

Memorandum

City of Lawrence

City Manager's Office

TO: David L. Corliss, City Manager

FROM: Diane Stoddard, Assistant City Manager

Date: January 15, 2014

CC: Cynthia Wagner, Assistant City Manager

RE: Bethel Estates for Industrial Revenue Bonds/Property Tax Abatement

The developers of Bethel Estates, a proposed 90-unit senior housing project to be located at the northwest corner of the 25th Terrace and O'Connell Road, have submitted a [letter of request](#) for the City to consider the issuance of Industrial Revenue Bonds and an associated 100% property tax abatement. The developers have indicated that support of the project with these incentives would provide an advantage to the project regarding the highly competitive senior housing tax credit allocation from the State of Kansas. The developers have also requested the City's general support for their project that could accompany their tax credit application that is due to the State of Kansas on February 1. The general city support is the subject of a separate agenda memo. The developers also provided a [white paper](#) outlining rents for the project and the financial stress placed on the project as a result of property taxes. However, the developer has not stated that the project will not be constructed without an abatement.

The City has adopted an [overarching economic development policy](#), which includes the IRB policy and a tax abatement policy. These policies provide guidance regarding the types of projects that the City would consider supporting with incentives. It should be mentioned that most of the City's policies have been established in the context of economic development proposals that would create jobs. A housing project doesn't really generate employment, but may have a beneficial impact on the community. Under Kansas Law, a housing project of this type could receive assistance from the City in the form of Industrial Revenue Bonds, which provide a sales tax exemption on the labor used in new construction and which also may provide a property tax abatement up to 100%. The State of Kansas requires a benefit-cost analysis when a property tax abatement is considered.

In recognition that this was a rather unique request, staff thought it would be best to first check with the City Commission if they would be willing to entertain a property tax abatement for this project, prior to proceeding with the analysis and work required by both the developer and city staff. There is also a specified process that the City has adopted regarding economic development applications. If the City Commission is willing to entertain the request, staff would work with the developer to complete the required analysis and then schedule the item for consideration with the Public Incentive Review Committee, which makes a recommendation to the City Commission, which makes the final determination.

In examining this request on a preliminary basis, staff visited with the Douglas County Appraiser's office to determine whether other senior housing projects in Lawrence received a property tax abatement. As staff recently reported during the discussion of the Neuvant House (a memory care living facility) request for IRBs which didn't include a property tax abatement, the issuance of IRBs for senior housing projects in Lawrence has been rather common. The [memo](#) for the Neuvant House request outlines a number of senior housing projects previously receiving IRBs. These projects include Presbyterian Manor (1975 and 1986), Prairie Ridge (1978), Vermont Towers (1979), Brandon Woods (1987 and 1992), Drury Place at Alvamar (1994), and Neuvant House (2013).

According to the County Appraiser's office, there were two prior senior housing projects in Lawrence which received a property tax abatement in conjunction with IRBs. These projects included Vermont Street Towers and Clinton Parkway Place. The appraiser's office staff person indicated that in both cases, these were partial property tax abatements that began with a 50% abatement, declining to 0% in the 10th year. The appraiser's office staff person also indicated that there were emerging questions in other areas of the country regarding the issuance of property tax abatements for senior housing projects because the rents for the units are set by surveying the market rents with other affordable senior housing developments. If the other senior affordable housing projects pay property taxes, the rents for those properties are likely set to cover those costs and it then leads to the question of whether the property tax abated property rents will be set at the market rate, which may be calculated too high if they are based upon market rates that include property tax payment costs.

IRB Eligibility:

According to City policy, the City may from time to time grant IRBs when the project under consideration helps further economic and community development objectives. Additional eligibility criteria, as stipulated in the Policy, are outlined below, along with notes on related project qualifications:

