



Legislation Text

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SUBJECT:

PRELIMINARY PROJECT REVIEW PRESENTATION AND DIRECTION TO STAFF REGARDING THE PROPOSAL FROM SUNROAD HIE HOTEL PARTNERS, L.P. (SUNROAD) TO CONSTRUCT A 500-ROOM, TWO-PHASED, DUAL BRANDED HOTEL PROJECT (PROJECT) ON THE ELBOW PARCEL ON EAST HARBOR ISLAND IN THE CITY OF SAN DIEGO PURSUANT TO THE EXCLUSIVE NEGOTIATING AGREEMENT WITH THE DISTRICT (ENA) FOR WHICH STAFF RECOMMENDS ONE OF THE FOLLOWING OPTIONS IN ADDITION TO THE BOARD PROVIDING FEEDBACK TO STAFF AND SUNROAD ON THE PROJECT:

- A) RESOLUTION DIRECTING STAFF TO STUDY A TWO-PHASED, DUAL BRANDED, 500-ROOM HOTEL PROJECT ON THE ELBOW PARCEL AS PROPOSED BY SUNROAD, WAIVE THE REQUIREMENT IN SECTION 5(b)(i)(5) OF THE ENA THAT THE PROJECT BE IN CONFORMANCE WITH THE 2013 ENVIRONMENTAL IMPACT REPORT (EIR) , WAIVE THE RESTRICTION IN SECTION 4 OF THE ENA NOT TO PROPOSE ANY DEVELOPMENT THAT REQUIRES A PORT MASTER PLAN AMENDMENT, AND COMMENCE ENVIRONMENTAL REVIEW ON THE PROJECT; OR**
- B) RESOLUTION DIRECTING STAFF TO STUDY ONLY A SINGLE-PHASE, DUAL BRANDED, 325-ROOM HOTEL PROJECT ON THE ELBOW PARCEL, WAIVE THE RESTRICTION IN SECTION 4 OF THE ENA NOT TO PROPOSE ANY DEVELOPMENT THAT REQUIRES A PORT MASTER PLAN AMENDMENT, AND COMMENCE ENVIRONMENTAL REVIEW ON THE REVISED PROJECT.**

EXECUTIVE SUMMARY:

On September 8, 2016, the Board of Port Commissioners (Board) selected Sunroad Enterprises to redevelop a parcel of land on East Harbor Island better known as the "Elbow Parcel" (Attachment A) and directed staff to enter into an Exclusive Negotiating Agreement with Sunroad Enterprises for a 325-room hotel on the Elbow Parcel that does not require a Port Master Plan Amendment (PMPA). (See Attachment B (Resolution 2016-139).)

Sunroad Enterprises entered into an Exclusive Negotiating Agreement with the District dated April 14, 2017 through its Sunroad HIE Hotel Partners, L.P. (Sunroad) entity that was filed in the Office of the District Clerk as Document No. 66537 (ENA). The Negotiating Period under the ENA started on April 1, 2017 and will expire on September 27, 2018. The ENA provides requirements for Sunroad's proposed development on the Elbow Parcel. The First Submittal was received by the District on January 18, 2018 and included: 1) a preliminary project description; 2) a preliminary site plan; and 3) a preliminary Pro Forma. The Second Submittal was received by the District on June 15, 2018 and

included: 1) a more detailed project description; 2) a preliminary site plan, elevations, colored renderings; and 3) an updated Pro Forma. The majority of the information provided in the Second Submittal was related to Phase 1 of the Project only. Staff has requested additional information from Sunroad regarding Phase 2 of the Project. (Attachment C.)

