OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

118-0092021-002

Agenda Item **No. 5(b)**
Meeting of April 6, 2021

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Sally Oerth, Interim Executive Director

SUBJECT: Authorizing an Exclusive Negotiations Agreement and an Amended and Restated Predevelopment Loan Agreement with HPSY 52-54, LP, a California limited partnership, for 112 affordable family rental housing units (including one manager's unit) at Hunters Point Shipyard Phase 1 Blocks 52 & 54; and adopting environmental review findings pursuant to the California Environmental Quality Act; Hunters Point Shipyard Redevelopment Project Area

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EXECUTIVE SUMMARY

In March 2018, the Successor Agency Commission ("Commission") selected a development team for an affordable rental housing project on Blocks 52 & 54 (the "Project") within the Hunters Point Shipyard Phase 1 Development Project ("HPS Phase 1"). This development team consisted of McCormack Baron Salazar ("MBS") as lead developer, Bayview Hunters Point Multipurpose Senior Services ("BHPMSS") as co-developer and services lead, Mithun | Solomon ("Mithun") as architect and The John Stewart Company ("JSCo") as property manager. The development team now also includes an associate architect, Kerman Morris Architects LLP, a general contractor, Baines-Nibbi (the "Development Team"). Most recently, on July 16, 2019, the Commission conditionally approved a Schematic Design for the Project.

In August 2020, MBS contacted OCII to communicate that they were withdrawing and terminating their participation in the Development Team. In October 2020, OCII issued a Request for Qualifications ("RFQ") seeking a developer to replace MBS's role as lead developer. The remainder of the Development Team plans to remain in place along with the work product developed to date. Four developers responded to the RFQ: The

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Jonathan Rose Companies, Freebird Development Company, The John Stewart Company, and San Francisco Housing Development Corporation and Tableau Jonathan Rose Companies, Freebird Development Company, The John Stewart Company, and San Francisco Housing Development Corporation and Tableau Development. In January, staff convened an evaluation panel. The panel ranked The Jonathan Rose Companies ("JRC") the highest. Staff is now proposing to enter into an Exclusive Negotiations Agreement ("ENA") with JRC, assigning the existing predevelopment loan (the "Loan") to the new development entity and amending and restating the Loan to update the schedule of performance and to reflect the change in development entity.

Staff recommends approving an Exclusive Negotiations Agreement and an Amended and Restated Predevelopment Loan with HPSY 52-54, LP, a California limited partnership for 112 affordable family rental housing units (including one manager's unit) at Hunters Point Shipyard Phase 1 Blocks 52 & 54; and adopting environmental review findings pursuant to the California Environmental Quality Act.

DISCUSSION

Project Area Background

The Hunters Point Shipyard ("HPS" or "Shipyard") and Candlestick Point together form approximately 780 acres along the southeastern waterfront of San Francisco. The San Francisco Board of Supervisors originally adopted the HPS Redevelopment Plan in 1997 and amended it in 2010 along with the Bayview Hunters Point Redevelopment Plan (which covers Candlestick Point) to provide for the integrated planning and development of the HPS and Candlestick Point. Properties within the Shipyard transfer from the U.S. Department of the Navy (the "Navy") to OCII after any necessary environmental remediation and determination from federal, state and local regulators that the property is safe for its intended purpose. HPS Phase 1 is located on Navy Parcel A ("Parcel A"), which the Navy transferred to the former Redevelopment Agency in 2004. Historically, the Navy used Parcel A (subdivided into Parcel A-1, or the Hilltop, and Parcel A-2, or the Hillside) as barracks and related personnel uses. The federal and state environmental regulatory agencies with oversight over the Shipyard cleanup determined that Parcel A did not require environmental remediation and was safe for transfer for its intended residential use (see Environmental Remediation and Testing below for further discussion).

The HPS Phase 1 Disposition and Development Agreement, dated December 2003 ("Phase 1 DDA") between OCII and master developer, HPS Development Co, LP an affiliate entity of Lennar Urban ("Master Developer"), implements the development on the Hilltop and Hillside areas of HPS Phase 1 (described in more detail below). The Phase 1 DDA has been amended six times since its approval in 2003.

