

**City of National City
Community Development Commission**

**Pacific Steel Incorporated (“PSI”)
Project Status Update – 1/11/07**

Goal: Development of Home Depot retail center with PSI adjacent

Status: Home Depot has been awarded an ENA by Board of CDC for PSI site

Question: What are the next steps to accomplish site redevelopment?

Current status of site:

Remedial treatment of stockpiled soils using a proprietary rare earth magnet technology has begun in the last 2 months. CDC does not yet know what the analytical results reveal from testing of the processed soils. We assume that hazardous constituents will remain in the processed soils in some amount following treatment.

The site is under a Consent Order (Aug. '04) from the DTSC, requiring:

- a) Interim Measures (Not yet complete) w/ Public Outreach
- b) Facility Investigation (Parts of which have not yet begun)
- c) Risk Assessment (Not yet begun)
- d) Corrective Measures Study (Not yet begun)
- e) Remedy Selection (Not yet begun)
- f) Corrective Measures Implementation (w/ CEQA)

Under the standard DTSC policies and approaches to a Consent Order, the average time required to complete all the steps identified in a Consent Order is in excess of 12 years. Conclusion of remedial work would not be expected until 2016.

Assumption: Home Depot will require acquisition of the site *after* DTSC is satisfied that redevelopment can occur and post-mitigation conditions are not threatening to human or environmental health receptors. Approval of a confirmed and economically feasible cleanup plan to accomplish that goal is therefore required in the next year.

It is presumed that this goal can be achieved by having CDC persuade the DTSC to use their new EOA for RDAs, and by preparing a “Conceptual Remedial Action Plan” for the DTSC, based on analytical results from operating treatment technology, and premised on a risk-based closure using engineered controls (an impermeable “cap”) and institutional controls (an appropriate environmental Deed Covenant pursuant to Civil Code § 1471.)

Next Steps:

Execute Agreements as follows:

- 1) Enter into a Cooperative Remediation Agreement (CRA) with PSI

CRA to provide for freezing of Valuation Date (or simple acquisition?)

Note: Existing Valuation Date Agreement expires on May 1, 2007.

CRA to provide for payment of CDC's past Polanco costs

Note: CDC has spent approximately \$155,000 on consultants to date and approximately \$185,000 on lawyers (related to environmental issues.) Some expenditures occurred over four years ago.

CRA to provide for defraying future Polanco costs (i.e. Geosyntec)

Note: All CDC obligations to be treated as off-sets to acquisition costs.

- 2) Retain Geosyntec to design a Conceptual Remedial Action Plan (C-RAP) based on re-use of soils on site as appropriate and safe.

Geosyntec to coordinate with Barry Graham (PSI consultant) for development of C-RAP

Working hypothesis – site needs to be surcharged approximately four feet for additional elevation related to drainage issues and the environmental “cap”.

Note: Drainage issues are of consequence.

- 3) Enter into an Environmental Oversight Agreement with DTSC for the site, based on approval of the C-RAP

DTSC has long treated its “enforcement cases” as distinct from “brownfield redevelopment” and is historically resistant to using flexible or creative approaches to their remediation. Persuasion (and potential political support) may be required.

EOA provides for using Polanco so that Home Depot can get the advantage of the Polanco immunity.

- 4) Execute an Acquisition Agreement with BNSF for the historic leased portion of the site

CDC has proposed a Purchase Agreement to BNSF for the portion of the site PSI leased from them. BNSF Purchase Agreement provides that BNSF gets paid for the property “as if clean” and that CDC agrees to waive any claims against BNSF for any clean-up costs, holding PSI solely responsible for them. CDC put that proposal on “hold” pending clear agreement from DTSC that an efficient and

reasonable C-RAP can and will be approved, as options for cleanup (such as “dig and haul”) would be prohibitively expensive. CDC should attempt to hold the status quo with BNSF pending approval of the C-RAP, given the terms of the proposed transaction with BNSF.

