



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Leslye Corsiglia

SUBJECT: SEE BELOW

DATE: February 11, 2013

2/12/13

COUNCIL DISTRICT: 3

**SUBJECT: APPROVAL OF A CONSTRUCTION / PERMANENT LOAN FOR THE
DONNER LOFTS APARTMENTS PROJECT**

RECOMMENDATION

It is recommended that the City Council adopt a resolution approving a funding commitment to MidPen Donner Associates, L.P. for a construction/permanent loan up to \$4,900,000 and capitalization of up to \$490,000 in construction period interest for the planned 102-unit Donner Lofts Apartments, a rental development to be located at 156 E. St. John Street, to be made available to extremely low-income ("ELI") and very low-income ("VLI") households.

OUTCOME

The recommended action would support the creation of the Donner Lofts project ("Project"), consisting of 101 units of affordable housing and one unrestricted manager's unit. The units will be affordable to extremely low-income ("ELI") and very low-income ("VLI") individuals and small families—including 15 special needs households—with maximum allowable incomes between \$10,080 and \$40,550 per year.

City Council approval of the recommended action will enable the developer, MidPen Housing Corporation ("MidPen"), to apply for 9% Low Income Housing Tax Credits ("LIHTCs" or "tax credits") in the March 6, 2013 LIHTC application round to the California Treasurer's Tax Credit Allocation Committee ("TCAC"). The City Council's consideration of this item at the February 26, 2013 City Council meeting is necessary to meet the TCAC deadline.

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BACKGROUND

In July 2011, MidPen purchased the 0.43-acre site located on the southeast corner of E. St. John Street and N. Fourth Street, adjacent to the City Hall employee parking garage. The site currently has a multifamily fire-damaged residential building that will be torn down as part of the development.

On February 11, 2009, the City approved Planned Development Permit H09-004 for the subject site. Subsequently, on February 11, 2011, MidPen obtained a Permit Adjustment, file number AD11-088. The amended design will include 102 studio and one-bedroom apartments as well as approximately 2,684 square feet of ground floor commercial space and 51 underground parking spaces. The project's land use entitlements also permit off-site rental of parking spaces to help meet the parking requirement.

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 requesting \$4.9 million for the development of 101 units that will be restricted affordable to households at or below 50% of Area Median Income (AMI) plus one unrestricted manager's unit. Of the total, 15 units will be funded with State Mental Health Services Act ("MHSA") funds and reserved for extremely low-income households with special needs members who are homeless or at risk of being homeless and have mental illnesses.

On August 28, 2012, the City Council approved a predevelopment loan of up to \$300,000 to MidPen Donner Associates, L.P., a limited partnership formed by MidPen, for development of this Project.

ANALYSIS

Project

The Project will consist of 102 units, including 92 studio units, nine one-bedroom units, and one two-bedroom manager's unit. Of the Project's 102 units, the income restrictions are as follows: 15 MHSA studios are expected to be affordability-restricted to ELI households earning up to 20% AMI; 6 units will be restricted to ELI households earning up to 30% AMI; 16 units will be restricted to VLI households earning up to 40% AMI; 56 units will be restricted to VLI households earning up to 45% AMI; and, 8 units will be restricted to VLI households earning up to 50% AMI. The two-bedroom manager's unit will remain unrestricted.

MidPen will seek a LEED Gold rating for the building, which is consistent with the City's green building objectives. In addition, the project's level of affordability, deep affordability targeting,

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creation of housing for special needs populations, proximity to transit and amenities, and underwriting parameters are in accordance with the City's priorities for funding commitments.

The Project's property management agent and service coordinator for the affordable housing residents will be provided by MidPen's wholly-owned subsidiaries. Services for the residents of the MHSA units will be provided by the Santa Clara County Department of Mental Health, as part of the MHSA program.

MidPen has community support for development of this Project. MidPen has held one special neighborhood meeting on January 13, 2011 that was attended by members of the Horace Mann Neighborhood Association, other adjacent neighborhood groups and representatives from the Councilmember's office. MidPen also presented at the regular meeting of the Horace Mann Neighborhood Association on October 11, 2012.

Loan

This request for a \$4.9 million construction/permanent loan for the project's housing units is necessary to enable MidPen to proceed with their pursuit of other public and private funding sources for this Project. The requested loan amount should permit the Project to be competitive in the tax credit rounds. NEPA has been completed for the Project, allowing the City to commit federal HOME funds.

