



Agenda Report

20-1437

Agenda Date: 1/28/2020

REPORT TO COUNCIL

SUBJECT

Public Hearing: Action on Project Approvals for the Proposed 65 Residential Unit Affordable Housing Project at 2330 Monroe Street [Council Pillar: Promote and Enhance Economic and Housing Development]

EXECUTIVE SUMMARY

The proposed project includes the development of 65 affordable residential units to be constructed by Freebird Development Company, LLC (Freebird).

The City, as Housing Successor to the dissolved redevelopment agency, was designated to assume all housing assets (including land) of the former redevelopment agency and these assets were placed into a Housing Successor Fund. As the Housing Successor, the City must initiate development activities on any land that it obtained from the former redevelopment agency within five years after the Department of Finance confirmed the property as a housing asset and consistent with the intent to provide housing affordable to persons and families of low and moderate income.

The City issued a Request for Proposals (RFP) in 2018 for the development of an affordable housing project on the City owned property located at the southeast corner of Monroe Street and San Tomas Expressway (2330 Monroe Street). Freebird was selected as the developer for the site through the RFP process and the City Council approved an Exclusive Negotiation Agreement (ENA) with Freebird in December 2018 to allow the project to proceed. Since that time, Freebird has been working with the City to process entitlements and to negotiate the terms of a Disposition and Development Agreement.

This report requests Council consideration of key project approvals that would allow for the development of up to 65 affordable housing units on City-owned land. These approvals include:

- Mitigated Negative Declaration (MND)
- Mitigation Monitoring and Reporting Program (MMRP)
- General Plan Amendment from Right of Way to Medium Density Residential
- Rezoning from Single Family (R1-6L) to Planned Development (PD)
- Disposition and Development Agreement

BACKGROUND

Freebird filed its development applications on February 21, 2019, which would collectively allow the development of a 65-unit affordable rental housing project at 2330 Monroe Street. The proposed entitlements include a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, a General Plan Amendment from Right of Way to Medium Density Residential, and a Rezone from Single Family Residential (R1-6L) to Planned Development (PD) (CEQ2019- 01067;

PLN2019-13723; PLN2019-13763, PLN2019-13764).

The subject property is currently a vacant City-owned site, bordered to the west by San Tomas Expressway and to the north by Monroe Street. Neighboring land uses include single-family houses to the north, south and east, two-story multifamily residential uses across Monroe Street to the northeast, and the San Tomas and Monroe Neighborhood Park across San Tomas Expressway to the west.

The proposed project consists of a single building ranging in height from two to three stories, approximately 32,000 square feet of open space for active recreational uses, and 98 surface parking spaces. The parking includes three stalls designated for future EV charging stations, a loading/drop-off/paratransit stall and six accessible stalls. All units within the project will be deed restricted as affordable housing. A unique aspect of the project is a 25 percent set-aside of units for intellectually and/or developmentally disabled persons.

The Planning Commission considered the proposed project at a publicly noticed meeting on November 13, 2019 and forwarded a recommendation to the City Council for approval with several amendments to the proposal as discussed later in the report. The Planning Commission staff report and excerpt meeting minutes are provided as Attachment 1 and Attachment 2 to this Council agenda report.

DISCUSSION

The following discussion provides a summary of the Planning Commission hearing and a description of the proposed project Disposition and Development Agreement (DDA). Under City procedures, the DDA is not part of the Planning Commission hearing process.

Planning Commission Meeting Summary

At the Planning Commission meeting on November 13, 2019, the Planning Commission discussed concerns about the proposed project density, need for a VTA bus stop closer to the project site to facilitate usage by residents, limiting removal of on-street parking along the Monroe Street project frontage, egress from the project site to Monroe Street, availability to the public for a proposed community room, the need for more parking spaces prewired for Electric Vehicle charging, and incorporation of more green building elements into the project proposal.

