



CITY OF KIRKLAND
Department of Planning and Community Development
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MEMORANDUM

To: Kurt Triplett, City Manager

From: Dawn Nelson, Planning Supervisor
Arthur Sullivan, ARCH Program Manager

Date: November 29, 2011

Subject: MODIFICATION TO ARCH HOUSING TRUST FUND PROJECT – COPPER LANTERN, FILE MIS11-00001

RECOMMENDATION

Staff recommends that the City Council adopt a motion to approve a modification to the conditions of approval for the Low Income Housing Institute's (LIHI) Copper Lantern affordable housing project in Kenmore. The modifications are to allow:

- 21 of the 33 units to be affordable rental units at 50% and 60% of median income rather than affordable ownership units at 80% of median income; and
- The covenant to ensure affordability to extend for 50 years instead of 99 years.

BACKGROUND DISCUSSION

On January 17, 2006, the City Council approved allocation of \$44,850 from the City's Housing Trust Fund set aside for the Copper Lantern project, based on the ARCH Executive Board's recommendation. The project was proposed as 33 units of attached ownership housing for first time homebuyers with incomes at 80% of median income. Unit sizes ranged from one to four bedrooms. The award was a secured grant, meaning that repayment was not required unless individual units were no longer meeting the affordability criteria (which may happen if an individual owner defaults on a loan). When initially approved, the applicant was pursuing a land trust model including land leases that would run for 99 years.

The contract for the project was signed in March of 2008, as approved by the City Council. One change to the project was that a land trust model was no longer considered feasible. Based on that change, staff approved a more traditional resale covenant for the project, which requires a 50 year limit on affordability. This is the standard for ownership housing projects and significantly increases the ability for purchasers to acquire financing. To account for the difference in the length of the affordability limitation, the covenant includes a provision that, for the first sale after year 50, the seller will only get the amount of money they would have gotten

if the longer resale restriction had been in place. Any profit above that amount will go into the ARCH Housing Trust Fund.

In early 2009, the first two buildings were completed and units were sold as condominiums to individuals meeting the income guidelines. There were a total of 12 three and four bedroom units sold. The remaining two buildings, with 21 one and two bedroom units, were completed in early 2010. With the downturn in the housing market, LIHI did not proceed with the sale of the one and two bedroom units. The affordable purchase price for these units exceeded the price of other, unrestricted condominium units that were on the market. For the last year, LIHI has been evaluating the potential to convert those units to affordable rental housing.

Attachment 1 to this memo is the project description and conditions of approval that were in the City Council packet when this project was approved in 2006. It includes strikeouts and underlines to show the changes that are proposed.

The following chart summarizes the affordability structure for the approved project and the project as it is proposed to be modified.

Unit Size	Median Income Limit	Approved Project	Proposed Project
1 Bedroom	50%		9 rental
1 Bedroom	80%	9 owner	
2 Bedroom	50%		7 rental
2 Bedroom	60%		5 rental
2 Bedroom	80%	12 owner	
3 Bedroom	80%	9 owner	9 owner
4 Bedroom	80%	3 owner	3 owner
TOTAL		33	33

The pros and cons of the proposed changes have been identified as:

- 21 affordable ownership units will not be brought to market, but those same units will be made affordable as rental units to persons with lower incomes.
- An additional \$767,000 in public funding is needed to allow the 21 units to be used as rental units rather than ownership units, but this allows greater affordability for those units. King County found that the proposed change had merit and awarded the additional funding this fall. King County will enforce the affordability covenant for the rental units.
- The approved project has every public funder sharing in the investment of every unit, which puts the City sixth in line to recover funds if there is a default on any unit (see Attachment 2). The proposed funding scheme has King County and the State investing in eight of the ownership units and the ARCH cities (Kenmore, Kirkland and Woodinville) investing in the remaining four ownership units. This improves the security of the City's money, making us second in line to recover funds if there is a default on one of the four units (see Attachment 3).

- The proposed change will guarantee the rental units will remain affordable for 50 years rather than 99 years. Fifty years is a typical affordability requirement for rental projects and generally covers the life of the use. The 99 year term was included in the original conditions of approval based on the land trust model, which was not used.
- If the modification is not approved, it would likely result in foreclosure on a portion of the property, impacting the existing homeowners and threatening the long term affordability of the 21 units that have not been sold. It would also impact the non-profit developer, LIHI, who will default on a private construction loan, in addition to not meeting the conditions of approval from various public funders.