Sunroad's First and Second Submittals propose a two-phased, dual branded, 500-room hotel project. The ENA states in Section 5(b)(i)(5) that the proposed development "shall be in conformance with the Sunroad Harbor Island Hotel Project & East Harbor Island Subarea PMPA Revised Final Environmental Impact Report (EIR) on file in the Office of the District Clerk bearing Document No. 61775, the Mitigation Monitoring and Reporting Program (MMRP) from the EIR on file in the Office of the District Clerk bearing Document No. 61775, and the Findings of Facts and Statement of Overriding Considerations (collectively, Findings) adopted by the Board pursuant to the Resolution No. 2014-52" (collectively, 2013 EIR). If the proposed project is not in conformance with the 2013 EIR, the ENA requires staff to bring the proposed project to the Board through a preliminary project review or other agendized means to seek the Board's direction. The project proposed by Sunroad does not conform to the 2013 EIR, which only analyzed 325 hotel rooms on the Elbow Parcel and did not contemplate phasing of a hotel project on the site.

Staff is requesting the Board provide feedback to staff on the proposed project through the preliminary project review process and in addition, staff recommends the Board choose one of the following options: (a) direct staff to study a two-phased, dual branded, 500-room hotel project on the Elbow Parcel as proposed by Sunroad, waive the requirement in Section 5(b)(i)(5) of the ENA that the Project be in conformance with the 2013 EIR, waive the restriction in Section 4 of the ENA not to propose any development that requires a PMPA, and commence environmental review on the Project or (b) direct staff to study only a single-phase, dual-branded, 325-room hotel project on the Elbow Parcel, waive the restriction in Section 4 of the ENA not to propose any development that requires a PMPA, and commence environmental review on the revised project. If the Board directs staff, in its sole and absolute discretion, to proceed with environmental review through Option A or B, approval of the environmental document will be a condition precedent to the Board's consideration of the Definitive Agreement (as defined in the ENA) pursuant to Section 5(b)(i)(5) of the ENA and may take approximately 6 to 12 months to complete environmental review under the California Environmental Quality Act (CEQA). A PMPA and Coastal Development Permit (CDP) process may take up to 12 months in addition to CEQA, for a total of 18 to 24 months; however, if a PMPA is not required, the CDP process may take only 4 months for a total of 10 to 16 months (*i.e.*, 6-12 months for CEQA, 7-8 months for the PMPA, and 4 months for the CDP). As such, environmental review would require an administrative extension to the Negotiating Period for the ENA, which is scheduled to expire on September 27, 2018. Sunroad submitted an extension request based on timing to complete CEQA. (Attachment D.)

As part of the preliminary project review, the Board may provide feedback on the proposed Project, including without limitation, relating to the architecture, public features, connectivity, and any other considerations concerning the Board's vision for the redevelopment of the Elbow Parcel on East Harbor Island. At the August Board meeting, the Board will not be approving the Project, or the design or project description of the Project, the feedback provided by the Board on the Project will not be binding on the District, and the Board reserves its sole and absolute discretion to approve or disapprove any project on the Elbow Parcel, including that being proposed by Sunroad, and adopt all feasible mitigation measures, a project alternative, including the no project alternative and a Statement of Overriding Considerations, if applicable, in the future. Additionally, it is important to note

that District staff is still in the process of analyzing the Second Submittal from Sunroad, including the development concept, its financial or physical feasibility or potential land use and entitlement implications.

RECOMMENDATION:

Provide direction to staff on the proposed Project through the preliminary project review process to provide feedback on the Project to staff and Sunroad. In addition, staff recommends one of the following options: (A) adopt a resolution directing staff to study a two-phased, dual branded, 500-room hotel project on the Elbow Parcel as proposed by Sunroad, waive the requirement in Section 5 (b)(i)(5) of the ENA that the Project be in conformance with the 2013 EIR, waive the restriction in Section 4 of the ENA not to propose any development that requires a PMPA, and commence environmental review on the Project or (B) adopt resolution directing staff to study only a single-phase, dual branded, 325-room hotel project on the Elbow Parcel, waive the restriction in Section 4 of the ENA not to propose any development that requires a PMPA, and commence environmental review on the revised project.

FISCAL IMPACT:

Adopting a resolution directing staff to waive the requirements in Section 4 of the ENA not to propose a development that requires a PMPA or the requirement in Section 5(b)(i)(5) of the ENA that the Project be in conformance with the 2013 EIR will not have an immediate fiscal impact. Future entitlement costs are to be borne by Sunroad and payable by Sunroad pursuant to the ENA and Board Policy No. 106 - Cost Recovery User Fee Policy.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goals.

