



**Request for City Council Committee Action
From the Department of Community Planning & Economic Development**

Date: May 4, 2004

To: MCDA Board of Commissioners

Prepared by Judy Cedar, Project Coordinator, Phone 612-673-5025

Presenter in Committee: Judy Cedar, Project Coordinator

Approved by Chuck Lutz, Deputy CPED Director _____
Lee Sheehy, CPED Director _____

Subject: Building Sale With 99 Year Land Lease Public Hearing
Assignment and Assumption of Option Rights
Cedar Riverside Parcel 28-14A Partial
1813 Riverside Avenue South - Partial

RECOMMENDATION: The Deputy CPED Director recommends that Resolution No. 89-406M be modified by the attached resolution; that the attached resolution be adopted for the sale of the above mentioned disposition parcel 28-14A; and that he or another appropriate official be authorized to enter into a 99 Year Land Lease including Land Easement Agreements with Buyers on behalf of the MCDA with the terms described herein. It is further recommended that the Board consent to an assignment and assumption for Land Sale Resolution No. 89-406M Yang Pham and Chanh T Le dba K-Wok Restaurant.

Previous Directives: MCDA Acquisition of parcel in 12/31/85 as part of the Master Parcel purchase from the Falls Company. MCDA Board approval for \$85,000 to rehabilitate the former Pumps Café at 1813 Riverside on April 6, 1989 and awarded the bid of \$88,270 to Pacquette Construction Company August 24, 1989. Board authorized the execution of a Lease with Option to Purchase for this Property on April 20, 1989.

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain): Revenue increase to fund CAZ
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact

Ward: 2

Neighborhood Notification: The Option Lease was considered by the Cedar Riverside Project Area Committee at its March 1, 1989 meeting and voted unanimously that it be approved. Further notifications of modifications were made to the West Bank Community Coalition in April, 2004.

City Goals: Create an environment that maximizes economic development opportunities within Minneapolis by focusing on the City's physical and human assets.

Comprehensive Plan: 4.4 Minneapolis will continue to provide a wide range of goods and services To encourage the use and adaptive reuse of existing commercial buildings.

Zoning Code: Permitted use under C3A Community Center Activity District

Living Wage/Job Linkage: N/A

Other: Request revisions to previous MCDA Board action.

Background/Supporting Information

LEGAL: That part of Lots 34, 35, and 36, Meldal and Sunde's Subdivision of Block 179, Town of Minneapolis, according to the recorded plat thereof, Hennepin County, Minnesota described as follows: Commencing at the northwest corner of said Lot 36; thence South 59 degrees 13 minutes 40 seconds East (assumed bearing) a distance of 28.40 feet along the northeasterly line of said Lots 34, 35 and 36 to the actual point of beginning of the parcel to be described; thence South 31 degrees 11 minutes 38 seconds West, along a building wall and its southwesterly extension, a distance of 10.62 feet; thence South 00 degrees 03 minutes 00 seconds West, along the back of a curb, a distance of 76.22 feet; thence along a tangential curve, concave to the northeast, having a radius of 5.69 feet, a distance of 9.00 feet, along the back of said curb; thence North 89 degrees 26 minutes 59 seconds East, along the back of said curb, a distance of 18.37 feet; thence along a tangential curve, concave to the northwest, having a radius of 4.10 feet, a distance of 6.44 feet, along the back of said curb; thence north 00 degrees 32 minutes 14 seconds West, along the back of said curb and its northerly extension, a distance of 35.76 feet to a building line; thence South 89 degrees 19 minutes 53 seconds East, along said building line, a distance of 8.39 feet to a building corner; thence North 00 degrees 01 minute 13 seconds West, along side said building line and its northerly extension, a distance of 32.69 feet to a point in the northeasterly line of said Lot 34; thence North 59 degrees 13

minutes 40 seconds West , along said northeasterly line of Lots 34, 35 and 36, a distance of 35.69 feet to the actual point of beginning.

BUYER: Yang Pham & Chanh T Le dba K-Wok Restaurant

Sale Price: \$185,000 - 99 year land lease and building sale

Property: 1813 Riverside Avenue - Revise Option to Purchase to Sell Building Only with an Access Easement and a Maintenance Easement and Land Lease (99 years) for underlying property.

