

## MEMORANDUM

**TO:** Flatlander Equity Partners, L.P.

**FROM:**

**DATE:** Tuesday, November 28th, 2017

**RE:** The due diligence investigation of a condominium/marina project in Bradenton, Florida

### EXECUTIVE SUMMARY:

The purpose of this memo is to provide Flatlander Equity Partners, L.P. with our findings from our due diligence investigation of a condominium/marina project in Bradenton, Florida. We are providing supporting information in regards to the viability of the investment going forward. After having reviewed the corresponding documentation, we, unfortunately, find it best to terminate the contract and the development project as a whole. Although, there may be a very slight chance in moving forward with the development of the condominium. In essence, alterations to the design concept of the condominium tower, such as reducing the development to a “human scale” and adhering to the Bradenton Master Plan regarding “creat[ing] a regulatory structure...to ensure the success of the plan”, while meeting the needs of the Bradenton citizens is imperative. However, we strongly believe, overall, the environmental regulations, along with the current conditions of the property do not support the development as a whole.

### SUPPORTING ARGUMENTS:

#### ENVIRONMENTAL:

- Site requires rigorous environmental analysis due to its location within ecologically sensitive areas.
- The Project has to be reviewed by Army Corps of Engineers, coordinated with the National Marine Fisheries Service and U.S. Fish and Wildlife Service to ensure endangered species and sensitive habitats are not to be disturbed
- The required dredging of the site is subject to various regulations per 40D-4.051 (8)(d), F.A.C.:
  - Maintenance dredging is required, along with a soil remediation plan, comprehensive dredging plan, and legal information about rights to dredging areas.
- Details of the the National Marine Fisheries Service (NMFS) report:
  - Portions of the project designed area are designated as an Essential Fish Habitat (EFH) for a multitude of important marine life species including primary and secondary species of animals/vegetation.
  - These habitats are designated as supportive to essential members of the food web for the ecosystem.
  - According to the Magnuson-Stevens Act, multiple agencies are charged with the conservation of such areas for the main management goal of maintaining sustainable fisheries.
  - Based on the survey, around 3,300 sqft. of essential habitats are to be disturbed through the dredging process as well as secondary impacts to surrounding areas.
  - Although mitigation plans have been proposed, the primary objective should be impact avoidance.
  - The NMFS does not support the issuance of a permit to allow the proposed project and suggests redesign or removal of certain portions.
  - The project is located within the known distribution limits of a federally listed threatened species under purview of NMFS.
  - Actions must be taken to avoid disturbance of this threatened species and a mitigation plan is required to be submitted to the Department.

#### LEGAL and REGULATORY:

- City Council of Approved PDP
  - Overall the site isn't compatible with the existing “buildings” and future land use plan
    - The design will be considered out of “character”.
  - Located in Downtown Mixed Use Land Category
- City Council Requirements/Recommendations

- **The North Tower can't exceed (13) residential stories above (2) floors of structured parking , East Tower shall not exceed (6) residential stories above (2) floors of structured parking - Can be changed to (13) stories if the parcel on 220 6th Street NE is acquired**
- **The developer is responsible for Utility improvements**
- Proposed project must be reviewed by the ARB for City Council to approve.
- Developer must participate in the public improvements of the River Walk, cap of \$250,000 or 20% of the total project cost.
- Bradenton Master Plan
  - Citizen Based Themes - Residential Development - More Affordable housing and housing that appeals to families and the working-class citizen. - Tarpon Point is high end, Identity & Beauty - Maintain the "Small town Character" and maintain the physical beauty
  - The Plan - Manatee West - Desire for **LOW RISE** residential buildings for **workforce** that is growing in the area - An issue considering the design is **HIGH RISE**
  - Park and Open Space Systems - Issues with proposed Park/ Greenway adjacent to it
  - Building Heights - Area associated with proposed area desires buildings 3-7 stories.
  - Market Analysis - Residential - Homes will be \$100,000-\$200,000 - Unsure if this is a profitable margin for the purchase price.
- Transportation Concurrency Analysis
  - There will be a disturbance of flow in some areas
  - PM Hours - Intersections SR 64 WB/EB & US 41/301 - Will cause delays in the future
  - Legal - 30 Day Due Diligence Period, with an earnest money payment of \$200,000 with seller paid \$50,000 non-refundable payment, and an additional non-refundable \$50,000 monthly until closing date.

