



Watertown City Council  
Tuesday, October 9, 2012  
7:00 p.m.

## Work Session Agenda

### Discussion Items:

1. Creekwood Phase II Property Tax Exemption  
In Attendance: Linda Goodman or Lori Harris of  
Norstar Development USA
  
2. Parks and Recreation Concession and Parking Fees  
In Attendance: Erin Gardner, Superintendent of Parks & Recreation

September 27, 2012

To: The Honorable Mayor and City Council

From: Kenneth A. Mix, Planning and Community Development Coordinator

Subject: Creekwood Phase II Property Tax Exemption

As the City Council will recall, the Creekwood Project was approved with 200 housing units divided into two phases. The first phase is under construction with 96 units, and the second phase will have 104 units. Norstar will be submitting an application for housing tax credits by October 25, 2012. They feel the application would be strengthened if the property tax exemption for Phase II is approved by the City Council before it is submitted.

The Creekwood property was annexed into the City so that the Empire Zone boundary could be amended to include it. This would have allowed the developer to take advantage the Real Property Tax Law Section 485-e tax exemption, but the Empire Zone program expired before the project could be built. Since that was no longer available, a housing development fund company was formed pursuant to Private Housing Finance Law (PHFL) Article XI for Phase I, which made them eligible for the exemption under PHFL Section 577. The City Council authorized the exemption to mimic what they would have gotten under Section 485-e.

Norstar is now requesting the same exemption for Phase II that was approved for Phase I. Attached is a description of the project and Norstar's request from Kevin McCarthy, a Senior Project Manager with Norstar. The resolution authorizing the exemption for Phase I is also attached.

If the City Council wishes to proceed with this exemption, a resolution can be prepared the October 15, 2012 meeting.

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DEVELOPMENT USA, L.P.

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September 25, 2012

**VIA e-MAIL DELIVERY**

Mr. Kenneth Mix  
Planning & Community Development Coordinator  
City of Watertown  
245 Washington Street  
Watertown, NY 13601

RE: Creekwood – Phase II by Norstar, Watertown, NY

Dear Ken:

Please find a submission package in connection with the anticipated real estate property tax exemption that would be presented to the City Council for approval for the Creekwood – Phase II development.

**PROJECT OVERVIEW**

In an effort to remediate the current housing crisis in Watertown, Norstar Development USA, L.P. (“Norstar”) has devised a plan for the overall construction of 200 market-oriented, multi-family residential units. The project contemplates 2 phases of 96 and 104 units, respectively, collectively known as Creekwood Apartments. As you know, Phase I has already closed on its construction financing and is approximately 70% complete.

The Creekwood – Phase II development will be located on a vacant parcel of land located at 950 Rear Mill Street and 980 Rear Mill Street, Watertown, NY. Norstar has achieved site control of the proposed development site by way of a purchase option it has on the land.

Phase II is currently projected to include 20 one bedroom, one bath units; 20 two bedroom, one bath units; 36 two bedroom, two bath units; and 28 three bedroom, two full bath units for a total of 104 units. Unit sizes are approximately 878 square feet for one bedroom units, 1060 to 1162 square feet for two bedroom units and 1258 square feet for three bedroom units.

Creekwood – Phase II also provides appropriate amenities. In addition to well-appointed townhouse-style units with direct access and private outdoor space, the project will have direct access to a clubhouse that was constructed as part of Phase I - this will feature management office space, clubroom,

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fitness center and laundry (each residential unit will also have a washer/dryer hook-up). Outside there will be a playground plus a grassy area for active/passive recreation.

It is currently projected that 78 units in Phase II will be subject to the income restrictions of 60% of area median income, with 26 units allocated to market-rate. These rents are \$516 to \$910 for one bedroom units, \$607 to \$1035 for two bedroom units and \$693 to \$1140 for three bedroom units.

### **Project Design/Use**

The proposed development currently consists of two building types:

Building Type A will feature 8 units in total: i) 2 one-bedroom garden apartments; ii) 2 two-bedroom townhouses; iii) 2 three-bedroom townhouse; iv) 2 two-bedroom garden apartment;

Building Type B will feature 6 units in total: i) 2 two-bedroom garden apartments; ii) 4 two bedroom townhouses;

The buildings are two stories in height and mostly townhouse style. The one-bedroom units are flats. It is anticipated that this development will qualify for participation under both the Green Building Initiative and the Energy Efficiency Initiative, as overseen by the New York State Homes and Community Renewal, thereby achieving a maximization of energy efficiency as well as controlling operating costs, post-completion.

