

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Staff Presentation Worksheet

Presentation Date: 9/22/09 Time: 9:45 PM Length: ~~39~~¹⁵ Minutes

Presentation Title: Creekside Woods Apartments

Department: DHS/Community Development

Presenters: Cindy Becker, Chuck Robbins, Martha McLennan (NHA)

Attachments: Letter of Intent, Development Pro Forma

POLICY QUESTION

Should HOME funds be expended on construction costs before the primary investor has signed the closing documents?

ISSUE & BACKGROUND

HOME funds will assist Northwest Housing Alternatives (NHA) with the development of an 84-unit affordable rental housing project for very low-income seniors on Town Center Loop in Wilsonville.

1. In order to build the apartments NHA needs to find an investor willing to purchase the Low Income Housing Tax Credits.
2. The first investor pulled out of the project.
3. NHA has found a new investor, National Equity Fund, Inc. (NEF). The following steps must be followed prior to closing:
 - a. The investor must make an offer to purchase the credits which is acceptable to NHA. Letter of Intent dated September 1, 2009 is attached. Offer was accepted by NHA ~~September 1, 2009~~.
 - b. The investor must submit the proposal to its investment review committee for their approval – This is scheduled for the middle of October. While not a 100% sure thing, there is 90% confidence that the proposal will be accepted.
 - c. The investor wants to close by December 1.
4. The investor has stipulated:
 - a. Construction must be completed by December 31, 2010; and
 - b. Lease up must be completed by May 31, 2011.
5. NHA has contracted with Walsh Construction, who says that in order to meet this schedule they must begin construction no later than the middle of September 2009.
6. This early start requires that NHA secure funding to cover these construction costs prior to finalizing the permanent financing.

County Issues

1. The County has budgeted \$600,000 of HOME funds for construction.

2. HOME Funds can only be used for expenditures incurred after BCC approval of the Loan Agreement – This is scheduled for September 24, 2009.
3. HOME funds can not be disbursed until all Loan Documents (i.e. Trust Deed, Promissory Note, and Declaration of Land Use Restrictive Covenants) have been signed and recorded. – Depending on the number of requested revisions this could occur between mid and late October.
4. Normally we would not expend HOME funds until after NHA has closed with the investor, however HOME regulations do allow for early disbursement. The risk is that the investor will opt out of the project after we have expended HOME funds.
5. The City of Wilsonville has budgeted \$300,000 for early construction and will spend their funds first.
6. Between Mid September and November 30 it is estimated that approximately \$550,000 will be expended for construction.

QUESTION(S) PRESENTED FOR CONSIDERATION

Should Clackamas County risk the expenditure of HOME funds prior to NHA closing with the investor?

OPTIONS AVAILABLE

1. Wait until the investor closes (December 1) before expending any HOME funds.
 - a. Offers the most protection against repayment to HUD.
 - b. At best construction start is delayed until spring of 2010; at worst the lender opts out and NHA needs to find another lender putting the entire project at risk
2. County expends HOME funds before final closing. The risk is that if the lender opts out:
 - a. Repayment to HUD of the expended HOME funds would be required if NHA is not able to secure another investor within 12 months of execution of the HOME Loan Agreement.
 - b. As the grantee the County is responsible for insuring repayment.
 - c. Repayment must come from a source other than the CDBG or HOME program (i.e. General Funds).
 - d. Given that we will have entered into a Loan Agreement with NHA they are ultimately responsible for any repayment; however if might require that the County seek restitution from NHA after we have made the initial repayment.

RECOMMENDATIONS

National Equity Fund (NEF) is the proposed investor for the Creekside Woods Apartments. NEF is also the investor on the NHA developed Charleston Apartments, Villebois. While the economy has resulted in a shaky investment environment given NEF's familiarity with the developer and the area we have high confidence in the project proceeding on schedule.

Our Recommendation is:

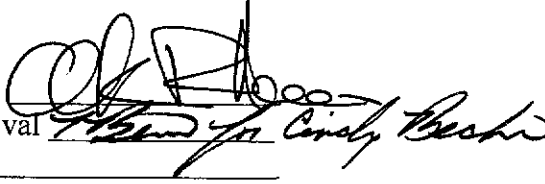
1. We should use the HOME funds to pay for a portion ^{of cost of} the early construction start-up.
2. The HOME Loan Agreement should be placed on the September 24, 2009 BCC agenda.
3. County should wait until the investor's investment review committee has reviewed and approved the NHA proposal before we sign the HOME Loan Documents.

SUBMITTED BY:

Division Director/Head Approval

Department Director/Head Approval

County Administrator Approval



For information on this issue or copies of attachments, please contact Chuck Robbins@ 503-655-8591

*2/2008 Version