



**CITY OF MARTINEZ**

**CITY COUNCIL AGENDA  
December 16, 2009**

**TO:** Mayor and City Council

**FROM:** Karen L. Majors, Assistant City Manager Community and Economic Development

**SUBJECT:** Extension of 630 Court Street Agreement

**DATE:** December 9, 2009

**RECOMMENDATION:**

Consider: A) the request from Goldenberg and Associates to extend the time limits in the Purchase and Sale Agreement for an additional five months and to modify their development proposal, or B) Based upon the input and recommendation of the City Council Subcommittee on 630 Court Street, deny the request, and direct staff to negotiate with Contra Costa County to control 610 Court Street so that it can be added to the development plan and bundled as one project and to solicit a new RFP that includes both properties.

**BACKGROUND:**

The Sharky Building, commonly referred to as 630 Court Street, was purchased by the City of Martinez several years ago for the sole purpose of identifying a private developer to rehabilitate and retrofit the building and provide new tenants that would serve as a catalyst for downtown revitalization efforts. The City of Martinez solicited Requests for Proposals (RFPs) for a fourth time in February, 2007.

Proposals were due and reviewed on April, 2007. The City Council Subcommittee on 630 Court Street reviewed the proposals and interviewed each of the four development teams. The Council Subcommittee recommended selection of Goldenberg and Associates.

Their proposal included the rehabilitation, retrofit and expansion of 630 Court Street including lowering and enlarging the existing basement and adding a stepped back third story. The enlarged basement and first floor were proposed to be a restaurant. The second floor and stepped back third story addition were proposed to be leased as office space

The City Council approved an Exclusive Negotiating Rights Agreement (ENRA) with the Goldenberg and Associates in June, 2007. The ENRA was extended twice to provide the developer additional time to undertake and analyze structural and hazardous materials investigations and provide city staff ample time to complete the City's lengthy property disposition process.

The developer's soil analysis determined that the expansion of the basement and the addition of a stepped back third story are technically and financially feasible; however, their hazardous materials investigation identified some groundwater and soil contamination that could be addressed as part of the basement expansion but would increase the construction costs. The purchase and sale agreement proposed an offset for these remediation costs.

The City Council and staff completed all the required steps to sell 630 Court Street. A purchase and sale agreement was drafted by city staff pursuant to recommendations of the 630 Court Street City Council Subcommittee and direction from the City Council in Closed Session.

The City of Martinez entered into a Purchase and Sale Agreement with the Goldenberg development team in May, 2008. The agreement and previous extension called for all development entitlements to be completed and escrow to close on or before July 27, 2009. Due to the current economic climate, Goldenberg asked the City for a one year extension to complete all the required development entitlements and close escrow. Staff recommended and the City Council concurred with granting a five month extension with the possibility of a second seven month extension based upon Council and staff determination that progress was being made on project entitlements and financing.

During this five month extension period, city staff worked closely with Contra Costa County staff on the disposition of 610 Court Street and the feasibility of adding it to the development plan for this critical corner. The city recently retained the services of a real estate appraiser to determine the fair market value of 610 Court Street to begin negotiations with Contra Costa County, with the intent of eventually controlling the site.

Goldenberg and Associates recently met with city staff to discuss the impact of the current economic climate and the ability to move forward with their project. Based upon the fiscal constraints identified in the attached letter, Goldenberg alludes to the current difficulty/unavailability of financing a new restaurant. Just the cost of a sewer hook up and installation of a grease trap at this location would cost almost \$250,000.

Their current proposal includes the rehabilitation and retrofit of the current 2 story plus basement structure. Goldenberg no longer proposes a first floor restaurant but will endeavor to lease the first floor to a retail commercial operation if it is financially viable. The interested party proposes to reinforce/ improve and lease the second floor as office. A target date for this scaled back project can be underway by Fall, 2010.

Because the revised proposal no longer requires the lowering of the basement, Goldenberg believes that the hazardous materials issues can be addressed by installing a vapor barrier, thus significantly reducing the clean up costs. The City would then receive approximately \$125,000 to \$150,000 from the sale of the building, although Goldenberg has requested that the City reinvest the proceeds back into the project as a loan (from which the City would be repaid with interest) to reduce the amount of financing the developer would need from traditional sources.

