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Unusual Pieces Of Real Estate

In many metropolitan areas, commercial land for development is in very short supply. Developers are converting older warehousing to shopping areas, demolishing existing buildings to build new projects in areas in transition. However there may be many hundreds or even thousands of unusual parcels of property that have been overlooked. Many are ready for commercial development close to downtown areas, suburban commercial developments, and densely populated areas. Owners of many of these properties consider the property as "surplus" and have not considered development.

Some of these properties are in the inventories of city, county and state ownership and are surplus parcels that were unused in street, highway and freeway development. Others are owned by railroads.

All of these infill properties have one thing in common—they all are unusual pieces of real estate. They are peculiar shapes and sizes. One railroad parcel that we heard of was 50 feet wide and 26 miles long. This parcel lay unused for many years until a developer utilized parts of it

for several self storage projects. The developer formed a joint venture with the railroad, with the railroad contributing the land and the developer his self-storage development expertise.

Throughout the country now there are shopping centers built under freeways, commercial buildings erected in the unused areas under bridge approaches. In some states, the air space above busy highways is leased and used for restaurants or other businesses that can be used by travelers.

One real estate broker contacted a railroad about surplus property in his area and was handed a stack of descriptions of over forty properties that were available. No one at the railroad was doing anything about marketing these properties.

When you see an unused parcel of land in your area, let us research it for you. We may be able set up a purchase, lease or joint venture that can change that eyesore lot into a major development. □

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This publication is not a solicitation but is an information service from this office.

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When ideas in tax and other legal areas in this publication seem to fit your situation, it is recommended that you discuss them with your professional advisor before taking action.

Commercial Condominium vs. Freestanding Building

Which is the better investment — a freestanding commercial building or a commercial condominium within a larger complex? Each has its own unique set of attributes, and so the answer really depends on the needs, goals and characteristics of the investor.

Below is a comparison of each building type based on certain property characteristics, which hopefully will shed some light on the right property profile for your situation.

Ownership

A freestanding building is owned by a single entity (be it a person, couple, corporation, etc.) and it sits on an individual parcel with separate legal access. The most common freestanding buildings are single-family residential homes, or commercial office buildings.

A commercial condominium is an individually owned unit that is part of a larger multi-unit building with various owners. Each condo owner receives fee simple title to their unit along with a recordable deed. A condo owner also receives an undivided interest in the common areas of the project, including the hallways, parking areas, landscaped grounds, entrance or lobby. Each condo is assigned its own assessor parcel number, allowing property taxes for the entire complex to be assessed individually to each unit based on that unit's particular value. Condos can be bought and sold in a manner similar to that of freestanding buildings.

Management

A freestanding building is generally managed either by the owner or by a professional property manager whom the owner must hire and compensate. A condo complex is typically managed by a condominium association comprised of a small proportion of the condo owners chosen to represent the entire project. This "owner's association" (OA) may also choose to contract with a professional manager. Investors or owner/occupants who want nothing to do with managing or keeping up their property may want to seriously consider condo ownership, as these tasks can be completely handled by others.

Property Operating Expenses

Many investors balk at purchasing a condo when they hear that, in addition to their mortgage

payment, they will have to pay monthly Owner Association dues. However, association dues are simply a compilation of certain property operating expenses, such as landscaping, interior and exterior maintenance, fire insurance, utility expenses, parking areas that would be equally present in the ownership of a freestanding building. Although Owners Association dues of, say, \$250/month for a 1,500-square-foot office condo may seem expensive, this amount could very easily be less than the cost for the same expenses in a comparable freestanding office building. Before discounting a condo based on OA dues, a comparison of operating expenses should be completed.

Decision Making

Due to the cooperative nature of condo projects, decisions regarding maintenance, capital improvements and other financial actions are necessarily relinquished to a representative Owners Association body. Independent investors who prefer to handle their own management may not be well suited for condo ownership. On the other hand, a well-run OA will budget for necessary expenses and reserves and will keep the property well maintained and running smoothly, thereby maximizing each individual unit's value. A walk around the condo project and a few conversations with existing owners are highly recommended prior to purchasing a commercial condominium, as this will give you a very good sense of whether the OA is functioning properly.

Cost and Appreciation

Because of lower per-unit construction costs and shared common areas, condos are generally less expensive than freestanding buildings. By example, a 3,000-square-foot industrial condo would generally cost less than a 3,000-square-foot freestanding industrial building in comparable condition. Therefore, if funds are tight, condos may provide an easier path to ownership. Will they appreciate as much as freestanding buildings? This is a very difficult question as the answer depends on numerous factors, including how the project is run and maintained. In observing commercial condo prices over the last 15 years, they generally tend to mirror the movements of their freestanding counterparts and will typically appreciate (and depreciate) in a similar fashion. □

Negotiating The Sublease

With changes in business strategies, some existing tenants wanted to sublease all or some of their rented office space to eliminate some locations and shrink operations in others. In this situation, the problem for landlords is whether it is a better strategy to enforce lease restrictions against subleasing or to work with tenants on the theory that the sooner cheap sublease space is filled, the better for all. (In addition, another problem could be whether landlords should insist on sublease restrictions in new leases being negotiated now.)