Commissioner Ikezi expressed concern over the proposed density (26 units per acre) of the project, noting that it is at the low end of the medium density designation (20-36 units per gross acre) and that it is reduced significantly from the previous proposal, a reference to a prior project proposed by the Sobrato Organization LLC in 2017. At that time, the Sobrato Organization entered into an exclusive negotiation agreement (ENA) with the City to construct approximately 200 affordable units and presented this development concept at community meeting on February 2, 2017 but determined not to pursue the project further due to strong community opposition. Staff explained that the current project density was the result of a community engagement process including a Community Visioning Workshop and a survey conducted in December 2017. A summary of community input was attached to the City's RFP issued in 2018 and projects submitted in response to the RFP were evaluated using the community input as a key criterion. The applicant also stated that the project is consistent with their response to the RFP in which they proposed to develop the site with 50-65 units.

Commissioner Cherukuru raised questions about the location of the bus stop in the project vicinity and suggested engaging with the VTA to relocate a bus stop closer to the project site. Currently there is an eastbound and a westbound VTA bus stop east of Los Padres along Monroe Street (approximately 500 feet, 2-5-minute walk). Staff noted that relocating the bus stop closer to the site would require approximately 100 feet of red curbing, resulting in the loss of additional street parking spaces.

Commissioner Jain requested that the project be modified to clearly delineate visitor parking spaces, provide outlets for charging electric bikes in the bike room, and make the proposed community room available to Santa Clara residents on a reservation basis. The applicant agreed to incorporate these changes into the project. Commissioner Jain further inquired if the proposal could limit the units to electricity and exclude gas as an energy source. The applicant explained that the project would include electric stoves, a centralized hot water system preheated with solar and a gas heat boiler.

Chair Becker expressed concern over the removal of the parking along the project frontage on Monroe Street and suggested that egress from the project onto Monroe Street should be limited to right-turn movements. Staff clarified that there were no conditions or mitigation measures in the environmental document from the traffic engineers to restrict a left turn. Further review with the traffic division after the Planning Commission meeting clarified that the proposed removal of the parking along Monroe is intended to ensure safety and visibility for drivers exiting from the property. In subsequent analysis staff concluded that allowing both left and right turn movements from the property would require removing approximately 8 cars to the west and 6 cars to the right of the driveway. Restricting the left turn and allowing only the right turn out would require removing only the 8 parking spaces to the west of the driveway. However, with the availability of the middle unprotected turn lane on Monroe Street, restricting the egress from the property to right turn only would be difficult to enforce. This may increase the possibility of more accidents.

Commissioner Saleme expressed the need for providing a designated space for short term drop off rideshare or delivery services such as Doordash or Uber. Chair Becker agreed that there is a need for a designated short-term parking space. The applicant explained that the guest parking spaces could be used for short term parking and that while providing a designated spot would take away from the spaces assigned to units, the project is expected to have a surplus of parking available based on actual observed parking demand at comparable developments. The applicant further explained that parking spaces will be assigned only to the units occupied by someone owning a car. Commissioner Saleme also expressed concern over how to monitor and regulate the use of the EV Charging spaces. The applicant explained that a property manager would be available on site to monitor that the residents move the cars from an EV charging space once the vehicles are charged.

Three members of the public were present at the meeting. Two spoke in favor of the project. One expressed concern about the need for more parking in the area. The applicant explained that based upon the intended resident population, the project includes adequate parking onsite.

The discussion concluded with the Planning Commission recommending that Council adopt the MND and MMRP and approve the General Plan amendment and rezoning with the following added conditions to the rezoning:

1. Provide outlets in the proposed bike room for electric bikes.
2. Applicant work with staff to see the feasibility of making the egress from the site to be

restricted to right turn only.