Based on this analysis, staff concludes that the benefits of completing a successful project and bringing an additional 21 affordable housing units on-line at a more affordable level far outweigh the loss of having those units be available for purchase by income qualified households.

Attachments

1. LIHI Kenmore Court Project Summary and Conditions
2. Existing Public Funder's Recovery Positions
3. Proposed Public Funder's Recovery Positions

1. Low Income Housing Institute (LIHI)-Kenmore Court

Funding Request:	\$350,000 (Secured Grant)
Ex. Board Recommendation:	\$ 350,000 (Secured Grant)
	\$217,650 King County CDBG
	\$ 75,000 City of Kenmore
	\$ 44,850 City of Kirkland
	\$ 12,500 City of Woodinville

Project Summary:

The Low Income Housing Institute proposes to acquire a 1.1 acre site located 2 blocks north of the City of Kenmore's Town Center shopping area, demolish the existing owner occupied single family residence, and construct 33 units of attached ~~ownership~~ housing for first time homebuyer households with incomes at 80% of median income and rental housing for households with incomes up to 60% of median income.

Unit mix will be 9 one bedroom units, 12 two bedroom units, 9 three bedroom units and 3 four bedroom units. The 3 four bedroom units will be arranged in a 3-story triplex configuration, with garages below the units. The 10 3 bedroom units will be arranged in a straight line, with one car garages beneath the units and one surface parking space each on their driveway aprons. The rental units will be in ~~The 21 one and two bedroom units located to the rear of the property. will sit on top of an underground parking structure, which will house 23 parking spaces.~~ The central area of the site will contain a small open space, surrounded by a circle driveway turn-around for fire department vehicles.

The applicant ~~intends will to~~ use a resale covenants ~~community land trust model~~ to maintain affordability in the ownership units. ~~The applicant would retain ownership of the land and sell the improvements (units) to purchasers. All units affordable to households at 80% of median income~~ The rental units will have a separate covenant controlling long term affordability of those units. Four of the rental units will be prioritized to formerly homeless households.

For the ownership units, ~~t~~The applicant would partner with other agencies for pre-purchase counseling and homebuyer education.

Funding Rationale:

The Executive Board supported this application for the following reasons:

- The creation of affordable ownership units has been an under met goal of the ARCH Housing Trust Fund
- Affordability is proposed for a longer than standard term (99 years instead of 50 years)
- All units would be affordable to households at 80% of median income
- A significant portion of the units are for larger households (3 and 4 bedroom units)
- The site is convenient to employment, shopping and transit
- The location would help to increase geographic distribution of housing funded through the Trust Fund.

Conditions:

1. General funds shall be used by Low Income Housing Institute ('Agency') to write down construction and closing costs. CDBG funds shall only be used for site improvements, site preparation and permit costs. Funds may not be used for any other purpose unless City Staff has given written authorization for the alternate use.

This condition was met, and doesn't appear impacted by the revised project.

2. In the event federal funds are used, and to the extent applicable, federal guidelines must be met. The Agency shall consult with King County Staff regarding use of any federal funds in the project.

This condition was met, and doesn't appear impacted by the revised project.

3. Prior to the release of the funding commitment proposed for development of the property, the Agency shall submit documentation of the commitment of all proposed public and private funds needed to complete the project. In the event commitment of funds identified in the application cannot be secured in the time frame identified in the application, the Agency shall immediately notify City Staff, and describe the actions it will undertake to secure alternative funding and the timing of those actions subject to City Staffs review and approval.

This condition was met originally. The applicant has kept funders apprised when issues rose with selling the one- and two-bedroom units. Worked with funders to explore feasibility of converting some units to rental and progress toward alternative funding.

4. The funding commitment shall continue for eighteen (18) months from the date of Council approval and shall expire thereafter if all conditions are not satisfied, except, that if condition number 3 is not met by July 15,2006, the City may withdraw its funding commitment. For all conditions, other than condition 3, an .extension may be requested to City staff no later than sixty (60) days prior to the expiration date. City staff will consider an extension only on the basis of documented, meaningful progress in bringing the project to readiness or completion.

