



PERSSON, COHEN & MOONEY, P.A.
ATTORNEYS AND COUNSELORS AT LAW

M E M O R A N D U M

TO: Mayor Schneier and Town Commissioners
CC: Tom Harmer, Town Manager
FROM: Maggie D. Mooney, Esq., Town Attorney
DATE: December 7, 2021
RE: Fillmore Project and Special Counsel Engagement

Approximately 6 months ago, the City of Sarasota (“City”) began evaluating the feasibility of redeveloping an existing City owned parking lot located a block off of St. Armands Circle at the cross streets of Fillmore Drive, South Adams Drive and Monroe Drive. The City owned municipal parking lot property is known as the Fillmore Parking lot. The City’s discussion about the potential sale and redevelopment of the Fillmore Parking lot was due, in part, to an unsolicited proposal that was received by the City from JMW Management, Inc. (John Meshad) in April 2021.

In response to that proposal, multiple City Commission meetings and community workshops have been held relative to the initial conceptual proposal and the City Attorney prepared various Memorandums identifying some of the legal land use and debt issues that would need to be resolved to proceed with the sale and redevelopment of the City’s property. Copies of the City Attorney’s Memorandums dated July 14, 2021, and September 22, 2021, respectively are attached. The City Attorney recommended that other potential interested buyers submit letters of interest relative to the sale and redevelopment of the City’s property. The City Commission agreed and provided an opportunity for additional potential buyers to submit offers and proposals until November 2021.

On November 15, 2021, the City received four (4) additional proposals relating to the purchase and redevelopment of the Fillmore Parking lot. Copies of all five (5) purchase and redevelopment proposals are attached. Brief summaries of the pending proposals are provided below:

- JMW Management, Inc. (John Meshad)– This proposal was the initial proposal submitted to the City in April 2021. The proposal includes a boutique hotel with approximately 98 hotel rooms, 11 residential town homes, and a 12,000 sq ft. boutique gourmet grocery store, public restrooms, and parking (inclusive of approximately 270 covered parking spaces). The purchase price would be determined at fair market value using an MAI appraiser, and the purchase price would factor in a requirement that the Buyer provide the City with 268 covered public parking spaces and assume the costs associated with providing such spaces. Revenue from the 268 public parking spaces would be provided to the City to address bond covenants. The proposal is contingent on the Buyer being able to obtain all necessary land use entitlements from the City and includes both legislative and rezoning changes necessary to facilitate such future proposed uses.

Martin Hyde – Proposes the acquisition of the property subject to zoning changes for the parking lot in an amount of \$5,000,000. There are no further details about redevelopment provided in the offer.

- JEBCO, Ventures Inc. – Proposes a project incorporating both retail and residences. Specifically, proposed a mixed-use project that includes 47 residential units (consisting of 3 floors with each unit approximately 2,600 sq. ft), 80 parking spaces, 90 public parking spaces, and 12,500 sq. ft of commercial space for retailers and markets (i.e., Dean and Deluca’s, Eli’s or Morton’s Market). The proposal seeks to purchase the Fillmore Parking Lot for \$8,500,000.00.
- Gregory Thomas Leonard – Proposes to redevelop the Fillmore Parking lot with a boutique hotel with 60 rooms (with a not to exceed height of 35 ft.), provide approximately 50,000 sq.ft. of mixed-use commercial space (inclusive of an upscale restaurant, retail and grocery store), and provide over 200 valet internal parking spaces at a proposed purchase price of \$8,000,000. The offer is contingent on zoning changes and site plan approval by the City which would include both legislative and quasi-judicial action. The existing parking spaces on the Fillmore lot would not be restored, and the offer proposes to pay into the City’s parking fund a portion of gross revenue not to exceed \$50,000 to address bond covenants.

- Ocean Properties – Proposes to build a 63-room residential hotel to cater to longer/extended stays. There would not be a large restaurant, bar or meeting space to minimize traffic, activity and noise; but the plan does contemplate a small lobby bar (20 seats). There would be 1 parking space per hotel room. The hotel building would be limited in height to 35’ feet above FEMA. Ocean Properties proposed a purchase price of \$8,175,000 (based upon a 63-room hotel size) or an additional \$125,000 for any additional rooms up to a maximum of 70 rooms. As a second alternative proposal, Ocean Properties also proposed a 63-room hotel with retail including a high-end grocery store (approximately 15,000 sq. ft in size). The alternative proposal offered a purchase price of \$11,775,000. Both Ocean Properties proposals contemplate public restrooms and propose to replace the 251 existing parking spaces (on the Fillmore lot) with 175 covered spaces.