### **BACKGROUND ON PROPOSED PROPERTY TAX EXEMPTION**

As you are aware, the Starwood and Summit Wood developments in Watertown that were developed by Norstar both benefit from the Real Property Tax law Section 485(e) program. Creekwood's financing initially anticipated the use of that tax exemption, but given that the 485(e) program is now defunct, Creekwood – Phase II, as was the case on Phase I, will seek a property tax exemption under Article XI of the New York Private Housing Finance Law through the creation of a housing development fund company (“HDFC”). The creation of this HDFC, which will be sponsored by the Development Authority of the North Country, will allow the project to be eligible for property tax, sales and mortgage recording tax exemptions, similar to Starwood and Summit Wood. At the time of construction closing, the HDFC will then obtain fee title to the property as the nominee of Creekwood II LLC (who will become the beneficial owner of the site) and it will also become a member of Creekwood II LLC with a de minimus ownership interest.

Attached for your reference please find a copy of Section 577 of the Private Housing Finance Law, which is the statutory basis for the property tax exemption.

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Norstar looks forward to working with the City on this issue so that the exemption package may be reviewed and approved well before October 25<sup>th</sup>, 2012 so as to be included in the funding application to HCR.

Please feel free to contact me at (518) 431-1051 x205 or [kmccarthy@norstarus.com](mailto:kmccarthy@norstarus.com) with any questions or comments on the enclosed materials.

Sincerely,

*Kevin*

Kevin P. McCarthy  
Senior Project Manager

cc: Brian Phelps, City Assessor (via e-mail)

Creek Wood  
Apartments - Phase I

Excerpt from Section  
577 of Article XI of  
NY Private Housing  
Finance Law

sioner. The certification from the local loan administrator shall state that: (i) the loan administrator has performed its responsibilities in connection with review and approval of applications to which such requisition pertains, (ii) to the best of the local loan administrator's knowledge the loans, to which the advances pertain, comply with the master servicing agreement and the provisions of this section, and (iii) the borrowers have demonstrated their ability to make the repayments required under the loan. In the event that funds are not available or the commissioner determines that the requisition, application or certification is defective, it shall so notify the local loan administrator within fifteen business days after receipt of the requisition.

(b) The commissioner shall establish criteria for prioritizing loan applications in the event that the requisitions submitted to the commissioner by one or more local loan administrators exceed the amount then available for the purposes of this section. Such criteria shall give a priority to housing for farmworkers and take into account: (i) whether the farmworker housing project to which the application pertains is for the purpose of bringing non-conforming accommodations in compliance with the provisions of the state sanitary code or the state fire prevention and building code; (ii) whether the farmworker housing project to which the application pertains is the most cost effective approach to enable the agricultural producer to construct or rehabilitate dwelling accommodations for farmworkers; (iii) whether the agricultural producer making application lacks the financial resources to undertake the farmworker housing project without obtaining a loan pursuant to this section; and (iv) such other factors as the commissioner deems relevant. In applying the criteria to be utilized for prioritizing loans, the commissioner shall be entitled to rely on the information contained in the copies of the applications submitted with the requisition.

(Added L.1995, c. 596, § 3; amended L.1998, c. 244, § 1, eff. July 7, 1998; L.1999, c. 3, §§ 7, 8, eff. Dec. 29, 1999; L.2004, c. 428, § 3, eff. Sept. 14, 2004; L.2008, c. 407, § 3, eff. Aug. 5, 2008.)

#### Historical and Statutory Notes

##### L.2008, c. 407 legislation

Subd. 3, par. (b). L.2008, c. 407, § 3, following "priority to housing for" deleted "seasonal"; and prior to "dwelling accommodations for" deleted "seasonal and dairy".

##### L.2004, c. 428 legislation

Subd. 2. L.2004, c. 428, § 3, deleted "and" before "(d) the local" in the second

sentence and inserted " , which shall include a provision that use of the loan to provide housing for a family member of the borrower or its principals shall constitute a default under the loan and security agreement" in the third sentence.

Subd. 3, par. (b). L.2004, c. 428, § 3, in the second sentence, inserted "give a priority to housing for seasonal farmworkers and" and inserted "and dairy".