The HPS Phase 1 development program includes the construction of infrastructure, 26 acres of parks and open space, and up to 1,428 housing units, of which approximately 29% will be affordable to low- and moderate-income households. HPS Phase 1 is divided into two areas, the Hilltop and Hillside. Under the Phase 1 DDA, Vertical Developers have built 505 units, including 43 inclusionary homeownership units within market rate buildings, across multiple blocks in HPS Phase 1, and 59 inclusionary rental units in a 100% affordable project on Block 49 (Pacific Pointe at 350 Friedell). The Master Developer has built approximately 47% of the Infrastructure within HPS Phase 1, including 12 acres of park space and approximately 40% of the roadways. OCII has three stand-alone affordable housing sites on Hilltop (Blocks 52, 54, and 56), which will provide approximately 183 BMR units at up to 50 percent AMI. Blocks 52 and 54, located on the Hilltop, are the first OCII sites considered for development.[1] OCII's portion of Block 52 is bounded by Friedell Street to the northwest, Kirkwood Avenue to the southwest, Jerrold Avenue to the northeast, and currently, a private market-rate parcel being developed by Lennar on the same block, to the southeast. Block 54 is bounded by Friedell Street to the northwest, Hudson Avenue to the northeast, Innes Avenue to the southwest, and an existing market-rate housing development to the east. See Attachment A.

<u>Blocks 52/54 (OCII) Program Overview</u>

The Project is comprised of a mix of one-, two-, three-, four- and five-bedroom units for very-low-income families earning up to 50% of the Area Median Income, as defined by the Mayor's Office of Housing and Community Development ("AMI"). Two (2) units will be set aside as Family Childcare Units and Project residents will have a first preference for those childcare slots. The buildings will have a combined parking ratio of approximately .6 to 1, more than double our typical parking ratio in recognition of the relative lack of transit options in the neighborhood at this time. The buildings will include multiple courtyards and gardens, a community room with kitchen, a fitness room, management and services spaces, children's play space and laundry lounges.

Unit Type	Block 52 (OCII)	Block 54 (OCII)	Total
1 BDRM	31	18	**49**
2 BDRM	16	15	**31**
3 BDRM	12	11	**23**
4 BDRM	8	0	**8**
5 BDRM	0	1	**1**
TOTAL	**67**	**45**	**112**

[1] Block 56, the remaining stand–alone affordable housing site on the Hilltop, is being developed by Mercy Housing California and San Francisco Housing Development Corporation and is currently in predevelopment.

The Project funding, in addition to OCII funds, will consist primarily of a tax-exempt bond allocation from the California Debt Limit Allocation Committee ("CDLAC") 4% Low Income Housing Tax Credits.

Marketing and Leasing Preferences
All units (except the manager's unit) will be restricted and affordable to households earning no more than 50% of the Area Median Income as defined by MOHCD. Occupancy priorities will follow the HPS Redevelopment Plan and the Phase 1 DDA and also include DTHP and NRHP pursuant to April 16, 2019 Commission action, as follows: 1) Certificate of Preference Holders; 2) Displaced Tenant Housing Preference ("DTHP"); 3) Neighborhood Residential Housing Preference ("NRHP"); and, 4) San Francisco Residents or Workers.

Upon completion of the Project, OCII's assets related to the sites will be transferred to MOHCD, which is the designated Housing Successor Agency under Dissolution Law. MOHCD reviewed the RFP, and participated on the evaluation panel, and will review on the Project's financial underwriting, funding, and disposition documents in order to ensure a smooth transition to MOHCD at project completion.

Environmental Remediation and Testing

In the early 1990s, the Navy and the United States Environmental Protection Agency ("US EPA") placed the Shipyard on the National Priorities List for environmental remediation (commonly called "Superfund"), in accordance with federal law. Thereafter, the Navy and the US EPA examined each parcel of the Shipyard to determine the extent of contamination, if any, and proposed an appropriate remedial approach to make the Shipyard safe for future intended uses. In 1995, the Navy determined, and the US EPA, the State of California and San Francisco Department of Public Health agreed, that HPS Phase 1 (which consisted of soldiers' barracks and accessory activities during active base use) posed no threat to human health or the environment and required no further action, and in 1999, the US EPA removed HPS Phase 1 from the National Priorities (Superfund) List and confirmed that the site was safe for its intended use as a residential community. In 2004, the Navy transferred Parcel A – the land now making up the Hilltop and Hillside of HPS Phase 1 – and began testing and remediating separate portions of the Shipyard (known as HPS Phase 2). The Navy remains responsible for any remediation required at HPS Phase 2.

