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REPORT TO COUNCIL

SUBJECT

Approve \$5 Million Bridge Loan to MidPen Housing for Edwina Benner Plaza, located at 460 Persian Drive, and Adopt a Resolution to Approve a Joint Application for Affordable Housing and Sustainable Communities (AHSC) Grant for Edwina Benner Plaza and Associated Sustainable Transportation Improvement (STI) Project

BACKGROUND

Project

On February 2014, the Housing Division released an RFP for new affordable housing projects to be funded with the City's Housing Mitigation Fund. In January 2015, MidPen Housing submitted a proposal requesting \$5 million for a proposed new 66 unit affordable rental housing project at 460 Persian Drive in Sunnyvale. A brief summary of the project is provided in Attachment 1. In March 2015, Council awarded MidPen a conditional commitment of \$5 million in Housing Mitigation funds (HMF) for the project in the form of a bridge loan to be converted to a permanent loan at completion (RTC 15-0091). The project has since been named Edwina Benner Plaza ("Benner Plaza"), in honor of former Sunnyvale Mayor Edwina Benner, first elected in 1924, who was the first female mayor of a California city.

The term sheet approved by Council last March conditioned the bridge loan on MidPen obtaining full site control of the property and all required entitlements. MidPen acquired the project site in April 2015 and obtained entitlements at the Planning Commission hearing on January 25, 2016 (RTC 15-0987).

The total project cost is currently estimated at slightly over \$41 million. MidPen has updated its financing plan for the project since submitting the original proposal last March. The current financing plan is included as Attachment 2 to this report. The changes to the financing plan are discussed further in the Discussion section of this report. The project recently received a conditional commitment of 33 project-based Section 8 vouchers from the Housing Authority of the County of Santa Clara (HACSC), which will help it obtain permanent financing for the project.

Affordable Housing and Sustainable Communities (AHSC) Grant Program

Staff and MidPen have been exploring the feasibility of seeking AHSC Program funds from the Strategic Growth Council (SGC) for the Benner Plaza project. The AHSC Program, created by the State in 2014, implements AB 32, the California Global Warming Solutions Act of 2006, by investing in projects that reduce Green House Gas (GHG) emissions by supporting more compact infill development patterns and integrating affordable housing with transportation infrastructure. Funding for the AHSC program is provided by a portion of the State's greenhouse gas reduction funds ("Cap-and-Trade" funds). Please see Attachment 3: AHSC Background Information, for more detail. In

January, the SGC released a notice of funding availability (NOFA) for \$320 million for the 2016 application cycle, with an initial, “concept application” deadline of March 16, 2016. Applications are scored based on the estimated greenhouse gas reduction impacts and housing affordability of the proposed projects, among other factors. The AHSC program requires that housing projects include a sustainable transportation infrastructure (STI) project in order to qualify for the program. After much research, staff has identified a potential STI project which could qualify Benner Plaza for an AHSC application. The proposed STI project is an extension of the public sidewalk along Persian Drive, between Morse and Borregas Avenues, as described further in Attachment 4. This project would provide the residents of Benner Plaza and the surrounding neighborhood with safe pedestrian access to the Borregas Avenue bike/pedestrian bridge into Moffett Park, and would be contingent on an award of AHSC funds for the Benner Plaza project.

EXISTING POLICY

General Plan, Housing Element, Goal A

Assist in the provision of adequate housing to meet the diverse needs of Sunnyvale’s households of all income levels.

Policy A.2: Facilitate the development of affordable housing through regulatory incentives and concessions, and/or financial assistance.

General Plan, Land Use Element

Policy LT-5.7: Pursue local, state and federal transportation funding sources to finance City transportation capital improvement projects consistent with City priorities.

Policy LT-5.8: Provide a safe and comfortable system of pedestrian and bicycle pathways.

Climate Action Plan

LUP-2.1: Continue to plan for most new residential, commercial, and industrial developments in specific plan areas, near transit, and close to employment and activity centers.

Goal: Modify the transportation infrastructure such that bicycling, walking, and transit are viable options regularly used by all Sunnyvale residents and employees.

