



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: November 19, 2008

11-24-08

COUNCIL DISTRICT: 3
SNI AREA: Rincon De Los Esteros

SUBJECT: APPROVAL OF A FUNDING COMMITMENT FOR THE 90 ARCHER STREET APARTMENTS PROJECT LOCATED AT 90 ARCHER STREET

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving a funding commitment of up to \$4,580,000 of 20% Housing Funds to Charities Housing Development Corporation ("Charities"), or its designated affiliate, for a land acquisition/predevelopment/construction/permanent loan for the development of the 42-unit 90 Archer Street Apartments project ("Project") that is located at 90 Archer Street, to be made available to extremely low-income (ELI) and very low-income (VLI) households.

OUTCOME

Approval of the recommended actions will result in the construction and development of 42 affordable rental units, with 41 units affordable to households with incomes at or below 50% Area Median Income (AMI) and one unrestricted managers' unit. Approval of these recommendations at the December 9, 2008, meeting is critical for the developer to acquire the site by the expiration date of the parcel's purchase agreement.

BACKGROUND

On September 25, 2008, Charities resubmitted a Notice of Funding Availability (NOFA) application for a loan in the amount of up to \$4,580,000 for the development of the Project. Charities' September application was an update of a previous version of the application that had been filed in May 2008.

HONORABLE MAYOR AND CITY COUNCIL

November 19, 2008

Subject: Approval of a Funding Commitment for the 90 Archer Street Apartments Project

Page 2

Project Description

The subject site is located at 90 Archer Street, one block East of North First Street at the intersection of Kerley Drive. The Project is designed to serve primarily as workforce housing for residents employed in low wage occupations. There will also be five units set aside for homeless, severely mentally ill clients of the County of Santa Clara's Mental Health Department (MHSA). These residents will receive support services from providers that partner with the County Mental Health Department.

The Project will contain 41 studio apartments and 1 two-bedroom unrestricted manager's unit. Eleven units in the project will be affordable to extremely low-income (ELI) households at or below 30% AMI, 15 units will be for households at or below 35% AMI, and 15 units will be for households at or below 40% AMI. The studio apartments will be approximately 315 square feet and will include a full bathroom and kitchen. The parking will be provided in an at-grade parking garage. The residential portion of the development will be located in one, three-story building constructed on a podium above the parking garage. The development will also include a community room and kitchen for residents' general use, as well as two offices and a garden courtyard surrounded on three sides by the building. Demand for units is expected to be strong given the Project's affordability and its proximity to light rail.

Summary of the Proposed Transaction

The total estimated Project cost is \$14,472,168. If approved, the City loan will fund two phases: up to \$880,000 will be drawn in the predevelopment phase; and, \$3,700,000 will be used to acquire the site at 100% of its cost. The full \$4,580,000 will then remain outstanding during both the construction and permanent project phases.

In addition to the proposed City loan, Charities intends to apply for 9% Low-Income Tax Credits from the California Tax Credit Allocation Committee in April 2009, and will seek a conventional construction loan of \$7,922,000. The permanent financing of the project will include the loan from the City of San José, a grant of \$500,000 from State Mental Health Services Act (MHSA) funds awarded through the Santa Clara County Office of Affordable Housing, and limited partner equity of \$9,049,263 from the sale of the Tax Credits.

Because the project offers rents that are significantly lower than the market, the project cannot support a significant amount of conventional permanent debt. Instead, Charities will defer \$342,905 of developer fee, to be repaid over time from the project's cash flow.

ANALYSIS

Project Attributes and Feasibility

The project possesses several attributes that are in alignment with the City's goals. Most importantly, this project is located two blocks from a light rail stop along North First Street, and its transit orientation supports sustainable development patterns in the City. As it is located in

November 19, 2008

Subject: Approval of a Funding Commitment for the 90 Archer Street Apartments Project

Page 3

North San José, an area that is likely to experience significant residential growth in the coming years, the project will help to promote economic integration. It will also help the City to meet its legal obligation, required under State Redevelopment Law, to ensure that 1,600 affordable units will be created in North San José as part of its First Phase of 8,000 residential units that are authorized under the area's development plan. All units, restricted to households between 30% AMI and 40% AMI, will offer deep affordability to residents who are expected to be employed in low-wage jobs in San José. The parking requirement reduction awarded to the project due to its proximity to light rail will help to lower construction costs and therefore will support affordability. In addition, the project offers five special needs units to residents who meet MHSA guidelines and are at-risk for homelessness.

The project's overall affordability level is deeper than the usual project that the City finances. These affordable rents will therefore generate a relatively small amount of rental revenues. Limited revenues combined with a relatively small number of units over which to spread fixed "soft" costs make the project unable to support a senior conventional permanent loan. Instead, Charities will defer some of its developer fee and the City's loan will take the place of the usual conventional debt, being in first-lien position.

Current projections indicate that it is unlikely that the project will be able to pay back a significant portion of the City loan's principal and interest. However, it is to be expected that a project with greater than usual affordability will not pay the City back to the extent that a project with higher rents would. Given its senior lien position for the permanent phase, the City will be able to exercise greater control over the project in the long-run than it would for a usual project. The City will also record 55-year affordability restrictions on the site, which will ensure that the site will provide these ELI and VLI rents in the long-run.

Staff reviewed the proposed project pursuant to the criteria in the Project Selection System for the City's affordable housing development program, as published in the current Notice of Funding Availability (NOFA) on the Department's website. Although the project did not meet the 70-point threshold score for the City's NOFA, Housing Department staff is currently updating the NOFA criteria to better fit with current market conditions and availability of other subsidy funding.