- A Port that the public understands and trusts.
- A vibrant waterfront destination where residents and visitors converge.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

Background

At the July 14, 2015 Board meeting, the Board directed staff to issue a request for Statements of Interest, Qualifications and Vision (SOIQV) for the redevelopment of approximately 48 acres within the East Basin Industrial Subarea of Planning District 2. At its October 6, 2015 meeting, the Board subsequently directed staff to include an approximately 7-acre parcel of land adjacent to the East Basin Industrial Subarea known as the “Elbow Parcel” resulting in an approximately 55-acre redevelopment Site for the SOIQV. At the September 8, 2016 meeting, the Board selected Sunroad to develop the Elbow Parcel and OliverMcMillan (OM) to develop the remaining 48 acres, and directed staff to enter into an ENA with each developer.

The decision to award the Elbow Parcel to Sunroad was based on Sunroad's ongoing entitlement efforts for a 175-room hotel on their adjacent Sunroad Resort Marina (Marina) leasehold, which Sunroad stated at the September 8, 2016 meeting would put it in a position to rapidly advance a project on the Elbow Parcel. Specifically, Sunroad has been working with the District on a PMPA since 2008 and has an active option to develop a 175-room hotel on the site adjacent to the Elbow Parcel on the Marina leasehold. However, the PMPA has been denied by the California Coastal Commission (CCC) two times, most recently on May 11, 2017, and is currently the subject of litigation between the District and CCC. The District's existing certified Port Master Plan (PMP) currently allows for the development of a single-phase "high quality" hotel of approximately 500 rooms and related hotel uses on the Elbow Parcel. In 2008, the District began working with Sunroad on the PMPA that would allow the "up to 500 rooms" that are currently in the PMP to be located in two or three hotels, including 175 rooms on the Marina leasehold and the remaining 325 rooms on the Elbow Parcel which was analyzed under CEQA in the 2013 EIR. The litigation is ongoing with oral arguments scheduled for August 14, 2018 in front of the Court of Appeal and there is no certain date as to when it will conclude.

Resolution 2016-139, adopted by the Board on September 8, 2016 requires staff to enter into an Exclusive Negotiating Agreement with Sunroad Enterprises for "a 325 room hotel on the Elbow Site that does not require a Port Master Plan Amendment". This was intended to optimize the speed in which a redevelopment could get started on the site. Following the parameters of Resolution No. 2016-139, staff successfully negotiated the ENA with Sunroad and continues to work with Sunroad to advance its proposed hotel development. (Attachment E.)

Exclusive Negotiating Agreement with Sunroad

The ENA includes specific requirements that Sunroad must meet in order to proceed with redevelopment of the Elbow Parcel. Section 4 of the ENA states that the "proposed development shall be based on Developer's Vision . . . except Developer shall . . . not propose any development that requires a PMPA." Furthermore, Section 5(b)(i)(5) of the ENA also states that the project description for the Project shall be in conformance with the 2013 EIR and if it is not, the Project will be presented to the Board for consideration and direction through a preliminary project review or other agendized means. The Project as presented to staff in the Second Submittal is inconsistent with the 2013 EIR because the 2013 EIR analyzes only 325 rooms on the Elbow Parcel and did not analyze the phasing proposed by Sunroad for the site, as further discussed under "Conformance with the 2013 EIR" below.

Proposed Two Phased, Dual Branded, 500-Room Hotel Project

Based on the First and Second Submittals, Sunroad proposes a two-phased, dual branded, 500-room hotel project on the Elbow Parcel with the first phase comprising of 325 rooms and the second phase comprising of 175 rooms (Attachment F). Phase 1 is for 325 hotel rooms within two buildings of 85 feet in height (seven stories) that includes 175 extended stay rooms and 150 select service rooms, 300 surface stalls for at-grade parking, two restaurants, meeting and conference space, and accessory buildings. The space between the two proposed hotel buildings in Phase 1 will be a deck that will span between and connect the two buildings to serve as an entry statement and covered drop-off, and provide views of the bay and downtown skyline.

