



Meeting Date: 3/23/10

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input checked="" type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other:

Prepared By: Curtis Cannon, Community Development Director Agenda Item No. D-1

Reviewed By: City Manager City Attorney Finance Other N/A

DATE: March 11, 2010

TO: Community Development Commission

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

SUBJECT: "The Village" Owner Participation Agreement

RECOMMENDATION:

That Community Development Commission ("Commission"):

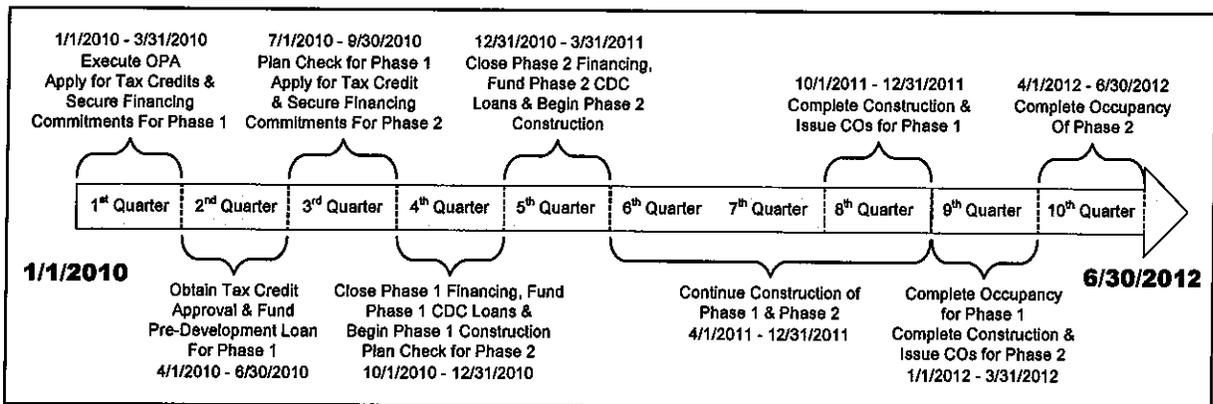
1. Approve and authorize the Community Development Commission Chairman ("Chairman") to execute "The Village" Owner Participation Agreement ("OPA") and the Assignment and Assumption Agreement, in substantially the form presented to the Commission with such non-substantive changes as may be approved by the Community Development Director ("Director") and Commission General Counsel.
2. Authorize the Director or designee to prepare, revise and sign all documents necessary and appropriate to carry out and implement "The Village" OPA (including, but not limited to, Commission Documents as defined in the OPA and the appropriation of loan funds as described under "Financial Impact" herein).

DISCUSSION

At its meeting of January 27, 2009, the City Council and Commission approved the redevelopment of Wagon Wheel consisting of a General Plan Amendment, Zone Change, Specific Plan, Development Agreement and Replacement Housing Plan (collectively, "The Village"). Together, these approvals provide for development and construction of approximately 1,500 dwelling units, 52,400 square feet of commercial space and 7.4 acres of parks/recreation centers and open space. Among other obligations, Oxnard Village Investments, LLC (the "Developer") must construct 225 affordable dwellings consisting of, at a minimum, 41 units for extremely low income households, 49 units for very low income households, 13 units for lower income households, 10 units for low income households, and a maximum of 112 units for moderate income households. Of this total, 119 units are expressly reserved as replacement housing for persons displaced from the Wagon Wheel Mobilehome Park.

In furtherance of these provisions, the Development Agreement expressly requires the execution of an OPA as a vehicle by which to ensure fulfillment of the Developer’s affordable housing obligations including, but not limited to: “...*timely satisfaction of all conditions precedent to the disbursement of any funds from the CDC...*”. Thus, while the Development Agreement did not obligate the Commission to provide financial assistance, it was anticipated that such a request would be made by the Developer. Accompanying this report is a copy of an OPA that fulfills the requirements of the Development Agreement. Principal features of the OPA are summarized as follows:

- **Affordable Housing.** The development of affordable housing has been divided into two elements and three phases: (i) the Assisted Component consisting of 159 affordable rental units utilizing a combination tax credits, tax increment housing set-aside funds, and private capital which shall be made available to Wagon Wheel (Mobilehome Park) residents and constructed in two distinct phases (Phase 1 - 95 units & Phase 2 – 64 units); and (ii) the Unassisted Component consisting of 66 affordable units (rental or ownership) utilizing a combination of private and institutional funds independent of the OPA. The build-out schedule for the Assisted Component appears below.