3. Five additional parking spots to be prewired for EV Charging.
4. Hot water to be provided utilizing a heat pump boiler instead of a natural gas boiler.
5. The proposed community room be made available to other Santa Clara residents for up to 20 events per year.
6. Provide a designated short-term parking space for rideshare or delivery services.
7. Applicant to work with staff to consider the feasibility of relocation of the VTA bus stop.

The Planning Commission further gave direction for staff to consider restricting parking along the project frontage on Monroe to smaller vehicles, but did not include this in their recommendation for the project.

The applicant conveyed that all the conditions were acceptable to them except for condition number 4, requiring them to use a heat pump boiler. The applicant further clarified that they propose to use a 95% efficient gas fired boiler, which requires lesser space and achieves the high energy efficiency standard as prescribed by the California Energy Code, effective January 1, 2020. The remaining conditions will be incorporated into the project either through the Planning Permit or Building Permit processes. A Permit condition (Condition #12) has been added to the Conditions of the Rezoning Approval, and agreed to by the applicant as follows:

- C12. The proposed community room shall be made available on a reservation basis to Santa Clara residents for up to 20 events per year.

Disposition and Development Agreement - Financing

The City is currently the fee owner of the Property. Approval of the recommended action would authorize the City Manager to execute a Disposition and Development Agreement (DDA) with Freebird, which provides the required terms and conditions for the conveyance and development of the Property (Attachments 11-20).

Consistent with the original project concept, at closing, the City will convey a ground lease to Developer for the affordable project and provide a supplemental capital loan of up to \$5,000,000 through a Loan Agreement. As a requirement of the loan, the Developer must maintain the affordable units for rent to qualified tenants for 55 years.

Attached to the DDA, among other documents, are the form of Ground Lease, Loan Agreement, and Affordability Agreements which would control how the Affordable Project will be developed and the terms and conditions of the relationship between the City and Developer over a 55-year term.

The Developer is in the process of securing the full funding necessary to build the project. In total, there are six anticipated sources of capital financing to be utilized for the Project as follows:

- **Low Income Housing Tax Credit Equity (LIHTC).** LIHTC is a limited partner equity generated through 4% low income housing tax credits that serve as both construction and permanent financing. The projected net equity to the project is \$13,000,000, based on an 86% applicable fraction given that 14% of the units are above 80% AMI tax credit rents (recent federal and state LIHTC regulation changes allows for 80% AMI units to qualify for tax credits as long as the overall income average of tax credit units is 59% AMI). The amount of equity is based on the published July 2019 tax credit rate of 3.23% and a raise of \$1.00 on the dollar, which is similar to

tax credit pricing on recent projects in the Bay Area post tax reform.

- **Tax Exempt Bonds** The second proposed source of financing is tax exempt bonds in the amount of \$25,000,000 during construction and \$11,200,000 during the permanent period. The tax-exempt bonds will be interest only and non-amortizing during construction. The projected construction term is 21 months with up to an additional 7 months to meet the permanent loan take-out requirements with a conservative assumption of 10 units leased per month plus a stabilization period. The permanent loan amount is based a minimum 1.15 debt coverage ratio, and 40-year amortization (consistent with current terms in the market place). Interest rates are 4.50% during construction and 5.50% during the permanent period.
- **City of Santa Clara Residual Receipts Loan.** The Developer is requesting a \$5,000,000 construction period and permanent residual receipts loan from the City of Santa Clara (\$77,000/unit), which is slightly higher than the \$4.9 million-dollar request considered in the original RFP Response. The current underwriting shows 2% interest on the loan, which can be repaid during the 55-year term of the loan using 3% income and 3% expense inflators. The 55-year cash flow shows that based on the City and County/State receiving 50% of the residual receipts on a pro rata basis, the loan will be repaid in Year 54 and, over that period, the City will receive roughly \$5,300,000 in interest on the loan in addition to the \$5,000,000 repayment of principal.
- **Santa Clara County Funds.** The fourth proposed source of financing is \$3,200,000 in County funds under a new funding source for projects with set-asides for people with intellectual and developmental disabilities (I/DD). This loan is being structured as a 3% residual receipts loan with a 55-year term sized at \$200,000 per I/DD unit (16 units). The Developer applied for this funding in August 2019 and was awarded the full amount.
- **State Multifamily Housing Program (MHP) Funds.** The fifth source of financing is \$5,500,000 in MHP funds. The State recently launched new funding for the MHP program with the intent to award twice annually through an RFP process. The first round is currently underway with a second round expected to be released in January of 2020. The project will need entitlements in place to be competitive for the MHP funding. The loan has been structured as a 0.42% residual receipts loan (the State will reduce interest down to 0.42% for financial feasibility) with a 55-year term. To maximize points under the MHP scoring system, the City and County funds must equal at least 150% of the MHP funds; therefore, the MHP loan has been sized at \$5,500,000. MHP funds have been structured as a permanent source only given State guidelines.
- **Deferred Developer Fee and Deferred Reserves.** The final source of financing is deferred costs including deferred developer fees and reserves. \$2,500,000 is anticipated to be deferred during construction with \$750,000 remaining deferred during permanent period to be repaid from residual receipts. \$750,000 is the amount that can be repaid during the first 10 years of operations per County guidelines.