Parcel Information: The MCDA is the owner of a tax parcel with the common address of 1813-1817 Riverside and legally described as Lots 32 to 37 inclusive and including adjoining vacated East and West alley and including adjoining one-half of North and South alley subject to alley, Meldal and Sunde's Subdivision Block 179 Mpls, Hennepin County, Minnesota. This parcel is improved with the K-Wok Restaurant and with a municipal parking lot which provides customer parking for area businesses including K-Wok Restaurant. The restaurant is in a building with a gross building area of 1,857 square feet and it has seating for 74 customers. The restaurant use complies with the current zoning of C3A Community Activity Center District.

Background Information: The Buyer is currently leasing the subject property from the MCDA. The 15-year lease agreement will expire October 31, 2004 and includes a provision for Buyer to exercise an Option to Purchase Property. Buyer has notified CPED that they will exercise their option to purchase the property.

Revise Option to Purchase Price and Product: The original Option to Purchase terms requires that the Buyer purchase the building and the underlying land for an amount of \$185,000 with the fair market value (FMV) of the property to be paid at closing and the remainder to be funded by a zero percent, 40 year note and mortgage. The current FMV is \$160,000 and this value was determined by an appraiser.

The Sale Price of \$185,000 reflects the amount of funds the MCDA invested in this parcel to acquire it in 1985 and then to rehabilitate it in 1989.

The proposed, revised sale scenario is that MCDA sell to Buyer the building and retain ownership of the land. The underlying land would be leased to the Buyer for 99 years with that lease prepaid at closing as part of the \$185,000 sale price. MCDA would provide a maintenance easement to the Buyer as outlined in the attached map. An ingress/egress easement would be required in the event that the current alley and lot is no longer available to gain access to the restaurant. At closing, the Buyer would provide cash for the current FMV of \$160,000 with the remainder of \$25,000 to be funded by a zero percent, 40 year note and mortgage (as provided for under the original Land Lease Option Agreement).

There is no parking included with the lease, but Buyer could obtain one or more monthly contracts from Impark Parking in Cedar Riverside Parking Lot Property C (owned by MCDA).

The Land Lease will prohibit the Buyer from rebuilding the structure if more than 50% of the structure is destroyed, regardless of the cause. The Buyer would, however, be entitled to proceeds from his insurer. The Land Lease is assignable with prior City of Minneapolis approval.

The Buyer will also be required to agree to make no claim for any relocation assistance or other benefits under Minnesota and City of Minneapolis statutes and the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act in the event that the property is repurchased. A waiver of Relocation Rights will be required documentation at closing.

The reason for the proposed changes in sale is initiated by Seller due to a compliance issue. A subdivision of the existing parcel is not possible without providing additional lands to satisfy zoning regulations related to parking, landscaping, and set-backs. It is estimated that the MCDA would have to include approximately 8,750 square feet of land to the Option Parcel in order to meet zoning regulations related to subdivision. The removal of 8,750 square feet of land from the community commercial parking lot would at minimum reduce by 36%, or 25 spaces, the number of parking spaces available for the collective businesses in Cedar Riverside that rely on the community lots to provide parking for their customers. The current number of parking spaces on this lot is 70. Any reduction in parking spaces will negatively impact our current Operating Agreement with Imperial Parking, Inc. Furthermore, CPED's Planning Department is promoting liner development and parking ramp construction on this block as part of the treatment of the Dania Hall Parcel. Liner development requires that the majority of this site remain intact and available for the construction of ramp parking.

Assignment of Option Rights: The original lessee for the restaurant at 1813 Riverside was by T and T Partnership, dba Golden Bowl Restaurant. T and T Partnership changed the name of the restaurant to K-Wok. The restaurant's name, equipment, goodwill and leasehold improvements were sold by T and T Partnership to Thanh Pham and his wife Chanh Le November 2, 1995. An assignment of lease to Thanh Pham and Chanh Le, dba K-Wok Restaurant, was approved by the MCDA concurrently. Subsequently, on November 23, 1998, Thanh Ngoc Pham, was issued an order granting a name change to Yang Pham. Therefore, Yang Pham and Chanh Le, dba K-Wok Restaurant, is exercising this Option to Purchase by Assumption and Assignment.