#### **PHYSICAL:**

- Physical Challenges - The project needs to have satisfactory evidence of sufficient upland interest, it must be demonstrated by documentation, such as warranty deed, certificate of title issued by a clerk of the court. Document needs to demonstrate that the holder has control and interest in the riparian upland adjacent to the project. For a project this size it's going to be difficult to provide such documentation when there is the amount of involvement and impact to the site.
- Easements - All structures including mooring pilings, breakwaters, jetties, and groins, and activities must be setback a minimum of 25 feet inside the applicant's riparian rights lines. Marginal docks, must be setback a minimum of 10 feet. There is also easement requirements for all utility crossings, and rights of way, the shoreline protection structures, oil and gas pipelines and spoil disposals. According to Cyrix Engineering survey, all easements are taken into account in the survey and there is no visible encroachments within the site.
- Floodplain - The site is located within floodplain A and B which means there is a need for stormwater management analysis as well as design for protection mechanisms against the possibility of site flooding.
- Soils and slope- There is a need of a geotechnical report, according to PSI engineering their preliminary report will consist of 5 standard penetration tests or borings, scattered across the parcel, they also recommend to extend the boring to 75 ft below grade. Without the geotechnical report it will not be possible to know if there is any extra cost due to the existing soil conditions. According to the survey made by Cyrix Engineering there is no outstanding slopes to be addressed, the land is flat on average.

#### **LOCATIONAL and SITUS:**

- Location - The project site is approximately located in the NE quadrant of the intersection of 6<sup>th</sup> Street NE and 1<sup>st</sup> Avenue E and situated on a small peninsula that extends into Manatee River. The proposed development, consists of two high rise residential condominiums buildings with 77 units in each, 25 lower condominium/townhouse units (total 179 residential units) and marina with 198 boat slips. The neighborhood primarily consists of single-family dwelling units.
- Access - Access to the site is proposed via intersections of 6<sup>th</sup> Street E & 1<sup>st</sup> Avenue E; Riverside Drive and 6<sup>th</sup> Street NE. Currently, there are no roadway improvements scheduled for construction by the city of Bradenton or FDOT within next several years near the site.
- Traffic Impact Analysis - According to the traffic impact analysis conducted by CPH Engineers Inc., the average daily trip generation is approximately 1588 trips and capacity analysis indicates that the roadways

and intersections are operating at acceptable levels of service and are expected to perform likewise for future total traffic conditions. Moreover, the deficiency of traffic signals on US Hwy 64 suggests that access to and from the project site will result in congestion, especially in high-volume traffic conditions. The developer is expected to spare a proportionate share of any costs to improve the intersections, internal street system, and sidewalks.

- Floodplain - The floodplain area is another issue of concern. FIRM provided, indicates that most of the property comes under floodplain zone A and some portion under zone B. The map provided is dated 1983, which is almost 30 years old, and has no BFE mentioned on it. Financing a new flood plain survey would yield an updated and accurate map. The property is considered to be at high risk of flooding under NFIP; the planned condominium towers are built upon multiple stories of parking to evade flood damage; the townhomes, due to their position within the floodplain area, are expected to need flood insurance. Also, further development in this area must meet local floodplain zoning ordinance requirements.

## CONCLUSION WITH RECOMMENDATIONS

- After having reviewed the corresponding due diligence paperwork and discussing amongst the team, we, unfortunately, find it best to terminate the contract and the development as a whole.
- To deduce our findings, each of the corresponding due diligence paperwork was categorized into subcategories such as Environmental, Legal and Regulatory, Physical, and locational/Situs. Each of these sub-categories were used to help determine which parts of the development, if any, the team would like to move forward with.
- As a team, we find that in order to proceed with the development, significant changes to the design to adhere to the wants of the citizens in regards to public access and development in more of the “human scale” would need to occur. Additionally, while we believe the boat slips, and boat-storage spaces would bring great economic benefit, the project itself would be highly costly economically as well as environmentally.
- With the continuation of the development, aside from possible alterations to the design, there is great risk for negative environmental impacts on the immediate as well as surrounding habitats. As found in the legality of the development, many of the building and environmental permits will not be issued according to the current design/development plans. Moreover, the NMFS will not budge on supporting the permit for dredging in order to construct the boat slips and the ramp.
- Since the development is located in such proximity to water, a geotechnical report must be conducted in order to comprehend the scope of the soil beneath the possible development, If the design of the condominiums were to be altered. Although the land is feasible for the possible development, the area does not allow for high traffic volumes along the accessways to the property. Additionally, the project also does not fit in with the neighborhood's intended use.
- The area is located within a floodplain, and considered to be at high risk of flooding, therefore costly remediation for the possible issues, along with flood insurance would need to be purchased. A new Flood Plain survey must also be conducted since the most recent FIRM is from 1983.
- **In conclusion, with that being said, we believe it is best to terminate the project, as a whole, based on the many Environmental, Legal and Regulatory, Physical, and locational/Situs issues that the development presents.**