The following is a summary of a potential financing structure:

Project Funding - Permanent Sources	
	Amount
Tax Credit Equity	\$ 13,000,000
Tax Exempt Bonds	\$ 11,200,000
City of Santa Clara Loan	\$ 5,000,000
County Loan	\$ 3,200,000
State MHP Loan	\$ 5,500,000
Deferred Developer Fee	\$ 750,000
Total Sources	\$ 38,650,000

Disposition and Development Agreement - Affordability

The Developer's proposal to provide housing for moderate-income, "workforce" households addresses the community's desire to create homes in the City for people who work in a variety of lower-paying jobs that provide key services to the community. The City's existing market rate rental housing is out of reach for many working families, including those supported by workers in public service, health care, education, retail, hospitality, and social services. While workers in the lowest-paid jobs (from minimum wage to 60% AMI) can apply for five-year wait lists for affordable housing, families in the 60% to 120% AMI range are excluded even from typical affordable housing. The following is a summary of the project's proposed affordability structure:

Proposed Project Unit Mix		
Income	Total Units	Percentage
25% AMI	16	25%
50% AMI	10	15%
60% AMI	13	20%
80% AMI	16	25%
100% AMI	9	14%
Manager	1	1%
Total	65	100%

A unique aspect of the Developer proposal is a set-aside of 25% of the units (16 units at 25% AMI) for Santa Clara's growing population of adults with developmental and/or intellectual disabilities. This provision would address a previously unmet goal of the City's 2014-2022 Housing Element: to collaborate with developers to create inclusive housing for people with developmental disabilities served by the San Andreas Regional Center.

Disposition and Development Agreement - Project Transaction and Key Terms

Key terms of the anticipated DDA include the following:

The Project:

2330 Monroe Street, an affordable rental residential development, is to be constructed on a 2.5-acre

site at 2330 Monroe Street, Santa Clara, APN: 224-37-068 ("Site"). The development will contain 65 affordable housing units.

Borrower:

Freebird Development Company, LLC, a California limited liability company ("Freebird"), or a limited partnership for which Freebird serves as administrative general partner.

Service Provider:

Housing Choices Coalition for Persons with Developmental Disabilities, Inc. ("Housing Choices Coalition") through a Memorandum of Understanding with Freebird and the San Andreas Regional Center. Funding for social services for the households with intellectual and/or developmental disabilities to be provided by the San Andreas Regional Center.

Unit Mix:

The unit mix includes 12% studios, 34% one-bedroom units, 45% two-bedroom units and 9% three-bedroom units. The Project will include a community room, property management and social services offices, an exercise room, a library/game room, onsite laundry, an All Abilities play area and an outdoor fitness path.

