design professional or discretionary changes requested by the Agency, to a maximum developer contribution of \$100,000. A further analysis of the project financing and a justification of the Agency’s contribution to the project are provided in the Re-Use Appraisal and Summary (§33433) Report (Attached).

Environmental Impact – 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 Parking Structure Project (Attachment 5). The North Park Parking Structure Environmental Secondary Study identifies no probable activity-specific environmental effects beyond 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.

#### Traffic Impacts

The project abuts three public streets, including 30<sup>th</sup> Street, a three-lane collector street, North Park Way, a two-lane collector street, and 29<sup>th</sup> Street, a two-lane local street. The project is 150’ south of University Avenue. It is also located at the intersection of four public transit (bus) routes providing service to Mission Valley to the north, the downtown area and Encanto to the south, La Mesa to the east, and Old Town to the west. The project is proposed to take its access from 29<sup>th</sup> Street. The project will replace an existing surface parking lot controlled by Union Bank of California. An Environmental Secondary Study prepared for the project identifies no traffic impacts not previously addressed in the certified Environmental Impact Report for the North Park Redevelopment Project. The project is not expected to significantly impact the community circulation system or I-805 freeway. The potential for localized traffic impacts resulting from a concentration of existing vehicle traffic, and additional trips associated with the development of leaseable ground-floor commercial space, will be evaluated as discretionary permit applications are reviewed subsequent to DDA approval.

#### BACKGROUND:

On April 23, 2002, the Redevelopment Agency and the City Council of the City of San Diego approved a Disposition and Development Agreement (DDA) for the renovation of the historic North Park Theatre. To improve the economic feasibility of the renovated theatre, and to serve the community at large, the DDA called for the preparation of a plan to develop a public parking facility of approximately 400 spaces in the immediate vicinity of the North Park Theatre. On January 28, 2003, the Redevelopment Agency considered responses to a Request for Proposals (RFP) and directed staff to begin negotiations regarding the content of a DDA with one of the respondents. On October 21<sup>st</sup>, 2003, the Redevelopment Agency received a report on the status of negotiations and was informed that the selected developer had been unable to secure financing for the private portion of the development. The Redevelopment Agency directed staff to abandon negotiations with the selected developer and initiate negotiations with Mr. Fischer, developer of the theatre renovation, who had expressed interest in completing the parking project. Mr. Fischer’s renovation of the North Park Theatre will proceed concurrently and it is anticipated that a proposal to amend the DDA governing the theatre renovation to address increased costs identified by the developer during the permit approval process will be brought before the Agency in the coming 60-90 days.

### Owner Participation

Current property owners within the project boundaries were advised of their opportunity to participate in the redevelopment project in September of 2001. A Statement of Interest form was delivered by certified mail to each owner of record asking respondents to indicate whether they had interest in participating in the proposed development, selling their property, or submitting a competing development proposal. Responses were received from both owners of property within the project boundaries within the 30-day response period. One respondent indicated a preference for selling their property to the Agency. The other stated no preference, but expressed interest in participating in discussions regarding the North Park Redevelopment Project. Redevelopment Agency staff has remained in contact with both property owners and the tenant, Union Bank of California, to apprise them of progress toward development of a parking facility at this location.

In July 2003, the affected property owners were notified that the proposed Disposition and Development Agreement would be considered by the Project Area Committee on September 9th. Property owners have also been notified of the Project Area Committee discussion of November 11<sup>th</sup> and the joint Redevelopment Agency/City Council hearing of February 10, 2004. Throughout the DDA negotiation and design input processes, the North Park Project Area Committee received progress reports and announcements of public input opportunities.

### DISCUSSION:

The proposed North Park Parking Facility is located within the North Park Redevelopment Project Area at the northwest corner of 30<sup>th</sup> Street and North Park Way (Attachment 1). The project site (0.6887 acres) faces the historic North Park Theatre across 29<sup>th</sup> Street and is currently improved for use as a surface parking lot and serves customers and employees of an adjacent Union Bank of California branch.