Conclusion: Staff has been negotiating with lessee, K-Wok Restaurant, to modify terms of an existing Option to Purchase Agreement in order to create a transaction that is feasible and workable for all parties. A sale of building and a lease of land for 99 years at an amount that exceeds FMV are preferred to a subdivision for sale of land and building.

RESOLUTION

of the

MINNEAPOLIS COMMUNITY DEVELOPMENT AGENCY

By _____

Authorizing Sale of Land
Cedar Riverside Urban Renewal Area
Disposition Parcel No. CR 28-14A

WHEREAS, the Minneapolis Community Development Agency, hereinafter known as the Agency, has received an offer to purchase and develop Disposition Parcel CR 28-14A, in the Cedar Riverside neighborhood, from Yang Pham & Chanh T Le dba K-Wok Restaurant, hereinafter known as the Redeveloper, the Parcel CR 28-14A, being the following described land situated in the City of Minneapolis, County of Hennepin, State of Minnesota to wit:

LEGAL DESCRIPTION

(See Exhibit A Attached)

WHEREAS, the Redeveloper has offered to pay the sum of \$185,000, for Parcel CR 28-14 to the Agency for the building and 99 year land lease, and the Redeveloper's proposal is in accordance with the applicable Redevelopment Plan and/or Program; and

WHEREAS, the Redeveloper has submitted to the Agency a statement of financial responsibility and qualifications; and

WHEREAS, the Agency has had the re-use value reviewed by an appraisal expert, stating that the re-use value opinion is consistent with the accepted methods in aiding the Agency in determining a re-use value for the Parcel; and

WHEREAS, pursuant to due notice thereof published in *Finance and Commerce* on April 23, 2004, a public hearing on the proposed sale was duly held on May 4, 2004, following the regularly scheduled Community Development Committee meeting of the City Council, at the Minneapolis City Hall, 350 South 5th Street, Room 317, at 1:30 p.m., in the City of Minneapolis, County of Hennepin, State of Minnesota.

NOW, THEREFORE, BE IT RESOLVED, that the re-use value for uses in accordance with the Cedar Riverside Urban Renewal Area plan, as amended, is hereby estimated to be the sum of \$160,000 for Parcel CR 28-14A, and

BE IT FURTHER RESOLVED, that the acceptance of the offer and proposal is hereby determined to be in accordance with the Agency's approved disposition program and it is further determined that the Redeveloper possesses the qualifications and financial resources necessary to acquire and develop the parcel in accordance with the Redevelopment Plan and/or Program; and

BE IT FURTHER RESOLVED, that the proposal be and the same is hereby accepted, subject to the execution of a contract for the sale of land. Furthermore, that the Executive Director or other appropriate official of the Agency be and the same is hereby authorized to execute and deliver the contract to the Redeveloper; provided, however, that this Resolution does not constitute such a contract and no such contract shall be created until executed by the Executive Director or other appropriate official of the Agency; and

