Meeting Date: 3/22/11

ACTION	TYPE OF ITEM
☐ Approved Recommendation	■ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By *Kymberly Horner* Agenda Item No. **I-4**

Reviewed By: City Manager City Attorney Finance Other *(Specify)*

DATE: March 15, 2011

TO: City Council

FROM: Curtis P. Cannon, Community Development Director
Community Development Department

SUBJECT: **Loan Agreement by and Between the City of Oxnard and Pacific West Communities, for the Development of the Colonial House Located at the Southwest Corner of Oxnard Boulevard and Roderick**

RECOMMENDATION

That the City Council:

1. Authorize the Mayor to execute the Colonial House Mixed Use Project Loan Agreement in substantially the form presented in Attachment #1, with such non-substantive changes as may be approved by the City Attorney, and direct the Community Development Director (or designee) to execute a Local Financing Commitment Letter, evidencing the City's approval for benefit of obtaining tax credits, in a form acceptable to the City Attorney.

2. Approve the appropriation of funds, and expressly limit the City's obligation, to the total amount of $4,200,000 from the Low and Moderate Income Housing Fund ("LMIHF") for the development and construction of 44 affordable housing units as part of the Colonial House mixed-use project encompassing 14,538 square feet of commercial space and parking facilities.

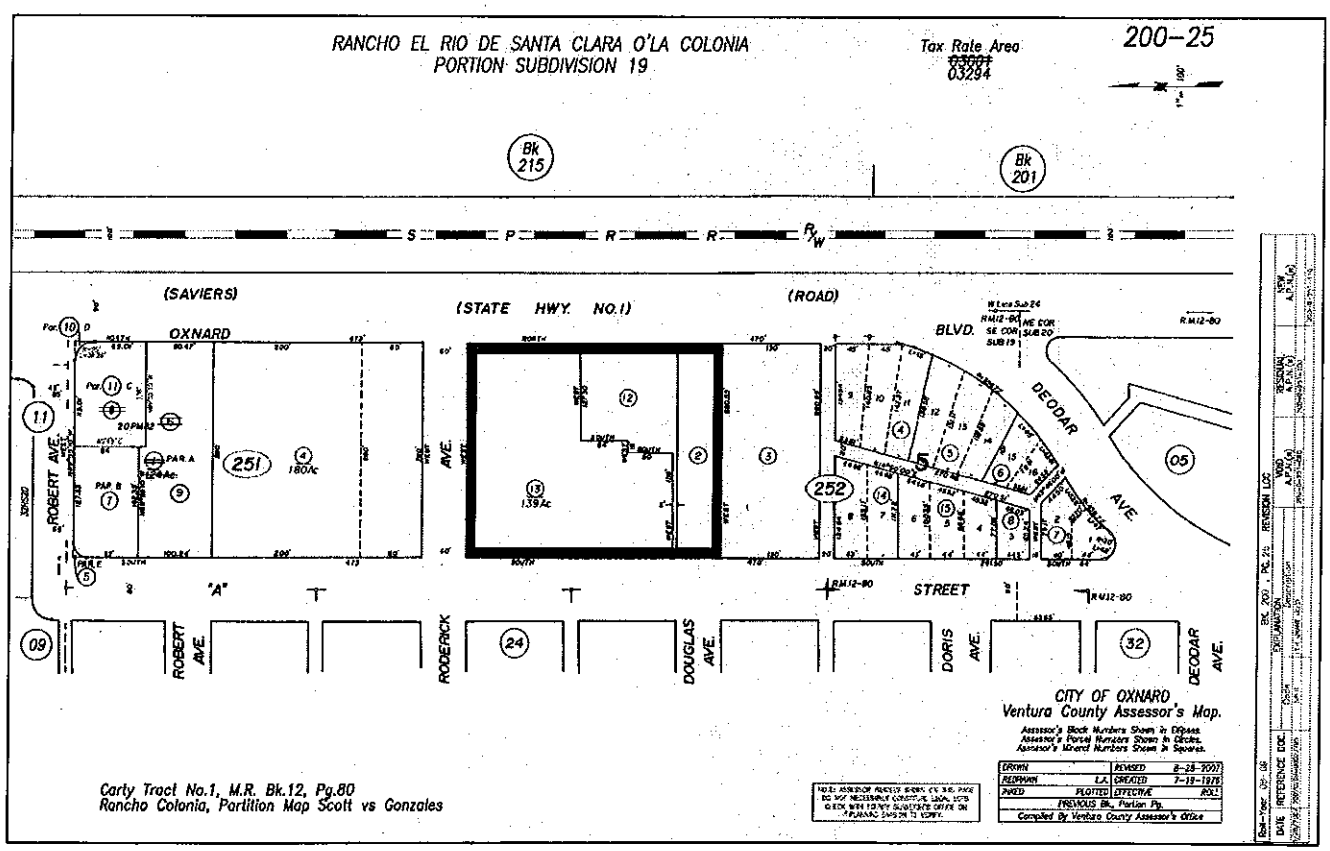
3. Authorize the City Manager, the Executive Director, Community Development Director (or designees), with approval from the City Attorney or the General Counsel on behalf of the Commission, to prepare, revise and sign all documents necessary and appropriate to carry out and implement the Colonial House Mixed Use Project Loan Agreement, and to administer the City's obligations, responsibilities and duties pursuant to those documents.

