

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JILL SCOTT, REAL ESTATE MANAGER
REAL ESTATE SERVICES
SUBJECT: REQUEST THAT THE CITY COUNCIL DECLARE PURSUANT TO GOVERNMENT CODE SECTION 54221 THAT CERTAIN REAL PROPERTY OWNED BY THE CITY AND LOCATED AT 702 & 716 BENNETT VALLEY ROAD AND 921 & 927 RUTLEDGE AVENUE (APN 038-151-004, 038-151-011, 009-333-009, 009-333-014) IS EXEMPT SURPLUS LAND THAT WILL BE TRANSFERRED AS AFFORDABLE HOUSING PURSUANT TO GOVERNMENT CODE 37364

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by Real Estate Services, Transportation and Public Works and Housing Departments that the Council, by Resolution, declare pursuant to Government Code Section 54221 that real property located at 702 & 716 Bennett Valley Road and 921 & 927 Rutledge Avenue (APN 038-151-004, 038-151-011, 009-333-009, 009-333-014) is “exempt surplus land” under the Surplus Lands Act, and directing that the Resolution be submitted to the State Department of Housing and Community Development in accordance with Section 400(e) of the HCD Surplus Lands Act Guidelines.

EXECUTIVE SUMMARY

In May 2019, the City issued a Request for Developer Qualifications/Proposals (“RFQ/P”) for the development of affordable housing on the City owned property located at 702 & 716 Bennett Valley Road and 921 & 927 Rutledge Avenue, also known as the former Bennett Valley Senior Center Complex (the “Property”). The RFQ/P contemplated that the City would convey the property to an affordable housing developer to construct new affordable housing units to help meet the City’s affordable housing needs. The City selected Freebird Development Company, LLC and Allied Housing, Inc. (the “Developer”) and negotiated a Disposition and Development Agreement (the “DDA”) to convey the Property for the future development of permanent supportive housing and affordable housing. After the RFP was issued, the State adopted Assembly Bill 1486, which adopted new obligations for public agencies under

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the Surplus Lands Act, including a requirement that prior to disposing of most publicly owned properties, public agencies must make findings as to whether the property is “surplus land” or “exempt surplus land.” The Surplus Lands Act includes an exemption for property that is developed as affordable housing that meets certain affordability levels pursuant to Government Code Section 37364. The housing to be developed pursuant to the DDA will meet the income requirements of Government Code Section 37364 and is therefore “exempt surplus land.” Staff recommends that the Council adopt a resolution finding that the Property is exempt surplus land, which will then be forwarded to HCD in accordance with the HCD Surplus Lands Act Guidelines.

BACKGROUND

Following Council’s direction to utilize the site for permanent supportive housing and affordable housing, on May 29, 2019 the City issued an RFQ/P for an affordable housing development to be located on the Property. On September 24, 2019, the Developer was selected by Council as the preferred developer. The City negotiated an Exclusive Negotiation Agreement with Developer which was approved on May 19, 2020, and after negotiation of terms between the Developer and City, the City Council approved the DDA on June 29, 2021.

After the City issued the RFP, the State legislature adopted AB 1486, which enacted new requirements pursuant to the Surplus Lands Act. Among other things, AB 1486 required that before a City could dispose of public property, it must declare that property to be either “surplus land” (and then follow certain procedural requirements set forth in the Surplus Lands Act), or “exempt surplus land” (in which case the City could dispose of the land without following the Surplus Lands Act processes).

PRIOR CITY COUNCIL REVIEW

On September 24, 2019, the Council approved the RFQ/P proposal from Developer.

On May 19, 2020, the Council approved the ENA with Developer.

On June 29, 2021, the Council approved the DDA with Developer.

ANALYSIS

The DDA provides that the Developer will develop the land with affordable housing, with approximately 50% of the units set aside for Extremely Low Income/formerly homeless housing/persons (20-30% of Area Median Income) and approximately 50% of the units set aside for Low and Very-Low Income households (80% and 50% of Area Median

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Income). The DDA further provides that the City will convey the Property to the Developer for \$1, but only once the Developer has secured all entitlements and financing for the proposed project and is in a position to secure building permits as soon as the Developer takes possession of the Property.

The Surplus Lands Act as amended by AB 1486 sets forth certain procedural requirements that public agencies must follow before disposing of any “surplus lands”. One of the main purposes of these procedural steps is to provide affordable housing developers and opportunity to make offers to acquire surplus lands before other interested parties, as a means of providing more opportunities for affordable housing. In light of this purpose, the Surplus Lands Act does include certain exemptions when an agency is already planning to dispose of land for affordable housing, including an exemption for land that is “transferred pursuant to [Government Code] Section 37364.” (Government Code section 54221(f)(1)(A).) Government Code Section 37364 authorizes cities to convey land to a developer for developing housing where at least 40% of the total developed units are to be affordable to households whose incomes are less than or equal to 75% of the maximum income for lower income households (80% of AMI), and at least half of the affordable units are set aside for very low income households (50% of Area Median Income).

As noted above, the DDA provides that approximately half the units will be rented to households at 20-30% of AMI, and approximately half will be rented at 50-60% of AMI. Government Code Section 37364 requires only 40% of the units to be affordable, and of those, half (or 20% of the total) are set at 50% of AMI, and half (or 20% of the total) are set at 60% of AMI (i.e., 75% of 80% of AMI). The affordability levels under the DDA are therefore well under the requirements set forth in Section 37364, and the transfer of the Property pursuant to the DDA is exempt from the Surplus Lands Act.

In order to ensure compliance with the Surplus Lands Act the City Council must therefore adopt a resolution finding that the conveyance of the Property pursuant to the DDA is exempt from the Surplus Lands Act and forward the resolution to HCD prior to final conveyance of the Property. City staff is recommending that the Council take this action now, to confirm compliance with the Surplus Lands Act well before closing on the conveyance of the Property.

FISCAL IMPACT

Approval of this action does not have a fiscal impact on the General Fund.

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ENVIRONMENTAL IMPACT

The designation of the property as exempt surplus does not have the potential for creating a significant effect on the environment and is therefore exempt from further review under CEQA pursuant to State CEQA Guidelines Section 15060(c)(3), because it is not a project as defined by the CEQA Guidelines, Section 15378. Adoption of the Resolution does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The project proposed in the DDA was subject to ministerial planning review pursuant to Government Code Section 65913.4 ("SB 35"), and this resolution does not contemplate any development not already approved in accordance with SB 35.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Resolution / Exhibit A – Bennett Valley Apartments DDA

CONTACT

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