

Memorandum

TO: Flatlander Equity Partners, L.P.

FROM: Due Diligence Team

DATE: 11/30/2007

RE: Tarpon Pointe Investment

EXECUTIVE SUMMARY

PROJECT OVERVIEW:

The project site is roughly 7.7 acres located directly on the Manatee River in downtown Bradenton, Florida at 215 8th Street East, 34208. There is an adjacent parcel (220 6th St NE) that is available to bring the total acreage to slightly over 9 acres. The land is currently zone C-1A, which allows for mixed-use commercial and residential development. The land purchase includes a "High and Dry" marina facility with 260 dry slips and 18 wet slips for boats up to 36 feet in length. The marina also includes a 20,000 lb. capacity forklift and existing boat drop/ ramp that is conveyed with the purchase of the land. The Planned Development Project Proposal was submitted in March of 2005 with City of Bradenton approval of the plans in June of 2006 with a few modifications.

Original PDP	Modified City Approval
Single family townhouses	Single family townhouses
25 total	25 total
High-rise condominiums	High-rise condominiums
Two 18-story towers; 195 units	Two 18-story towers; 194 units
2 Levels of structured parking in each high-rise	2 Levels of structured parking in each high-rise
438 total parking spaces	438 total parking spaces
Private marina with	Private marina with
198 boats slips	198 boats slips
Off-street parking spaces (existing)	City approved right of way vacation off of 6th st, did not specify amount of off-street required
42 total parking spaces	
Marina Office	Marina Office
720 +/- square feet	720 +/- square feet
Dwelling units per acre	Dwelling units per acre
23.2 (du/acre)	23.2 (du/acre)
Onsite public improvements and contributions	City specified improvements to the Riverwalk in an amount of 20% of the project, capped at \$250,000.

The changes are highlighted green above but are neutral to the density requirements of the original proposal and do not significantly impact the economics/ returns. The agreement to public improvements/ contributions allowed the city to approve a right of way vacation off 6th street, thereby allowing for lower setback requirements for the two condominium towers. Additionally, the purchase of the adjacent parcel will convince the city to allow for the high 23.2 du/ acre proposed. The height of the towers was reduced to conform with neighboring sites, but total units remained the same in the approval. Additional city requirements include utility improvements required by the Public Works Department, adherence to the requirements from the Traffic Impact Study, and all architectural renderings be reviewed by the ARB with final approval by the City Council.

INVESTMENT STRATEGY:

The investment strategy involves acquiring the land, existing dry-dock marina, and any/all rights to construct and operate a marina with wet slips on the Tarpon Pointe area of the Manatee River. Below is the timeline proposed by North Star:

Year 1: Improve and sell dry-dock marina as rackominiums.

Year 2: Sell fully entitled land to a developer for condominium development or partner with developer for construction.

Years 3-5: Acquire loan to construct private marina on the Manatee River during year 2, then sell slips upon completion.

The wet slips pose significant entitlement risk but can be extremely lucrative (can be sold at \$5,000 per linear ft).

CITY OF BRADENTON AND COMPREHENSIVE MASTER PLAN:

Tarpon Pointe is considered the easterly terminus of the City's Riverwalk concepts and an extension of the overall vision of the downtown redevelopment plan. The city's overall plan promotes extending the Urban CBD into the proposed site.

DUE DILIGENCE STRATEGY:

Our team reviewed the due diligence documents provided by the seller and the sponsor, North Star Interests, L.P., to determine the risk profile of this investment, outstanding items, and an overall recommendation regarding an equity investment by Flatland Equity Partners. Our findings were categorized by risks regarding environmental, physical, locational, and legal/regulatory attributes of the project.

SUPPORTING ARGUMENTS and DUE DILIGENCE FINDINGS

ENVIRONMENTAL

The city's approval involves the creation of 198 boat slips, along with improvements to and relocation of the existing boat ramp. Meanwhile, an ordered PSA assessment and environmental studies, although not yet complete, will outline key criteria for evaluating the impact of this project on environmental conditions linked to the property. The assessment criteria established by the environmental

departments to determine the project's alignment with the public interest include considerations such as the potential adverse effects on fish and wildlife conservation, whether it will be temporary or permanent, and the likelihood of negative impacts on navigation, water flow, or erosion concerns. These criteria suggest a comprehensive evaluation process aimed at safeguarding the environment and ecosystems around the property, ensuring that the project's development doesn't compromise fish habitats, the stability of the surrounding area, or the current vegetation in the waterways. This reflects a meticulous approach to balancing development goals with environmental conservation, prioritizing the sustainable and responsible advancement of the boating infrastructure while minimizing potential ecological harm.

