



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Krutko

SUBJECT: SEE BELOW

DATE: April 27, 2009

5-3-09

COUNCIL DISTRICT: 7
SNI AREA: N/A

SUBJECT: APPROVAL OF A FUNDING COMMITMENT FOR CONSTRUCTION AND PERMANENT FINANCING FOR THE ORVIETO FAMILY APARTMENTS

RECOMMENDATION

It is recommended that the City Council:

1. Adopt a resolution approving a construction/permanent loan commitment of up to \$11,228,000 for the Orvieto Family Apartments, L.P., a California limited partnership, in which ROEM Development Corporation ("ROEM" or "Sponsor") is the general partner and developer, for development of the 92-unit Orvieto Family Apartments ("Project"), an affordable multifamily rental project to be located at the Southeast corner of Montecito Vista Way and Montecito Vista Drive, off of Monterey Highway South of Umbarger Road, and made available to extremely low-income (ELI) and very low-income (VLI) households.
2. Adopt a resolution allowing the project to exceed the City Council policy limiting combined Loan-to-Value ratios to 100%.
3. Adopt a finding that expenditure of 20% Low and Moderate Income Housing Funds on the subject site is a benefit to the City's Redevelopment Project Areas.

OUTCOME

The City Council's approval of these actions will facilitate the construction of 92 rental housing units affordable to extremely low- and very low-income households and one unrestricted manager's unit at the Orvieto Family Apartments project ("Orvieto"). Approval of the recommended funding commitment for this Project at the May 19, 2009 City Council meeting is necessary in order for the Sponsor to apply to the California Debt Limit Allocation Committee

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(CDLAC) for an allocation of Tax-Exempt Multifamily Bonds and 4% Low-Income Housing Tax Credits by the May 22, 2009 deadline.

BACKGROUND

On June 8, 2008, ROEM submitted a Notice of Funding Availability (NOFA) application for an acquisition loan in the amount of \$3,680,000 and a construction/ permanent loan in the amount of up to \$10,575,400, inclusive of the acquisition loan, for the development of the Orvieto affordable multifamily rental project.

City Council approved a Planned Development Zoning on September 9, 2008 for up to 92 multifamily residential units. A Planned Development Permit request for the project has been filed. On December 16, 2009, the City Council approved a land acquisition loan of \$3,680,000. Because of a lack of sufficient funding at that time, the construction/permanent loan approval request was separated from the acquisition loan request and deferred until funding was available.

ROEM purchased the site in March 2009 using the City's land acquisition loan. At that time, the City recorded 55-year Affordability Restrictions requiring 92 units affordable to moderate-income households at or below 120% of Area Median Income, and one unrestricted manager's unit.

Project Description

The subject 1.70 acre site is located in San José at the Southeast corner of Montecito Vista Way and Montecito Vista Drive, off of Monterey Highway, approximately three miles South of Downtown. The site is a portion of the second phase within the 22-acre Montecito Vista Urban Village, a master planned community that, when complete, will include eight distinct phases comprised of condominiums, affordable and market rate apartments, and attached townhouses. The community will also include a two-acre park and 18,000 square feet of retail space.

The developer proposes to construct a project consisting of one four-story structure that will have three stories of residential units above a one-level podium garage with 163 parking spaces. The project will have 23 apartments that will be affordable to extremely low-income families, 68 units affordable to very low-income families, and 1 unrestricted manager's unit. Future residents' incomes are expected to range from \$22,300 to \$57,300.

ANALYSIS

The City Council approved an acquisition loan for this project in December, and ROEM purchased the land in March. At the time of purchase, the City recorded affordability restrictions on the property in accordance with the requirements of redevelopment law. Since, at that time, the City was only committing funding for land acquisition, it was decided to record moderate-income restrictions to provide the City needed flexibility in the event that the project did not proceed.

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As consideration for the additional construction/permanent funding for the project, at the time the City's construction loan closes, the City will record amended 55-year affordability restrictions on the site that will reflect the actual restricted rent levels affordable to ELI and VLI families.

Strengths of the Proposed Project

The proposed project has several strengths making it appropriate for a City loan commitment.

First, the project is well-located to transportation. The VTA light rail runs along Highway 87, 1 mile west, and several bus lines run along Monterey Highway with a bus stop across the street from the project. Freeways 280 and 101 are located within two miles of the site via Monterey Highway, Curtner Avenue, and Tully Road.

Second, the project is located close to shopping. An Albertson's is located one mile south on Capital Expy and Grocery Outlet one mile to the Northwest. The Plant, new big box regional shopping center, is located one mile to the north at Monterey Highway and Curtner Avenue and is anchored by Target, PetSmart, Best Buy, and Smart and Final, with numerous restaurants and smaller retail outlets. Third, the new Montecito Village development will provide on-site amenities, including a two-acre public park which is estimated for completion by the Sponsor in 2012. Additional neighborhood-serving retail will also be located within the complex.

Demand for affordable rental units on this site is expected to be strong given the proposed Project's affordability, its easy access, and its high percentage of large units. One-quarter (23) of the units will be affordable to individuals or families at or below 30% of the Area Median Income (AMI) with the remaining two-thirds (68) affordable to individuals at or below 50% AMI. Thirty percent (28) of the units will offer three bedrooms appropriate for large families, which have been identified as a need in the City's Consolidated Plan.

In addition, the proposed project will contain Green building features in accordance with the City's emphasis on supporting environmentally-sensitive development.