In 2016, the Navy and the US EPA became aware of anomalies in post-remediation testing at HPS Phase 2. Further investigation led to the Navy's decision to disregard data provided by one of its former contractors. The Navy is currently in the process of retesting portions of Phase 2 that was the subject of the unreliable data.. Although these activities were limited to HPS Phase 2, in July through November of 2018, in response to public concerns and at the request of the City and County of San Francisco ("City") and Speaker Nancy Pelosi, the California Department of Public Health ("CDPH") performed a phased-approach radiological survey to assess the health and safety of the public and the environment at HPS Phase 1.

CDPH completed its Final Report for the Hilltop on February 5, 2019, which concluded that no residents, workers or visitors are being exposed to radiological health and safety hazards. To address continued concerns and questions from the community regarding the testing conducted at the Shipyard, Mayor Breed, City Attorney Herrera, and Supervisor Shamann Walton asked experts from UC San Francisco and UC Berkeley to conduct an impartial analysis of CDPH's procedures. The report concluded that CDPH's health and safety scan was appropriate as a health and safety survey.

Out of an abundance of caution, OCII will work with the Development Team (including the new Lead Developer) to establish a scope of additional radiological soil testing at OCII Block 52 and 54 to be conducted along with the standard site environmental testing.

Blocks 52/54 (OCII) Development History

On September 21, 2017, OCII released an RFP offering two Agency Affordable Parcels for development. On August 7, 2018, Commission authorized an Exclusive Negotiations Agreement and a Predevelopment Loan Agreement in an amount not to exceed $4,000,000, with Shipyard 5254, L.P., the entity formed by MBS and BHPMSS to develop the Project. The development team completed the Schematic Design and review process and the Schematic Design was approved on July 16, 2019. For the remainder of 2019 and early 2020, the development team continued to develop the designs and began the permitting process. The Department of Building Inspection issued a Site Permit on April 23, 2020. In August 2020, MBS formally notified OCII that they would be withdrawing from the Project. The remainder of the development team did not withdraw from the Project.

New Lead Developer Selection Process

On October 22, 2020 OCII issued an RFQ seeking a new lead developer. Notification of the RFP was provided to developers (including Small Business Enterprises and minority- and woman-owned contractors), and other community stakeholders through OCII's Citizens Advisory Committees email lists, Mayor's Office of Housing and Community Development's ("MOHCD") RFP/RFQ interest email list and newspaper advertising. The RFP was also available on OCII's website.

On November 20, 2020, OCII received 4 responses to the RFQ from the following developers:

- Jonathan Rose Companies
- Freebird Development Company
- The John Stewart Company
- San Francisco Housing Development Corporation and Tableau Development

All four responses were deemed complete. On January 11, 2021, OCII staff convened an Evaluation Panel consisting of: Jeff White, OCII Housing Program Manager, Robert Baca, Joint Development Director for the Mayor's Office of Housing and Community Development ("MOHCD"), and Pastor Josiah Bell with the Hunters Point Shipyard Citizens Advisory Committee ("HPSCAC"). The applicants were evaluated based on the following criteria:

POINTS		SELECTION CRITERIA
50		**Lead Developer Experience and Capacity**
	15	Developer experience marketing affordable housing comparable to the housing proposed in this RFQ ***and in accordance and in good standing with current OCII/MOHCD standards related to marketing and tenant selection***
	60	Demonstrated experience in and/or ability to successfully: ➢ Complete projects on time and on budget (15 points) ➢ Maximize leverage through multiple local, state and federal financing sources (10 points) ➢ Develop Type V/I or III/I construction (10 points) ➢ Develop affordable family housing (10 points) ➢ Work in District 10 (10 points) ➢ Build community support through outreach (5 points)
	10	Experience implementing Workforce and Contracting Action Plan
	15	Input of the three Development Team members (BHPMSS, Mithun, John Stewart)
100	100	**Total Points**

The Evaluation Panel ranked JRC the highest. JRC has been operating for the last 30 years and are a national owner, developer and manager specializing in low and mixed-income properties. They are known for working on complex multi-party development projects like this Project, and have a history of securing and creating unique financing structures with favorable terms. They are committed to anti-racism work and view all of their projects and work through the lens of racial equity and justice. Also, heading up their work on this project will be Yusef Freeman, Managing Director for the East Coast. Mr. Freeman previously worked for MBS, where he worked on the first 3 phases of Alice Griffith, on Dr. Davis Senior Community and was responsible for assembling the development team for Blocks 52 and 54 before leaving MBS. Having this experience of working in San Francisco and the larger neighborhood will be a great asset to the Project.

