

Reflections on Real Estate

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What to Look For When Buying Land

By Mike Souza

When contemplating the purchase of land, especially when acquired with the intent of eventual development, it is vitally important to carry out thorough due diligence. Due diligence should include the process of researching all attributes of a property to determine its strengths and weaknesses. In this article, we will explore areas which should be researched when analyzing a property before purchase.

TOXICS

Toxic contamination is the single most difficult issue facing property owners today. If a property is determined to have contamination, it will be impossible to finance, very difficult to develop, and resale will be jeopardized. Contamina-

tion can take many forms and needs to be looked for in a number of places.

The first place to start is to hire an environmental consultant to do a



Phase I investigation of the site. For approximately \$2,000, the consultant will search county and state records of the site and neighboring properties,

do a site visit, and a title search. Any problems that have been previously discovered on the property or neighboring properties should show up in a Phase I.

The Phase I will also discover any obvious signs of contamination on the site, such as evidence of a gas tank or dump site.

There are often indications that further research than a Phase I is necessary. These include the disclosed presence, currently or in the past, of an underground fuel tank, any easements for gas or oil pipelines that currently or in the past were under the property, dump sites, heavy use of pesticides or herbicides, or a neighboring

property with any of these indicators.

If any of these conditions exist, it

see Land page 2

Slowdown in Commercial Investment Activity

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While investment in commercial real estate has decreased to levels not seen in four years, fundamentals (vacancy, rent growth, absorption) have remained relatively buoyant. There have not been any great spikes in vacancy rates nor have that many markets experienced negative rent growth. Under normal circumstances, full or near-to full occupancy coupled with positive rent growth would be ample incentive for investor interest. Where is the disconnect?

Many analysts have assumed that

capital does not exist and that banks or other sources of equity have put a halt to lending for commercial real estate. This is not the case. The decline in investment activity actually has more to do with a lack of confidence by investors and lenders who are leery about current conditions and are taking a "wait and see" attitude. More than anything else, the decline in confidence levels is due to investor concerns and reticence about the current and future state of the economy.

Despite these concerns, a record

\$427.2 billion worth of commercial real estate traded hands in 2007. However, the vast majority of this volume occurred in the months prior to August, when the credit crunch began to impact commercial real estate.

Until such time as confidence levels return to normal and investors and lenders are willing to take measured levels of risk, investment in commercial real estate in 2008 will most likely remain as much as 40% below transaction levels seen last year.

Land continued

is advisable to do a Phase II study. This requires submitting a work plan with the county and taking soil and groundwater samples to determine if there are any contaminants. This step is much more costly and could end up putting the property on clean-up lists with the county and state. If you are a seller, and a potential purchaser feels there is a need to conduct a Phase II investigation, it is advisable to involve legal counsel to determine exactly how to proceed. It may be a safer move to lose the sale and handle the problem on your own terms.

When due diligence discovers the presence of contaminants on property you are interested in purchasing, or property you are trying to sell, it is imperative that you seek expert advice immediately. The outcome of the investigation could drastically impact the value of the property.

PRELIMINARY TITLE REPORT

The second most important area to research is the title of the property. A preliminary title report will disclose any encumbrances on the property. Be especially mindful of easements. Many easements were recorded long ago and no longer affect the property. It is important that you determine the location and current use of all easements over a property. Easements often restrict the use of the property, so their location is very important.

Another item to look out for is an oil and gas lease. Although an oil and gas lease in and of itself is easy to deal with, it takes on a whole new dimension if it includes surface rights. Many oil and gas leases with

surface rights give the holder of the lease the right to drill anywhere on the property, effectively excluding the property owner from building anything on the property. Surface rights can be worked around, but you need to be certain you understand the terms of the lease.

Other items a preliminary title report will disclose include unpaid taxes, bonds and assessments, loans, leases, option agreements, and financing statements. Each and every exception on a title report should be understood and approved before a property is purchased.

PRESCRIPTIVE EASEMENTS

An easement by prescription is defined as follows: "Continuous and uninterrupted use for five years where such use is hostile and adverse (i.e., without license or permission from the owner), open and notorious (i.e., the owner knows of the use or may be presumed to have notice of the use), exclusive (i.e., although use is not necessarily by one person only, yet it is such as to indicate to the landowner that a private right is being asserted), and under some claim of right" (California Department of Real Estate Reference Book).