- **Development Agreement.** The Development Agreement expressly provides for the development of 112 Moderate Income units. The proposed OPA, on the other hand, provides a much larger number of affordable units at the lower end of the income spectrum. As shown in Table 1, the OPA provides for the development of 35 more affordable units for extremely low, very low, lower and low income categories than required under the Development Agreement. The excess suffices for meeting the moderate income requirement and provides a greater overall affordability benefit.

TABLE 1	Affordable Housing Income Distribution					
	E. Low	V. Low	Lower	Low	Mod	Total
Development Agreement	41	49	13	10	112	225
Proposed OPA	43	55	36	14	77	225
Unit Difference	+2	+6	+23	+4	-35	0

- Commission Participation.** Under the proposed OPA, financial assistance is sought from the Commission in the form of six separate loans totaling a maximum of \$15.3 million. The proposed source of funding is tax increment housing set-aside that is expressly earmarked under redevelopment law to be used for the preservation, improvement and expansion of housing affordable to persons of low and moderate income. The principal amounts, form of security, timing of loan funding, use of loan proceeds, source of repayment and duration of term for the loans are summarized in Table 2 below.

TABLE 2	Pre-Development Loan	Phase 1 Affordable Housing Loan	Phase 2 Affordable Housing Loan	Replacement Housing Loan	Phase 1 Development Fee Loan	Phase 2 Development Fee Loan
Source of Funds	Housing Set-Aside	Housing Set-Aside	Housing Set-Aside	Housing Set-Aside	Housing Set-Aside	Housing Set-Aside
Amount of Loan	\$1,000,000	\$6,800,000	\$3,100,000	\$1,750,000	\$1,576,352	\$1,040,670
Security for Loan	Deed of Trust on Phase 1 Affordable Housing Project	Deed of Trust on Phase 1 Affordable Housing Project	Deed of Trust on Phase 2 Affordable Housing Project	Deed of Trust on Phase 1 Affordable Housing Project	Deed of Trust on Phase 1 Affordable Housing Project	Deed of Trust on Phase 2 Affordable Housing Project
Timing of Loan Funding	Upon Award of Tax Credits for Phase 1 Affordable Housing Project (Estimated - June 15, 2010)	1 st Construction Loan Closing (Estimated - November 15, 2010)	2 nd Construction Loan Closing (Estimated - February 15, 2011)	1 st Construction Loan Closing (Estimated - November 15, 2010)	1 st Construction Loan Closing (Estimated - November 15, 2010)	2 nd Construction Loan Closing (Estimated - February 15, 2011)
Use of Loan Funds	Planning and Design, Site Preparation and Replacement Housing Costs for the Phase 1 Affordable Housing Project	Final Design and Development of the Phase 1 Affordable Housing Project	Final Design and Development of the Phase 2 Affordable Housing Project	Replacement Housing Costs for Mobilehome Park Residents	Actual Development Fee Charges for the Phase 1 Affordable Housing Project	Actual Development Fee Charges for the Phase 2 Affordable Housing Project
Source of Repayment	Proceeds of the Relocation Assistance Loan and Phase 1 Affordable Housing & Development Fee Loans, as Applicable	Residual Receipts from the Phase 1 Affordable Housing Project	Residual Receipts from the Phase 2 Affordable Housing Project	Growth in Housing Set-aside & Proceeds of Sale from Market Rate Units	Residual Receipts from the Phase 1 Affordable Housing Project	Residual Receipts from the Phase 2 Affordable Housing Project
Timing of Repayment	1 st Construction Loan Closing (Estimated Closing Date - November 15, 2010)	Throughout the 55-Year Duration of Affordability Covenants with Balloon Payment At Term	Throughout the 55-Year Duration of Affordability Covenants with Balloon Payment At Term	Annually from Housing Set-aside Plus Proceeds of Sale Starting with 1000 th Market Rate Unit	Throughout the 55-Year Duration of Affordability Covenants with Balloon Payment At Term	Throughout the 55-Year Duration of Affordability Covenants with Balloon Payment At Term

- Loan Repayment.** As proposed, the Pre-Development Loan will be repaid either from the proceeds of the other loans at construction closing or from Developer’s own financing. The other five loans are linked to economic performance of the project: the Affordable Housing Loans and Development Fee Loans would be repaid from net cash flow derived from the respective phases of the Assisted Component; and the Replacement Housing Loan would be repaid from 50% of the growth in housing set-aside. If debt remains at the end of Loan term, the principal balance and accrued interest on each Loan would become fully due and payable. Table 3 provides a comparison of loan amounts and prospective economic performance.