This condition was originally met and doesn't appear impacted by the revised project.

5. Funds will be in the form of a secured grant, with no repayment, so long as affordability and target population is maintained.

This condition was originally met. Revised affordability is greater than 80% of median income (see condition 7).

6. If there is any project cash flow after payment of housing expenses, it shall remain as revenue to the Homeowners Association, and shall be retained as reserves for the Homeowner Association budget.

This condition was originally met. Proposed update is that a similar type of reserve be set up for the rental housing.

7. A covenant is recorded ensuring affordability for at least 99 years, with affordability as shown in the following table, unless otherwise approved by City Staff.

Affordability Level	1 Bdrm	2 Bdrm	3 Bdrm	4 Bdrm	TOTAL
Moderate Income (80% Median)	9	12	9	3	33
	9	12	9	3	33

The revised project meets and exceeds the original affordability levels. The condition is updated to state the one and two bedroom units will be rental units with 16 units affordable at 50% of median income and 5 units affordable at 60% of median. Because a land trust model was not used, a 50 year affordability period is proposed, which is consistent with the duration of affordability of other projects funded through the Trust Fund.

8. Prior to release of funds, the Agency shall submit evidence of site control.

This condition was originally met and doesn't appear impacted by the revised project.

9. Prior to release of funds, the Agency shall provide a revised project implementation timeline, development budget and operating budget based upon more complete cost estimates and actual funding commitments, which must be approved by City Staff. If the Agency is unable to adhere to the timeline and/or budgets, City Staff must be immediately notified and a new timeline and/or budgets shall be submitted by the Agency for the City Staffs approval. The City shall not unreasonably withhold its approval to a revised timeline and/or budgets, so long as such new timeline and/or budgets does not materially adversely change the Project. This shall be a continuing obligation of the Agency. Failure to adhere to the timeline and budgets, either original or as amended, may result in withdrawal of the City's commitment of funds.

This condition was originally met and funds were released. City staff has been kept apprised of changes. It appears that the revised proposal is best way to retain the overall property for affordable housing. The homeowners who did purchase are supportive of the shift in structure. Not supporting the restructuring would likely result in foreclosure on a portion of the property, which could impact the homeowners as well as the non-profit developer, LIHI.

10. Prior to release of funds, submit a final marketing strategy, setting forth the Agency's final marketing plan that emphasizes identifying homebuyers from East King County. The strategy must be approved by City Staff

This condition was originally met and doesn't appear impacted by the revised project.

11. Prior to release of funds, submit copies of the final community land trust documents and resale covenants, that will result in the long term affordability of the units, for City Staff approval. Approval will be based on the ability of the documents to ensure long term affordability and as applicable to ensure other conditions of funding will be adhered to.

This condition was originally met and covenants have been recorded for all the ownership units. Due to constraints with homeowners getting financing, a land trust model was not used. Instead a resale covenant approach is being used which creates the same long term affordability levels and appreciation for homeowners. This condition is being updated to include a requirement for an affordability covenant for the rental portion of the project, which covenant will be administered by the County.

12. Maintain documentation of all necessary licenses, land use approvals and permits.

This condition was originally met and doesn't appear impacted by the revised project.

13. Submit monitoring reports quarterly through completion of the project, and annually thereafter. Submit a final budget upon project completion. If applicable, submit initial tenant information as required by the City or County.

This condition was originally met and doesn't appear impacted by the revised project.

Termination of Affordability
Public Funder's Position for Remaining Sales Proceeds

In the event that the affordability covenant is terminated due to default and foreclosure, any remaining sale proceeds shall be paid to the Agency and the Agency shall distribute the remaining sales proceeds to the public funders according to the table below.