Besides helping the City meet its affordable housing goals, moving this project forward will benefit the City of San José and the local economy. A total of \$828,000 in City and school fees will be paid by the developer at or prior to the expected date for start of construction of September 1, 2009. It is anticipated that the project's construction will create 131 jobs in San José over two years. ROEM anticipates using building material suppliers in Santa Clara County. Support for ROEM is also support for a local business, as ROEM is headquartered in San José.

Project Feasibility

Staff reviewed the proposed development 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). Although the project did not meet the 70-point threshold score required by the City's NOFA, Housing Department staff is currently updating the NOFA criteria

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to better fit with current market conditions and availability of other subsidy funding. The project's construction/permanent loan is nonetheless recommended for funding given its level of subsidy request and alignment with the Housing Department's priorities.

The market study and appraisal completed for the project substantiates an expected low vacancy rate and expected high demand for the project's affordable units. The City commissioned an appraisal by Hulberg & Company, dated December 4, 2008. According to the appraisal, the completed stabilized value at restricted rents is \$15,420,000. The projected high combined City and senior Loan-to-Value (LTV) 129% is mitigated by the fact that the senior lender's projected permanent first mortgage of \$8,603,000 represents a conservative 56% LTV with a 15% cushion over the expected senior loan mortgage payments. Senior debt LTV and debt service coverage ratio (1.15) is considered to be a better test of the City's risk than is combined LTV, as both indicate a high likelihood that the project will be completed according to schedule.

Staff expects that the project could start construction in the fall of 2009, provided that the project is awarded a State tax-exempt bond allocation and Low Income Housing Tax Credits, and that private equity and Bank construction and permanent financing are committed.

Specific business terms for the construction/permanent loan and the predevelopment loan will be approved pursuant to the Director's Delegation of Authority ordinance, located in Chapter 5.06 of Title 5 of the San José Municipal Code.

REDEVELOPMENT PROJECT AREA FINDINGS

The subject parcel located at the Southeast corner of Montecito Vista Way and Montecito Vista Drive, off of Monterey Highway south of Umbarger Road, is not located within a Redevelopment Area. Thus, it is required that the City make a finding, on behalf of the Redevelopment Agency, that any activity that utilizes Redevelopment funds is a benefit to project areas. Since affordable housing is vital to the City's economic growth, much of which is planned to occur in Downtown and industrial redevelopment areas, Staff recommends that the City Council find that use of 20% funds for the subject property is of benefit to the Redevelopment Project Areas.

As the City's land acquisition loan is ultimately repaid with proceeds from the City's construction loan, these findings also extend to the funding of the City's acquisition loan in March 2009.

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 Orvieto Family Apartments project would be included in these reports.

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POLICY ALTERNATIVES

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

Alternative #1: Deny or delay the requested funding commitment.

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

Cons: The proposed funding commitment will provide large family housing close to transportation that is affordable to ELI and VLI working households. Additionally, the City already provided funds to the developer to purchase the land. Affordability restrictions have been placed on the property, restricting its development to affordable housing units. The CDLAC deadline for 4% Low Income Housing Tax Credits and bond funds is May 22, 2009. Delaying funding of the project will result in a missed opportunity for State funding resources, and will assure that the project does not start construction in the near future. At this time, there is a real possibility that there will not be a second round of Low-Income Housing Tax Credit awards this current calendar year.

Reason for not recommending: The proposed project will help to meet the demand for family housing that is affordable to ELI and VLI households and will help the City to fulfill its affordable housing goals. Timely approval of this project financing will ensure that the subject project has its best opportunity to obtain CDLAC approval and that this very important affordable housing project will move ahead in a timely manner.

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.

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Public outreach for this project was conducted in conformance with City Council Policy 6-30. Notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The rezoning was also published in a local newspaper, the *Post Record*. Additionally, the Housing Department will post the Council memo for this item on the City's web site.

COORDINATION

This report has been coordinated with the Office of the City Attorney.

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, 2005-10* in providing units for very low- and extremely low-income households and for large renter households.

COST SUMMARY/IMPLICATIONS

1. **COST OF PROJECT:**

<u>USES</u>	<u>AMOUNT</u>
Site Acquisition	\$3,770,107
Hard Costs	\$18,512,395
Soft Costs	\$7,322,503
TOTAL	\$29,605,005

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

<u>USES</u>	<u>AMOUNT</u>
Site Acquisition	\$3,680,000
Construction Costs	\$7,548,000
TOTAL	\$11,228,000

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

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

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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	\$50,000,000	\$11,228,000	XI-53	2/10/09, 28492

CEQA

CEQA: EIR Resolution, file number PP09-086.


LESLYE KRUTKO
Director of Housing

For questions, please contact LESLYE KRUTKO, DIRECTOR at 408-535-3851.

Attachments



ATTACHMENT 1
Anticipated Project Timeline

City Council approval of funds for land acquisition	December 2008
Developer purchased land; affordability restrictions recorded	March 2009
Application submitted to the Federal Home Loan Bank's AHP Program	April 1, 2009
City Council consideration of Construction/Permanent Funding	May 19, 2009
Application to the California Debt Limit Allocation Committee (CDLAC) for 4% Low Income Housing Tax Credits and bond funding	May 22, 2009
Anticipated award of FHLB AHP Funding	June 15, 2009
Notification of Award from CDLAC	July 22, 2009
Estimated Date of Construction Loan Closing	August 28, 2009
Estimated Start of Construction	September 3, 2009
Estimated Date of Construction Completion	November 31, 2010
Estimated Conversion to Permanent Loan	August 1, 2011

ATTACHMENT 2
Site Map