The proposed project will consist of five levels of parking (approximately 400 spaces) above a ground-level commercial space of approximately 14,700 square feet (Attachment 2). The project will rise to a height of approximately 69 feet along 29<sup>th</sup> Street and 63 feet at 30<sup>th</sup> Street. In order to maintain and enhance the pedestrian character of the North Park commercial district, the primary ground-level commercial frontage is located along 30<sup>th</sup> Street and North Park Way. The entrance to the parking structure is located on 29<sup>th</sup> Street, providing a strong connection to the North Park Theatre. Abutting public facilities such as curb, gutter and sidewalks will be replaced in accordance with current standards. Utilities will be relocated as necessary and consistent with City policies and guidelines.

In response to the Agency's direction that staff solicit broad community input on the design of the proposed facility, a series of four widely-noticed public meetings were held to discuss the architectural treatment of the parking facility. While interior components of the structure's design were predominantly driven by the location of the commercial space and engineering issues unique to parking structures, architectural development of the building's exterior was begun only after initiation of the public input process. Based on comments received during the first public meeting held on July 2, 2003, architects of the firm Austin Veum Robbins Parschall

(AVRP) developed three distinct concepts for the exterior of the facility. These were presented and discussed at a July 16<sup>th</sup> public meeting. While all three received positive comment, one reflecting North Park's reputation as an emerging center for arts and culture was voted most appealing. This concept was refined based on comments recorded on July 16<sup>th</sup> and presented on July 23<sup>rd</sup> as a comprehensive design concept for development of the parking facility. Additional revisions intended to harmonize architectural and public art elements, and to mute the color palate, were made in response to feedback received.

The security of parking structure patrons was a particular focus throughout the design process. The incorporation of metal screening and roll-up gates will make it possible to completely close the parking structure when not in service. Abundant lighting and the lack of visual obstructions, such as structural walls, will also promote safety. An attendant will be present during hours that the gates are open.

The public input process was concluded with an open house held on August 4<sup>th</sup> where the completed design concept was displayed for public inspection and comment. A report summarizing the public design process was prepared by AVRP (Attachment 10). Opportunities for additional public input will be provided as discretionary permit applications are reviewed subsequent to DDA approval.

A key consideration throughout the design process has been the accommodation of a vital North Park business: Union Bank of California. According to Union Bank representatives, the North Park branch is one of the busiest in the State of California as measured by drive-through banking transactions. This level of activity is evidence of the utility the branch provides North Park residents and merchants. The design of the proposed parking structure incorporates elements intended to minimize impacts to the bank and its customers, including reserved customer and employee parking spaces, ample queuing capacity for vehicles accessing four drive-through ATM and teller stations, and enhanced pedestrian connections between parking and bank branch. In response to concerns raised by Union Bank, a second elevator has been added to the parking facility. This elevator, located on 30<sup>th</sup> Street, will provide more direct access from the parking facility to the bank entrance. Impacts to bank operations during construction will be minimized by maintaining access to at least one drive-through teller lane and seeking a temporary location for off-street customer parking. Agency staff is also pursuing additional short-term on-street parking adjacent to the bank.

### Project Implementation

On November 18<sup>th</sup>, 2003, the Redevelopment Agency authorized the sale of tax allocation bonds for the North Park Project Area. Bonds were sold through competitive bid on December 4<sup>th</sup>, yielding proceeds totaling \$10,883,000 (\$6,275,000 taxable; \$4,608,000 tax-exempt). Of this amount, \$5,538,000 will be allocating to the parking facility project, along with \$2,800,000 in proceeds from the Series 2000 bonds. Mr. Fischer will provide funds and/or services totaling \$2 million for the project.

In order to minimize the Redevelopment Agency's financing costs, tax-exempt bond proceeds will be used to the maximum extent feasible. This objective is reflected in the ownership structure proposed, wherein Mr. Fischer will finance and own private activity areas of the facility which are not eligible for tax-exempt financing. Eligible public-use areas will be owned by the Redevelopment Agency.