Lease Restrictions

If there is no provision against the sublease in the original lease, the tenant has the right to assign or sublease without the owner's consent or approval. However, most leases do contain this provision. In the mid-1990s, when rents were at high levels, tenants could obtain the landlord's consent only if no other space was available in the building, and even then, the landlord might have insisted on sharing in any profit realized on the sublease. (In those days, sub-rent was often higher than the prime rent.)

At this time, few tenants are trying to sublease for a profit. Instead, they are interested in cutting costs of unused space and are often willing to accept current market rents, something landlords are reluctant to do for prime space.

Landlord and Tenant Cooperation

Although the building owner may take the position

that no consent will be given to a sublease as long as prime space is available in the building, the tenant may make some good arguments for cooperation.

First, when there is much space available all around, a tenant looking for space can find it easily. A landlord is better off having a tenant in possession, even with a sublease, because the tenant may stay when the sublease expires.

Second, the landlord takes the risk that a prime tenant with much excess space may default under the lease either by being forced out of business or because the tenant is willing to risk a lawsuit to collect unpaid rent. By being cooperative in finding a subtenant, the landlord reduces the risk of a default by the prime tenant and has the additional security of the subtenant's rent payments (even though the amount may be less than the prime rent).

Perhaps most important, the landlord may gain the reputation for good tenant relationships that can help in the competitive years ahead. Helping the tenant to shed excess space can pay off when the tenant considers renewal of the present lease. Landlords who are known for taking a reasonable approach to tenant problems, both during and after lease negotiations, are bound to have an edge when a tenant must make a choice between very similar rental space in different buildings. □

Acquiring The Land For A Project

Acquiring land for development is necessary no matter what kind of market we are in. Professional real estate assemblers are always looking at and acquiring under-utilized sites within cities or in suburbs. Here are some ideas on how those professionals do it.

- **A Thorough Knowledge.** Only purchase or option property in well known localities to reduce the risk of unexpected surprises. If the locality is not familiar, seek out local professionals for their opinions.
- **Be A Follower.** Being the first to buy increases the risk of being wrong and may mean an unexpectedly long wait until values rise. It is often better to go in after values have begun to increase or after some development has started.
- **Government Maps.** Local governments often have maps and plans for projected roads and highways. These can point the way to desirable acquisitions.
- **Prepare An Acreage Map.** The map should

show the ownership of all tracts in the locality and (if known) the asking price of each. This step marks the prime difference between the professional and the non-professional land acquirer.

- **Seek Out Builders.** Try to find a builder willing to let you act as an intermediary in acquiring land.
- **Option Or Installment Contract.** When acquiring property, get a firm commitment from the landowner without the buyer having to pay out cash. This can be done either with an installment contract under which the buyer can pay interest only for the period of years with a right to walk away without further penalty.

Note: An investor or investment group retained by a builder to find land is obligated to give the builder the first opportunity to buy in all cases. However, any land the builder does not want may be a good investment for the assembler since its value is likely to increase as new construction occurs. □

Screening Prospective Tenants

The property manager provides the tenant applicant with the lease application which must be filled out for the interview. A leasing agent may assist during the review process, but the final selection of tenants is ultimately the property manager and owner's responsibility.

All leasing personnel should be informed that the company does not discriminate on the basis of an applicant's race, sex, color, creed, or national origin.

The screening process helps determine the prospect's desirability and verifies financial and nonfinancial qualifications. When all information has been received, the applicant's file should be given to the property manager and/or owner for final review. Decisions made during this process are based on the following criteria:

- Impressions created by the prospect when interviewed;
- The prospect's employment history if the prospect is applying for residential space; company or business

history if the prospect is applying for commercial space;

- Information gathered from verifying the prospect's references and from the completion of a credit check;
- Compatibility of the tenant to the property type.

When the application is approved, the property manager should prepare the lease and other appropriate documents that require the applicant's signature. Commercial tenants will probably have an attorney review the lease, which may require a certain amount of negotiation. Upon approval, the lease is signed, and security deposits and rent payments are collected as specified in the lease.

When an applicant is disapproved, he/she should be promptly notified. If the disqualification resulted from a credit check, the law requires that the applicant be informed of this. To protect against possible litigation, rejected applications should be kept on file with complete statements about why applications were rejected. □

Help With Investment Real Estate

When you have searched for new real estate investment opportunities, with values that have been changing, you know that finding and evaluating them is becoming more sophisticated and complex. More investors are turning to real estate consultants as a means of providing a sounding board for their ideas as well as expertise in the planning and construction stages for their projects.

Today's investor in real estate must have a grasp of market conditions and potential that is usually beyond their own available time to attain. Investors need assurance about the true condition of the market. With increased competition, the market place is becoming more complicated.

Feasibility studies are essential for commercial office, industrial, resort and hotel investors. With this kind

of information, planning is better and there is less chance for error.

Real estate investing is not just looking for the structure and the land. It is investing in the type of property that you want at the price and terms that suit you at the time you want to make the purchase.

Our office is open and ready to assist you. We have been experts in property values in this area for a long time. We can help you with enough information so that you can make your own decisions on the value of property either in listing your present property for sale or in purchase of another. If you wish to consider structuring a tax deferred exchange into that next property, we can guide and aid you with that transaction.

Let us guide you in your investments. □



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