

CC 09-04-2024

#14

Mary Avenue

Supplemental Report



CITY MANAGER'S OFFICE

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CITY COUNCIL STAFF REPORT SUPPLEMENTAL 1

Meeting: September 4, 2024

Agenda Item #14

Subject

Review City Work Program funding to develop new ELI (Extremely Low Income) and BMR housing units for Developmentally Disabled individuals (IDD) on City-owned property along Mary Avenue (APN: 326-27-053)

Recommended Action

Receive presentation and authorize staff to utilize the entire remaining budgeted amount (up to \$235,000) to evaluate the proposal received for the City-owned property on Mary Ave.

Background:

Staff's responses to questions received from Councilmembers are shown in italics.

Staff received the following questions regarding Item #14 via email on September 3, 2024:

Q1: The city will use the BMR funding to pay for the city staff time and the project review time? And the nonprofit partner's time? The staff report states "The estimated cost to finish the entitlement process is \$230,000, which includes staff time, consultant peer review of applicant studies, and disposition of the property." (**Chao**)

Staff response: The BMR funding will only cover the administrative time for City Staff and the City's consultants. The developer will not be reimbursed for their time or expenses for the project.

Q2: Could we have a breakdown of this estimated cost of \$230,000? This seems to be a lot more administrative time being charged to the fund for below-market-rate housing. So, I hope to get some clarity. (**Chao**)

Staff response: The \$250,000 estimate is based on cost of the adopted City Council Work Program item. Once a project has been submitted, staff will be able to provide updated estimates. The purpose of this item is to determine if Council wishes to support the project by providing the

requested funding for entitlement costs.

Q3: The residents stated in the email below: "my husband and I attended the July 23rd community meeting at Quinlan Center regarding the proposal to build the Mary Avenue Villas". What information was shared on this meeting? Any presentation or design shared? I did not find any detailed project proposal, but it seems the residents have seen more than what's on the Council agenda packet. **(Chao)**

Staff response: Although staff attended the meeting, this was organized and facilitated by the developer. This question is not germane to the agenda item. Staff will follow up with a response within two weeks.

Q4: The residents expressed concerns on these items. Please clarify whether each concern is a part of the project or not? Such as whether the project proposal would narrow the car lanes?

- Proposed dimensions of the project
- Proposed narrowing of the two remaining car lanes, on Mary Ave
- Proposed reduction of parking on the west side of Mary Ave and total removal of parking spaces on the east side.
- Proposed narrowing of existing sidewalks, that already only accommodate, two abreast walkers, at a time, one adult with a child and stroller, or one disabled person in a wheelchair or using a walker.
- The Safety of bicyclists **(Chao)**

Staff response: This question is not germane to the agenda item. Staff will follow up with a response within two weeks.

Q5: If any preliminary design has been shared with the city staff, in addition to the ones presented at the July 23rd community meeting, and they are public record, please share them. **(Chao)**

Staff response: This question is not germane to the agenda item. Staff will follow up with a response within two weeks.

Q6: What kind of studies the city will do to evaluate the project related to the concerns below? What mitigation measures, if any, will be proposed and when?

- The Safety of bicyclists
- Traffic flow for residents of Casa De Anza, Glenbrook Apartments, Nathanson Ranch homes, between Mary Ave and Castine, the 200+ new townhomes, new Westport Senior apartments, planned Memory Care and Assisted Living facility, and proposed, Mary Avenue Villas.
- Congestion generated by Memorial Park festival parking. For example, on August 24, cars were parked all the way down Mary Avenue on both sides of the street and some were blocking traffic by waiting in traffic lanes for a space.
- If the Mary Ave Villas gets approved, how and where are construction vehicles

going park and unload during the year long or more building process, without stopping or disrupting traffic? **(Chao)**

Staff response: This question is not germane to the agenda item. CEQA review and project conditions of approval will be reviewed upon submission of an application.

Q7: The residents also asked when they will get answers to the questions they asked at the July 23rd meeting? The said, "At the meeting, you mentioned that you had made detailed measurements regarding the proposed Mary Avenue Villas project. We remember that you said you would send us copies of your measurements, if we left our email addresses at the end of the meeting. To date, none of the three of us, who signed up to receive your measurements, have received emails from you. Would you please follow up, by sending those measurements to us as soon as possible." **(Chao)**

Staff response: This question is not germane to the agenda item. Staff will follow up with a response within two weeks.

Q8: The April 9, 2024 Negotiating Agreement in the agenda packet states "The Developer submitted a proposal to lease and develop the Property dated October 18, 2022 (the " Proposal"), a copy of which is on file with the City. The Proposal includes the development of 40 units of housing of which 100% is proposed to be affordable to persons and families earning 30%-50% of Area Median Income, with 45% of the units intended for the intellectually and developmentally disabled (" IDD") population (the " Project")." Could you please point out where could I find this proposal? **(Chao)**

Staff response: This question is not germane to the agenda item. Staff will follow up with a response within two weeks.