It is my understanding that the City of Sarasota City Commission anticipates discussing and potentially making a decision relating to a Buyer and redevelopment proposals during their Tuesday, January 18, 2022, regular meeting. To the extent the City of Sarasota seeks to move forward with a proposal that includes the construction of a hotel, residential and/or mixed-use project, it is likely that such redevelopment will increase traffic congestion in and around St. Armands Circle and potentially State Road 789. Since St. Armands Circle serves as one of two (2) gateways for vehicular ingress/egress to and from the Town of Longboat Key, the Town may be detrimentally impacted from an intensification of use at the Fillmore Parking lot site.

This item is being presented to the Town Commission to discuss whether the Town would like to take an active role in monitoring, evaluating and potentially opposing the Fillmore parking lot redevelopment. Based upon the steps laid out by the City of Sarasota’s City Attorney, there will be multiple meetings and hearings before the City Commission where legislative changes (Comprehensive Plan amendments and Land Development Code text amendments) and quasi-judicial (site specific) approvals would need to be authorized to allow for the type of hotel and mixed use redevelopment contemplated. Should the Town wish to weigh in and/or oppose such redevelopment effort(s) by the City, there likely will be multiple meetings and public hearings before the City of Sarasota City Commission (and potentially the City’s Planning Board) where appearances would be recommended to provide comment and/or oppose such development and preserve the Town’s legal rights to challenge the City’s actions in court. Further, quasi-judicial hearings necessitate competent substantial evidence and professional expertise may also be needed to evaluate and provide testimony regarding existing and proposed conditions should the redevelopment move forward (i.e., traffic).

Should the Town Commission want to critically evaluate the Fillmore Parking lot redevelopment proposal(s) and potentially oppose such project, the Town Attorney's office believes that it is appropriate and prudent to engage special land use/litigation counsel and professional expert(s), to evaluate the project and appear on the Town's behalf at the City's meetings and hearings. The Town has previously engaged and consulted with attorney David Smolker with respect to transportation related issues including the Gulfstream roundabout project. Mr. Smolker is a land use/litigation attorney with an office in Tampa that has extensive experience in representing parties in complicated land use matters and litigating such matters, when necessary. A copy of Mr. Smolker's resume is attached. Mr. Smolker does not have any conflict in representing the Town in this matter and has quoted a governmental billable rate for his work at \$300/hour, and a paralegal rate of \$125/hour. A full copy of the engagement letter with Mr. Smolker's law firm (Smolker Matthews law firm) is attached.

The attached engagement agreement with the Smolker Matthews law firm is being presented for discussion only in conjunction with the Fillmore Parking lot proposals at the Town Commission Workshop. Should the Town Commission agree by consensus that it would like to proceed with the engagement of special counsel, it is my recommendation and the Town Manager's recommendation that the law firm's engagement be placed on the January 10, 2022, Regular Meeting Consent Agenda for action.

At the present time, I am not suggesting that the Town Commission authorize litigation. I am only recommending that the Town Commission consider engaging a land use specialist to evaluate and advise the Town Commission on the impacts the Fillmore Parking lot redevelopment will have on the Town and, if necessary, protect the Town's interests at future City of Sarasota meetings and hearings if such impacts are adverse to the Town and its residents' interests. Any requests for authorization to file future lawsuits on behalf of the Town will be specifically brought to the Town Commission at a public meeting for discussion and consideration pursuant to Town Code. See, 30.09, Town Code.

If any Commissioners have any questions regarding this Memorandum or the attachments, please do not hesitate to contact me directly.

Att.:

All Attachments are available in the Town Clerk's Office

1. Memorandum from City Attorney Robert Fournier dated July 14, 2021
2. Memorandum from City Attorney Robert Fournier dated September 22, 2021
3. Five (5) proposals received by the City of Sarasota relating to the Fillmore Parking Lot Acquisition.
4. Engagement Letter from David Smolker, Esq. of the Smolker Matthews law firm.
5. Bio/CV for David Smolker, Esq.

End of Agenda Item