	Payment of	King County	State HTF	FHLB AHP	ARCH	ARCH	ARCH	
	Encumbrances	HOME Funds		(only 5 years)	Kenmore	Kirkland	Woodinville	Total:
Position:	1st	2nd	3rd	4th	5th	6th	7th	
Bldg. 1 (3 Units)								
1	4-bdrm - EAST		43,750	10,000	5,966	3,568	994	64,278
2	4-bdrm		43,750	10,000	5,966	3,568	994	64,278
3	4-bdrm - WEST	111,000		10,000				121,000
Bldg. 2 (9 Units)								
4	3-bdrm - SOUTH	99,900		10,000				109,900
5	3-bdrm	99,900		10,000				109,900
6	3-bdrm		31,250	10,000	4,261	2,548	710	48,770
7	3-bdrm		31,250	10,000	4,261	2,548	710	48,770
8	3-bdrm		31,250	10,000	4,261	2,548	710	48,770
9	3-bdrm		31,250	10,000	4,261	2,548	710	48,770
10	3-bdrm		31,250	10,000	4,261	2,548	710	48,770
11	3-bdrm		31,250	10,000	4,261	2,548	710	48,770
12	3-bdrm - NORTH	99,900		10,000				109,900
Bldg. 3 (12 Units)								
13	1-bdrm - SOUTH	99,900		10,000				109,900
14	1-bdrm		6,250	10,000	852	510	142	17,754
15	1-bdrm		6,250	10,000	852	510	142	17,754
16	1-bdrm		6,250	10,000	852	510	142	17,754
17	1-bdrm		6,250	10,000	852	510	142	17,754
18	1-bdrm - NORTH	99,900		10,000				109,900
19	2-bdrm - SOUTH	99,900		10,000				109,900
20	2-bdrm		29,688	10,000	4,048	2,421	675	46,831
21	2-bdrm		29,688	10,000	4,048	2,421	675	46,831
22	2-bdrm		29,688	10,000	4,048	2,421	675	46,831
23	2-bdrm		29,688	10,000	4,048	2,421	675	46,831
24	2-bdrm - NORTH	99,900		10,000				109,900
Bldg. 4 (9 Units)								
25	2-bdrm-SOUTH	99,900		10,000				109,900
26	1-bdrm		6,250	10,000	852	510	142	17,754
27	1-bdrm		6,250	10,000	852	510	142	17,754
28	1-bdrm - NORTH	99,900		10,000				109,900
29	2-bdrm - SOUTH		29,688	10,000	4,048	2,421	675	46,831
30	2-bdrm		29,688	10,000	4,048	2,421	675	46,831
31	2-bdrm		29,688	10,000	4,048	2,421	675	46,831
32	2-bdrm		29,688	10,000	4,048	2,421	675	46,831
33	2-bdrm - NORTH	99,900		10,000				109,900
TOTAL:		1,110,000	550,000	330,000	75,000	44,850	12,500	2,122,350

**Termination of Affordability
 Proposed Public Funder's Postion for Remaining Sales Proceeds**

		King County Rental Funding	King County HOME Funds	State HTF	ARCH Kenmore	ARCH Kirkland	ARCH Woodinville	FHLB AHP (only 5 years)
			1st	2nd	1st	2nd	3rd	3rd or 4th
Bldg. 1 (3 Units)								
Unit #	Type							
1	4-bdrm		\$ 138,750	\$ 68,750				10,000
2	4-bdrm		\$ 138,750	\$ 68,750				10,000
3	4-bdrm				\$ 18,750	\$ 11,213	\$ 3,125	10,000
Bldg. 2 (9 Units)								
4	3-bdrm		\$ 138,750	\$ 68,750				10,000
5	3-bdrm		\$ 138,750	\$ 68,750				10,000
6	3-bdrm		\$ 138,750	\$ 68,750				10,000
7	3-bdrm		\$ 138,750	\$ 68,750				10,000
8	3-bdrm		\$ 138,750	\$ 68,750				10,000
9	3-bdrm		\$ 138,750	\$ 68,750				10,000
10	3-bdrm				\$ 18,750	\$ 11,213	\$ 3,125	10,000
11	3-bdrm				\$ 18,750	\$ 11,213	\$ 3,125	10,000
12	3-bdrm				\$ 18,750	\$ 11,213	\$ 3,125	10,000
Bldg. 3 and 4 (21 Units)								
Rental Housing		\$767,000						
TOTAL		\$767,000	\$ 1,110,000	\$ 550,000	\$ 75,000	\$ 44,850	\$ 12,500	\$ 120,000