



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Corsiglia

SUBJECT: SEE BELOW

DATE: February 7, 2013

Approved

Date

2/11/13

COUNCIL DISTRICT: 3

SUBJECT: PUBLIC HEARING TO APPROVE A DISPOSITION AND DEVELOPMENT AGREEMENT FOR THE GROUNDLEASING OF CITY-OWNED PROPERTY TO JAPANTOWN APARTMENTS, L.P. AND APPROVAL OF A FUNDING COMMITMENT FOR THE JAPANTOWN SENIOR APARTMENTS BEING DEVELOPED BY FIRST COMMUNITY HOUSING

RECOMMENDATION

It is recommended that the City Council hold a public hearing and adopt a resolution:

1. Accepting the Summary 33433 Report pursuant to the California Health and Safety Code Section 33433 for the groundleasing and development of the 0.55-acre City-owned property located at 675 N. Sixth Street ("Site") for the Japantown Senior Apartments ("Project"), under the terms and conditions of the proposed Disposition and Development Agreement ("DDA");
2. Approving a DDA for the Project between the City of San José and Japantown Apartments, L.P., a limited partnership formed by First Community Housing ("FCH"), including an up to 75-year ground lease of the Site, and authorizing the Director of Housing to negotiate and execute the DDA, the ground lease, and any other documents regarding the leasehold disposition of the Site; and
3. Approving a funding commitment to Japantown Apartments, L.P. for up to \$4,900,000 in HOME funds for a Project construction/permanent loan and capitalization of up to \$490,000 in construction-period interest.

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OUTCOME

The recommended action would enable the Project to move forward with 74 units of senior housing that will be affordable to Extremely Low-Income (ELI), Very Low-Income (VLI), and Low-Income (LI) seniors, including special needs populations, with incomes between \$21,300 and \$54,720 per year.

City Council's approval of the funding commitment would result in Japantown Seniors Apartments, L.P. being able to apply for federal 9% low income housing tax credits ("LIHTC" or "tax credits") in the March 2013 application round to the California Treasurer's Tax Credit Allocation Committee (TCAC). Consideration at the February 26, 2013 City Council meeting is necessary to meet to TCAC deadline.

BACKGROUND

The Site is located in the Japantown neighborhood, just south of an existing senior residential development and across the street from the former City Corporation Yard ("Corp Yard"). This site and the nearby Corp Yard have a long history of development planning that dates back to the City Council's decision to relocate the Corp Yard and seek proposals for its redevelopment. In 2006, FCH was selected as part of a development team to redevelop the Corp Yard—first, with the Olsen Company, and subsequently, with Williams & Dame—into a mixed-use development containing residential, commercial, and public amenities. As both sites are located within a Redevelopment Project Area, FCH was to develop the affordable housing units required under then-current City inclusionary housing policy for the Corp Yard's residential uses. There was to be no City funding in the project at that time. Williams & Dame dropped out as developer in 2008 due to the weak for-sale housing market.

In 2009, as part of the FY 2009-10 Budget, the City Council approved the Housing Department's acquisition of the former City Corporation Parking Lot for the purpose of affordable housing development. In April 2009, the Site was acquired by the Housing Department with Low and Moderate Income Housing Funds from the General Services Department for the appraised value of \$2,200,000.

After the acquisition of the Site by Housing Department, FCH, which had spent considerable resources in project planning, requested to continue their pursuit of a 9% LIHTC project for seniors on the site with the City's permission.

On June 16, 2010, FCH obtained a Planned Development Permit, file number PD08-015, for a 75-unit multifamily project. On February 29, 2012, the PD Permit was amended to enable all permit requirements to be satisfied not later than June 14, 2014, including the treatment of historic Japanese and Chinese artifacts if these are discovered on the site.

On February 8, 2011, the City Council adopted a resolution authorizing the Director of Housing to enter into an Exclusive Negotiation Agreement (ENA) to allow for exclusive negotiations regarding a potential ground lease of the site from the City to FCH. The City and Developer subsequently decided to engage in negotiations without executing an ENA.

On October 27, 2011, the Housing Department recertified FCH's status as a Community Housing Developer Organization (CHDO). FCH has been a certified CHDO for the City of San José for several years, and their status is reviewed annually per HUD requirements. A CHDO is a nonprofit housing developer that uses federal HOME funds from the City to develop affordable housing. These HOME funds can be used in the predevelopment or construction phases of a project.

On February 1, 2012, the Redevelopment Agency of the City of San José was dissolved and all assets of the 20% Housing Program, including the Site, were transferred to the City pursuant to state legislation (ABX-1 26). The City now manages the Japantown Site as a housing asset.