Most often in land transactions, prescriptive easements are found where irrigation districts deliver or drain water over the property without a recorded easement, or in instances where access is gained over a property. Upon a site inspection, it is important to identify all water delivery and drainage facilities and roads, determine who uses them, and check if an easement exists on title for that use. If an easement

see *Land page 3*



Reflections on Real Estate is published quarterly by Souza Realty & Development. SR&D is a family-run real estate firm specializing in development, development consulting, land and commercial brokerage, and land valuation.

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Recent Land & Ranch Sales

Below are a sampling of land sales that have occurred since our last newsletter. Note that this information has been extracted from the Multiple Listing Service and public records and has not been verified for accuracy. If you have any questions regarding these sales, please contact our office.

ALAMEDA CO.			CONTRA COSTA CO.		
AC.	PRICE		AC.	PRICE	
N. Livermore Ave., Livermore	5.17	950,000	Byer Rd., Byron	10.35	932,500
E. Vallecitos Rd., Livermore	22.01	1,770,000	Alhambra Valley Rd., Martinez	11.83	275,000
Crow Canyon Rd., Castro Valley	104.75	1,223,000	Hwy 4, Pittsburg	12.51	2,150,000
			Alves Ranch Rd., Pittsburg	15.59	650,000
SANTA CLARA CO.					
AC.	PRICE		AC.	PRICE	
San Antonio Valley Rd.	157.54	375,000	Morgan Territory Rd., Livermore	20.08	1,325,000
San Antonio Valley Rd.	240.45	456,000	Marsh Creek Rd., Brentwood	20.82	575,000

The pace of new-home sales across California fell more than 30 percent in 2007 compared with 2006, according to recent data from the California Building Industry Association (CBIA). Its January report showed sales of single family homes dropped by 29.7 percent, with new home and condominium sales during 2007 totaling 61,861 compared with 89,773 the previous year.

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Land continued

does not exist, it is possible someone has a prescriptive easement over the property. There are cases where holders of prescriptive easements charge a property owner to release their claim on the property. If you think there is a prescriptive easement, research it before you purchase the property so you do not have any surprises if you later want to obstruct the use of that ditch or road.

ENVIRONMENTAL ISSUES

Any purchaser of land must be weary of what critters and habitats exist on a property. Endangered species, wetlands and vernal pools are commonly found on properties in San Joaquin, Contra Costa, and Alameda Counties. One should enlist the help of a real estate professional who is familiar with endangered species and habitats which are indigenous to an area, and help determine if the property being considered is

likely to be home to such things. The existence of an endangered species or habitat could require mitigation affecting the cost of future development.

San Joaquin County has developed a county-wide habitat conservation plan (HCP) which designates certain portions of the county as habitat conservation areas. Contra Costa County also has an HCP for its East County lands. It is important to know if property you are purchasing is in an HCP, and what effect an HCP might have on the property.

UNRECORDED LEASES

Not all leases will be recorded and show up on the preliminary title report. A potential purchaser must verify with the seller what leases exist on the property and review all the lease documents.

GENERAL PLAN DESIGNATIONS & ZONING

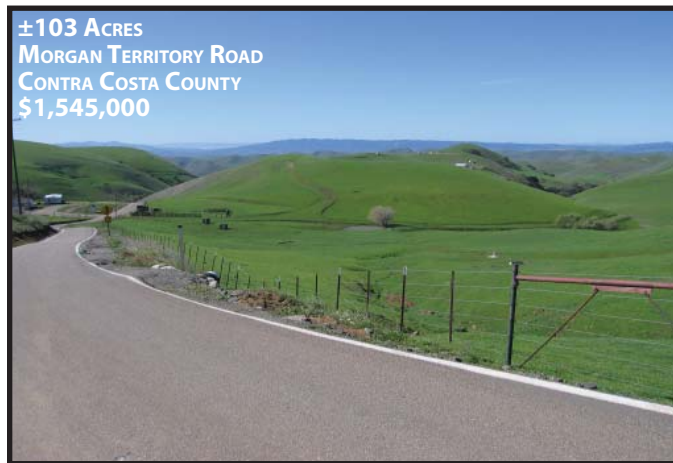
General plan designations and zoning should be researched prior

to all property purchases. Be sure to check both county and city jurisdictions as county property may also have a designation in a city general plan. Also be sure the property can be used for what you intend to use it for, or try to develop a comfort level for whether or not the designation and zoning can be changed.

The aforementioned issues are not intended to be all inclusive but are used here as an example of some of the areas which need special attention when making a land purchase.

As is evident in this article, there are numerous items which must be researched before you determine a piece of property is right for you. At SR&D we have extensive experience in due diligence research, and would be happy to help you determine the suitability of a property for your intended use.

