COUNCIL AGENDA: 5/21/19
FILE: 19-351
ITEM: 4.2

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Jacky Morales-Ferrand

SUBJECT: SEE BELOW

DATE: May 9, 2019

Approved D. DSyl   Date 5/9/19

COUNCIL DISTRICT: 7

SUBJECT: APPROVAL OF INCREASES IN THE INCOME LIMITS AND RENTS ON THE MARKHAM PLAZA I APARTMENTS

RECOMMENDATION

Adopt a resolution:

(a) Approving a change in the affordable restriction recorded on the existing 153-unit Markham Plaza I Apartments (formerly Tully Gardens), from 152 units affordable to extremely low-income ("ELI") households at up to 30% of Area Median Income ("AMI") and one unrestricted manager's unit to 76 units affordable to ELI households at up to 30% of AMI and 76 units affordable to very low-income households ("VLI") at up to 35% of AMI and one unrestricted manager's unit;

(b) Authorizing an increase to rents and income up to 60% AMI (low income) for new tenants in the event of foreclosure or expiration of subsidy contracts, provided the City has determined the increase is needed for feasibility of the development and allowed by other funds; and

(c) Authorizing the Director of Housing to negotiate and execute loan documents, amendments, and all other documents related to this action.

OUTCOME

Approval of the recommended actions will enable the Developer, CORE Affordable Housing Inc. ("CORE"), to refinance the existing debt and rehabilitate the development to preserve the units and continue serving the extremely low- and very low-income households in San José.

BACKGROUND

On October 31, 2000, the City made a $4,866,000 grant ("Grant") from the Redevelopment Agency's ELI Supplemental funds to subsidize the 152 ELI units. In addition to the Grant, the City made a $2,751,219 HOME loan ("Loan"), together, to fund the acquisition and development of Markham Plaza I Apartments.

In the spring of 2018, CORE applied to the Housing Department in connection with its proposed resyndication and rehabilitation transaction for the development. A public noticed Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing was held on March 6, 2019 before the Director of Finance in connection with the resyndication.

On March 15, 2019, CORE and the City submitted a joint application to the California Debt Allocation Committee ("CDLAC") for the issuance of $26,000,000 in tax-exempt multifamily housing revenue bonds to finance the rehabilitation of the development. In addition to the CDLAC application, CORE submitted an application to Tax Credit Allocation Committee ("TCAC") to be considered for low-income housing tax credits for the development. Awards for both applications are anticipated to be announced by TCAC on May 15, 2019.

In June 2018, the Santa Clara County Board of Supervisors approved $5,000,000 in Measure A funds for as a part of the financial restructure of the development. The loan is zero percent interest with annual amortizing payments payable in 15 years. The zero-interest feature of the County loan will enable the development to provide cash flow to pay for the much needed supportive services to existing and future tenants. Additionally, the County (in coordination with the Santa Clara County Housing Authority) will provide a total of 30 project-based vouchers to the development. The new structure includes 20 VASH Vouchers under the Housing and Urban Development Veterans Affairs Supportive Housing (HUD-VASH Program) and ten special needs project-based Section 8 vouchers. These vouchers will provide stability additional cash flow to the development.

ANALYSIS

Markham Plaza I Apartments was built and occupied in 2002 and was one of the first developments dedicated to serving only extremely-low income households. Tenants who qualify to live in the development face challenges typical for the lowest income households living within the high-cost Bay Area. A one-person household living at Markham Plaza I Apartments earns less than $2,329 per month (before taxes) and pays $699 to rent an efficiency apartment. Many extremely-low income tenants do not have options to move to other apartments when rents increase or life circumstances change. As a result, tenants pay more than 50% of their income on rent in an effort to maintain their housing. The most recent rent roll for Markham Plaza I Apartments indicates that 46 of the 152 tenant households are rent-burdened paying greater than 50% of their incomes in rent, with average incomes of $18,000 per year. Some tenants earn less than $10,000, the lowest annual income reported is $1,800 per year. Tenants living in these income ranges are often left with insufficient income to support all of their basis needs such as food, transportation and clothing.

Over the past few years, the City, County and Housing Authority have worked together to establish a model for funding supportive housing for extremely low-income households. Not only is funding made available for the construction of new housing, but also for the services necessary to support households with the lowest incomes. The restructuring of the finances for this development will carve out funding for services for the tenants and for rehabilitation of the existing building. The scope of services for the building rehabilitation includes repairs to the interiors of the apartments; retrofitting apartments to make them accessible to individuals with disabilities; repairs and upgrades to building systems including electrical, mechanical and plumbing; and exterior repairs and upgrades including paving, sidewalks, landscaping and paint.