#### § 576-e. Municipal housing assistance fund

##### Research References

##### Encyclopedias

NY Jur. 2d, Public Housing & Urban Renewal § 55, Municipal Aid.

#### § 577. Tax exemptions

1. (a) The local legislative body of any municipality in which a project of a housing development fund company is or is to be located may exempt the real property in such project from local and municipal taxes including school taxes, other than assessments for local improvements, to the extent of all or part of the value of the property included in the completed project. The tax exemp-

tion shall operate and continue for such period as may be provided by such local legislative body, but in no event for a period of more than forty years, commencing in each instance from the date on which the benefits of such exemption first became available and effective.

(b) Where a municipality acts on behalf of another taxing jurisdiction in assessing real property for the purpose of taxation, or in levying taxes therefor, the action of the local legislative body of such municipality in granting such tax exemption shall have the effect of exempting the real property in such project from local and municipal taxes including school taxes, other than assessments for local improvements, levied by or in behalf of both such taxing jurisdictions.

(c) The local legislative body of any municipality may grant an exemption under paragraph (a) of this subdivision to the real property of a project of any entity to which it is authorized to make a loan pursuant to section five hundred seventy-six-c of this article.

(d) In a city having a population of one million or more, within one hundred twenty days following receipt of a written submission from the supervising agency requesting a tax exemption pursuant to paragraph (a) of this subdivision for the real property containing the project of a housing development fund company, the local legislative body shall approve or disapprove by resolution the requested tax exemption. If the local legislative body fails to take such action within one hundred twenty days following receipt of such written submission from such supervising agency, then the tax exemption requested by the supervising agency shall be deemed approved pursuant to paragraph (a) of this subdivision.

2. Any inconsistent provision of law to the contrary notwithstanding, mortgages of a housing development fund company shall be exempt from the mortgage recording taxes imposed by article eleven of the tax law.

3. (a) Notwithstanding the provisions of subdivision one hereof, the real property of a state urban development corporation project acquired, owned, constructed, managed or operated by a company incorporated pursuant to the not-for-profit corporation law and this article shall be entitled to all the benefits provided by section four hundred twenty-two of the real property tax law. The real property of a state urban development corporation project, other than a state urban development corporation project acquired, owned, constructed, managed or operated by a company incorporated pursuant to the not-for-profit corporation law and this article, shall be exempt from all local and municipal taxes, other than assessments for local improvements, to the extent of the value of the property included in such project as represents an increase over the assessed valuation of the real property, both land and improvements, acquired for the project on the date of its acquisition by the housing development fund company. The tax exemption shall operate and continue so long as the mortgage loans of such housing development fund company are outstanding, but in no event for a period of more than forty years, commencing in each instance from the date when such housing development fund company first acquired such property. If a state urban development corporation project qualifying for tax exemption pursuant to this subdivision is sold, with the approval of the commissioner, to another housing development fund company, such successor company shall be entitled to all the benefits of this subdivision.

(b) In the event a state urban development corporation project is not subject to a state-aided, federally-aided or municipally-aided mortgage, as defined herein, it shall receive the tax exemption granted under paragraph (a) of this subdivision only if it has entered into a regulatory agreement with the commissioner pursuant to section five hundred seventy-six of this article, and

such tax exemption shall continue only so long as such agreement is in force and effect.

(Added L.1966, c. 500, § 1; amended L.1967, c. 658, § 6; L.1967, c. 758, §§ 16, 17; L.1968, c. 174, § 16; L.1970, c. 281, § 30; L.1980, c. 428, § 8; L.1995, c. 494, § 1; L.2009, c. 73, § 1, eff. June 24, 2009.)

#### Historical and Statutory Notes

##### L.2009, c. 73 legislation

Subd. 1, par. (d). L.2009, c. 73, § 1,  
added par. (d).

#### Research References

##### Encyclopedias

NY Jur. 2d, Public Housing & Urban Renewal § 69, Tax Law Exemptions.  
NY Jur. 2d, Taxation & Assessment § 116, Housing and Urban Renewal Organizations.

##### Forms

West's McKinney's Forms Selected Consol. Law, Private Housing Finance Law § 125  
Form 2, Petition to Determine Validity of City's Assessment Against Property  
Owned by Redevelopment Company Following Exemption Resolution.

