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M E M O

November 13, 2006

To: Those Testifying at the City Council Hearing on Changes to TOD Program and Other Interested Parties

From: Barbara Sack, City Planner

Subject: **City Council's Final Action on Changes to the City's TOD Tax Exemption Program**

City Council has taken action in the last two weeks to update the City's New Transit Supportive Residential or Mixed Use Development (TOD) program. This tax exemption program provides an incentive for new multifamily and mixed-use development near MAX light rail stations and other areas of the City where transit-oriented development is planned. City Council revised the program's boundaries and regulations, found in City Code Chapter 3.103 to reflect current City housing priorities, require greater program oversight, and respond to public comment on recommended program changes.

- On November 8, 2006, City Council approved Ordinance No. 180572, which changed the program's regulations and boundaries.
- On November 1, 2006, Council approved Resolution No. 36453, which places a cap on the improvement value of TOD projects that can apply each year for the program.

Proposed program changes were drafted in response to Council's concerns about the City's multifamily tax exemption programs raised at their joint meeting with the Portland Development Commission on January 11, 2006. Several public meetings were held on proposed changes in the spring of 2006. The Planning Commission held a public hearing on proposed changes to the program on June 27, 2006, and forwarded a recommendation to City Council. Council approved the recommended changes after making several amendments to them. They also approved a staff proposal that accompanied the program changes.

A summary of the adopted changes follows:

Adopted Changes to the Program Boundaries:

- **Add Light Rail Station Areas** within one-quarter mile of:
 - MAX Interstate Corridor light rail stations outside the Central City
 - I-205 light rail station areas, both existing and planned.(The east-west MAX light rail station areas are already in the program.)
- **Revise the Regional Center Boundaries and Add a New Town Center**
 - Gateway Regional Center and East Max Corridor. The program boundaries are changed to match those of the current Gateway Plan district. Areas east of Gateway that are no longer included in the plan district are eliminated from the program if they are not within one quarter mile of the light rail station areas.
 - Hillsdale Town Center. The area within the Hillsdale Plan District is added. (The Lents and Hollywood Town Centers are already in the program.)
- **Add Three Main Street Areas:**
 - Sandy Boulevard area (previously proposed for the TOD) between NE 12th and NE 37th Avenues including the Albina Fuel Site and NE 47th and NE 54th Avenues.
 - NE MLK Jr. Blvd. between NE Lombard and NE Schuyler Streets; and
 - Foster Road between SE Holgate Boulevard and SE 79th Avenue.

- **Add Another Transit-Oriented Area:**

The commercial area around the intersection of SW Barbur and Terwilliger Boulevard is added to program.

A map of the areas added to the program is attached.

Adopted Changes to the Program's Regulations

- **Minimum Project Size:** Minimum project size is changed from 8 to 10 units.
- **Rental Housing Affordability Requirement:** All rental housing projects over 15 units must provide affordable units that mirror the unit mix in the project. Options are:
 - 20 percent of units in a project, or residential building square footage, for housing affordable to households at or below 60 percent area median family income (MFI), or
 - 10 percent of units in a project, or residential building square footage, for housing affordable to households at or below 30 percent MFI
- **Public Benefit Options:** Provide three additional public benefits from the following list:
 1. 20 percent of units dedicated to persons with special needs and are designed for full accessibility.
 2. 10 percent of rental units include 3 or more bedrooms.
 3. Provide childcare on-site or support child care facility.
 4. Provide residential unit-per-acre density equivalent to at least 80 percent of maximum density
 5. Permitted ground floor service or commercial use.
 6. Office space or meeting room for community.
 7. Permanent dedications for public use including open space, community gardens, or pedestrian and bicycle connections to public trails and adjoining neighborhood areas.
 8. Family oriented recreational facilities.
 9. A dedicated car-share space(s).
 10. Structured parking.
 11. LEED Silver certification from the US Green Building Council.
 12. Twice the percentage of affordable units, or percentage of residential building square footage for affordable units, than is required by the affordability requirement.
 13. Other benefits as proposed by the developer and approved by the Planning Commission.
 14. Transportation improvements above those required by development standards approved by the Portland Office of Transportation and the Planning Commission.
 15. An agreement to sell off-street parking spaces separate from condominium units so that a unit can be purchased without a parking space.
- **Eligibility of existing low-income housing projects is added to the TOD Program** if they are subject to a public low-income housing assistance contract. This also allows low-income housing units in mixed-income projects to be eligible for a tax exemption for the term of the low-income housing assistance contract. These projects must apply for the program and demonstrate that the tax exemption is needed in order to maintain the affordability of the low income housing units.
- **Changes to Reporting and Possible Repayment Requirements** to the TOD program (City Code Chapter 3.103) require the same annual reporting and partial repayment or extension of affordability requirements that were adopted for the New Multiple Unit Housing Program (City Code Chapter 3.104) in October 2005.

- **Changes to the Approval Process**

- At least every three years **City Council** reviews and, if necessary, adjusts program boundaries.
- **PDC staff** makes a determination whether the tax exemption is necessary to the economic feasibility of the project.
- **Planning Commission** instead of the Portland Development Commission holds a public hearing on the request for a tax exemption.

Adopted Annual Cap on Maximum Improvement Value of TOD Projects

City Council adopted an annual cap on the improvement value (the buildings and other site improvements) of new TOD projects proposed by staff. This cap is \$20 million a year for the first three years. City staff proposed the annual cap to be set by Council every three years in response to Council concerns about the amount of revenue foregone to the City and other taxing jurisdictions due to the approval of tax exemptions. This is not a change to City Code Chapter 3.103 and not a recommendation of the Planning Commission

If you would like more information on these changes, please contact Barbara Sack at 503-823-7853.