Available Properties



Other properties currently available:

RANCH PROPERTIES			
Address	Ac.	Price	Price/Ac.
7705 N. Bruns Rd., Byron	27.76	1,000,000	36,023
Byron Highway, Byron	43.70	300,000	6,865
24300 S. Banta Rd., Tracy	51.36	1,540,000	29,984
18775 S. Tom Paine Rd., Tracy	52.92	875,000	16,534
5208 W. Lovely Rd., Tracy	78.83	1,970,000	24,990
Byron Highway, Byron	136.97	2,000,000	14,601
Marsh Creek Rd., Clayton	460.64	4,000,000	8,684
Palomares Rd., Sunol	1,368.00	8,900,000	6,506

OFFICE PROPERTIES			
Address	Sq. Ft.	Rent	Price
632 W. 11th St., Tracy	2,235 SF	1.85/SF NNN	690,000
421 W. 11th St. Tracy	2,360 SF	1.90/SF NNN	
346 W. Grant Line Rd., Tracy	2,727 SF	1.00/SF NNN	
652 W. 11th St., Tracy	2,743 SF	1.85/SF NNN	775,000

INDUSTRIAL PROPERTIES		
Address	Sq. Ft.	Rent
24500 S. MacArthur Dr., Tracy	2,500-25,000 SF	New/TBD
24500 S. MacArthur Dr., Tracy	4,380-13,140 SF	0.65/SF IG
5491 F. St., Tracy	5,525 SF	0.50/SF IG

RETAIL PROPERTIES			
Address	Sq. Ft.	Rent	Price
348 W. Grant Line Rd., Tracy	1,385	1.85/SF NNN	
214 W. 10th St., Tracy	1,850	2,275/mo. NNN	495,000
336 W. Grant Line Rd., Tracy	2,800	1.75/SF NNN	
340 W. Grant Line Rd., Tracy	8,988	1.25/SF NNN	

For further information please visit our website at souzard.com

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Interest Rates

By Rich Davidson

On March 18, the Federal Reserve lowered interest rates again. The prime rate is now 300 basis points lower than it was a year ago at this time. The good news is that those construction loan rates tied to prime have been going down on all the loans without a floor. Short term rates have declined across the board. Long term rates have also declined, but to a much lesser extent (as they are already pretty low). Spreads have increased on mid and longer term loans.

Construction loans are getting much more difficult for developers to obtain. Lenders are much more conservative, with borrowers required to put in more cash equity into projects. In talking with

various residential construction lenders, all of them seem to have a project or projects that are having their specific challenges involving sales.

Also telling is the continuing decline in consumer confidence. According to

year low dating back to Watergate and the oil embargo.

It is interesting to note that the only rate in the adjoining table that increased was inflation!

RECENT LOAN CLOSINGS

1. \$897,134 1st Trust Deed Land and Building Acquisition Loan, San Francisco, CA
2. \$937,500 1st Trust Deed Land and Building Acquisition Loan, San Francisco, CA
3. \$1,820,000 1st Trust Deed Construction loan for office condominium development in San Francisco.
4. \$3,900,000 land loan refinance, San Mateo County.

If I can be of any assistance with your real estate financing

needs, please do not hesitate to call me at (650) 579-3995. My email address is rdavidson@redcofinance.com.

the Consumer Confidence Survey, the Confidence Index is currently at a 5 year low. Their Expectation Index is at a 35

KEY INTEREST RATES & INDICES			
<i>March 24, 2008</i>			
INDEX	CUR- RENT RATE	CHANGE FROM 12/11/07	NOTES
Bank Prime	5.25%	-2.25%	
1 Yr. Treasury	1.68%	-1.41%	
5 Yr. Treasury	2.64%	-0.68%	
10 Yr. Treasury	3.56%	-0.42%	
30 Yr. Treasury	4.33%	-0.14%	
LIBOR (1 Mo.)	2.60%	-2.60%	
LIBOR (6 Mo.)	2.54%	-2.42%	
LIBOR (1 Yr.)	2.39%	-2.16%	
Freddie Mac 60 day	5.72%	-0.16%	30 year fixed rate
12 Month Treasury Average	4.076%	-0.59%	T average
11th District Cost of Funds	3.970%	-0.263%	Fund Cost
Consumer Price Index	211.7 (Feb.)		+4% from year ago
Federal Funds Rate	2.25%	-2.25%	
Dow Jones Industrial Avg.	12,549		-5.4% YTD
Consumer Confidence Index	64.5 (Mar.)		-22.8 from November