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*Memorandum*

TO: Mayor and Redevelopment Board Members

FROM: Board Members Cindy Chavez, David Cortese and Linda LeZotte

SUBJECT: Approval of a Disposition and Development Agreement with CIM California Urban Real Estate Fund, L.P.

DATE: December 10, 2002

APPROVED: 

DATE: 12-10-02

**RECOMMENDATION:**

We recommend that the Redevelopment Agency Board

- Approve items a, b, c, f, and h, as outlined in the staff report
- Refer Item e back to the Executive Director in order to be brought back to the Board as a separate agenda item, and amend items g & i to correspond with the this direction.
- Direct staff to bring back to the Agency Board amendments to the DDA and/or additional agreements as appropriate around the following issues:
  - Construction
    - Creation of a Construction Mitigation Plan for Agency Board approval prior to the start of construction
    - Develop a Project Labor Agreement on all three sites to assure quality construction and a timely completion of the project
  - Housing
    - CIM conduct a market survey to inform residential design and unit mix, thereby insuring quick absorption into the market.
    - Amend the Residential Affordability components of the DDA:
      - While maintaining the overall 20% affordable requirement of the rental units on Fountain Alley and 2<sup>nd</sup>/Santa Clara, modify the affordability levels for the 26-units currently proposed for the project to include 17 VLI units and 9 ELI.
      - While maintaining the over 20% affordable requirement of the for sale product at 2<sup>nd</sup>/Santa Clara, pursue Housing Department programs that would allow the 9-for sale units currently proposed to be purchased by 5 moderate and 4 low-income qualified candidates.
      - Promote the Housing Department's homebuyer program to potential buyers of the residential units on Block 3 with a goal to make 2<sup>nd</sup> mortgages available for at least 10% and up to 20% of the units on the site.
  - Retail space
    - The developer make best efforts to achieve the goal of 30% retailers from San Jose, 30% from the region, and 30% national to insure an effective and unique mix of retail.



- A 10% set aside of retail space for existing small businesses in the downtown. The developer will be responsible for reserving this space for 6-months and for aggressively marketing this opportunity for qualified firms.
- To insure quick lease up of the potential space, the Agency should consider review of the retail leasing efforts at appropriate intervals to determine if adjusting the cap upon businesses whose primary business is restaurants is necessary.
- Explore methods to apply the living wage provisions set forth in the City's Living Wage Policy to grocery stores over 10,000 square feet, department stores with food service, and hotels.
- Parking Agreement:
  - Provisions should include a parking strategy for demand caused by residential uses above and beyond the supply currently provided within the project
  - Provisions should also include methods to insure that the provisions of the City's Living Wage policy applies to parking operations and maintenance of the project.
- Childcare Goal: The developer should work with City staff and other specialists in the childcare field to determine whether childcare is a viable opportunity for the project. In addition, strategies to test the market should also be considered.
- Formal acknowledgement of the Community Benefits Assessment Plan and provide the South Bay AFL-CIO Labor Council (as a representative of the Labor/Community Coalition that completed the Community Benefits Assessment) the rights to enforcement against the developer on various provisions included in the Community Benefits Assessment Plan

#### **BACKGROUND:**

The City of San Jose is one of the most diverse and vibrant big cities in the country. This diversity has brought together various cultures and different expertise from numerous constituencies to create an environment that fosters innovation and creativity. CIM's proposal can bring more of the City's diversity and vibrancy to downtown.

Over the past few months, the community has been assessing the project in a number of various formats. The Redevelopment Agency and San Jose Downtown Association has sponsored several public meetings. In addition, a network of community groups has collaborated with Working Partnerships USA to produce a formal Community Benefits Assessment of the proposed development. Out of this research and outreach has come a wide range of input. Community priorities have included:

- Mitigation of Construction impacts
- High quality product that appeals in today's market
- Changes to the Affordable Housing mix (in addition to the market rate housing proposed)
- A diverse retail mix that includes local retailers, as well as regional and national
- Building a strong job base and maintaining high employment standards
- More public parking
- Childcare

While these priorities come from the community, members of the Agency Board echoed many during the study session in June.



Construction will be the first clear impact to the City, as parking spaces come off line and construction crews and trucks begin to come downtown. It is imperative that Downtown businesses continue to thrive throughout the construction because it is their success that will shape the environment of retail in the downtown. Without the success of local businesses, CIM's leasing strategy would become extremely challenging. Given the importance of any construction mitigation package, a plan created in conjunction with downtown stakeholders should come back to the Agency Board as part of the implementation steps associated with this project.