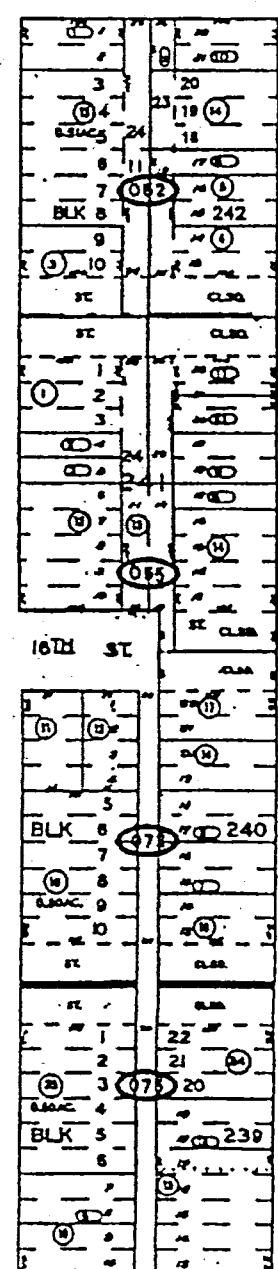
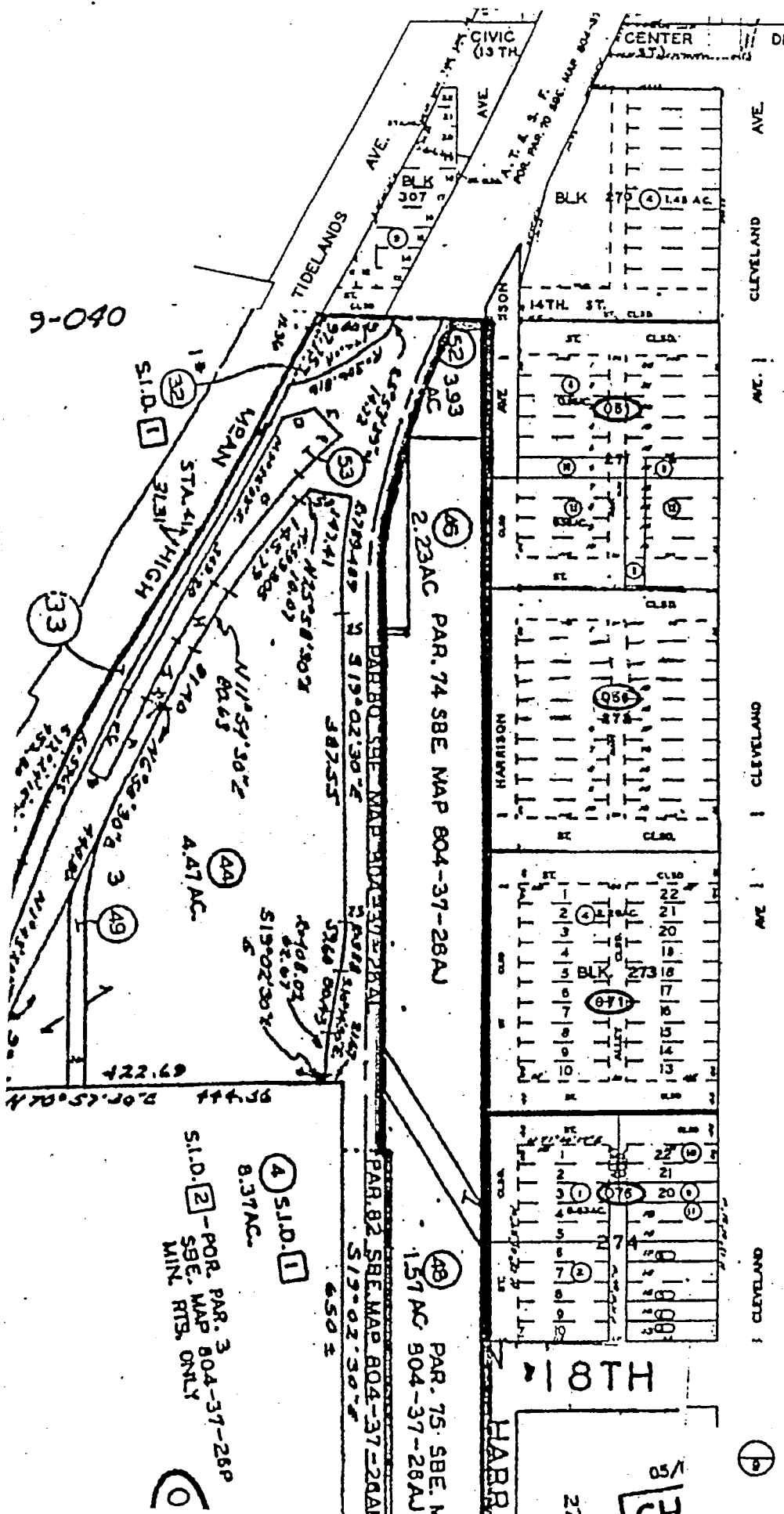
Conclusion:

Allen Haynic, of Latham & Watkins, representing PSI, has informed us that he continues to accept that this plan of action is still optimal for PSI’s goals. The entire plan is premised on DTSC’s ultimate acceptance of a C-RAP all stakeholders can find economic and achievable. Expeditious development, presentation, and approval of that C-Rap is the critical path to project success.

EXHIBIT I

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