Total development sources of funding and development cost for the project are expected to be approximately \$31.8 million. This represents funds from expected tax credit equity, a loan from the City, a conventional mortgage loan, and financing from the MHSA program in the form of a loan and a capital operating subsidy reserve.

MidPen has a strong track record and sufficient resources that support this project's likely feasibility. It has completed numerous successful projects with loans from the City, and has significant experience with the MHSA program. The Housing Department has reviewed MidPen's two most current year-end audited statements of ended December 31, 2011 and determined that MidPen has sufficient financial strength to pursue this development.

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.

Staff will record 55-year affordability restrictions on the site. Staff will negotiate the details of the recorded affordability restrictions with MidPen in the event the MHSA subsidy is no longer available after 20 years. In addition, as this Project will receive federal HOME funding, staff will record separate HOME affordability restrictions.

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By her authority under the Section 5.06.335 of the Municipal Code, the Director of Housing will negotiate additional loan terms and will execute loan documents in accordance with the City Council's approval, if granted, for this Project.

Transfer of the Children's Shelter Affordability Restrictions

In addition to HOME funds, the City will commit funds to the Project derived from a legal settlement, finalized on April 30, 2012, between the County of Santa Clara and the City. There were recorded affordability restrictions on the sleeping cottages for the County-owned Children's Shelter, formerly located at 4525 Union Avenue, which restrictions were rescinded in January after this Project was identified as the destination project for the comparable affordability restrictions ("Transferred Restrictions"). Consistent with the requirements of Health and Safety Code Section 33334.3(f), the units for the Transferred Restrictions cannot have been developed with Low and Moderate Income Housing funds.

There are no Low and Moderate Income Housing funds or Low and Moderate Income Housing Asset funds currently in the Donner Lofts Project. MidPen has agreed to record the Transferred Restrictions on the Project site for 70 VLI units at 50% AMI. The recordation of these restrictions will occur at the closing of MidPen's predevelopment loan, which was approved by the City Council in 2012.

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 more than \$1.5 million in order to proceed with development. 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, 102 units of housing are estimated to generate over \$8 million of local benefits in the first year and approximately \$2.6 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 154 local jobs in San José in the first year, directly and indirectly, and 39 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, Donner Lofts 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. Accordingly, a copy of this City Council memo will be posted to the City's website for the February 26, 2013 meeting.

MidPen held public meetings since its acquisition of the site from the previous developer 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, and MidPen responded to concerns that were raised at the meetings. A summary of meetings is as follows:

- January 13, 2011 – held at Le Petit Trianon Theater, 5th Street. Attendees were from the Horace-Mann Neighborhood Association and others.
- October 11, 2012 – held at City Hall Room 120 – Regular Meeting of the Horace-Mann Neighborhood Association.

In addition, the developers with site control prior to MidPen did considerable outreach to the 13th Street SNI groups and the Horace-Mann Neighborhood Association. Many of the design elements endorsed by the neighborhood under the site's original PD Permit remain in MidPen's current design.

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: Because Donner Lofts will accept affordability restrictions moving from the Children's Shelter, it is a priority project for the City to advance in a timely manner. The City also needs to promptly spend federal HOME funds, for

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which this project is eligible, and MidPen has agreed to use HOME funds. In addition, the Project is integrating 15 special needs units, which meets the City's priorities.

Reason for not recommending: Donner Lofts will help to meet the high demand for deeply affordable housing for ELI and VLI households, including those with special needs. The proposed Project is the recipient of the transferred affordability restrictions from the Children's Shelter, and needs to advance promptly. Development of this Project will help the City to fulfill its affordable housing goals and to use its HOME funds in accordance with federal regulations. Approval at this time will assist this priority project to move ahead in a timely manner.

COORDINATION

This Memorandum 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 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

2. FISCAL IMPACT: No ongoing fiscal impact.

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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	\$500,000	XI-49	10/16/2012 Ord/Res #29163
448	3978	Development Agreement Projects	\$6,200,000	\$4,400,000	XI-74	6/19/2012 Ord/Res #29102

CEQA

Resolution No. 68839.

/s/
LESLYE CORSIGLIA
Director of Housing

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

Attachments



ATTACHMENT 1

Anticipated Project Timeline Donner Lofts Apartments

City Council Approval of Funding Commitment	February 26, 2013
Low Income Housing Tax Credit Committee Application	March 6, 2013
Low Income Housing Tax Credit Award	June 2013
Start of Construction	December 2013
Completion of Construction and Full Occupancy	July 2015

ATTACHMENT 2

Arial Map