The proposed restructuring will allow for the investment of Measure A funds, while not requiring any additional investment from the City. The City's original investment of over $7.6 million will be preserved by this action and the length of the affordability restriction will be extended.

Changes to the Affordability Limits

Since the inception of the Markham Plaza I Apartments, all of the apartments are limited to 30% AMI. These affordability restrictions create housing opportunities for the lowest incomes in our community. However, at the same time, the rents do not produce the revenue necessary to provide the level of services necessary to serve the residents. This memorandum is requesting an increase of the AMI level for half of the apartments in the development from 30% AMI to 35% AMI. This requested change in affordability is intended to improve cash flow to pay for enhanced services for the existing tenants and financially stabilize the development. The developer has indicated that allowing the change in the affordability unit levels will enable the Developer to attract prospective lenders and investors for the resyndication as they can be reluctant to commit with the existing 30% AMI rents. While 50% of the units will be allowed to change to 35% AMI upon turn over, the remaining 50% of the units will stay at 30% AMI to avoid displacing or creating economic hardship for the current residents. The requested action will gradually create more economic diversity in the development and will provide added flexibility without compromising the program's intent or effectiveness.

Additional Changes to Existing Loan and Grant Documents

The Developer has also requested that the City allow an increase to 60% AMI in the event of foreclosure or expiration of subsidy contracts. This is reasonable provided the City has first determined the extent of the increase needed for feasibility of the development and that any increases are limited to new tenants.

The City Affordability Restriction which has a current termination date of July 10, 2058 will be extended to 2074 (55 years from the closing of the bond financing). The City Affordability Restriction will be amended to reflect the new termination date and other covenants.

As noted above, the Developer has already applied to CDLAC for a tax-exempt multifamily housing revenue bond allocation and has been successful in securing approval of an allocation of Measure A funding from Santa Clara County for the development. The City's current Loan and Grant will remain in place, secured as liens on the Property. The City Affordability Restriction will not be subordinated to any senior lender.

Staff has brought these specific requests to Council for consideration because the authorization for affordability changes to more than 10% of the units are not included within the scope of Director's authority for amendments to loan documents that is provided in Chapter 5.06 of the Municipal Code.

EVALUATION AND FOLLOW-UP

The Housing Department produces a quarterly Information Memorandum regarding the use of the Director of Housing's Delegation of Authority under the Municipal Code. Final amended Loan and Grant business terms would be summarized in those Memos. In addition, the Housing Department posts a Quarterly Production report on the status of its affordable properties undergoing rehabilitation or construction to its website, www.sjhousing.org. If the recommended actions are approved and Markham Plaza I Apartments successfully closes financing, it would be included in the production report.

Staff is anticipated to return to City Council sometime in August 2019 after the development receives its bond allocation from CDLAC for further action authorizing the issuance of bonds.

POLICY ALTERNATIVES

To arrive at this proposal, Housing Department staff considered the following option:

Alternative:	***The City Council could deny the Housing Department's recommendation to modify the development's AMI levels***
Pros:	100% of the development's units would be income-restricted to ELI households for the term of the Affordability Restrictions.
Cons:	The City will lose an opportunity to provide long-term services to the tenants.
Reason for not recommending:	The proposed action will help to meet the continuing demand for deep affordable housing that is affordable to the lowest income households.

PUBLIC OUTREACH

The public was notified of the proposed financing structure of the Markham Plaza I Apartments consistent with the City's standard public outreach requirements for the issuance of tax-exempt private activity Bonds in the form of a Tax Equity and Fiscal Responsibility Act (TEFRA) Hearing. The TEFRA Hearing was held on March 6, 2019 before the Director of Finance. The public hearing notice for the March 6, 2019 was published in the *San Jose Post - Record* on February 20, 2019.

This memorandum will be posted on the City's Council Agenda website for the May 21, 2019 Council Meeting.

COORDINATION

Preparation of this report was coordinated with the Office of the City Attorney and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

This item was not heard by the Housing and Community Development Commission, as approvals of affordable development financing do not fall under the functions, powers, and duties of the Commission delineated in Section 2.08.2840 of the San José Municipal Code.

FISCAL/POLICY ALIGNMENT

This action is consistent with the City's *Consolidated Plan 2015-2020,* adopted by City Council on May 5, 2015, to provide homes for very low- and extremely low-income households; and with Goal H-2 of the City's *Housing Element 2014-2023,* adopted by City Council on January 27, 2015, to "increase, preserve, and improve San Jose's affordable housing stock."

COST SUMMARY/IMPLICATIONS

There are no cost or budgetary impacts to the recommended action described in this request.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/
JACKY MORALES-FERRAND
Director of Housing

For questions, please contact Kemit Mawakana, Division Manager, at (408) 535-3851.