Amended and Restated Predevelopment Loan

The existing predevelopment loan is for $4,000,000 and was approved and dated on August 7, 2018. It covers all predevelopment activities through to construction start. Predevelopment activities include architect fees to develop the design through to construction drawings (to project entitlements), along with survey and engineering work, legal costs, due diligence studies, and developer fee. To date, $1,914,227 of the loan funds have been spent and $2,085,772 remains to be spent.

The existing predevelopment loan terms include:

- 3% simple interest rate
- Loan term of the earlier of 3 years or the start of construction

- Predevelopment loan converts to permanent loan at OCII construction loan closing, subject to future Commission approval

Upon Commission approval of the Amended and Restated Predevelopment Loan and the ENA, MBS, OCII and JRC will execute an Assignment, Assumption and Release Agreement ("AARA"), though which MBS will assign the Work Product developed during MBS' administration of the Project, and the rights and obligations under the existing predevelopment loan (including to its remaining proceeds) to HPSY 52-54, LP, the new entity formed by JRC to develop the Project (the “Borrower”). OCII and MBS will release each other from respective claims arising out of MBS' withdrawal from the Project, and the AARA will be the formal release of MBS from the Project and project documents.

Amended and Restated Predevelopment Loan

The Amended and Restated Predevelopment Loan (the “Updated Loan”) serves several purposes:

- Establishes a new loan period of the earlier of 3 years from the new agreement date (April 6, 2021, if approved) or start of construction;
- Updates the Schedule of Performance; and
- Updates the loan conditions to reflect the new lead developer and more advanced stage of development.

The updated loan conditions are as follows:

- Borrower will provide an analysis of potential sources and strategies and provide a revised recommended financing plan within ninety (90) days of the date of the Updated Loan;
- Borrower will work with OCII and MOHCD to evaluate costs and propose cost containment strategies throughout the design phase of the Project;
- Borrower will refine the services plan and budget and provide an updated preliminary plan and budget consistent with the RFP response and anticipated resident needs to OCII staff within ninety (90) days of the date of the Updated Loan; and
- Borrower will conduct ongoing outreach to the Hunters Point Shipyard community to solicit input, address concerns, and educate community members on various aspects of the Project.
- Borrower will continue to utilize the services of the architect, general contractor, and other SBE consultants hired by Shipyard 5254, L.P. and shall inform and cooperate with OCII to effectuate a change in the team’s makeup should a change be necessary. Borrower will obtain cost estimates from the selected contractor, and will work with their architectural team to ensure that the site’s development costs are managed to OCII’s approval. Furthermore, Borrower shall cooperate with OCII and continue to require the general contractor to exercise good faith efforts to select subcontractors who either are SBEs or, if they are not SBEs, are willing to create joint ventures or similar partnership opportunities with SBEs.

The Updated Loan ("Amended and Restated Predevelopment Loan") is included as Exhibit B to the Resolution.

Exclusive Negotiations Agreement ("ENA")

The ENA enables the development team to pursue predevelopment activities leading to the execution of a long-term ground lease for Blocks 52 and 54. Per the ENA, JRC has paid to OCII the cash sum of One Thousand Dollars ($1,000) as an earnest money deposit. An additional $9,000 will be due to OCII at the time of the execution of the ENA. The total $10,000 is considered the Performance Deposit, which will be held by OCII until construction completion. The term of the ENA is through March 15, 2022. The ENA allows for extension up to a maximum of 12 months to be approved by the Executive Director in the event the project incurs unexpected delays or must apply for a later state funding round to maximize competitiveness for those funds (as further described in the Project Schedule section below). The ENA further defines a series of milestones that will result in the execution of a ground lease for the Site between OCII and the Developer ("Ground Lease"), subject to Commission approval. It also authorizes the OCII Executive Director to enter into an option to ground lease for the Site, a form of which is attached to the ENA. Milestones include:

- obtain OCII approval of an updated cost estimate based on the design development document and work with OCII, general contractor to determine if additional value engineering is necessary.;
- submission of an updated financing plan acceptable to OCII; and
- submission of updated design development documents and cost estimates.