City staff presented Goldenberg's revised proposal and time extension request to the City Council 630 Court Street Subcommittee. Staff also discussed their concerns regarding the revised request that included: 1) loss of the downtown economic development catalyst vision for 630 Court Street, 2) uncertainty of the request that the City "reinvest" the land sale proceeds

back into the project, 3) perception of a project switch by the community and other development teams that responded to the 2007 RFP, and 3) the positive impact of the potential addition of 610 Court Street to the development plan for this critical corner.

The 630 Court Street Subcommittee recommends to the City Council that: (1) they deny the request from Goldenberg and Associates for a time extension and reduction in the scope of the original proposal; (2) The Subcommittee further recommends that staff continues to work with the County to obtain city control of 610 Court Street so that it can be added to the development concept; (3) And finally the Subcommittee recommends that once staff negotiates control of 610 Court Street, in the form of a first right of refusal, option, or other mechanism, staff should prepare and solicit a new PRF that includes both sites.

**FISCAL IMPACT:**

Only staff time.

**ACTION:**

Consider the following options:

- A. Approve the request from Goldenberg and Associates to extend the time limits in the Purchase and Sale Agreement for an additional five months and to modify their development proposal.
- B. Based upon the input and recommendation of the City Council Subcommittee on 630 Court Street: deny the request, and direct staff to continue to work with Contra Costa County staff to control 610 Court Street so that it can be added to the development plan for this catalyst corner and to solicit a new RFP that includes both properties.

**ATTACHMENTS:**

- 1) Letter from Goldenberg and Associates

**APPROVED BY:**



City Manager

## 630 COURT STREET

We have been pursuing a strategy to develop the aforementioned site from the very beginning that would include the City's desire for a, "white tablecloth restaurant". To that end we took on Ernie Guerrero as a full partner in the venture for both his successful restaurant experience and his specific knowledge of the Martinez market. He is well known to the City, and as you know, has in the past attempted on his own to win the RFP for this site. We consider him the most well suited candidate for a sit down restaurant available.

However, two crucial factors have occurred to cause us to have to radically change course. The first, obviously, is the economy. Like a giant tsunami it has swept over all commercial/retail development. Tenants have dried up. Discretionary income is way down or non-existent for most people. Banks, despite what you might have heard, are not lending, even to the most credit worthy borrowers, of which we consider ourselves one of. A sit down service restaurant will not make it in this economy, no matter how good we consider the site. This could not of been foreseen at the time of the awarding of the RFP.

The second factor, the high cost of hook-up fees, was also not contemplated or known until we were well into the design and planning of the restaurant. Contra Costa Sanitary charges \$60,000.00 per 1000SF for the privilege of hooking up a sewer to a new restaurant. The total square footage of the restaurant runs to 6000SF, if you count the basement and side walk seating. Talk about a deal killer! By the way, the required "grease trap" runs between \$60-80K for the establishment as well. That's a phenomenal number of meatballs to sell before any payback.

Given both of these economic points, we cannot put Ernie or the partnership at risk, when the overall odds for success are completely against us.

So where does that leave us. We all have an incredible amount of time, and for us over \$100K in real dollars, into the project. No one wants to quit. We are either stubborn or hard headed but feel by modifying the plan we can still deliver a pretty little project for all to enjoy.

Our new vision, then, is to scale back the project by not adding a third floor, and not developing the basement. This would have the dual effect of satisfy the purists in town, who however in the minority, did not like the additional floor; and saving a lot of money on remedial clean-up by

not "disturbing" the sub-surface material at the site. We believe a "no further action letter" can be obtained to that end. We would also eliminate the restaurant. We would still attempt to pursue a commercial use for the ground floor, but in a more practical case would like to put office in as a way to generate income for the development. We cannot be bound by the commercial component and would ask that it be removed from the development requirement.

There are advantages to our long thought over changes. The City would get a more historical restoration of the façade of the building. There would be less design & review to go through. The City would absolutely save money, by not having to commit the full \$200K to worst case \$300K in environmental clean up funds. We would seek only to recover the funds spent to date, thus insuring the City would come out with something out of the deal.

I would hope this letter would be looked on as evidence that we have spent the time wisely trying to work through this project to come up with a financially sound plan that benefits all concerned parties. At the counsel meeting, on the 16<sup>th</sup> we will reiterate these same points and ask that the contemplated sale in July 2010 be kept to.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Goldenberg". The signature is written in a cursive, somewhat stylized script.

Howard Goldenberg