ENVIRONMENTAL REVIEW

Staff prepared an initial study of the proposed housing project and STI project pursuant to the California Environmental Quality Act (“CEQA”), and a Mitigated Negative Declaration pursuant to Public Resources Code Section 21080(c) was adopted by the Planning Commission on January 25, 2016.

DISCUSSION

Benner Plaza consists of a four-story residential structure (three stories of apartments on a podium over ground-level parking) and associated site improvements. The building includes 66 dwelling units: 65 affordable rental apartments and one manager's unit, as well as amenity spaces for resident services, storage, and bike parking. In addition, as noted above, if AHSC grant funding is awarded to MidPen for Benner Plaza, MidPen would also complete the STI project, which consists of an extension of the sidewalk in the City’s right of way along the south side of Persian Drive, and associated urban greening elements, as described further in Attachment 4.

City Funding Request

The revised term sheet, included as Attachment 5, is largely consistent with the one approved by

Council in 2015, but includes minor revisions, mainly due to the revisions to the project's financing plan. The main changes to the financing plan include the shift to seek AHSC funding rather than an allocation of nine percent tax credits for the project.

The proposed terms for the bridge loan include: three percent simple annual interest, with principal and interest payments fully deferred until the bridge loan is converted to a permanent loan at construction closing, rather than at project occupancy, which was the conversion point provided in the original term sheet approved by Council. MidPen has agreed to include additional terms which require the current bridge lender to subordinate to the new City bridge loan, and a first right of refusal providing the City with the option to purchase the property, in the unlikely event that MidPen fails to secure the remaining financing required to build the project and opts to sell the property.

The permanent loan terms remain the same as previously approved by Council: three percent simple annual interest, fully deferred, with residual receipt payments, as defined in the promissory note, due annually from any available "surplus" cash flow, and a mandatory affordability term of 55 years. The term of affordability runs with the land for the term, and does not terminate early if the loan is paid off early. Conversion of the bridge loan to the permanent loan would still be contingent upon MidPen securing all other financing required to build the project.

If the revised term sheet is approved by Council, staff will work with the City Attorney to prepare bridge loan documents consistent with these terms, with Council's authorization to the City Manager to execute the loan documents in a form approved by the City Attorney. MidPen would be able draw funds following close of escrow. Staff would bring the draft permanent loan agreement to Council for approval prior to finalizing the permanent loan documents and converting the bridge loan to permanent.

If the AHSC application for Benner Plaza is successful, MidPen will pursue four percent tax credits, which is a non-competitive funding source, for the remaining financing needed. If the AHSC application is not successful this round, MidPen could wait until the following round, which is estimated to be approximately six months later, or it could instead apply for nine percent tax credits in the next available round.

AHSC Program Application

The AHSC program has a two-phased application process: concept proposals are due on March 16, 2016, and full applications are due in June. Only those applicants deemed eligible by SGC based on the concept proposals will be invited to submit a full application in June. MidPen has asked the City to agree to be a joint applicant for the AHSC funds, which would increase the project's score and make it more competitive for funding. The AHSC regulations award 3 out of 100 points for a "joint application between a housing developer and a public agency that has authority over public transit or transportation infrastructure." As the entity with rights of way, legal authority, and infrastructure planning and development capability for sidewalks and bike lanes on local streets in the project area, the City qualifies to be a joint applicant in this case. The California Department of Housing and Community Development (HCD) Program Guidelines state that a joint applicant will be "jointly and severally liable" for the completion of the project. However, the Program Guidelines allow the joint applicants to execute indemnification agreements to apportion and minimize the risk to the public agency. Moreover, HCD staff has recently clarified that the public agency joint applicant would not be required to execute agreements that impose obligations for the long-term affordability of the project.

In order to qualify the Benner Plaza proposal as a joint application, a Council resolution authorizing the AHSC application will be due in June as part of the full application package. In order to save time and streamline the process, staff has provided a Resolution in Attachment 6 for Council's adoption at this time. While it would be possible for MidPen to apply for the AHSC grant without the City as joint applicant, the proposal would lose several points and might not be as competitive as those with joint public agency applicants.