The ENA is attached as Exhibit A to the Resolution.

Equal Opportunity Program and Compliance with OCII Policies

The Developer is required to comply with the Bayview Hunters Point Employment and Contracting Policy, OCII's Nondiscrimination in Contracts, Minimum Compensation and Health Care Accountability policies and will work closely with contract compliance staff to comply with the Small Business Enterprise ("SBE") Policy and the Construction Workforce Policy on this development.

During the construction phase of this project, the Developer is committed to meeting OCII's requirements and goals which include the 50% SBE participation goal on all contract dollars, payment of prevailing wages and the 50% local construction workforce hiring goal. As a result of a competitive general contractor selection process, the Developer has selected Baines Nibbi, a joint venture between the general contractor Nibbi Brothers and General Contractor Baines Group, an OCII-recognized SBE and Minority–Owned Business Enterprise.

The Sponsors have secured the following SBE percentages on the Project through Professional Services contracts thus far: SBE 87.8%, San Francisco-Based (SF) LBE 79.7%, Minority-Owned Business Enterprise (MBE) 6.5%, Woman-Owned Business Enterprise (WBE) 68.5%.

COMMUNITY PARTICIPATION

Staff presented the original RFP to the CAC Housing Subcommittee of the HPSCAC and to the full HPSCAC in July and August 2017. In September 2017, staff convened an informational meeting about the RFP for Hilltop homeowners. Staff presented an update on the selection process to the HPSCAC Housing Subcommittee in January 2018 and presented the developer selection recommendation to the HPSCAC in February 2018. The CAC voted to recommend that Commission select the MBS/BHPMSS team to develop Blocks 52/54.

Staff presented an update on the proposed Schematic Design to the Hilltop neighbors in March 2019. The design team made some adjustments to the building design for Block 54 (OCII) where it abuts the existing market rate building based on input from the neighbors. They adjusted one lightwell for better alignment with the market rate building and recessed the portion of the building adjacent to the open space of the market rate block. Staff then presented the proposed Schematic Design to the HPSCAC Housing Subcommittee in March 2019 and to the HPSCAC in April 2019. The CAC voted unanimously to recommend that Commission approve the Schematic Design for the Project.

Staff provided a development update to the HPSCAC on Monday, October 19, 2020. This update included information regarding the RFQ seeking a new lead developer. On February 8, 2021, staff presented the results of the evaluation process to the HPSCAC and they voted to recommend that OCII Commission select JRC as the new lead developer for the Project

Staff and the development team will continue to ensure outreach is provided to HPS Phase 1 neighbors and the broader HPS and BHVP community to inform them of any relevant CAC meetings discussing this Project.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”)

The San Francisco Redevelopment Agency Commission (“Former Commission”) and the San Francisco Planning Commission certified the Hunters Point Shipyard Reuse Final Environmental Impact Report (“FEIR”), and adopted California Environmental Quality Act (“CEQA”) findings, a mitigation monitoring and reporting program and statement of overriding considerations (collectively “CEQA Findings”) in 2000, and subsequently issued a First and Second Addendum to the Final EIR in 2003 and 2006, respectively, to address project changes (collectively, the FEIR and the CEQA Findings as updated by the First and Second Addenda are referred to as the “Phase 1 EIR”). Additionally, the Former Agency Commission and the Planning Commission certified the Candlestick Point/Hunters Point Shipyard Phase 2 Final Environmental Impact Report in 2010 and adopted CEQA findings, a mitigation monitoring and reporting program and statement of overriding considerations (collectively, “Phase 2 CEQA Findings”), and subsequently issued four addenda, in 2014, 2016, 2018, and 2019, respectively, to address project changes (collectively, the FEIR and Phase 2 CEQA Findings as updated by the three addenda are referred to as the “Phase 2 EIR”). The Phase 2 EIR updated the transportation analysis and transportation plan (including the transportation system management plan) for HPS Phase 1, but the Phase 2 EIR did not identify any new significant environmental effects or an increase in the severity of significant impacts of the Phase 1 Project previously identified in the Phase 1 EIR. OCII staff has reviewed the ENA and the Updated Loan documents and has found them to be within the scope of the project analyzed in the Phase 1 EIR and its subsequent addenda. Staff recommends that the Commission adopt environmental findings requiring no additional environmental review beyond the Phase 1 EIR and its addenda, pursuant to State CEQA Guidelines Sections 15180, 15162, 15163, and 15164 and 15168, confirming that there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the Phase 1 EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Phase 1 EIR, as confirmed by the analysis provided in the Phase 2 EIR.