Phase 1 includes swimming pools, spas, gym, retail shops, open space event lawn, a second-floor viewing deck, a boardwalk area for games such as bocce ball and horseshoes. Public improvements include public activating amenities such as benches, lighting, signage, parking and landscaping. In addition, there will be a walk-up restaurant or café open to the public and a 15-foot-wide public promenade continuing on the water's edge of the basin. A public open space and event lawn would be enhanced at the southwestern corner of the site.

Phase 2 is the development of an additional 175 hotel rooms in a third building on the northern edge of the Elbow Parcel which would be constructed after Phase 1 construction is complete. No further details on Phase 2 were provided by Sunroad, but staff did request additional information from Sunroad in its July 31, 2018 letter (Attachment C).

Conformance with 2013 EIR

The 2013 EIR analyzed and addressed: 1) up to two hotels with no more than 325 rooms on the Elbow Parcel, consisting of up to two low-rise (four-story) hotels or a single mid-rise (10-story) hotel and 2) a 175-room hotel on the Marina leasehold adjacent to the Elbow Parcel. Staff reviewed the Project, as outlined in the Second Submittal and it does not conform to the 2013 EIR because the Second Submittal proposes 500 rooms in two phases (325 rooms in Phase 1 and 175 rooms in Phase 2) and the 2013 EIR analyzes only 325 rooms on the Elbow Parcel and did not analyze any phasing of the project.

If the Board directs staff to proceed with Option A, staff would further study the project as proposed and initiate environmental review once staff receives the additional information requested from Sunroad for Phase 2, the subsequent 175 rooms, and any additional design changes requested by the Board through the preliminary project review.

Preliminary Staff Comments on Design

The design drawings (Attachment G) submitted with the Second Submittal were identical to the design drawings that were shown to the Board at the March 13, 2018 Board Meeting with no further design evolution. In reviewing the Project, the Board may provide feedback on the proposed Project, including the architecture, public features, connectivity, and any other considerations concerning the Board's vision for the redevelopment of the Elbow Parcel on East Harbor Island. The Board will not be approving the design or project description of the Project at this time, the feedback provided by the Board on the Project will not be binding on the District, and the Board reserves its sole and absolute discretion to approve or disapprove any project description from Sunroad for the Elbow Parcel, and adopt all feasible mitigation measures, a project alternative, including the no project alternative and a Statement of Overriding Considerations, if applicable, in the future. Additionally, it is important to note that District staff is still in the process of analyzing the Second Submittal from Sunroad, including the development concept, its financial or physical feasibility or potential land use and entitlement implications.

The following preliminary staff comments were provided to Sunroad in late July regarding the proposed Project as a whole:

- 1) The architecture should be distinctive and iconic given the prime location on a prominent waterfront site;

- 2) The project should improve and facilitate public access and views through the site from the bay and the marina; and
- 3) The project should have strong connectivity with Harbor Island.

While the above are preliminary staff comments, there may be additional feedback staff may provide to Sunroad after the August Board meeting which may result in further revisions to the proposed Project.

Conclusion

Sunroad's Second Submittal for a two-phased, dual branded, 500-room hotel project is not in conformance with the 2013 EIR. Therefore, staff requests the Board provide feedback to staff and Sunroad on the Project as part of the preliminary project review process and in addition, staff recommends that the Board select one of the following options:

A) If the Board determines a two-phased, dual branded, 500-room hotel project on the Elbow Parcel should be further studied as proposed by Sunroad, in addition to the Board directing staff to study that Project, the Board should also direct staff to waive the requirement in Section 5(b)(i)(5) of the ENA that the Project be in conformance with the 2013 EIR, waive the restriction in Section 4 of the ENA not to propose any development that requires a PMPA, and direct staff to conduct environmental review for the Project. The environmental review pursuant to CEQA under this scenario may take approximately 6 to 12 months to complete. The PMPA and CDP process may take up to 12 months in addition to CEQA, for a total of 18 to 24 months, but if a PMPA is not required, the CDP process may take only 4 months for a total of 10 to 16 months (*i.e.*, 6-12 months for CEQA, 7-8 months for the PMPA, and 4 months for the CDP). This anticipated schedule does not assume litigation associated with the CEQA process and/or appeals to the appealable CDP. As such, an administrative extension to the ENA will be required as the ENA will expire on September 27, 2018. If the Board directs staff in its sole and absolute discretion, to proceed with environmental review, approval of such environmental review shall be a condition precedent to the Board's consideration of the Definitive Agreement (as defined in the ENA); or