4. Find, pursuant to Section 33334.3(j) of the California Health and Safety Code that: (i) other means of private or commercial financing are not reasonably available to the Project; and (ii) based on substantial evidence, the use of LMIHF is necessary because a good faith attempt has been made to obtain commercial or private means of financing, but such financing is not available at the same level of affordability and quantity.

5. Authorize the Chief Financial Officer to establish necessary accounts and budgets in accordance with these recommendations.

DISCUSSION

On September 23, 2008, the City Council approved a three-story mixed-use building located on a vacant 2.18 acre site at the southwest corner of Oxnard Boulevard and Roderick Avenue (the "Site"). This action was followed by a Minor Modification to Special Use Permit No. 07-500-18, a time extension for Special Use Permit No. 07-500-18, and an Amendment to the Development Agreement by Planning and Zoning Permit No. 10-670-01. The collective effect of these actions is the approval of a mixed-use project encompassing 14,538 square feet of commercial space and parking facilities below a podium deck supporting 44 residential apartment units (including one manager's unit). The commercial component of the project and parking would be at ground-level and the residential component of the project would be located on the second and third floors.



In the months following project approval, Pacific West Communities ("PWC") entered into an option to purchase the Site. PWC is a real estate development and financing firm specializing in the construction and rehabilitation of affordable workforce housing throughout the western United States. With a particular emphasis on the use of affordable housing tax credits (in combination with secondary financing such as HOME, CDBG, RDA and other governmental resources) PWC and its related

companies have developed over 80 housing developments in the states of California, Arizona, New Mexico, Utah, Oregon, Montana, Idaho, Nevada, Colorado, Washington, and Wyoming. Under its purchase option agreement, PWC will develop the Colonial House and retain ownership of the residential component.

PWC has since approached the Community Development Commission ("Commission") seeking $4.2 million in LMIHF. In exchange for this assistance, staff requested that 100% of the residential dwellings be made affordable to persons of low and moderate income, compared to only 15% that is currently required by ordinance. In addition, staff requested that funds be staged over time rather than being fully available for disbursement at loan closing. Such staging enhances the Commission's ability to fund other affordable housing projects through actual cash flows rather than through bonding. PWC agreed in concept to these requests and is memorialized in the loan documents presented in Attachment #1. Principal features of the loan documents are summarized below:

a. **Loan Structure.** Under the Loan Agreement, the Commission's $4.2 million advance of funds would accrue simple interest at a rate of 3% per annum, repayable from the Commission's 50% share of residual receipts; that is, net cash flow from the project after payment of permitted mortgages. The Commission's share of residual receipts would also be used as compensation for lost increment arising from the tax-exempt status of PWC (Payments in Lieu of Taxes; "PILOT"). The entire amount of the Commission loan would be fully due and payable in 24 years, while PILOT is payable over the 55-year duration of the affordability covenants. PILOT is given priority in the distribution of residual receipts to the Commission, which accounts for the uncertain future of tax increment resulting from State budget deficits.