Q9: The April 9, 2024 Negotiating Agreement in the agenda packet states: "The Developer shall prepare and submit to the City no later than the first day of each quarter during the Negotiation Period a meaningful summary of activities undertaken during the previous quarter to achieve each Performance Benchmark set forth in the Performance Schedule attached as Exhibit C. The first quarterly report shall be for the period from April 1, 2024 to June 30, 2024 and all subsequent reports will include the three months since the last report." Could you please send the quarterly report covering "the period from April 1, 2024 to June 30, 2024"?

- Suggestion: It would be nice if such quarterly report is included in future agenda packet for this project or provide a link to where they are posed on the project site. **(Chao)**

Staff response: This question is not germane to the agenda item.

Q10: The April 9, 2024 Negotiating Agreement in the agenda packet states: "Costs and Expenses. Each party shall be responsible for its own costs and expenses in connection with any activities and negotiations undertaken in connection with this Agreement, and the

performance of each party' s obligations under this Agreement." Would the requested \$235,000 from the Below Market Housing Fund be used to cover only the costs the city incur or the costs for both parties? **(Chao)**

Staff response: Please see the response to Question No. 2, above.

Q11: The April 9, 2024 Negotiating Agreement in the agenda packet states: "Prior to the execution of the LDDA, Developer shall submit to the City evidence of its ability to finance development of the Property pursuant to the Proposal. Prior to execution of the LDDA, the City shall make a determination, the cost of which shall be advanced by Developer, that Developer has capacity to finance the development and complete the Project. City shall have the right to terminate this Agreement if Developer is unable to establish its financial capacity to the satisfaction of the City. The Developer shall maintain full disclosure to the City of its methods of financing to be used in the development of the Property, and shall promptly advise the City of any material adverse change in the Developer' s financial status or ability to finance development of the Property."

From the statement above "that Developer has capacity to finance the development and complete the Project", I thought the intent is that the LDDA developer will take the responsibility to fund the project, which I appreciate greatly, and will provide sufficient information to the City to evaluate the "financial capacity" of LDDA. Has such information been provided to the City? If not, when will they be projected? **(Chao)**

Staff response: This question is not germane to the agenda item. Staff will follow up with a response within two weeks.

Q12: Is there any estimated timeline of this project? For example, when will the plans mentioned in the negotiating agreement be available? "Prior to submitting any applications to the City or other governmental entities, the Developer shall submit to the City the design and architecture of the Project, including the conceptual plans, elevations, the exterior design and layout and any other information that the Developer intends to submit as part of its entitlement application." (April 9, 2024 Negotiation Agreement) **(Chao)**

Staff response: The City has not received a timeline for submission of the project.

Q13: The April 9, 2024 Negotiating Agreement stated a few scenarios when either party could terminate the agreement, which we hope would not happen of course. In the unlikely event that the agreement was terminated for any reason, would the \$235,000 from the Below Market Rate Housing Fund be wasted simply on evaluating the project? In case that happens, is it a justifiable use of the BMR fund? **(Chao)**

Staff response: Yes.

Q14: The April 9, 2024 Negotiating Agreement, in the agenda packet, states "The Developer shall be responsible, at its sole cost, for preparation of any environmental documents required under the California Environmental Quality Act for (i) City approval

of the LDDA and Ground Lease and (ii) approval of the Project. The City shall determine the appropriate environmental review required for approval of the Project and shall cooperate with the Developer in preparing environmental documents for which the Developer is responsible (if any) by supplying available technical data and other available information concerning the Property. The Developer shall be solely responsible for all costs associated with preparing any environmental documents necessary for the City's approval of the Project, inclusive of the LDDA and Ground Lease. The determination of the adequacy of the environmental review shall be in the sole discretion of the City." A few of the concerns from the nearby residents would likely be evaluated in the EIR (Environment Import Report).

Q14A: The Agreement states "The Developer shall be responsible, at its sole cost, for preparation of any environmental documents required under the California Environmental Quality Act for ...". Since the developer is funding the EIR, what's the legal requirement to ensure the report is objective and not influenced by the party funding the EIR?

Q14B: The Agreement states "The determination of the adequacy of the environmental review shall be in the sole discretion of the City." Would the environmental review be done by the Planning Commission and then approved by the City Council?

Q14C: How would the residents be involved in providing feedback and comments in the EIR preparation and approval process?

Q14D: The Agreement states "The City shall determine the appropriate environmental review required for approval of the Project". Who in the city would make that determination? How could the residents provide input into that determination? (**Chao**)

Staff response: This question is not germane to the agenda item. Staff will follow up with a response within two weeks.

Attachments Provided with Original Staff Report:

A – Signed Exclusive Negotiating Agreement – Mary Avenue