B) If the Board determines a single-phase, dual branded, 325-room hotel project on the Elbow Parcel should be further studied, in addition to the Board directing staff to study that Project, the Board should also direct staff to waive the restriction in Section 4 of the ENA not to propose any development that requires a PMPA, and direct staff to conduct environmental review for the revised project. A PMPA would be required under this proposal. The environmental review pursuant to CEQA under this scenario may take approximately 6 to 12 months to complete. The PMPA and CDP process may take up to 12 months in addition to CEQA, for a total of 18 to 24 months for the entire entitlement process (*i.e.*, 6-12 months for CEQA, 7-8 months for PMPA, and 4 months for CDP). This anticipated schedule does not assume litigation associated with the CEQA process or appeals to the appealable CDP. As such, an administrative extension to the ENA will be required as the ENA will expire on September 27, 2018. If the Board directs staff in its sole and absolute discretion to proceed with additional environmental review, approval of such environmental review shall be a condition precedent to the Board's consideration of the Definitive Agreement (as defined in the ENA).

General Counsel's Comments:

The Office of the General Counsel has reviewed this agenda sheet as presented to it and approves it as to form and legality.

Environmental Review:

The item would provide direction to staff on the phased development of 500 hotel rooms on the Elbow Parcel. The Board's direction does not constitute an "approval" of a "project" under the definitions set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because it would not result in any direct or indirect physical changes to environment, including without limitation, physical changes. CEQA requires that the District adequately assess the environmental impacts of its projects. Further, while the Board may request certain project components be included or alternatives studied and such direction to staff will not bind the District to a definite course of action prior to CEQA review. Full CEQA analysis will be completed prior to the approval of any entitlements, concept approval, or agreements necessary for the project. Moreover, the Board reserves its discretion to adopt any and all feasible mitigation measures, alternatives to the project, including a no project alternative, a statement of overriding consideration, if applicable, and approve or disapprove the project and any permits or entitlements necessary for the same. Those decisions may be exercised in the sole and absolute discretion of the Board. Based on the totality of the circumstances and the entire record, the Board's direction does not commit the District to a definite course of action prior to CEQA review being conducted. Therefore, no further CEQA review is required.

In addition, the Board direction allows for the District to implement its obligations under Section 87 of the Port Act, which allows for visitor-serving commercial uses and purposes, and the construction of commercial buildings. The Port Act was enacted by the California State Legislature and is consistent with the Public Trust Doctrine. Consequently, any Board direction would be consistent with the Public Trust Doctrine.

Finally, the proposed Board item does not allow for "development," as defined in Section 30106 of the California Coastal Act, or "new development," pursuant to Section 1.a. of the District's Coastal Development Permit (CDP) Regulations because it will not result in, without limitation, a physical change; change in use; or increase the intensity of uses. Therefore, issuance of a CDP or exclusion is not required. However, the District's projects require processing under the District's CDP Regulations. If the Project moves forward, the Board will consider approval of the Project and improvements after the appropriate documentation under District's CDP Regulations has been completed and authorized by the Board, if necessary. The Board's direction in no way limits the exercise of the District's discretion under the District's CDP Regulations.

Equal Opportunity Program:

Not applicable.

PREPARED BY:

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Attachments:

Attachment A: Location Map
Attachment B: Resolution 2016-139
Attachment C: July 31, 2018 Letter to Sunroad Regarding Comments to Second Submittal
Attachment D: July 26, 2018 Letter to District Requesting 6-Month Extension of
Negotiating Period
Attachment E: July 24, 2018 Letter to Sunroad Regarding Status of Project
Attachment F: Proposed Site Plan
Attachment G: Design Drawings