City Funding:

Up to \$5,000,000, subject to underwriting acceptable to the City of Santa Clara ("City").

Loan Term:

The Construction/Permanent Loan shall have a term commencing at the close of construction financing and ending fifty-five (55) years from the date the Project receives its certificate of occupancy (or equivalent).

Property Ownership and Ground Lease:

The City will retain fee ownership of the parcel through a ground lease. The City shall ground lease the Site to the Borrower for a term of fifty-five (55) years, or longer as may be required by the California Department of Housing and Community Development and/or the Project's senior lender or tax credit investor. The Construction/Permanent Loan shall be repaid on a residual receipts basis, with the City receiving a pro-rata share of fifty percent (50%) of the net cash flow of the Project, to be split proportionally with the County and, if applicable, the State, based on the proportionate amount of each public agency's financial contribution to the Project.

Next Steps

The DDA documents the terms and conditions of the anticipated project and conveyance of the property to the Developer. The draft form of Ground Lease and Loan Agreement will be attached to the DDA. These documents will control how the project will be developed and the terms and conditions of the relationship between the City and Developer over a 55-year term. An Affordability Agreement will restrict AMI levels for the affordable residential units.

It is currently anticipated that the 2330 Monroe Street project will close financing and start construction by the end of 2020.

ENVIRONMENTAL REVIEW

A Mitigated Negative Declaration (MND) was prepared for the project in accordance with the

California Environmental Quality Act (CEQA). The MND and Notice of Availability were posted on the City's website at www.santaclaraca.gov/ceqa and circulated for 30-day review on September 25, 2019 and closed on October 25, 2019, in accordance with CEQA requirements. The Planning Department received agency comments in response to the MND, which are attached to this staff report for review. Copies of the MND are available in the Planning Division office at City Hall.

The MND examined environmental impacts associated with project development and identified potential air quality, biological, cultural resources, geology and soils, hazardous materials, and noise impacts that with incorporation of mitigation measures into the project would reduce all potential impacts to less than significant. A detailed discussion of the potential impacts and mitigation measures to be applied to the project are specified in the MND and would be implemented through project conditions of approval and the Mitigation Monitoring and Reporting Program (MMRP) for the proposed project.

At the November 13, 2019 Planning Commission meeting, the Commission voted to recommend that the City Council adopt the MND and MMRP.

FISCAL IMPACT

If approved, the City's loan of up to \$5,000,000 for the affordable project would be drawn from the City's Housing Successor Fund, which currently has an unrestricted fund balance of \$11.8 million available. This loan is expected to be paid next fiscal year and depending on the timing of the project loan, may be incorporated into the FY 2020/21 budget development process.

The principal under this loan will bear simple interest at a rate of 3% per year, subject to final underwriting. The principal and interest due under this agreement would be paid 55 years from the date of the agreement. Annual payments would be made upon the availability of residual receipts and would be proportionally split between the subordinate lenders.

COORDINATION

This report was coordinated with the City Manager's Office, City Attorney's Office and Finance Department.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

Public Notices and Comments:

The notice of public hearing for this item was posted on January 16, 2020, in three conspicuous locations within 300 feet of the site and was mailed to property owners within 1,000 feet of the project site. In addition, a Notice of Hearing for the project applications was published in *The Weekly*, a newspaper of general circulation for the City, on January 15, 2020. At the time of this staff report, no further public comments were received.

Public Outreach Meetings

A total of four neighborhood community meetings were conducted to engage neighbors in the project planning process. Public notice of the community meetings was mailed to property owners within 1000 feet of the project site and posted on the City's Community Meetings webpage. Prior to submitting an application to the City, the developer conducted two noticed community meetings on October 17, 2018 and November 5, 2018 at the City Hall Cafeteria at 6:00 p.m. Both meetings were well attended by community members, who expressed general interest in the proposal with concerns mostly regarding the impact of the project on the adjacent residential development primarily focusing on parking.

