

**Town of Lyons, Colorado
Board of Trustees
BOT Agenda Cover Sheet
Agenda Item No: IV.1.
Meeting Date: June 17, 2021**

TO: Mayor Angelo and Members of the Board of Trustees
FROM: Victoria Simonsen, Town Administrator
DATE: June 14, 2021
ITEM: Discussion/Direction on Agenda Request Submitted by Summit Housing to Modify Fees Associated with Current Development Agreement

ORDINANCE
 MOTION / RESOLUTION
 INFORMATION

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- I. **REQUEST OR ISSUE:** Representatives of Summit Housing Group have requested a meeting with town officials to update trustees on the project and request consideration of eliminating the fees for all water and sewer taps, electric development fees, and building permit fees for a total of \$1,122,500. In addition, Summit is requesting the elimination of permit fees for project utility calculations, if not included, and Use taxes.
 - II. **RECOMMENDED ACTION / NEXT STEPS:** Meet the new Summit management team representatives, listen to their request and rationale, discuss the issue and options available, and decide how to proceed with the project.
 - III. **FISCAL IMPACTS:** This request would have a significant impact on the town and its budget. The amount being requested is approximately half of the town's annual General Fund. In addition, the town has been planning on the development revenue for two fiscal years and was going to use it toward much needed capital improvement projects in the community.

The town has previously worked with Summit Housing Group to reduce expenses toward this project. Following the original budget projections, the town worked with City of Longmont to amend our water service agreement to allow for the use of Lake McIntosh water shares instead of the required CBT shares. This saved the developer approximately \$2.0 million in water costs alone. In addition, midway through the project and after initial site approval, the town agreed to allow Summit to reconfigure the lots and eliminated Sullivan Way. This action eliminated costly rock removal and an asphalt roadway.

In addition to the town's contributions, the project was awarded \$4.0 million in Community Development Block Grant – Disaster Recovery (CDBG-DR) funds due to flood displacement of affordable housing, the small size of the project (40 units) and the unique topography of the site and limited options for an affordable housing location in Lyons. Summit was also awarded 9% tax credits for the project through Colorado Housing and Finance Authority (CHFA).

IV. **BACKGROUND INFORMATION:** Following the loss of approximately 100 affordable housing units in the 2013 Flood, the town advertised a Request for Proposals (RFP) for an affordable housing project in the Lyons Valley Park location. After reviewing proposals and interviewing firms, the town accepted Summit Housing Group's proposal for an affordable housing development in this location (See Attachment). In 2018, the Town entered into a Purchase and Sale Agreement with Lyons Valley Townhomes, LP for Tract A of Filing 8 in Lyons Valley Park. The single-family lots are a use by right and were not included in the agreement.

The Planning and Community Development Commission conditionally approved a Development Plan by Resolution 2020-03 and the final Development Plan Agreement was approved by the BOT by Resolution 2020-66.

Following the approval, the applicant then modified their plans more than 10% to offset costs attributed to topographic conditions and the cost to remediate. Per Res. 2020-165, The Board of Trustees required a Public Hearing for the proposed changes. The changes were to reduce multifamily housing units from 21 to 16, and single-family units from 19 to 24. The private drive (Sullivan Way) was removed from Tract A and the parking was reconfigured from the backs of the buildings to the front. (See Attachment). These changes were approved through a Development Plan and Resolution 2020-184 (See Attached).

Since this agreement in December 2020, Summit Housing Group has undergone significant management changes. Attached is the most current Management Matrix for the company. This change in personnel, coupled with the skyrocketing cost of construction following the COVID pandemic, have created a new challenge for this project.

The management team has indicated that they "currently have a funding gap between \$900,000 to \$1.5 million in construction hard costs and unanticipated soft costs (pricing is ongoing) for the project due to the COVID related supply and demand of commodities and material shortages, including labor and delivery costs which has impacted the entire country's construction projects". (See Attached CMC Construction costs). They would like to discuss the situation and discuss options and alternatives with the Board of Trustees.

Town staff did request detailed financials on the company to confirm that it is a viable partner in this project. Summit management responded that this project is approved by Low Income Housing Tax Credits (LIHTC) and CHFA. They have reviewed their financials and "are in line and accepted with the requirements of the relevant agency's approvals both previously and currently". Staff have not seen any of these documents; however, Summit management has agreed to present the status of these questions at the meeting.

Summit Housing Group has purchased 49 units of Lake McIntosh shares to use toward the project (See attached certificate). The construction team is meeting weekly with town staff and building officials to prepare for a building permit to be issued upon payment of development fees, taps, performance bond, and outstanding development review expenses.

Below is a current, active list of Summit Housing Group projects:

Under Construction:

1. Academy Place 2, Broomfield, CO 70 Units
2. Bitterroot Valley Rehab projects, Bitterroot, MT, 40 Units
3. Timber Ridge Apts., Bozeman, MT, 30 Units

Pre-Construction

1. Lyons Valley Townhomes, Lyons, CO, 40 Units
2. Whitefish Apts, Whitefish, MT, Undetermined Units

Proposals / LOL's

1. City Parq Apartments, Denver, CO, 62 Units

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- V. **LEGAL ISSUES:** Attorney Dittman will be present to discuss legal and contractual issues with the Trustees.
- VI. **CONFLICTS OR ENVIRONMENTAL ISSUES:** There are no known environmental conditions; the appropriate studies have been conducted for the project. Other conflicts may include:
- Town's inability to contribute financially to this project
 - Timing of this project continues to be delayed
 - Potential nondevelopment of affordable housing in Lyons
 - CDBG-DR funds must be spent by December 31, 2021
 - Loss of revenue to the Enterprise Funds and construction of capital projects
 - Lack of transparency regarding full cost of the project and profit by company
 - Other
- VII. **SUMMARY AND ALTERNATIVES:**
- The Board and Summit management team need to have a productive discussion of the project and its future. Alternatives may include:
- The town is unable to contribute further to the project costs
 - The town allows additional concessions or contributions to the project
 - The town seeks assistance from other local, regional, state, or federal agencies
 - Pursue other funding mechanisms to offset the costs
 - Summit postpones the project
 - Summit cancels the project
 - Summit agrees to sell the property and plans, and the Town seeks other providers to complete the project
 - Other
- VIII. **PROPOSED MOTION:** No resolution at this time. Staff seeks direction on the project.