Crucial to the success of the construction mitigation package is a smooth and trouble free construction process. A Project Labor Agreement (PLA) has been very successful in assuring high quality, well-performed work in several projects downtown. A PLA between CIM and local unions should be considered to help insure high quality construction that is completed on a timely basis. Preventing delays is one of the most effective ways of limiting the impact of a construction project upon local businesses and residents.

While maintaining a high quality of life for residents throughout the construction process is important, it is also paramount that the final product appeals to current residents as well as the market for new residents. As such, a market survey should be performed to help shape the residential portions of the project. Such a survey would help the developer better understand the market conditions of San Jose and could provide crucial information into the final design of the project.

Quality design is essential for the success of this project. The developer will be carrying a large construction loan, the Agency's return on our investment and the impact upon other downtown projects all depend upon quick absorption of these new units into the market. One strategy that will impact absorption and also coincide with a Council priority is affordability. Currently, the City's Housing Department has been aggressively pursuing 2<sup>nd</sup> Mortgage opportunities to allow families earning incomes in the Median, and in some cases Low-Income, categories purchase homes. Staff should examine making 2<sup>nd</sup> mortgages available for at least 10% and up to 20% of the units on Block 3.

Such a policy would help address some of the challenges identified by Keyser Marston in their analysis of the housing impacts associated with the non-residential portion of the development. This analysis shows that the majority of workers at the future development would fall within the moderate and low-income categories, with another large group within the very-low income (VLI) and extremely low-income (ELI) categories. By adjusting the affordability range for buyers of the 9 for-sale units at 2<sup>nd</sup> & Santa Clara to include low as well as moderate-income units, the City Council and Agency Board's affordable housing priority can be advanced while promoting quick absorption of the product. City staff should assist in the implementation of this win-win approach.

One of the other items Keyser Marston identified in their analysis was the demand for VLI and ELI housing generated by this project. While maintaining the number of units to the current 20% affordability requirement, the current proposal can be modified to help meet the area's acute need for ELI housing as well as VLI units. For instance, the currently proposed 26 VLI units can be modified to include 17 VLI units and 9 ELI units.



A crucial component of the projects overall success is in its retail. Touring the product CIM has created elsewhere demonstrates their capacity to produce exciting, diverse shopping opportunities. The board recognizes the importance local San Jose businesses play in creating this vitality. So does CIM. Their goal is to create a mix of local, regional, and national retailers that serve the nearby residents while drawing visitors from other parts of the city. Strategies should be developed to insure that San Jose based businesses are actively pursued for incorporation in the retail mix, including:

- Providing a goal of 30% local, San Jose-based tenant, 30% regional retailers, and 30% national chains,
- Promote quick absorption of the retail space by expanding the list of potential retailers by removing the cap on restaurant space
- Requiring at least 10% of retail space will be set aside for small businesses in the downtown. The developer would be responsible for reserving this space for 6 months and for aggressively marketing this opportunity to current small businesses.

CIM should also design methods to apply components of the City's Living Wage to various retailers, thereby insuring not only successful businesses but also successful workers. A strategy to afford the same provisions as the City's Living Wage Policy to workers in grocery stores, department stores with food service and hotels would insure that the development would remain competitive for local, regional, and national stores.

In addition to steps that promote the success of the retail space, the City and Redevelopment Agency should prepare a strategy to address potential demand for parking from the residential units above and beyond what is currently provided. While the current parking ratios are appropriate and conform to the current code requirements, strategies to address excess demand should be developed as part of the Parking Agreement to insure that tenants and retailers alike have a common understanding of how to address future parking demand. Any strategy needs to respect the need for retail parking while acknowledging the potential inconvenience to residents.

Another source of demand generated by the proposed project and other existing uses in the area is for childcare. While the City has many programs designed to increase the number of childcare slots throughout the City, there is always a need to explore additional opportunities. CIM should work with City staff and other childcare experts to determine whether there is strong potential for childcare at the project and determine strategies to explore its viability.

**CONCLUSION:**

The CIM proposal negotiated with staff does a wonderful job addressing many of the important issues facing this project. However, continued dialogue around the issues outlined above will assure the City and CIM have a project that is financially successful while benefiting the community.