The City has determined that the project will have no significant impact on the human environment and that therefore an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. On May 29, 2012, HUD issued its Authority to Use Grant Funds letter, the last step in finalizing the National Environmental Policy Act (NEPA) review which is required prior to committing predevelopment funds under the HOME program.

On June 19, 2012, the City Council approved a predevelopment loan of up to \$500,000 for the development of this Project.

ANALYSIS

This request for a ground lease and construction/permanent loan are necessary to enable FCH to proceed with their pursuit of other public and private funding sources for this Project. FCH has completed numerous successful projects with loans from the City, and has sufficient financial strength to pursue this development.

The Project will consist of 75 units, including 73 one-bedroom units—of which 30 will be set aside for special needs seniors with chronic illnesses or developmental disabilities—one studio unit, and one two-bedroom manager's unit.

Of the Project's 75 units, eight units are expected to be restricted to ELI households earning up to 30% of Area Median Income (AMI), 46 units are expected to be restricted to VLI households earning up to 50% AMI, and 20 units are expected to be restricted to LI households earning up to 60% AMI. There will be one unrestricted manager's unit. These affordability restrictions will be recorded on the leasehold. The existing affordability restrictions on city's fee interest will be amended to reflect a 60% AMI limit.

FCH will seek a LEED Platinum rating for the building.

FCH has strong community support for development of this project and has participated in over 10 neighborhood meetings between February of 2006 and May of 2008. The senior apartment project was incorporated in all of these meetings and in the Corp Yard's CEQA environmental impact report as a key component.

Ground Lease and DDA

If approved, the City will retain ownership of the Site and lease it to the Project. This ground lease structure minimizes the cost of land to the developer and enables the City to better control long-term affordability of the Project and to maintain control over future developments at that location.

Under terms of the ground lease, the site will be leased by the City to Japantown Apartments, L.P. for 60 years, with an option to extend the lease for up to an additional 15 years if required by the financing structure. The fixed rent will be \$1.00 per year paid in advance at loan closing. There is also the potential for residual rent to be collected based on 4% of the appraised value after the repayment of the City's loan; however, the City has agreed to waive that residual rent in the event that the Project receives a Federal Home Loan Bank Affordable Housing Program Loan. At the end of the lease term, the land and building will be owned by the City.

A Summary Report has been prepared pursuant to Section 33433 of the California Redevelopment Law, by Keyser Marston Associates. This Report, along with a copy of the proposed Disposition and Development Agreement and its attachments will be made available for inspection as required by California Redevelopment Law beginning on February 12, 2013. The Summary Report summarizes the key terms of the proposed DDA and lease, the cost of the agreement to the City, the fair reuse value, and conformance with the City's Five-Year Housing Implementation Plan.

As described above, the lease of the Site is to provide housing for low- or moderate-income persons, and the Project to be constructed on the leased site is consistent with the 2010-2015 implementation plan adopted pursuant to Section 33490 because that plan calls for affordable senior housing on the Site. Additionally, pursuant to the Summary Report, given the deep affordability restrictions imposed on the Project by the City and the anticipated development costs, the fair reuse value of the Site is nominal additionally. Upon the expiration of the affordability covenants and ground lease in 75 years, the City will hold title to the Property and will be able to sell it at a fair market value. Thus, the consideration to the City as described in the summary report is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale or lease.

The DDA, which includes the lease, has been posted in substantially final form. The DDA provides authority for the Director of Housing to execute amendments to the DDA and lease in order to add the construction and permanent lenders to the lease, allow their encumbrances to record against the lease, to add notice and cure provisions for lenders and investors, to extend the

schedule of performance and make minor amendments that are not inconsistent with the business terms described in the Summary Report and the posted documents.

Loan

The requested loan amount of \$4.9 million will permit the Project to be competitive in the tax credit rounds. The project's level of affordability, proximity to amenities, green building features, and underwriting parameters are in accordance with the City's priorities for funding commitments. The development of this site will enhance redevelopment of the Corp Yard, which is expected to proceed in the near future.

Due to the deep affordability of the Project, an appraisal that will be prepared for the senior lender shortly before construction closing is expected to result in a combined senior plus City loan-to-value ratio ("LTV") that will be higher than the City's LTV maximum guideline of 100%. However, this result is considered acceptable since project operations are expected to be feasible with permanent mortgage debt service payments at least 1.15 times. This is not an uncommon occurrence for deeply-affordable housing developments.

