



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Corsiglia

SUBJECT: SEE BELOW

DATE: August 6, 2012

Approval

Date

8/10/12

COUNCIL DISTRICT: 3

**SUBJECT: APPROVAL OF A PREDEVELOPMENT LOAN FOR THE DONNER
LOFTS APARTMENTS PROJECT**

RECOMMENDATION

Adopt a resolution approving a funding commitment of up to \$300,000 to MidPen Donner Associates, L.P. for a predevelopment loan for the planned 102-unit Donner Lofts Apartments, an affordable rental project to be located at 156 E. St. John Street, to be made available to extremely low-income ("ELI"), very low-income ("VLI") and low-income ("LI") households.

OUTCOME

Approval of the recommended action will enable the developer, MidPen Housing Corporation ("MidPen") to prepare plans and specifications, obtain Planning and Building Department permit approvals and apply for 9% low income housing tax credits ("LIHTC") in the spring 2013 LIHTC first round.

BACKGROUND

In July 2011 MidPen purchased the 4.3 acre site located on the southeast corner of E. St. John Street and N. Fourth Street. The site currently has a multifamily fire-damaged residential building that will be torn down as part of the development. Mid-Pen is proposing a new construction project that will include approximately 102 studios and one-bedroom apartments, affordable at or below 50% of Area Median Income (AMI). Approximately 15 units will be reserved for households with special needs members who are homeless or at risk of being

August 6, 2012

Subject: Approval of a Funding Commitment for Predevelopment for Donner Lofts Apartments

Page 2

homeless. The project will contain approximately 2,684 square feet of ground floor commercial space and 51 underground parking spaces.

On February 11, 2009, MidPen obtained a Planned Development Permit, file number H09-004. Subsequently, MidPen obtained a Permit Adjustment, file number AD11-088 on February 11, 2011. The City determined that the project will have no significant impact on the environment and that therefore an Environmental Impact Statement under the California Environmental Quality Act ("CEQA") is not required.

On September 16, 2011, the Housing Department received an application for funding from MidPen for \$4,900,000 for the development of this site. The Housing Department has been working with the developer and monitoring their progress on obtaining full funding for the project. MidPen now has preliminary commitments for all of the funding necessary to proceed with development of the project. The developer has recently requested that the City provide predevelopment funding for the project.

ANALYSIS

The total development sources for this project are expected to be approximately \$29,000,000. This represents funds from expected tax credit equity, funds from the Federal Home Loan Bank's Affordable Housing Program (AHP), a construction permanent loan from the City of San José, and a conventional mortgage loan, along with \$3,086,250 financing from the MHSA program in the form of a capital contribution and a COSR (capital operating subsidy reserve).

Staff is recommending approval of \$300,000 in predevelopment funds for the project. The funds will pay a portion of the total costs of \$500,000 for architectural and engineering drawings and other predevelopment costs.

The City's predevelopment loan will be provided from the City's Inclusionary in lieu fund. The City's Inclusionary policy allows developers who are subject to a requirement to building restricted affordable units in their projects, to instead contribute an in-lieu fee to be used by the City for providing alternative affordable units in other locations. In this case, it is intended that the Inclusionary in lieu fund loan be repaid entirely from funds under the County Children's Shelter settlement agreement. Donner Lofts will be receiving the replacement affordability restrictions for the Shelter site. It is anticipated that the funds from the settlement agreement will be received by the end of the year. MidPen will guarantee repayment of the predevelopment loan and will be obligated to pay the loan in the event the project does not move forward. The Housing Department has reviewed the two most current year-end audited statements of MidPen. The company has a strong financial position.

MidPen has strong community support for development of the project. MidPen and the previous developer, Affirmed Housing Group, have held a series of meetings with members of the Horace Mann Neighborhood Association, other adjacent neighborhood groups, and representatives from the Councilmembers' Office. In response to these community meetings, design modifications

August 6, 2012

Subject: Approval of a Funding Commitment for Predevelopment for Donner Lofts Apartments

Page 3

and a density reduction were made to the site plan. The project's property management agent and service coordinator for the special needs residents will be provided by Mid Pen wholly owned subsidiaries.

A substantial amount of predevelopment costs are incurred by developers prior to obtaining financing and 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.

Without the certainty of predevelopment funding, projects are unable to move through the entitlement process, which is a necessary precursor to apply for funding such as tax credits. As a result, many projects, such as the Donner Lofts development, will not be able to move forward unless there is funding assistance for the earlier stages of development.

Staff anticipates, returning to Council to seek a commitment of funds for a construction / permanent loan from the City with MidPen's planned application for a 9% tax credit award in the spring of 2013.

Specific business terms for the predevelopment 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 José Municipal Code.

EVALUATION AND FOLLOW-UP

The Housing Department plans to return to Council with a recommendation for construction/permanent financing once the project is able to apply for a 9% low income housing tax credit award, expected in spring 2013.

POLICY ALTERNATIVES

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

- Alternative:** *Deny the requested predevelopment funding commitment.*
- Pros:** The City's risk for a predevelopment loan is greater than for construction or permanent loans.
- Cons:** MidPen's inability to borrow the project's predevelopment funding from the City will postpone this project indefinitely. Donner Lofts is the only project in the City's pipeline that can replace the units lost from the sale of the Children's Shelter. 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.

August 6, 2012

Subject: Approval of a Funding Commitment for Predevelopment for Donner Lofts Apartments

Page 4

Reason for not recommending: The predevelopment loan will facilitate the development of the Donner Lofts project which will help meet the demand for extremely low-, very low-and low-income affordable housing households and which is needed to transfer the affordable housing restriction meet the City's replacement housing obligations for the City Children's Shelter.

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 criteria set forth above. Nonetheless, this Council report will be posted to the City's website for the August 28, 2012 Council Agenda.

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 *FY 2012-13 Consolidated Annual Action Plan* in providing units for very low- and extremely low-income households.

HONORABLE MAYOR AND CITY COUNCIL

August 6, 2012

Subject: Approval of a Funding Commitment for Predevelopment for Donner Lofts Apartments

Page 5

COST SUMMARY/IMPLICATIONS

AMOUNT OF RECOMMENDATION: \$300,000

COST ELEMENTS OF AGREEMENTS:

City \$300,000

MidPen \$200,000

TOTAL PREDEVELOPMENT SOFT COST: \$500,000

SOURCE OF FUNDING: Multi-Source Housing Fund - Inclusionary Housing Fees

FISCAL IMPACT: No ongoing fiscal impact.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. For Contract	2012-2013 Proposed Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
448	3979	Inclusionary Projects	\$330,000	\$300,000	XI-75	6/19/2012 (29102)

CEQA

Resolution No. 68839

/s/
LESLYE CORSIGLIA
Director of Housing

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

Attachments



ATTACHMENT 1
Anticipated Project Timeline

Anticipated Project Time Line	
Architectural /Engineering Team Prepares Permit Documents	Dec-12
Council approval of Construction / Permanent Funding	Feb-13
Building Dept Reviews and Approves Permits	3/1/2012
Application to FHLB AHP Program	Mar-13
Submission of 9% TCAC Application (first round for tax credit applications)*	Mar-13
Notification of Award from TCAC	Jun-13
Construction Loan Closing	Oct-13
Construction Completion	Mar-15
Conversion to Permanent Loan	Jul-15
*If 9% credits are not awarded in the first attempt then another submission for 9% TCAC credits will be made in the second round expected in fall 2013.	

ATTACHMENT 2

Arial Map