PROJECT SCHEDULE AND NEXT STEPS

Per the ENA milestone schedule, a preliminary recommended financing plan will be submitted to OCII by July 2021. Commission consideration of OCII construction funding is expected to be towards the end of this calendar year, with construction estimated to start in sometime in 2022.The development team will need to apply for a tax exempt bond allocation and 4% Low Income Housing Tax Credits in order to finance the Project, however the timing of those applications is still to be determined. The current California Debt Limit Allocation Committee rules disadvantage San Francisco projects, therefore staff anticipates that the development team may need to apply for funding multiple times before being successful.

(Originated by Elizabeth Colomello, Senior Development Specialist)

DocuSigned by:

Sally Oerth

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Interim Executive Director

Attachment A. Project Site

Attachment A
Project Site

Figure 1- Hilltop Area

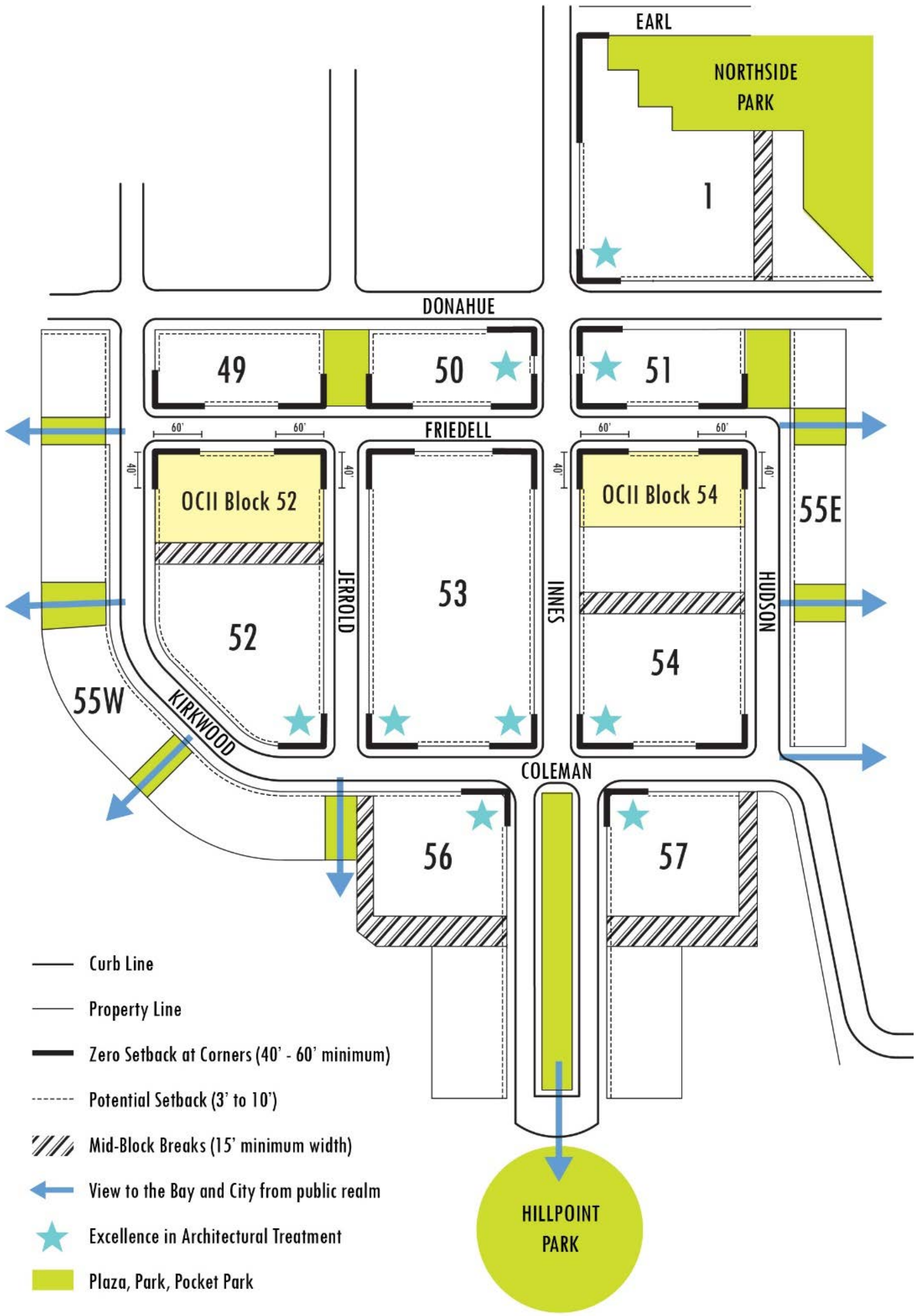

Figure 2A – Block 52

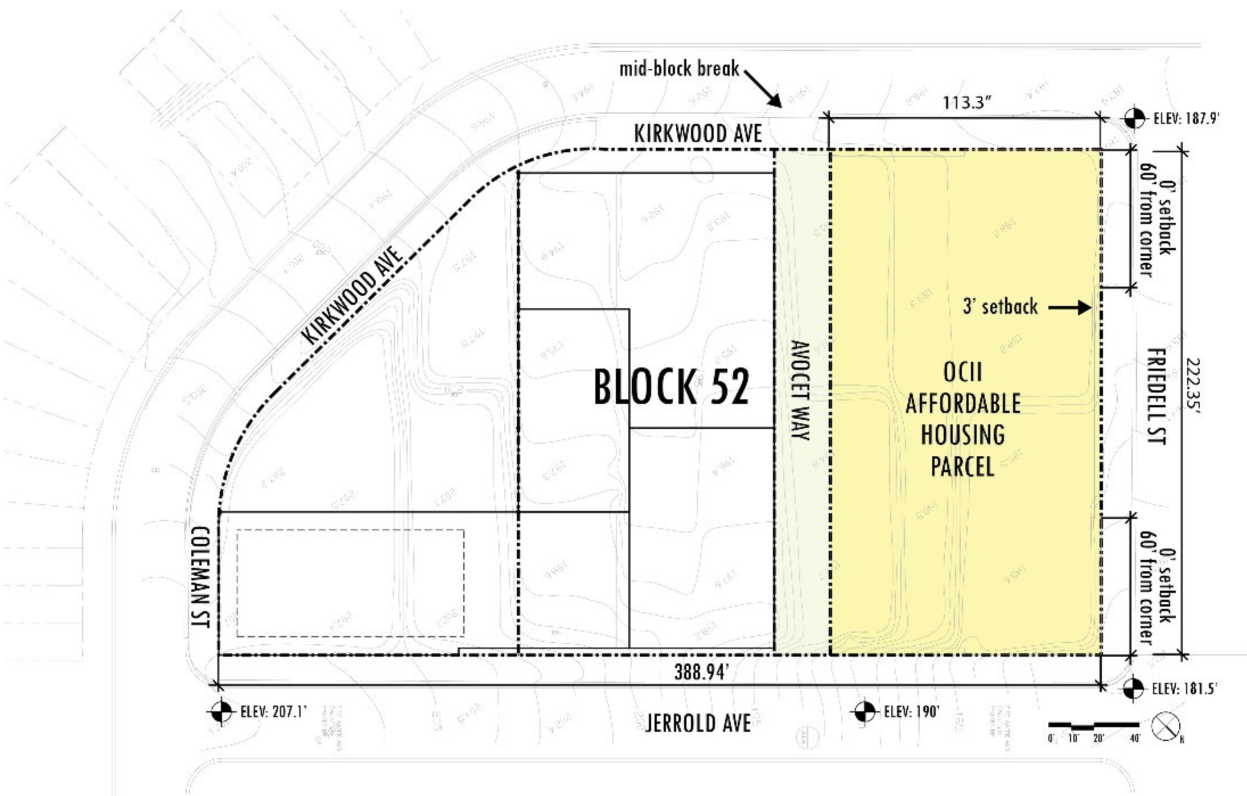

Figure 2B – Block 54