



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Corsiglia

SUBJECT: SEE BELOW

DATE: June 22, 2011

Approved

Date

6/22/11

COUNCIL DISTRICT: 3
SNI AREA: None

SUBJECT: APPROVAL OF A CONSTRUCTION AND PERMANENT FUNDING COMMITMENT OF UP TO \$6,300,000 FOR THE FIRST AND ROSEMARY FAMILY APARTMENTS PROJECT

REASON FOR ADDENDUM

A special City Council meeting is necessary to approve the construction/permanent funding commitment needed for the conversion of the acquisition loan to construction/permanent loan for the First and Rosemary Family Apartments project, as the project recently obtained its tax-exempt bond allocation from California Debt Limit Allocation Committee and must close its tax-exempt bond by the end of September or the developer will incur penalties. Further, last week the Legislature passed legislation relative to redevelopment agencies that would result in a pause prohibiting action on affordable housing projects until October 1, 2011. Due to the timing of action needed on this project, City Council approval is needed now in order to ensure the project proceeds.

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving a construction and permanent funding commitment of up to \$6,300,000 of 20% Housing Funds to ROEM Development Corporation, or its legal affiliate, for the development of the 184-unit First and Rosemary Family Apartments project, located at the southeast corner of Rosemary and North First Streets.

OUTCOME

The proposed resolution would enable the City to rollover its \$6,300,000 acquisition loan to a construction/permanent loan to the Project. The acquisition loan was funded to allow the developer to acquire the land with the intent that the acquisition loan would be converted to a

construction/permanent loan at such time as the First and Rosemary Family Apartments project was able to move forward with construction. This would enable this 184-unit affordable housing project to move forward as intended without additional City financing.

BACKGROUND

On June 26, 2008, ROEM submitted a Notice of Funding Availability (NOFA) application for an acquisition/construction/permanent loan for the development of the project. On August 26, 2008, the City Council approved and passed for publication Ordinance No. 28391 rezoning the subject site from CN Commercial Neighborhood, CG Commercial General, and LI Light Industrial Zoning Districts to A (PD) Planned Development Zoning District to allow up to 290 multi-family residential units, including 106 affordable senior and 184 affordable multi-family units, on a 4.045 gross acre site.

On December 16, 2008, the City Council approved a funding commitment for a site acquisition loan of up to \$6,300,000 of 20% Housing Funds for development of the 184-unit First and Rosemary Family Apartments Project. Also on December 16, 2008, the City Council approved a seller carry-back loan of \$3,250,000 to be recorded senior to the City's deed of trust on the Rosemary Family and Rosemary Seniors property but subordinate to the City's affordability restrictions recorded on the property.

Project Description

ROEM proposes to develop a 184-unit family affordable rental project on Rosemary Street just east of North First Street (the "Project"). The structure will have four stories of residential apartments that will "wrap around" a parking garage. The Project will offer 19 apartments that will be affordable to extremely low-income ("ELI") families at or below 30% of Area Median Income ("AMI"), 119 units affordable to very low-income ("VLI") families at or below 45% and 50% of AMI, 44 units affordable to lower-income ("LI") families at or below 60% of AMI, and two unrestricted managers' units. The unit mix will include 55 one-bedroom/one-bathroom units, 99 two-bedroom/two-bathroom units (including 2 two-bedroom manager's unit), and 30 three-bedroom/two-bathroom units. Amenities will include a community room/lounge, laundry facilities, and an exercise room.

Summary of Proposed Transaction

The total estimated Project cost is \$52,838,157. In addition to the proposed City construction/permanent loan of \$6,300,000, other primary funding sources include: Tax-exempt permanent bond financing of approximately \$18,564,000 available from a bond allocation from the California Debt Limit Allocation Committee ("CDLAC"); \$17,470,464 of tax-credit investor capital from a 4% Low-Income Tax Credits from the California Tax Credit Allocation Committee ("TCAC"); and, a \$7,883,968 IIG loan from the State Infill Infrastructure Grant

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Program, authorized under Proposition 1C. Other sources include lease-up income of \$731,021, and deferred contractor and developer fees of \$550,000 and \$1,338,703, respectively.

The portion of the seller carry-back loan related to the Rosemary Family property will be repaid at loan closing. The balance of the seller carry-back loan related to the Rosemary Seniors property is expected to be refinanced.

In accordance with the acquisition loan term sheet previously signed by the parties, the City will waive the accrued interest on the acquisition loan incurred due to delays in receipt of project funding.

ANALYSIS

This recommendation is being brought forward at this time because the construction permanent loan and the tax exempt bond must be closed by the end of September or the developer will incur penalties.

The Legislature recently passed legislation relative to redevelopment agencies that would result in a pause prohibiting action on affordable housing projects until October 1, 2011. Due to the timing of action needed on this project, City Council approval is needed in order to ensure the Project proceeds.

If the Project is not able to proceed at this time, the State IIG funding committed to this project may be lost. In that event, the developer would not be able to refinance the seller carry-back loan. This could jeopardize the City's investment in the property since its deed of trust is junior to the seller carry-back deed of trust.

Project Feasibility

As originally underwritten at approval of the City acquisition loan, the project would have required over \$23 million in City funding. The developer was able to bring down this cost to the City to only \$6.3 million, or a low \$34,615 per affordable unit. The reduction in City funding was possible through a combination of obtaining a \$7.9 million IIG loan from the State, an increase in equity through higher tax credit pricing, and by lowering the cost of construction by changing the design from an underground garage to a wrap-around garage.

In addition, a change in affordability was necessary to enable the Project to go forward in this difficult economic environment. Seventeen extremely low- income units will be converted to very low- income units. Ten extremely low- income units will be converted to low- income units. Should additional external sources of funds become available, the City will work with the developer to increase the affordability of the project.

Due to the deep affordability of the Project, the appraisal being prepared is expected to result in a combined loan to value that is expected to be higher than the City's loan-to-value ("LTV") maximum guideline of 100%. However, this result is considered acceptable since the Project is expected to have positive cash flow which is considered a better measure of project financial viability by the lending industry than LTV.

Given that the Project is responsive to the City's goals, and it meets many of the policy objectives of the Housing Department, staff recommends the commitment for construction/permanent financing be approved for the Project allowing conversion of the acquisition loan to a construction/permanent loan. 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 Housing Department posts quarterly reports on the status of its subsidized construction projects to its website, www.sjhousing.org. If approved, the First and Rosemary Family 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 development would not go forward. The property would then be sold and the City would receive funds from the sale that could potentially be used to help fund another affordable housing project.

Cons: If the property were sold, the affordability restrictions would stay with the property and reduce the sale price. Also, seller carry-back financing would need to be repaid, reducing the amount of return to the City. For these and other reasons, sale of the property would not be in the City's best financial interests. The proposed funding commitment meets many of the Department's funding priorities. Additionally, there is continued strong demand for large family housing close to transit that is affordable to ELI, VLI and LI working households.

Reason for not recommending: The proposed project will help to meet the demand for transit-oriented housing that is affordable to ELI, VLI, and LI 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.

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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 June 24, 2011 Council Agenda.

COORDINATION

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

CEQA

CEQA: EIR resolution 72768 adopted June 21, 2005, file number PDC07-101.

/s/

LESLYE CORSIGLIA
Director of Housing

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

Attachments



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ATTACHMENT 1
Anticipated Project Timeline

Estimated Date of Construction Loan Closing	September 2011
Estimated Start of Construction	October 2011
Estimated Date of Construction Completion	February 2013
Estimated Conversion to Permanent Period	August 2013

ATTACHMENT 2
Subject Site Map
First and Rosemary Family Apartments