Under the proposed DDA, the Agency will purchase at fair market value all land within the project's boundaries (parcels 453-122-04, 453-122-05, and the southernmost 150 feet of parcel 453-122-09), incurring as a project expense all costs of acquisition including tenant relocation. The Agency will avail itself of benefits provided under the Polanco Act, which permit the Agency to resolve any known issues of environmental contamination and convey the site free of liability for either the Agency or successor. Once Mr. Fischer has obtained all necessary permits and approvals and commitments for construction financing, the Agency and Mr. Fischer will enter into the construction escrow, depositing committed funds and evidence of eligible costs previously incurred. A funding control agent will subsequently administer the disbursement of remaining project funds. At the completion of construction, the Agency and Mr. Fischer will enter into the conveyance escrow. At the closing of the conveyance escrow, Mr. Fischer will receive a fifteen percent (15%) share of the land within the project site and fee ownership of condominium Parcel A, including all private-use elements of the project, including the ground floor retail space and 60 associated parking spaces, and the drive-through facilities to be used by the bank. The Redevelopment Agency will retain fee ownership of Parcel B including 340 public parking spaces and eighty-five percent (85%) of the underlying land.

Mr. Fischer will construct the parking facility as Master Developer, seeking Agency approval at each step in the design and approval process. Construction must be initiated within 30 days following closing of the construction escrow and completed within twelve months following execution of the DDA. Following conveyance of Parcel A, Mr. Fischer and his successors will pay a prorated share of ongoing property and parking operation expenses. The owner of Parcel A will have no other continuing obligation with regard to the public parking component of the project and receive no compensation from its operation.

To coordinate parking facility operational and construction issues in the design phase, Mr. Fischer will include a parking facility operator in the development team. Prior to the close of conveyance escrow, the Agency will enter into a three-party agreement with the developer and operator with a term of up to seven years. In accordance with the Agency's desire to maximize use of tax-exempt financing, compensation under this contract will not be calculated as a percentage of revenue, but as flat fee deemed commercially reasonable. Parking rates and hours of operation will be established by the Redevelopment Agency.

As a public project, prevailing wage requirements will apply to all work performed. An analysis of the proposed project's estimated costs and revenues has been prepared by Economics Research Associates (ERA) (Attachments 7 & 8). ERA estimates the cost of the improvements and land associated with Parcel A at \$3,864,000. In accordance with California Community Redevelopment Law (Section 33433), ERA has also prepared an appraisal of the "re-use value"

of property to be conveyed by the Agency to the Master Developer. The “re-use value” is the value achievable considering the objectives, covenants and conditions applicable to development of the property as defined by the DDA (Attachment 6). It is ERA’s opinion that the conditions and covenants of the DDA reduce the revenue-generating potential of the property substantially and that a public subsidy is justified in order to achieve the goals of the Redevelopment Plan. Specifically, ERA finds that the reuse value of the property to be conveyed is \$1,976,000. The developer’s contribution of \$2,000,000 exceeds this amount, ensuring that the justifiable public subsidy of \$1,888,000 (\$3,864,000 less \$1,976,000) is not exceeded.

An application for a site development permit was submitted on December 1<sup>st</sup>. Upon execution of the DDA, property acquisition will begin with the goal of achieving site control and initiating construction in June of 2004. Construction would be completed in approximately 9-11 months following issuance of necessary permits and approvals.

ALTERNATIVE:

Do not approve the DDA and related actions.

Respectfully submitted,

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Todd G. Hooks  
Deputy Executive Director/  
Redevelopment Deputy Director

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Approved: Hank Cunningham  
Assistant Executive Director/  
Community and Economic  
Development Director

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Approved: Bruce Herring  
Deputy City Manager

HOOKS / TCR

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

Attachments:

1. Redevelopment Project Area Map
2. Vicinity Map
3. Site Plan
4. Basic Concept Elevations
5. Environmental Secondary Study for the Proposed North Park Parking Structure Project \*

6. Disposition and Development Agreement between the Redevelopment Agency of the City of San Diego and Arnold “Bud” Fischer \*
7. Estimate of Re-Use Value \*
8. Summary (§ 33433) Report Pertaining to the Conveyance of Real Property \*
9. Sources and Uses of Funds

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\* Limited distribution. Copies available for public review at the Office of the City Clerk and Redevelopment Agency.



10. Summary of Public Input Process \*