



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Leslye Krutko

**SUBJECT:** SEE BELOW

**DATE:** November 17, 2008

Approved

Date

11-19-08

**COUNCIL DISTRICT:** 3  
**SNI AREA:** N/A

**SUBJECT: REQUEST TO RECLASSIFY \$500,000 OF EXISTING FUNDING COMMITMENT TO A PREDEVELOPMENT LOAN FOR THE BELOVIDA AT NEWBURY PARK PROJECT**

## RECOMMENDATION

It is recommended that the City Council adopt a resolution reclassifying \$500,000 of the project's existing funding commitment to a predevelopment loan, to CORE Affordable Housing, LLC ("CORE"), or its designated affiliate, for the 180-unit Belovida at Newbury Park project located northeasterly of the intersection on King Road and Dobbin Drive, to be made available to extremely low-income (ELI), very low-income (VLI) and low-income (LI) households.

## OUTCOME

The City Council's approval of the recommended actions will facilitate the construction of 178 rental housing units affordable to extremely low- and very low-income senior households at the Newbury Park project located northeasterly of the intersection on King Road and Dobbin Drive.

## BACKGROUND

On February 4, 2008, CORE filed an application for City funding for the Belovida at Newbury Park ("Belovida") affordable senior housing project to be developed on a 1.97-acre site located approximately 250 feet East of King Road and approximately 375 feet North of Dobbin Drive.

The site is located on the 25-acre Newbury Park property at the Northeast corner of King Road and Dobbin Drive. San José Transit Village, LLC (SJTV), is the master developer of the property, which will ultimately be developed with between 800 and 1,300 total dwelling units. The Newbury Park neighborhood will be close to the future BART extension to San José, and will include neighborhood-serving commercial uses and a one-acre park. Also to be located at Newbury Park will be the New San José Family Shelter and the Kings Crossing affordable family housing project.

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On March 18, 2008, the City Council adopted a resolution approving a funding commitment for up to \$17,925,000 to CORE, of which \$9,010,400 financed the land acquisition for the development of the Belovida at Newbury Park affordable senior rental project, with the remainder designated as a construction and permanent loan commitment. The acquisition loan closed in March 2008. CORE did not request a predevelopment loan as part of its original financing request.

### **ANALYSIS**

A substantial amount of predevelopment "soft costs" are incurred by developers prior to the start of construction. Such costs include: fees for architectural, engineering and environmental review consultants to prepare drawings and documents necessary to file applications for land use entitlements and building permits; the application fees for those entitlements and permits; appraisals; market studies; miscellaneous consultant fees; and the sponsor's overhead costs to administer all of the above.

The Housing Department has a Predevelopment Loan Program that provides nonprofit affordable housing developers with loans up to \$100,000 at favorable interest rates. These loans can be approved by the Director of Housing approved under the Director's Delegated Authority from the City Council.

The Housing Department does not usually provide Predevelopment loans to for-profit developers of affordable housing, such as CORE. Traditionally, for-profit developers front their own predevelopment costs, or borrow short-term loans at higher interest rates (called "mezzanine debt"). These obligations are repaid at the closing of construction loans. However, because of the uncertainty of the market, many conventional lenders are no longer originating mezzanine debt for-profit developers that enables projects to keep moving forward. Without the certainty of predevelopment funding, projects are unable to move through the entitlement process, which is a necessary precursor to apply for State funding such as tax credits. As a result, many projects, such as the Belovida at Newbury Park development, will not be able to move forward unless there is funding assistance for the earlier stages of development.

The ability for many for-profit developers to fund their own predevelopment expenses has also been curtailed by the current real estate market. For instance, CORE is partially reliant on the for-sale portion of their business to generate revenues that are used for multifamily predevelopment expenses. Because CORE has a substantial amount of its resources tied up due to units not selling as expected, this is causing a cash shortfall. As a result, developers like CORE must borrow the necessary predevelopment funding until a project's construction loans are closed and the predevelopment expenses can be repaid.

CORE is requesting a \$500,000 predevelopment loan from the City. The City's loan will be leveraged by a \$500,000 predevelopment loan from the Opportunity Fund—formerly known as Lenders for Community Development, a local nonprofit lender—to fund the estimated total of \$1,000,000 in predevelopment expenses. To clarify, CORE's \$500,000 predevelopment loan request is not a request for additional funds, but rather an early release of funds that the City

Council already committed to on March 18, 2008. The predevelopment loan will be repaid with interest from the City's construction loan which is expected to be made in July 2009.

Specific business terms for the loan will be approved by the Director of Housing pursuant to the Director's Delegation of Authority ordinance, located in Chapter 5.06 of Title 5 of the San Jose Municipal Code.

### **EVALUATION AND FOLLOW-UP**

The City Council will later be able to track the project's construction status through the Housing Department's quarterly construction report available on-line at the Department's website: <http://www.sjhousing.org/report/quarter.html>.

### **POLICY ALTERNATIVES**

**Alternative #1:** *The City could deny CORE's request for a predevelopment loan.*

**Pros:** The City's risk for a predevelopment loan is greater than for construction or permanent loans.

**Cons:** CORE's inability to borrow the project's predevelopment funding from commercial lenders will postpone this project indefinitely. No additional funding from the City is required, just an earlier disbursement of money that has already been committed to this project. Staff will negotiate business terms that give the City adequate security for these funds prior to closing the construction/permanent loan, which will repay the predevelopment obligation.

**Reason for not recommending:** No additional City funds are required to facilitate the development of the Belovida project which will help meet the demand for extremely low- and very low-income affordable housing for seniors.

### **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)

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This item meets none of the criteria set forth above. Nonetheless, this Council report will be posted to the City's website for the December 9, 2008 Council Agenda.

### **COORDINATION**

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

### **FISCAL/POLICY ALIGNMENT**

This expenditure is consistent with the Housing Department's *Five-Year Investment Plan for Fiscal Years 2007/08-2011/12* in increasing the supply of affordable housing, and with the City's *Consolidated Plan, 2008-09* in providing family units for very low- and extremely low-income households.

### **COST SUMMARY/IMPLICATIONS**

1. AMOUNT OF RECOMMENDATION: \$500,000
2. COST ELEMENTS OF AGREEMENTS:  
Predevelopment Soft Costs \$500,000
3. SOURCE OF FUNDING: Low- and Moderate-Income Housing Fund (Fund 443)
4. FISCAL IMPACT: No ongoing fiscal impact.

### **BUDGET REFERENCE**

No budget impact because no additional funds are being requested.

### **CEQA**

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

  
LESLYE KRUTKO  
Director of Housing

For questions please contact LESLYE KRUTKO, DIRECTOR OF HOUSING,  
at 408-535-3855

Attachment

**Attachment 1**  
**Potential Development Timeline**

December 2007	City Council approval of PD rezoning
March 2008	City Council approval of an acquisition/construction/permanent funding commitment
March 2008	Land acquisition loan closing
August 2008	PD Permit approval
December 2008	Anticipated award of City predevelopment loan funding
January 2008	Anticipated draw of City predevelopment loan funds
March 2009	Anticipated application for CDLAC allocation
April 2009	Anticipated application to Federal Home Loan Bank/AHP
May 2009	Anticipated award of CDLAC allocation
May 2009	Anticipated approval of CalHFA loan commitment
June 2009	Anticipated Federal Home Loan Bank/AHP
August 2009	Anticipated start of construction
June 2011	Anticipated completion of construction