Development costs for the Project are expected to be approximately \$30.2 million. Sources include expected tax credit equity, the Federal Home Loan Bank's Affordable Housing Program (AHP), a loan from the City, and a conventional mortgage loan.

By her authority under the Municipal Code, the Director of Housing will negotiate additional loan terms and execute loan documents in accordance with the City Council's approval, if granted, for this Project.

Economic Development Benefits

Taking actions to further this project will benefit San José economically in three ways. First, the developer expects to pay City fees of \$751,250 in order to proceed with the development process. Second, total local impacts for communities in the area are defined as benefits of the direct construction activity itself as well as the impact of local residents who earn money from the construction activity and spend part of it within the area. According to a 2009 study by the National Association of Homebuilders (NAHB) on the economic benefits to local areas for multifamily low-income housing tax credit-funded construction, 75 units of senior housing are estimated to generate over \$6 million of local benefits in the first year and approximately \$1.9 million each year thereafter. Third, according to the NAHB metrics, it is also anticipated that proceeding with and completing the development of the Project will create 113 local jobs in San José in the first year, directly and indirectly, and 29 local jobs each year thereafter.

EVALUATION AND FOLLOW-UP

The Housing Department posts periodic reports on the status of its subsidized construction projects to its website, www.sjhousing.org. If approved, the Japantown Senior Apartments would be included in these reports.

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, which requires Council action on the use of public funds equal to \$1 million or greater. A copy of the City Council memo will be posted to the City's website for the February 26, 2013 meeting.

Numerous public meetings were held to present the project concept and design to the community and provide opportunities for feedback. Specific meeting dates are listed below. The project was well-received; there were no concerns expressed that resulted in the need for design changes to this Project. Community Meetings for the Japantown Senior Project were as follows:

- 2/25/2006 – Town Hall Meeting of the Japantown Community Congress of San Jose, with breakout sessions to discuss the Corp Yard Project, held at Northside Community Center
- 6/28/2007 – Public meeting hosted by FCH, Williams & Dame, and the San Jose Redevelopment Agency
- 11/29/2007 – Community and environmental Public Scoping Meeting for Japantown Corp Yard Redevelopment Project held at San Jose City Hall, facilitated by San Jose Planning Staff
- 5/21/2008 – Review by the Design Review Subcommittee of the Historic Landmarks Commission, held at City Hall
- 5/29/2008 – Community meeting to present information and hear neighbors' comments/feedback about the proposed rezoning and redevelopment of the property, held at Northside Community Center and facilitated by City Planning Staff.

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 City owns this site and already has recorded affordability restrictions on it consistent with State law regarding requirements for the use of Low and Moderate Income Housing Funds. Accordingly, an affordable housing development must go forward on this site. The City also needs to promptly spend federal HOME funds, for which this project and this developer are both eligible and for which they are strong candidates.

Reason for not recommending: As the subject site must support affordable housing production, and the proposed Project will help to meet the demand for deeply affordable senior housing, staff supports approval of the ground lease and funding for Japantown Seniors. Development of this project will help the City to fulfill its affordable housing goals and use its HOME funds in accordance with federal regulations. Approval will assist this very important affordable housing project to move ahead in a timely manner.

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 FY 2010-15 *Consolidated Plan* in providing units for very low- and extremely low-income households.

COST SUMMARY/IMPLICATIONS

1. ESTIMATED COSTS OF COMMITMENT:

<u>USES</u>	<u>AMOUNT</u>
Hard and Soft Project Costs	\$4,900,000
TOTAL	\$4,900,000

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2. FISCAL IMPACT: No ongoing fiscal impact.

BUDGET REFERENCE

Fund #	Appn.#	Appn. Name	Total Appn.	Amt. For Contract	2012-13 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
445	0070	Housing Loans & Grants	\$8,023,912	\$4,900,000	XI-1	10/16/2012 Ord/Res #29163

CEQA

Resolution No. 74384, GP07-03-04, PDC08-010.

/s/
LESLYE CORSIGLIA
Director of Housing

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

Attachments

ATTACHMENT 1

Anticipated Project Timeline Japantown Senior Apartments

City Council Approval of Funding Commitment	February 26, 2013
Application to the Federal Home Loan Bank of San Francisco for an Affordable Housing Program Award	April 2013
Low Income Housing Tax Credit Committee Application	March 6, 2013
Low Income Housing Tax Credit Award	May 2013
Start of Construction	October 2013
Completion of Construction and Full Occupancy	July 2015

ATTACHMENT 2

MAP Japantown Senior Apartments