##### Treatises and Practice Aids

New York Practice, Landlord & Tenant Practice in New York § 19:274, Loan Eligibility—Housing Development Fund Companies ("HDFCS").

#### § 577-a. Adjusting fair rental equalization for the elderly

#### Research References

##### Treatises and Practice Aids

New York Practice, Landlord & Tenant Practice in New York § 19:274, Loan Eligibility—Housing Development Fund Companies ("HDFCS").

#### § 577-b. Payment of arrears for certain taxes

1. The term eligible property as used in this section shall mean a multiple dwelling located in a city with a population of one million or more and owned by a company established pursuant to this article which:

(a) is controlled by and provides housing accommodations to its resident shareholders or members or agrees, on terms approved by the supervising agency, to offer to the residents of the multiple dwelling the opportunity to acquire ownership and control of the company; and

(b) on January first, two thousand two, had outstanding municipal real estate taxes relating to any period prior to January first, two thousand one.

2. (a) The supervising agency may offer to each company that owns an eligible property an opportunity to enter into a regulatory agreement pursuant to which the obligation to pay arrears of real estate taxes attributable to such property, including interest and penalties if any, shall be dealt with as provided in such agreement.

(b) The regulatory agreement shall include the following provisions:

(1) a term of thirty years;

(2) that the suspension of the obligation to pay arrears shall continue provided that the company complies with the terms of the regulatory agreement;

(3) that all suspended arrears including interest and penalties shall be forgiven provided that the company complies with the regulatory agreement for an initial period of ten years;

# RESOLUTION

Page 1 of 2

Authorizing Real Property Tax  
Exemption, Creekwood Apartments

***Introduced by***

Council Member Roxanne M. Burns

Council Member BURNS, Roxanne M.  
 Council Member BUTLER, Joseph M. Jr.  
 Council Member MACALUSO, Teresa R.  
 Council Member SMITH, Jeffrey M.  
 Mayor GRAHAM, Jeffrey E.

Total .....

YEA	NAY
X	
	X
X	
	X
X	
3	2

WHEREAS the City Council of the City of Watertown finds there to be a shortage of affordable housing units within the City and surrounding area, and

WHEREAS a proposal has been put forth by Norstar Development USA, L.P. to provide affordable housing owned by a Housing Development Fund Company to be formed pursuant to the Private Housing Finance Law Article XI, by the construction of a project located at 918 Mill St on tax parcels 3-14-101.200 and 3-14-105.200, and

WHEREAS the location of Norstar's proposed project had been included in the NYS Empire Zone for the purpose of providing certain tax benefits under Real Property Tax Law §485-e, and

WHEREAS the NYS Empire Zone program has expired and the desired incentives are no longer available under that program, and

WHEREAS pursuant to Private Housing Finance Law §577, the local legislative body of any municipality in which a project of a housing development fund company is located may exempt the real property in such project from local and municipal taxes including school taxes, and

WHEREAS it is the City's desire to offer the same exemption benefits that would have been conferred on such a project had it been constructed prior to the expiration of the Empire Zone.

NOW THEREFORE BE IT RESOLVED that upon the ownership of tax parcels 3-14-101.200 and 3-14-105.200 by a Housing Development Fund Company formed pursuant to the Private Housing Finance Law and the construction of a project by said Housing Development Fund Company, said project shall be exempt from City, County and School taxes in the same general manner as those exemptions previously offered under Real Property Tax Law §485-e, and

# RESOLUTION

Page 2 of 2

Authorizing Real Property Tax  
Exemption, Creekwood Apartments

Council Member BURNS, Roxanne M.  
 Council Member BUTLER, Joseph M. Jr.  
 Council Member MACALUSO, Teresa R.  
 Council Member SMITH, Jeffrey M.  
 Mayor GRAHAM, Jeffrey E.

Total .....