PHYSICAL

The survey covers 12 parcels in total. Parcel 1 is zoned as PDP and sits within Flood Zone A and AB while containing two retention ponds and a one-story metal building. Parcels 2-12 are zoned as C1A and sit within Flood Zone A. A concrete drive sits along S 16° 11' 41" E. with connection to the concrete ramp providing access to the Manatee River. Three floating wood boat docks are situated west of the concrete ramp. The survey also shows the previous landing of a CSX railroad bridge that spanned the Mantee River. Parcels 2-12 currently have small residential features, each one-story buildings, across seven different parcels and nine different lots. Each building is a single-story structure, one wood frame construction on parcel 4, as the other six concrete are block structures. Each building has connecting concrete driveways, patios, and concrete walkways for access. Parcels 3, 4, 8, and 10 each have a shed located along S. 15°44'39" E. Easements currently exist for a waterline over and across a portion of Lot 11, Block B and an agreement between the city and the Seaboard Air Line Railroad Company and the City of Bradenton to cross the railroad right-of-way with a street crossing. The Manatee River is located to the North, East and West of the site. Therefore, the whole site is within Zone A and AB of the flood plain. This indicates that the entire project sits within the 100 years floodplain, requiring us to have flood insurance. Preliminary Geotechnical services are required but have not been received as of this time. The engineers at Professional Service Industries Inc. will drill 5 Standard Penetration Test bores at 75 feet of depth to review soil grade and submit geotechnical engineering reports for the project.

LOCATIONAL and SITUS

The Greater Bradenton Area is one of the fastest growing regions in the nation. With a population increase of approximately 15% from 2000-2005. This is fueled by immigration of both retirees and workers migrating from the Northeast and Midwest. The development site will be in the Hospital Transition subdistrict, one of two of the major economic drivers for the area. The Health and Wellness sector will continue to be a strong anchor for the area. Manatee Memorial Hospital is undergoing a \$42 million expansion that will add 150,000 SF by Spring 2007. Ingress and Egress to the subject property is provided via 3rd Avenue East and 8th Street East upon which the property fronts. This dedicated right-of-way is being paved, accepted and maintained by the City of Bradenton. Access to the site is proposed via 6th St NE and through the existing Marina site to the SE to 7th St East. 6th and 7th St. East are two-lane undivided City Streets with low speeds. The Northernmost, proposed access point on 6th St NE is connected at the intersection of 6th St Northeast and Riverside Dr. East while the southernmost access point is connected at the intersection of 6th St NE and 1st Ave. East. The Capacity Analysis on traffic impact indicates that the roadways and intersections are operating at acceptable LOI and are expected to continue to operate at an acceptable level for future traffic conditions. As for utility improvements, all runoffs shall be treated and attenuated onsite within underground retention faults approximately 1.55'. Discharge will be tidally influenced and must go to the Manatee River.

LEGAL and REGULATORY

The legal and regulatory review of the project focused on the purchase and sale agreement, city council approvals, leases and easements (both private and public), permits (including the marina), and a maintenance dredge exemption application.

Purchase and Sale Agreement

Key points of interest include a \$100,000 non-refundable payment to the seller, \$200,000 earnest money, 4 thirty-day feasibility periods, and a purchase money mortgage from the seller (as mezzanine debt). The \$100,000 is retained by the seller as consideration for execution of the agreement and is to be credited to the buyer at close toward payment of the purchase price. The \$200,000 of earnest money will go hard (non-refundable to buyer) in \$50,000 increments monthly over 4 months (feasibility periods). The purchase money mortgage from the seller has a principal amount of \$13,000,000 with an 8% annual interest rate. It will act as the first lien mortgage that encumbers the proposed wet boats slips and any permits and riparian rights associated with such wet boat slips. It will act as a second mortgage for the rest of the property and allow for secondary financing. A promissory note, corporate guarantee, and security interests in the purchasing entity will be required from the buyer. Principal payments will begin 90 days after receipt of approvals from the State of Florida for construction of the wet slips. The first principal payment will be \$4 million with \$3 million

paid annually thereafter until the full principal amount is paid. If approvals aren't received after 180 days, a \$3 million principal payment will be required and \$1 million 90 days after approvals are received. Prepayment can occur at any time and loan must be fully paid 10 years after the date of closing. A title commitment has been provided to the buyer for title insurance. The terms of the PSA should be renegotiated to reduce risk to the buyer.