IRB: City Policy Criteria			
Item #	Policy Requirement	Project Delivers	Project Qualifies (Y/N)
1	Only those projects which qualify under Kansas Law will be eligible for IRB financing.(1)	residential development	Y
Proposed Project shall achieve one or more of the following public benefits:			
2	2a: Meets economic goals of the City as set forth in policy and the Comprehensive Plan of Lawrence and Douglas County:		
	Place high priority on retention and expansion of existing businesses.		N/A
	Encourage existing industry to expand.		N/A
	Assist new business start-ups		N/A
	Recruit new companies from out-of-state and internationally		N/A
	Encourage high technology and research based businesses.		N/A
	Encourage training and development of Lawrence area employees		N/A
	Encourage location and retention of businesses which are good "corporate citizens" that will add to the quality of life in Lawrence through their leadership and support of local civic and philanthropic organizations.	Meets spirit of goals established in the retiree attraction task force report.	
	2b: Promotes infill through the development of vacant lots, the rehabilitation of deteriorated properties or the adaptive reuse of historic properties.	greenfield development	N
	2c: Enhance Downtown	not located in Downtown area	N
3	2d: Incorporate environmentally sustainable elements into the design and operation of the facility	unknown	?
	2e: Provide other public benefits to the community, particularly as set forth in the Comprehensive Plan of Lawrence and Douglas County.	Senior housing	Y
	Prospective tenant shall show the financial capacity to complete the proposed project and successfully market the bonds.		Y

City policy also mentions other project qualities that are favored or preferred when issuing IRBs. Those aspects are outline below, along with project notes.

IRB: Other Considerations (Preferred)			
Item #	Policy Requirement	Project Delivers	Project Qualifies (Y/N)
1	<i>City looks more favorably upon projects that support the below targeted industries:</i>		
	Life Sciences/Research		N
	Information Technology		N
	Aviation and Aerospace		N
	Value-Added Agriculture		N
	Light Manufacturing and Distribution		N
2	<i>The City favors issuing Industrial Revenue Bonds to projects that bring in new revenues from outside the community or enhance the local quality of life over projects that will primarily compete against other local firms.</i>		
	Project anticipated to bring in new revenues from outside community:	Will bring new investment to Lawrence	Y
	Project enhances local quality of life:	affordable senior housing	Y

IRB: Special Consideration for Residential Projects			
Item #	Policy Requirement	Project Delivers	Project Qualifies (Y/N)
1	Project is multi-family or senior living project	Project is an affordable senior housing project	Y
2	Projects that contain no non-residential uses and are requesting IRBS must have at least 30% of all housing units set aside for households making 80% of the Area Median Income or less.	100% of project units will meet affordable criteria for the State of Kansas	Y
Preferred Qualities for Residential Projects:			
	Infill or redevelopment:	greenfield development	N
	Mixed -Use	not mixed use	N
	Downtown Location	not located in Downtown area	N

Recommendations as per the Lawrence Retiree Attraction and Retention Task Force Report (June 5, 2012), include:

- “Encourage the development of a wide variety of older-adult friendly housing – both for those wanting to own and those wanting to rent, in all income ranges.”

The report concludes: “Because no two situations are identical, states and localities must develop an array of approaches for meeting the diverse needs and preferences of their older populations.”

When looking at whether the project would meet the policy, the affordable housing goal must be balanced with the concern about providing a competitive advantage for one project over others in the market.

About Industrial Revenue Bonds

Industrial Revenue Bonds (IRBs) are an incentive established by the State of Kansas to enhance economic development and improve the quality of life. Considered a “conduit financing mechanism” whereby the City can assist companies in acquiring facilities, renovating structures, and purchasing machinery and equipment through bond issuance, IRBs can be useful to companies in obtaining favorable rate financing for their project, as well as providing a sales tax exemption on construction-related materials. IRBs are also a mechanism for a non-retail project to access a property tax abatement, although an abatement is not automatic.

IRBs are repayable solely by the company receiving them and place no financial risk on the City. When IRBs have been issued, the municipality owns the underlying asset and the debt is repaid through revenues earned on the property that has been financed by the bonds. If the company defaults, the bond owners cannot look to the city for payment.

Recommendation

Staff believes that the project could be considered for an IRB with the sales tax exemption, which was done recently for Neuvant House. This would be a significant assistance for the project. Assuming 50% of the project budget would be construction materials, the sales tax savings would be approximately \$350,000. Staff is concerned with using a property tax abatement for this project given the competition factor with other affordable senior housing projects in the community. Also, staff would like to see the property tax abatement tool utilized for primary job creation.

Requested Action

Provide direction to developer and City staff regarding the City Commission's willingness to entertain a proposal for a property tax abatement in conjunction with the Industrial Revenue Bonds for a proposed affordable senior housing project.