TABLE 3	Housing Set-aside	Discretionary Funds	Grand Total
Growth in Tax Increment	\$ 42,237,204	\$ 87,370,565	\$ 129,607,770
Residual Receipts	\$ 2,378,346		\$ 2,378,346
Commission Loans	\$ (15,483,000)		\$ (15,483,000)
Net Difference	\$ 29,132,550	\$ 87,370,565	\$ 116,503,116

Sources:

- Growth in Tax Increment: “Tax Increment Analysis,” Development Planning & Finance Group, Inc. (DPFG), January 14, 2009, and “Growth in Tax Increment,” Thomas E. Figg, Consulting Services, March 1, 2010. See Attachment 3
- Residual Receipts: “Tax Credit Application,” Western Community Housing, Inc., and Law Offices of Patrick R. Sabelhaus, March 3, 2010. See Attachment 4

Notes:

- Growth in Tax Increment reflects the difference between: (i) existing baseline conditions with an annual valuation increase of 2% per year; and (ii) forecasted growth in valuation resulting from construction of “The Village.”
- The Development Proforma used in projecting Residual Receipts is for a duration of 20 years. The average annual amount of Residual Receipts projected over this period is used in forecasting income over the remaining life of the 55-year duration of affordable covenants.
- For each of the Commission Loans (other than the Pre-Development Loan which is repaid with other Loan proceeds at Closing #1), the unpaid balance of principal and accrued interest remaining at the end of the term thereof shall be due and payable in full.

- Developer Obligations.** The proposed OPA includes the following commitments from the Developer not otherwise specified in the Development Agreement: (i) commence demolition of Wagon Wheel Motel within 30 days of a favorable Court decision and complete site clearance within four months after such decision; (ii) clear the balance of the easterly half of “The Village” site within six (6) months following the date of Phase 1 loan closing; and (iii) contribute a minimum of \$1.75 million in Developer funds toward Mobilehome Park Relocation costs.
- Source of Funds.** Commission funding of the Pre-Development Loan is subject to and contingent upon the award of tax credits from the California Tax Credit Allocation Committee. Closing of the other five (5) Commission loans is subject to and contingent upon evidence of financing sufficient to complete the Affordable Housing Projects and closure of the Wagon Wheel Mobilehome Park. Construction and permanent financing proposed by the Developer (including equity contribution) is summarized in Table 4, while the Commission’s requested participation is discussed under “Financial Impact” below.

TABLE 4	Phase 1 - 95 Units	Phase 2 - 64 Units	Project Total
Construction Financing			
Construction Loan	\$ 10,092,255	\$ 6,582,831	\$ 16,675,086
Commission Loan	\$ 6,800,000	\$ 3,100,000	\$ 9,900,000
Deferred Developer Fee	\$ 2,000,000	\$ 1,957,812	\$ 3,957,812
Investor Equity	\$ 5,110,457	\$ 4,384,810	\$ 9,495,267
City Fee Deferral	\$ 1,576,352	\$ 1,040,670	\$ 2,617,022
Total	\$ 25,579,064	\$ 17,066,123	\$ 42,645,187
Permanent Financing			
Permanent Loan	\$ 4,405,282	\$ 1,963,429	\$ 6,386,711
Commission Loan	\$ 6,800,000	\$ 3,100,000	\$ 9,900,000
Deferred Developer Fee	\$ -	\$ -	\$ -
Investor Equity	\$ -	\$ -	\$ -
City Fee Deferral	\$ 1,576,352	\$ 1,040,670	\$ 2,833,000
Tax Credit Equity	\$ 12,776,143	\$ 10,962,024	\$ 23,738,167
Total	\$ 25,579,064	\$ 17,066,123	\$ 42,645,187
Source: "Tax Credit Application," Western Community Housing, Inc., and Law Offices of Patrick R. Sabelhaus, March 3, 2010.			

- Off-Site Replacement Housing.** In the event that any of the current Mobilehome Park residents opt to relocate to replacement housing located off-site of Assisted Component prior to the date that the Developer submits a tax credit application for Phase 2, the Developer would have the option to reduce the number of units for the Phase 2 Affordable Project by one unit for each resident family who vacates Wagon Wheel during said period, consistent with the income level and unit size that is reserved for said family. Such adjustment would be accompanied with a corresponding adjustment in principal amount of the Phase 2 Affordable Housing Loan. Regardless of any such Loan or unit adjustment, the Developer must still comply with the minimum Affordable Housing requirements imposed under the Development Agreement.
- Affordable Housing Developer.** As part of the Assisted Component, the current owner of The Village (Oxnard Village Investments, LLC) intends to convey, without cost, the land comprising the Assisted Component to Oxnard Village Family Apartments, L.P., as the affordable housing developer. Such conveyance is permitted under Section 1.6 of the OPA subject to approval and execution of an Assignment and Assumption Agreement whereby all of the rights (including access to Loan funds) and obligations (including construction of the Assisted Affordable Units thereon) are transferred to the new owner. To accomplish this exchange, Commission is requested to approve the agreement contained in Attachment 2, subject to verification by the Director and Commission General Counsel that the L.P. has filed the requisite documents and been accepted by the California Secretary of State.