Considering all factors, staff has determined the project to be financially feasible. Given that it is feasible and it meets many of the policy objectives of the Housing Department as stated above, staff recommends the project for funding.

Timing of Request

The timing of this approval is critical as Charities' purchase agreement for the site will expire on December 15th and the current property owner has expressed an unwillingness to extend the deadline. A significant portion of the option period was spent in outreach to the community in coordination with the District 3 office.

One issue that remains to be resolved is the final number of parking spaces and final setbacks. Charities is seeking to reduce by one the number of parking spaces defined in the site's current entitlements. Its application for an Amendment of the existing PD Permit (PD08-058) is scheduled for the Director's Hearing on December 3, 2008, with an expected permit date of December 5, 2008. If approved, the 10-day appeal period would end December 15.

Housing Department staff is requesting that the City Council take action on the funding commitment at its December 9th meeting. This date falls within the appeal period for the PD Permit Amendment; however, this timing is necessary in order for Charities to close on the land under its existing option period.

Recommendation

Accordingly, the Housing Department recommends that this Project be given a funding commitment by the City Council at the December 9th meeting of up to \$4,580,000.

Specific business terms will be approved by the Director of Housing through the City's Delegation of Authority ordinance in Chapter 5.06 of the San José Municipal Code.

EVALUATION AND FOLLOW-UP

The Department posts quarterly reports on the status of its subsidized construction projects to its website, www.sjhousing.org. If approved, the 90 Archer Street Apartments project would be included in these reports.

POLICY ALTERNATIVES

To arrive at this proposal, staff considered the following options:

Alternative #1: *Deny the requested funding commitment.*

Pros: The funds being requested could be used for other affordable housing projects and programs.

Cons: The proposed funding commitment complies with the Department's funding priorities and has been judged financially feasible. Additionally, there is continued strong demand for housing close to transit that is affordable to ELI and VLI working individuals and families.

Reason for not recommending: The proposed project will help to meet the demand for transit-oriented housing that is affordable to ELI and VLI working individuals and will help the City to fulfill its affordable housing goals. The project's location in North San José will also help to meet the need for 1,600 affordable housing units that will be required in the First Phase of 8,000 residential housing units to be built under area's development policy.

November 19, 2008

Subject: Approval of a Funding Commitment for the 90 Archer Street Apartments Project

Page 5

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 Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater. This Memorandum will be posted to the City's website for the December 9, 2008, Council Agenda.

In addition, Charities has conducted a significant amount of outreach to the neighborhood in coordination with the District 3 Council Office. Charities presented project information at three neighborhood meetings in August and September 2008, and staffed a table at the Rosemary Gardens Neighborhood Association annual picnic in September 2008.

COORDINATION

This report has been coordinated with the Office of the City Attorney and the Department of Planning, Building and Code Enforcement.

FISCAL/POLICY ALIGNMENT

This expenditure is consistent with the Housing Department's *Five-Year Investment Plan for Fiscal Years 2003/04-2008/09* in increasing the supply of affordable housing, and with the City's *Consolidated Plan, 2008-09* in providing households units for very low- and extremely low-income households.

November 19, 2008

Subject: Approval of a Funding Commitment for the 90 Archer Street Apartments Project

Page 6

COST SUMMARY/IMPLICATIONS

1. **COST OF PROJECT:**

<u>CONSTRUCTION USES</u>	<u>AMOUNT</u>
Property Acquisition, Entitlements & Off sites	\$4,022,498
Hard (Construction) Costs	\$5,620,559
Soft (Financing & Other) Costs	\$4,829,111
TOTAL	\$14,472,168

2. **COST ELEMENTS OF CITY LOAN AMOUNT:**

<u>USES</u>	<u>AMOUNT</u>
Property Acquisition & Entitlements	\$3,700,000
Construction Costs	\$880,000
TOTAL	\$4,580,000

3. **SOURCE OF FUNDING:** Fund 443—Low- and Moderate-Income Housing Fund.

4. **FISCAL IMPACT:** No ongoing fiscal impact.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. For Contract	2008-2009 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
443	0070	Loans, Grants & Site Acquisitions	\$90,000,000	\$4,580,000	XI-53	6/24/08, 28349

CEQA

CEQA: Resolution No. 72768 and Addendum thereto, File No. PDC06-085.



LESLYE KRUTKO
Director of Housing

For questions, please contact Leslye Krutko at 408-535-3851.

Attachments



ATTACHMENT 1
Anticipated Project Timeline
90 Archer Street Apartments

Application to County of Santa Clara (MHSA)	June 2008
Potential City Council Approval of Funding Commitment	December 2008
Estimated Date of Acquisition Loan Closing	December 2008
Application to TCAC for Low-Income Housing Tax Credits	April 2009
Award of MHSA Funding	March 2009
Award of TCAC Low-Income Housing Tax Credits	June 2009
Estimated Date of Construction Loan Closing	Late 2009
Estimated Start of Construction	Late 2009
Estimated Date of Construction Completion	Early 2011
Estimated Conversion to Permanent Period	Mid/Late 2011

HONORABLE MAYOR AND CITY COUNCIL

November 19, 2008

Subject: Approval of a Funding Commitment for the 90 Archer Street Apartments Project

Page 8

ATTACHMENT 2
Subject Site Map
90 Archer Street Apartments