An award of AHSC funds would be a combination of loan and grant funds, with a loan for the housing development and a grant for the STI project. If the AHSC funds are awarded for the joint Benner Plaza proposal, MidPen would contract with the City and apply for an encroachment permit to complete the sidewalk project on the City's behalf in conjunction with construction of the housing. ESD and DPW staff has indicated this would be the preferred course, given the significant project workload that already exists for these departments. This is similar to what was implemented with the Infill Infrastructure Grant (IIG) awarded in 2009-10 to MidPen's Fair Oaks Plaza project, where the infrastructure project, consisting of a traffic light, crosswalk, and associated improvements on Fair Oaks Avenue at Iris Avenue, was successfully completed by MidPen on the City's behalf, with the IIG grant funds. No City match is required for the STI project.

FISCAL IMPACT

The recommended actions would not impact the General Fund. The contemplated City funding of \$5 million in Housing Mitigation funds is included in the FY 2015/16 Projects Budget. The funds would be disbursed to the applicant following close of escrow on the bridge loan, and would be converted to the permanent loan at construction closing, currently estimated to occur in March 2017. The Housing Mitigation fund exists for the purpose of funding affordable housing projects of this type, so the recommended action is consistent with its purpose and various city policies regarding affordable housing. In addition, if the AHSC application is successful, it would provide new funding to the City for the proposed sidewalk extension and green street improvements, which are currently unfunded.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Approve revised term sheet (Attachment 5) for bridge loan to MidPen Housing and/or its affiliate for the Benner Plaza Project, and authorize the City Manager to execute a loan agreement and associated loan documents consistent with this term sheet in a final form as approved by the City Attorney.
2. Adopt a Resolution (Attachment 6) authorizing joint application with MidPen for AHSC Program funding for the Benner Plaza project, including the STI project, and authorize the City Manager or her designee to sign any documents that may be required for submittal of the AHSC applications in March and/or June 2016.
3. Authorize staff to collaborate with MidPen on an application for AHSC Program funding for the Benner Plaza project, including the STI project, but not as a joint applicant, and authorize the City

Manager or her designee to sign any documents that may be required for submittal of the AHSC applications in March and/or June 2016.

4. Provide other direction to staff regarding Alternatives 1, 2, and/or 3.

STAFF RECOMMENDATION

Alternatives 1 and 2: 1) Approve revised term sheet for bridge loan to MidPen Housing and/or its affiliate for the Benner Plaza Project, and authorize the City Manager to execute a loan agreement and associated loan documents consistent with this term sheet, in a final form as approved by the City Attorney; and 2) Adopt a Resolution authorizing joint application with MidPen for AHSC Program funding for the Benner Plaza project, including the STI project, and authorize the City Manager or her designee to sign any documents that may be required for submittal of the AHSC applications in March and/or June 2016.

The Benner Plaza project, including the grant-contingent STI project, addresses the goals of the RFP, the City's General Plan and Housing Element, the City's Climate Action Plan (CAP), and related local and regional land use policies and plans. The recommended actions will help create affordable rental housing for lower-income households for at least 55 years. MidPen will provide 65 new affordable housing units to the City's affordable housing stock in an area that is adjacent to its largest employment center. In addition, if the AHSC funds are awarded, the project will also include the STI project, consisting of a sidewalk extension along Persian Drive, connecting to the Borregas Avenue pedestrian/bike bridge, which will allow residents of Benner Plaza and the surrounding neighborhood much better bike and pedestrian access to the many employment opportunities in Moffett Park. This would also help the City address the CAP goals of shifting mode share from driving to active transportation and transit modes, and reduction of greenhouse gas emissions. If the AHSC application is successful, construction of the project is expected to begin in March 2017, with completion in 2019.

Prepared by: Shila Behzadiaria, Assistant Housing Planner
Reviewed by: Suzanne Isé, Housing Officer
Reviewed by: Trudi Ryan, Director, Community Development
Reviewed by: Manuel Pineda, Director, Public Works
Reviewed by: Walter C. Rossmann, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Proposal Summary
2. Updated Financing Plan
3. AHSC Program Summary
4. STI Project Description
5. Revised Term Sheet
6. Draft Resolution