b. **Source of Funds.** The Commission's funding of the $4.2 million loan to PWC is subject to and contingent upon the award of tax credits from the California Tax Credit Allocation Committee under the 4% Low Income Housing Tax Credit ("LIHTC") Program. Furthermore, PWC is required to pursue, in good faith and diligence, alternative funding in order to reduce the amount of the Commission's loan. At a minimum, PWC must apply for and use its commercially reasonable efforts to acquire funding from a variety of sources including the California Multi-Family Housing Program ("MHP"), 9% LIHTC Program, Federal Home Loan Bank Affordable Housing Program ("AHP") and USDA 514 Farm Labor Housing Loan Program. The staged disbursement of Commission loan proceeds is linked to evidence of good faith compliance by PWC to secure alternate sources of funds.

c. **Affordable Housing.** All of the residential dwellings constructed as part of the Colonial House project must be made available exclusively to (and occupied by) persons and families of low and moderate income at affordable rents. Furthermore, at least forty-nine percent (49%) of the total dwellings must be made available exclusively to (and occupied by) persons and families of low and very low income, and of these units, a minimum of three (3) dwellings must be made available exclusively to (and occupied by) persons and families of very low income. The distribution among the target income categories, by dwelling unit size, appears in the table on the following page.

	1 Bdrm.	2 Bdrm.	3 Bdrm.	4 Bdrm.	Total
Very Low Income*	1	1	1		3
Lower Income*	5	5	5	5	20
Moderate Income+	2	10	6	3	21
Total	8	16	12	8	44
* Minimum number required. + Maximum number allowed.					

d. Successor Authority. The City Council and Commission entered into a Cooperation Agreement on January 18, 2011, as further clarified on March 8, 2011, by adoption of Resolution Nos. 13,351 and 147, respectively (collectively the "Accord"). By authority of the Accord, the City is obligated and authorized to continue the implementation of redevelopment within the Ormond Beach, Southwinds, Downtown Revitalization, Central Community Revitalization and HERO Project Areas (individually referred as "Project Area" and collectively as the "Project Areas"). However, the City's responsibility is expressly limited to the assets and revenues available to the Commission that have been, or in the future will be, transferred to the City. Pursuant to the Accord, the City's name has been substituted in place of the Commission in the loan documents for Colonial House.

ENVIRONMENTAL IMPACT

A Mitigated Negative Declaration (Case No. 08-02) was prepared for Colonial House under the provisions of the California Environmental Quality Act of 1970, amended ("CEQA"), and was certified by the City in conjunction with land use entitlements that were issued and approved for the project. In accordance with applicable provisions of Title 14 of the California Code of Regulations, no further environmental documentation is required under CEQA.

FINANCIAL IMPACT

Funds are available in the Low and Moderate Income Housing fund ("LMIHF"). Such appropriation, in accordance with the terms of the Accord, is expressly limited to funds available within the LMIHF, not to exceed the sum of $4,200,000. Approval of this action will not have an impact on the General Fund.

Attachment #1: Colonial House Mixed Use Project Loan Agreement

Note: Attachment #1 has been provided to City Council under separate cover. Copies for review are available at the Help Desk in the Library after 6:00 p.m. on Thursday prior to the Council meeting and in the City Clerk's Office after 8:00 a.m. on Monday prior to the Council meeting.