Under Section 7.3 of the proposed OPA, the Director would be authorized to modify the form of the attachments to the OPA, as necessary, so long as such modification: (i) is a non-substantive modification as may be agreed to by the Director and Commission General Counsel, (ii) does not result in any increased financial risk to the Commission and does not otherwise impair the Commission's interests and (iii) is consistent with the Method of Financing and the OPA. Any modifications to the form of the attachments to the OPA that do not comply with the requirements set forth in the preceding sentences shall be submitted to the Commission Board for approval. Companion authority is included as part of the staff recommendation for the Director and Commission General Counsel to make non-substantive changes as needed to finalize the documents for execution.

ENVIRONMENTAL IMPACT

An Environmental Impact Report (“EIR”) was prepared for “The Village” project under the provisions of the California Environmental Quality Act of 1970, amended (“CEQA”), and was certified by the Planning Commission and City Council in connection with their respective actions on the legislative approvals and discretionary entitlements. In accordance with CEQA Section 21090 and CEQA Guidelines Sections 15180, 15162 and 15163, no subsequent EIR nor supplement to the EIR need be prepared for the OPA, and no further documentation is required under CEQA, insofar as the agreement does not change the scope of development previously considered.

FINANCIAL IMPACT

As shown in Table 3, development of “The Village” will generate sizable increases in tax increment revenues. The projected growth in housing set-aside alone is nearly three times the \$15.3 million requested by the Developer. However, tax increment revenues attributable to “The Village” will accrue over 32 years. Table 5, on the other hand, provides a near-term forecast of housing set-aside revenues. In short, the forecasted increase in housing set-aside through FY 2013-14 totals \$22 million compared to the \$15.3 million loan request. While this favorable forecast more than covers the total loan request, the growth in housing set-aside between now and FY 2011-12 when loans are scheduled for funding totals only \$14 million. The resulting temporary shortfall of \$1.3 million will need to be backfilled with borrowed funds.

TABLE 5	Merged Project	South-winds	Ormond Beach	HERO Project	Grand Total
Current Balance	\$ 1,106,000	\$ 172,000	\$ 311,000	\$ 3,656,000	\$ 5,245,000
FY 2009-10	\$ 1,172,000	\$ 345,000	\$ 509,000	\$ 2,259,000	\$ 4,285,000
FY 2010-11	\$ 1,194,000	\$ 354,000	\$ 521,000	\$ 2,330,000	\$ 4,399,000
FY 2011-12	\$ 1,217,000	\$ 363,000	\$ 534,000	\$ 2,401,000	\$ 4,515,000
FY 2012-13	\$ 1,240,000	\$ 372,000	\$ 547,000	\$ 2,474,000	\$ 4,633,000
FY 2013-14	\$ 1,264,000	\$ 382,000	\$ 560,000	\$ 2,548,000	\$ 4,754,000
Total Resources	\$ 7,193,000	\$1,988,000	\$2,982,000	\$15,668,000	\$27,831,000
Administration	\$ 2,435,000	\$ 363,000	\$ 534,000	\$ 2,402,000	\$ 5,734,000
Net Available	\$ 4,758,000	\$1,625,000	\$2,448,000	\$13,266,000	\$22,097,000

Taking into account the long term benefits of the project (blight removal, affordable housing, revenue enhancement, economic vitality, etc.), staff recommends that the loan request be funded by a combination of potential funds available to the Commission from the Historic Enhancement and Revitalization of Oxnard ("HERO") Project including housing set-aside, tax increment and tax allocation bond proceeds. In the event that housing set-aside funds "on hand" at the time of closing are insufficient to fully fund the loans, it is recommended that the Director be authorized to: (i) transfer general tax increment to the Housing Set-aside Fund on a short term basis and repaid from future housing set-aside; and/or (i) issue a tax allocation bond secured by future set-aside funds derived from within the HERO Project. This recommendation is embodied in Action Item #2 under "Recommendation."

CC/el

- Attachment 1: "The Village" OPA
- Attachment 2: Assignment and Assumption Agreement
- Attachment 3: Tax Increment Forecast
- Attachment 4: Residual Receipts Forecast

Note: Attachments #1, 2, 3 and 4 have 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.