Following submittal of the application the developer conducted two additional noticed community meetings to present the development proposal to neighbors and interested parties and engage public input. The meetings were held at the City Hall Cafeteria from 6:00 p.m. to 8:00 p.m. on February 21, 2019 and July 30, 2019; each meeting was attended by approximately 20-25 community members. City staff also informally discussed the project with neighborhood representatives on multiple occasions.

ALTERNATIVES

1. Adopt a resolution to adopt the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the Affordable Housing Project at 2330 Monroe Street.
2. Adopt a resolution to approve a General Plan amendment from Right of Way to Medium Density Residential for the property at 2330 Monroe Street.
3. Adopt a resolution to approve a rezoning from Single Family Residential (R1-6L) to Planned Development (PD) to allow development of 65 rental affordable residential units, landscaped open space, surface parking and site improvements.
4. Adopt a resolution approving and authorizing the City Manager to negotiate and execute a Disposition and Development Agreement with Monroe Street Housing Partners L.P. for the development of 65 units of housing at 2330 Monroe Street and further authorizing the City Manager to execute all other agreements (including a Ground Lease, Loan Agreements, Deeds of Trust, Promissory Notes, and Affordable Housing Agreement) in a form consistent with the DDA and all other documents necessary or convenient to close escrow and implement the purposes and terms of the DDA
5. Deny the General Plan amendment from Right of Way to Medium Density Residential and direct staff to bring back a resolution of denial for adoption at a future Council meeting.
6. Deny the rezoning from Single Family Residential (R1-6L) to Planned Development (PD) for the development of 65 rental affordable residential units, landscaped open space, surface parking and site improvements and direct staff to bring back a resolution of denial for adoption at a future Council meeting.
7. Any other alternate action as directed by Council

RECOMMENDATION

Alternatives 1, 2, 3, and 4:

1. Adopt a resolution to adopt the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the Affordable Housing Project at 2330 Monroe Street;
2. Adopt a resolution to approve a General Plan amendment from Right of Way to Medium Density Residential for the property at 2330 Monroe Street;
3. Adopt a resolution to approve a rezoning from Single Family Residential (R1-6L) to Planned Development (PD) to allow development of 65 rental affordable residential units, landscaped open

- space, surface parking and site improvements; and
4. Adopt a resolution approving and authorizing the City Manager to negotiate and execute a Disposition and Development Agreement with Monroe Street Housing Partners L.P. for the development of 65 units of housing at 2330 Monroe Street and further authorizing the City Manager to execute all other agreements (including a Ground Lease, Loan Agreements, Deeds of Trust, Promissory Notes, and Affordable Housing Agreement) in a form consistent with the DDA and all other documents necessary or convenient to close escrow and implement the purposes and terms of the DDA

Reviewed by: Andrew Crabtree, Director of Community Development

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Planning Commission Report for November 13, 2019
2. Planning Commission Excerpt Meeting Minutes
3. Project Data
4. Web Link to 2330 Monroe MND and MMRP
5. Responses to Comments Received on the MND
6. Resolution to Adopt the MND and MMRP
7. Resolution to Approve the GPA
8. Resolution to Approve the Rezoning
9. Conditions of Rezoning
10. Planned Development Plans
11. Resolution Approving the Disposition and Development Agreement
12. Freebird DDA (Including Attachments A - F)
13. Freebird DDA Attach G & H Ground Lease
14. Freebird DDA Attach I City Loan Agreement
15. Freebird DDA Attach J City Promissory Note
16. Freebird DDA Attach K City Deed of Trust
17. Freebird DDA Attach L City Assignment of Rents and Leases
18. Freebird DDA Attach M City Assignment of Agreements
19. Freebird DDA Attach P City Regulatory Agreement
20. Freebird DDA Attach R City Environmental Indemnity