

MEMORANDUM

TO: Flatlander Equity Partners L.P.
FROM: Jake Crain, Parmveer Lidhar, Madison Trasher
DATE: 11/19/2019
RE: Tarpon Pointe - Due Diligence Investigation

EXECUTIVE SUMMARY:

This memorandum is intended to provide Flatlander Equity Partners, L.P. relevant findings from our due diligence investigation of the proposed development project, Tarpon Pointe. Tarpon Pointe, a Planned Development Project (PDP), advises development of both residential and recreational amenities, followed by infrastructure-related improvements to support the potential project. However, after reviewing various documents regarding regulatory, environmental, physical, and locational aspects of both the proposed project and existing site, we believe that the development project as a whole should not move forward due to the volume of potential risk derived from the lack of feasibility.

SUPPORTING ARGUMENTS:

ENVIRONMENTAL

National Marine and Fisheries Service (NMFS)

Following the survey conducted by the NMFS on August 21, 2007, the subsequent conclusions and recommendations were reported:

- Approximately 3,300 square feet of Mangrove trees and an undetermined amount of Submerged Aquatic Vegetation (SAV) within the project area would be adversely affected through dredging operations. As a result, NMFS does not support the issuance of a permit for the project as proposed. Alternatively, they recommend keeping the existing load-out ramp as it was explicitly stated in the report that they will not authorize the clearing of the existing mangroves for the proposed ramp. In addition, NMFS also explicitly states in their report that they will not authorize the dredging of SAV for docks “E” and “F” as proposed.
- SAV and mangrove habitats in the project area have been designated as essential fish habitat (EFH) that provide nursery, foraging, and refuge habitat for a multitude of marine species.
- The project area is within the known distribution limits of a federally listed threatened species under purview of the NMFS, thus requiring the developer to identify and report any and all actions that may affect endangered or threatened species.
- Due to the increase in size and quantity of vessels that would utilize the proposed basin and ramp, secondary impacts on SAV (vessel groundings, prop scarring, and/or sediment wash out) are likely.
- The onsite planting of mangroves used as mitigation to offset adverse wetland impacts was disregarded as the NMFS concluded that evaluation of this aspect during initial project review is premature.

Florida Department of Environmental Protection (DEP)

Following the submittal of a maintenance dredge exemption on March 14, 2007, additional information has been requested by the DEP before any binding decision can be made. Most of the additional information requested cannot be obtained until a Phase-I Environmental Site Assessment (ESA), bathymetric survey, geotechnical report, and sedimentation sample report have been conducted.

Other Relevant Environmental Issues

- Absence of required Phase-I Environmental Site Assessment (ESA)
 - For any decision to be made regarding the property’s development and associated environmental stability, the site must undergo a Phase-I ESA. This assessment establishes landowner innocence against CERCLA liability.

- Absence of required geotechnical report
 - The conduction of a detailed geotechnical report will be required to outline necessary site-specific information regarding soil composition, subsurface conditions, prevailing conditions on the planned construction, potential hazards, and preliminary recommendations for site preparation and foundation design.
- Effect of environmental approval on development timeline
 - Although the engineer estimates that approval from the NMFS and the Florida DEP alone could take up to six months, there are additional permits, surveys, reports, and approvals that has not yet been addressed that would likely push the timeline to obtain a dredging permit to over a year. This delay is a major concern as the feasibility period provides only four months to obtain these approvals, according to the purchase and sale agreement contract.

LEGAL and REGULATORY

Building Requirements

- Intended project design is considered “out of character”
 - All architectural renderings/elevations shall be reviewed by the ARB for recommendations to the City Council for final approval
- Proposed building heights do not satisfy standards due to setback requirements
 - North Tower: Proposed 19 residential stories above 2 floors of structured parking; maximum building height assuming proposed setback = **13 stories**
 - East Tower: shall not exceed 6 stories above 2 floors of structured parking; maximum building height assuming proposed setback = **6 stories**
 - However, if the developer acquires the outparcel located at 220 6th Street NE, the height of the East Tower may be increased to 13 stories over two floors of structured parking

Utility Improvements

- Proposed project will require utility improvements (by the Public Works Department) and will be the responsibility of the developer
- Developer agrees to participate in a conceptual plan for public improvements to the Riverwalk, 20% of the project, capped at \$250,000.

Bradenton Master Plan: Comprehensive Plan

- The proposed development project does not sufficiently implement objectives of the comprehensive plan. The project does not provide:
 - Appropriate transitions between uses (through design/buffers)
 - Harmony with the natural environment/protection from natural hazards

Traffic Impact

- HNTB Corporation performed a Traffic Concurrency Analysis
 - Several intersections within the area have service deficiencies, but improvements are not feasible due to the urban nature of the corridor, rights-of-way constraints, and costs. Therefore, the applicant will mitigate their impact through a “fair share contribution” equaling **\$47,881**, the total proportionate share.

PHYSICAL

Physical Challenges

- The site is irregularly shaped and is severely gouged by a large rectangular “outparcel”

Easements

- There is a minimum setback of 25 feet inside the riparian right lines of the applicant for any of mooring pilings, breakwaters, jetties, groins, and water activities.
- Marginal docks have a minimum setback of 10 feet.

- Additional easement requirements exist for rights of way, utility crossings, oil and gas infrastructure utility crossings, and shoreline protection structures.
- Cyrix engineering states that there are no visible encroachments.

Floodplain

- The site is located in floodplain A and B. A solution is needed for excess stormwater that would cause flooding.

Soil/Slope

- Geotechnical study needs to be executed as soon as possible. PSI engineering states that their initial report will consist of 5 penetration tests, done at various different points across the parcel. PSI engineering recommends to conduct boring tests 75 feet below grade. Without this geotechnical report, additional cost can not be known. Additionally, Cyrix Engineering states that the land is thoroughly flat and no slopes need to be addressed.

LOCATIONAL and SITUS

Location

- The site is located on a peninsula that extends into the Manatee River.
- The development program consists of two multifamily towers with a total of 178 units, and 198 boat slips.

Traffic Impact

- CPH Engineers estimate that 1588 daily trips will take place.
- The lack of traffic signals on US Hwy 64 will cause congestion when trying to access the project site.
- The developer is expected to pay a share of any costs to improve the intersection.

Floodplain

- Flood Insurance Rate Map reveals that most of the site is in floodplain zone A, however, this map was last updated in 1983. An updated flood plain map is recommended.

Access

- The site can be accessed from 6th Street E and 1st Ave E.

CONCLUSION and RECOMMENDATIONS:

Upon conducting our due diligence analysis for Tarpon Pointe, it is our recommendation that Flatlander Equity Partners, L.P. pass on the proposed investment venture with North Star. This recommendation is based on professional examination of all evidence found in the documentation provided, but heavily influenced by the following issues:

- **Developer Issues:** North Star's due diligence investigations are severely inadequate for a project of this stature. There are numerous permit issues, assessments, studies, and reports that should have been conducted and/or assessed prior to executing the purchase and sale agreement.
- **Environmental Issues:** NMFS determined that the building cannot be constructed as designed due to the property's surrounding natural habitat.
- **Development Timeline:** The developer will not be able to obtain any dredging or construction permit by closing.