



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: May 19, 2008

Approved

Date

5-27-08

COUNCIL DISTRICT: 3
SNI AREA: N/A

SUBJECT: APPROVAL OF A TRANSFER OF THE AFFORDABILITY RESTRICTIONS FROM THE SAN JOSÉ FAMILY SHELTER PROJECT LOCATED AT 1590 LAS PLUMAS AVENUE

RECOMMENDATION

It is recommended that the City Council approve the transfer of 35 affordable units or 143 beds from the site of the existing San José Family Shelter at 1590 Las Plumas Avenue to the site of the New San José Family Shelter project located at 686 North King Road.

OUTCOME

The City Council's approval of the recommended action will assist in the development and construction of 35 rental units or 143 beds to house San José's emergency and short-term homeless population with incomes at or below 30% of Area Median Income (AMI).

BACKGROUND

In 1987, the City made a loan to Concern For the Poor, Inc., now known as Family Supportive Housing, Inc. (FSH), in the amount of \$2,061,590 for the acquisition, construction and permanent financing of the existing San José Family Shelter ("existing Family Shelter"), a converted warehouse building located at 1590 Las Plumas Avenue. The Family Shelter is the only emergency shelter facility in San José dedicated solely to serving intact families with teen-aged boys in order to minimize family dislocation.

On September 18, 2007, the City Council approved the forgiveness of all principal and accrued interest totaling approximately \$2,480,053 relating to the acquisition, construction and permanent financing of the existing Shelter. At that time, the City Council also approved an

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additional \$100,000 of predevelopment funding for development of the New San José Family Shelter ("New Family Shelter").

On March 11, 2008, the City Council approved a conditional grant of up to \$6,291,000 to Family Supportive Housing, Inc. for predevelopment, construction, and permanent financing of the 36-unit New Family Shelter project to be made affordable to extremely low-income (ELI) households. Out of the requested total City funding commitment of \$6,291,000, the project has already received \$200,000 in predevelopment grants. One grant for \$100,000 was approved in December 2006 under the Director of Housing's Delegation of Authority. A second grant for \$100,000 was approved by the City Council on September 18, 2007.

ANALYSIS

The Housing Department is proposing to rescind the 50-unit very low-income (VLI) affordability restriction on the site of the existing Family Shelter and reconvey and record a new restriction for 35 units or 143 beds for extremely low-income (ELI) residents on the site of the New Family Shelter.

There are legal constraints in the State Health and Safety Code under which the City can rescind affordability restrictions recorded against a property and record replacement restrictions on a different parcel. The basis for recording the original restrictions on the existing Family Shelter site was Health and Safety Code Section 33334.3(f)(1)(A) which requires that for merged redevelopment project areas, any new or substantially rehabilitated rental housing units developed or otherwise assisted with 20% Tax Increment Funds must be encumbered with recorded 30-year Affordability Restrictions, at a minimum. (This requirement has since been increased to a minimum of 55 years.) This Section specifically allows a transfer of affordability restrictions to another property if the new replacement rental units are: (1) equally affordable and comparable rental units in another location within the community; (2) available for occupancy prior to the displacement of any low- or moderate-income people residing in the units to be replaced; and, (3) not financed with 20% Tax Increment Funds.

This request meets all of the requirements of this Section of the Health and Safety Code. First, the 35 replacement units or 143 beds are more affordable than and are comparable to the units they are replacing. The New Family Shelter's restrictions will be for 35 ELI rental units or 143 beds, which ensures greater affordability than the VLI restrictions on the existing Family Shelter. Further, the new affordability restriction will have a term of 75 years, far exceeding the original 30-year restrictions of which only 12 years remain. When the emergency shelter is no longer required, the new site will be converted to permanent rental housing which will continue to carry these 75-year affordability restrictions. In addition, the New Family Shelter's units are of comparable type to the existing Family Shelter's units, both offering accommodations for families in a short-term stay facility.

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Second, no current residents will be displaced because the existing Family Shelter will remain in operation during construction of the New Family Shelter. Third, the replacement units are not developed with 20% Tax Increment Funds. The New Family Shelter will be funded by the Multi-Source Housing Fund (Fund 448), as detailed in the March 11, 2008 Council memo.

As part of the funding commitment for the New Family Shelter and two neighboring future projects—Kings Crossing and Belovida Seniors, as approved by the City Council on March 18, 2008—blanket affordability restrictions including the shelter units were recorded on the new site in March 2008. To effectuate this official transfer of units, if approved, that affordability restriction would be amended and rerecorded to exclude the New Family Shelter units, and a separate affordability restriction would be recorded in a format that verifies that no 20% funds were used to fund the New Family Shelter.

Restrictions for the other 15 units that are currently recorded on the existing Family Shelter site and are not moving to the New Family Shelter site will remain in place temporarily. Those 15 units' restrictions will be moved in accordance with State law to another location in conjunction with a future project funding request to the City Council that is yet to be determined.

EVALUATION AND FOLLOW-UP

The Housing Department's Monitoring and Compliance Group will ensure that the conditions required of the affordability restrictions are met at the new sites.

ALTERNATIVES

The Housing Department considered the following alternative before recommending approval of a funding commitment for the New Family Shelter project:

Alternative #1: The City could decline to move its existing affordability restriction.

Pros: The Housing Department would not incur additional staff costs due to workload if the restrictions were left on the site of the current shelter.

Cons: Without moving the City's affordability restriction on the current Shelter site, the New Family Shelter project would be financially infeasible or at least significantly delayed. The construction sources of funding for the New Family Shelter assume \$2 million for the sale of the existing Family Shelter without affordability restrictions. If no action is taken, it would be highly unlikely that the parcel could be sold because the industrial area location is not appropriate for the development of permanent rental housing, yet the affordability restrictions dictate a housing use for the site.

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Reason for not recommending: This action enables the City to replace the outdated Family Shelter with a new, updated facility and allows for the sale of the existing site at fair market value, making the development of the new site financially feasible.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This item meets none of the above Criteria but this Council report will be posted to the City's website for the March 11, 2008 Council Agenda.

COORDINATION

Preparation of this report has been coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This project is consistent with the City's *Five-Year Investment Plan, Fiscal Years 2007/08-2011/12*, adopted by the City Council in June 2007, and with the City's *10-Year Strategy to End Homelessness*, adopted by the City Council in September 2003.

COST SUMMARY/IMPLICATIONS

There is no ongoing financial implication of this action.

BUDGET REFERENCE

Not applicable.

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CEQA

CEQA: Resolution No. 74196, File No. PDC07-015



LESLYE KRUTKO
Director of Housing

For questions, please contact Leslye Krutko, Director of Housing, at (408) 535-3851.

Attachment

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Attachment 1
Development Timeline

June 30, 2007	Award of State EHAP funds
December 18, 2007	PD Rezoning approved
March 11, 2008	City Council approval of funding commitment
May 2008	Apply for HUD McKinney Grant funding
October 2008	Apply for AHP funding
December 2008	AHP funding Award
December 2008	McKinney Grant funding awarded
December 2008	Completion of the Capital Campaign
June 2009	Anticipated start of construction
August 2010	Anticipated completion of construction