YEA	NAY

BE IT FURTHER RESOLVED exemption will commence on the first assessment roll following an increase to the assessment attributable to construction and will be for a term of 10 years. The amount of exemption is limited to a percentage of the increase in assessed value attributable to the construction or improvement as determined in the first year of exemption. This "base amount" remains constant throughout the term of the exemption, except where there is a change to the assessment, in which case the base amount is adjusted by the same percentage as the change in assessment. The first 7 years of the exemption, the exemption shall be at 100% of the "base amount." In years 8, 9 and 10 the exemption shall be at 75%, 50% and 25% respectively, and

BE IT FURTHER RESOLVED this exemption will terminate immediately in the event that the project is transferred to an entity other than, or no longer under the control of a Housing Development Fund Company formed pursuant to the Private Housing Finance Law, and

BE IT FURTHER RESOLVED that during the term of this exemption the project will utilize the City of Watertown's curbside refuse and recycling services by providing at minimum an individual 64 gallon tote for each occupied residential unit. The exemption will expire immediately in the event that the project no longer utilizes this service, and

BE IT FURTHER RESOLVED this exemption will terminate in the event that project is to be assessed pursuant to Real Property Tax Law 581-a at the request of project owner.

**Seconded by Council Member Teresa R. Macaluso**

Ord No. 1

September 27, 2012

To: The Honorable Mayor and City Council

From: Elliott B. Nelson, Confidential Assistant to the City Manager

Subject: Parks and Recreation Concession and Parking Fees

As directed by the City Council, staff has prepared an alternative method to collecting vendor fees for concessions at the Fairgrounds. This proposal would serve as a replacement to the current fee of 10% of sales assessed on vendors selling food items at Fairgrounds events.

Staff is proposing replacing the 10% fee with a flat fee charged directly to the event promoter. Here, any promoter renting the Municipal Arena for an event would have the opportunity to provide vending, in addition to the City-owned concession stand, for a flat fee of \$250. If the event promoter desired to buy out the concession stand (i.e. closing the concession stand for the duration of the event), the event promoter would be charged a flat fee of \$1,000. Additionally, any promoter holding an event on a field at the Fairgrounds would be charged \$250 per vendor for the right to provide concessions. Please note that these fees do not apply to alcohol sales.

Staff is also proposing instituting a flat fee for event parking. Currently, Parks and Recreation staff collects \$1.00 per car from event attendees. This process is cumbersome and causes a bottleneck situation at the entrance to the parking lot. Staff is proposing charging promoters of events at the Municipal Arena \$1,500 for parking, and promoters of large outdoor events (i.e. concerts) \$3,000 for parking. The event promoters would then be free to include a parking fee in their ticket price. Parks and Recreation staff will continue to provide parking services but will no longer be required to collect \$1.00 from each car, thus significantly speeding up the parking process.

Staff from Parks and Recreation as well as the City Manager's office will be available at Monday's meeting to answer any questions Council may have on this proposal.

ORDINANCE

Page 1 of 2

Amending Section A320 of the City Code, Fees

Council Member BURNS, Roxanne M.  
 Council Member BUTLER, Joseph M. Jr.  
 Council Member MACALUSO, Teresa R.  
 Council Member SMITH, Jeffrey M.  
 Mayor GRAHAM, Jeffrey E.

Total .....

YEA	NAY

**Introduced by**

BE IT ORDAINED that Section A320-4 of the City Code of the City of Watertown is hereby amended by adding the following paragraphs:

§ A320-4. Schedule of Fees.

- A. The schedule for general admission to the City’s fairgrounds municipal arena shall be established and enforced as follows:
  - (12) Food concessions: Event promoters shall be charged a flat rate of \$250 for the right to allow concessions at their event. An additional \$750 shall be charged if the event promoter desires the City concession stand to be closed during the duration of said event.
  - (13) Parking: The City reserves the right to charge a concert/performance event promoter \$1,500 for parking by attendees.

and,

BE IT FURTHER ORDAINED that Section A320-9 of the City Code of the City of Watertown is hereby amended by adding the following paragraphs:

§ A320-9. Schedule of fees.

Municipal fairgrounds facility fees shall be as follows:

- N. Food concessions: Event promoters shall be charged a fee of \$250 per vendor, per event, for the right to allow food concessions at their event.
- O. Parking: The City reserves the right to charge a concert/performance event promoter \$3,000 for parking by attendees.

# ORDINANCE

Page 2 of 2

Amending Section A320 of the City Code, Fees

Council Member BURNS, Roxanne M.  
 Council Member BUTLER, Joseph M. Jr.  
 Council Member MACALUSO, Teresa R.  
 Council Member SMITH, Jeffrey M.  
 Mayor GRAHAM, Jeffrey E.

Total .....

YEA	NAY

and,

BE IT FURTHER ORDAINED that this amendment shall take effect as soon as it is published once in the official newspaper of the City of Watertown, or printed as the City Manager directs.

***Seconded by***