City Council Review and Approval

Approval was granted in June 2006 with a formal letter of approval provided from the City of Bradenton on January 2007. As mentioned in the executive summary, the modifications from the city did not impact the density proposed in the development. The city has been responsive and helpful during the approval process, and we foresee no significant issues at this time.

Leases, Easements and Permits

The issue of submerged land was examined as the project site possesses approximately 2,000 linear feet of shoreline adjacent to deep water. The State of Florida has had title to these waters since 1845 and will require a submerged land lease to build the wet slips. All structures built on the water must not infringe upon the riparian rights of adjacent upland riparian owners. Marginal docks must be set back a minimum of 10 ft from the property's riparian line. A submerged land easement will be required for any dredging that occurs. A maintenance dredge exemption has been applied for with the Department of Environmental Protection, but some minimal maintenance dredging may be required to relocate the haul out ramp. Documentation has been provided to the DEP regarding dredging done prior to April 3, 1970 as well as additional requests for information. Application fees for the docks of \$6,500 and \$512 for the submerged land lease are required as well. The Army Corps of Engineers have coordinated with the National Marine Fisheries Service to ensure minimal impact to the mangroves, manatees, and other endangered species and fisheries habitats. NMFS has already objected to the location proposed for the loadout ramp and dredging required for new boat basin and docks E & F (slips 1 –35). DEP and ACOE building permits for the ramp, marina, and wet slips are estimated to be obtained in 3-6 months but could take longer or not be issued. Additionally, public access to coastal waterways has become a significant issue with community backlash to the increase in private developments for profit.

CONCLUSION and RECOMMENDATIONS:

After thorough review of the feasibility studies from the seller and meeting with the engineer and architect, our team believes the initial equity contribution of \$3 million should be contingent upon changes to the purchase and sale agreement along with other recommendations from our team. The investment should only include selling improved dry docks as rackominiums in year 1, and sale of fully entitled condo land in year 2 (not pursue private marina and wet slip entitlement/ construction). The primary risk lies with seller financing in the Purchase and Sale Agreement, which has very unfavorable terms and acts as a first lien on the proposed wet slips, permits, and associated riparian rights. It does state that the purchase money mortgage will act as secondary financing for the rest of the property, however; riparian rights are often not severable, and seller would obtain substantial control of the property in the event of a non-monetary default. This will also make it significantly harder to obtain a senior acquisition loan as they will likely want to subordinate all other liens on the property and have first lien rights to the full property as collateral. At a minimum, the PSA should contain a well drafted financing contingency, inspection contingency (for Phase 1 and Geotechnical Survey) and should also be redrafted to have the purchase money mortgage act as true mezzanine debt in a secondary lien position. An entitlement contingency along with loan assumption would be the best solution, but the seller is unlikely to grant this. If the seller agrees to a subordinate mezzanine position, Flatlander should insist that North Star sign as guarantor of the promissory note and corporate guarantee and negotiate commencement of principal payments after all approvals/ permits have been received for the private marina and wet slips. North Star should also agree to fund all deposits, earnest money, and application fees for docks and submerged land lease, which will be their equity investment upon closing. If the seller considers a preferred equity investment (accruing at 8%) instead of mezzanine debt, Flatlander should consider a longer-term investment assuming wet slip entitlement risk, and additional equity/ financing to construct the private marina/ wet slips for sale in the future. Flatlander should confirm purchase of the adjacent parcel at 220 6th St NE and consider improvements and public easements for access to the nature/recreational area on the east side of the property. Adherence to city requirements in their modified plan approval along with additional improvements that align with the Bradenton Master Plan will help garner support in obtaining future entitlements for the private marina and wet slips.

While expanding the boating facilities seems promising, caution is advised. The proposed development of the boat slips and ramp changes from our findings could substantially disrupt the environment. With the environmental assessment currently in review and highlighting potential risks to fish and wildlife habitats, pursuit of such objectives should be reconsidered. It seems the environmental agencies are placing extreme caution on preserving the natural balance in the prescribed waterway. From questions they have presented, such extensive construction might irreversibly harm ecosystems and navigation routes. Our recommendation is to reconsider or explore more environmentally friendly alternatives to mitigate the impact. Without having all the environmental reports present, we recommend negotiating contingences within the PSA, to cover circumstances in which a negative report comes out affecting the proposed building plans.