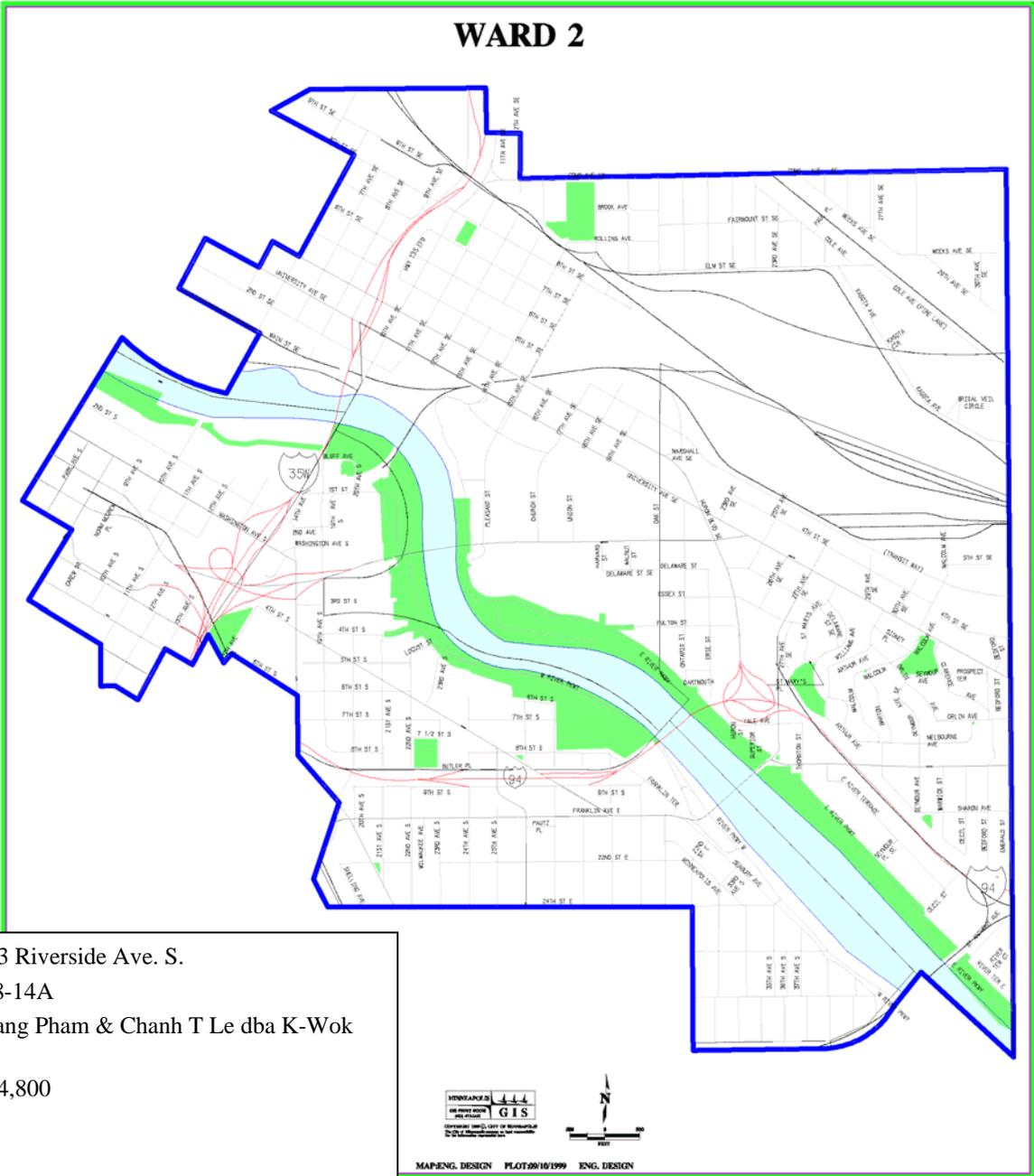
BE IT ALSO FURTHER RESOLVED, that the Chairman and Secretary, or any other two Commissioners of the Agency, are hereby authorized to execute and deliver a conveyance of the land to the Redeveloper in accordance with the provisions of the executed contract and upon payment to the Agency for the purchase price thereof; provided, however, that this Resolution does not constitute such a conveyance and no such conveyance shall be created until executed by the Chairman and Secretary, or any other two Commissioners of the Agency.

RECORD OF COMMISSIONER VOTE													
Commissioner	Aye	Nay	NV	Abs	Ovrd	Sust	Commissioner	Aye	Nay	NV	Abs	Ovrd	Sust
Benson							Ostrow						
Colvin Roy							Samuels						
Johnson							Schiff						
Johnson Lee							Zerby						
Lane							Zimmermann						
Lilligren							Goodman, chair						
Niziolek													
Vote: NV - Not Voting			Abs - Absent			Ovrd - Vote to Override			Sust - Vote to Sustain				

ADOPTED _____ . _____
Chairperson

APPROVED
NOT APPROVED _____ . _____
VETOED _____
Mayor

WARD 2



Address: 1813 Riverside Ave. S.
Parcel: CR 28-14A
Purchaser: Yang Pham & Chanh T Le dba K-Wok Restaurant
Sq. Footage: 4,800
Zoning: C3A

MINNAPARCIS GIS
City of Minneapolis
Maping, Design Plot 28/10/1999 Eng. Design

EXHIBIT A