



Date: December 17, 2019

To: Thomas J. Bonfield, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Reginald Johnson, Director, Community Development Department
Subject: Willard Street Apartments Phase I and II Update

Executive Summary

On August 9, 2018, the North Carolina Housing Finance Agency announced the allocation of 2018 9% Low Income Housing Tax Credits (LIHTC), which included an award to phase I of the Willard Street Apartments. The development will include 82 units of affordable rental housing for household earning 60% or below the area median income, ground floor commercial space and structured parking. The real estate and financial closing occurred in July of 2019 along with the groundbreaking to celebrate the development of affordable housing in the City's downtown core.

The purpose of this report is to provide a construction update on the Willard Street Apartments phase I and share next steps for the phase II development effort and the submittal of a 2020 LIHTC preliminary application for 9% tax credits.

Recommendation

The Community Development Department recommends that City Council receive the Willard Street Apartments update.

Background

Phase 1

Construction began on phase I in July of 2019 with a seventeen month construction schedule or an established completion date of December 31, 2020. Construction is currently on schedule to meet the December 31, 2020 placed in service date as required by the North Carolina Housing Finance Agency. To date, the majority of the site work has been completed, including grading and public infrastructure. Substantial amounts of mass and trench rock were removed as part of the site work and infrastructure improvements. The slab for the first level of parking on Side A (faces Willard Street) has been completed, along with the cast-in-place walls for that level. Bracing has been put in place for the walls to be backfilled and structural supports have been erected to prepare for the pouring of the second level of parking. Over the next ninety days, the second level parking slab will be poured along with the footings for Side B (faces Jackson Street). Framing for the residential units is expected to begin on Side A in late January. See attached pictures.

Phase 2

In January of 2019, as a back-up plan to the 2019 9% LIHTC application submitted by the Durham Housing Authority (DHA), the Joint Venture (JV) (DHIC and Self Help Ventures Fund) submitted a 2019 LIHTC application for phase 2 of Willard Street Apartments. The agreement between the City, DHA and the JV in the submittal of two separate applications was that upon the release of the individual site scores in April 2019, the applicant with the lowest site score would remove their application from consideration for low income housing tax credits. This

would prevent the two entities from competing against each other and allow the City to support one application. Additionally, if both applicants were to receive the same site score, the JV would remove their application from consideration with DHA submitting a final application in May of 2019. When the final site scores were released in April of 2019, both sites received perfect scores and as agreed upon, the JV did not submit a final LIHTC application in May of 2019 and DHA moved forward with a final LIHTC application. Unfortunately, when the tax credit awards were announced in August of 2019, DHA did not receive an allocation. This left the Durham community without a 2019 allocation of credits.

As 9% LIHTC applications are extremely competitive, only those that get a perfect site score during the preliminary application phase have a realistic chance of receiving an award of tax credits during the full application phase. It is not uncommon for the scoring of full applications to lead to numerous projects with perfect or near-perfect scores based on the point system used by the North Carolina Housing Finance Agency.

One of the key variables in competing for a funding award is the amount of tax credits requested per unit. To be successful, applicants must propose a credit amount that is within a narrow range of the average of applications in that particular year, which can be difficult to predict. In 2019, DHA's credit per unit request was slightly below that narrow range, resulting in the loss of a point that cost them the possibility of an award. When scores are tied, the agency relies on tie-breakers to make award allocations. In 2020, these tie-breakers will include the poverty rate of the census tract the development is in (lower is better for scoring), community's recent past history receiving 9% LIHTC awards (fewer awards is better), and other factors as needed through six defined tie-breakers.

To increase the odds of a Durham application receiving an allocation of tax credits, staff has been working to develop multiple projects aligned with City priorities for the 2020 LIHTC 9% preliminary application due on January 24, 2020. Multiple applications mean that City has multiple chances at putting forward a winning proposal, including a competitive credit per unit request and/or a project that will score well on the tie breakers. DHA is preparing to submit two preliminary applications for separate sites at Liberty Street. In addition, staff recommends that the JV submit a third application for phase 2 of the Willard Street Apartments, which will be known as Ashton Place Apartments. Staff also recommends that both entities see the process through to the final application process and if awarded an allocation of 9% tax credits, the City provide its support to the application that receives an award. It should be noted that the Durham community is not guaranteed that it will receive an award, so the submittal of three competitive applications, increases the communities chance to receive an allocation of tax credits in 2020.

As part of the LIHTC application process, developers must demonstrate that they have site control of the parcel they are proposing to develop. For the 2019 LIHTC application process, the City entered into an Option Contract for the purchase of the Willard Street phase 2 site with the JV that expires in September 2020. The Option Contract includes language that if the JV did not submit a final 9% LIHTC application, then the City could, with proper notification, terminate the Option Contract. It is the JV's opinion this language may not meet the site control requirement of the 2020 LIHTC process and result in the JV's application being disqualified. Language was also included in the Option Contract that would allow the City Manager to amend the contract and staff, upon review by the City Attorney's office, has provided an amendment to the original contract for the City Manager's approval and signature. The revised Option Contract will meet the North Carolina Housing Finance Agency's requirements of required site control along with the submittal of the 2020 preliminary 9% LIHTC application.

Issues and Analysis

Assuming competitive tax credit applications are submitted, Durham often is awarded one tax credit project, but as 2019 showed, even competitive applications may lose out given the number of strong applications submitted each year. Allowing both DHA and the JV to compete increases the community's chance for an award, but potentially prevents one of the applicants from receiving an award. If the JV were not awarded an allocation of tax credits, the City and the JV would continue to discuss alternative concepts for the Willard Street phase II site and return to City Council by December of 2020 for additional direction and/or approval of a phase II concept. If DHA is not awarded an allocation of tax credits, DHA would need to reassess how to continue to move the downtown redevelopment effort, which could include converting the unsuccessful 9% LIHTC project into a 4% LIHTC project, which would require additional subsidy.

Alternatives

City Council could direct staff not to move forward with the submittal of the phase II 9% LIHTC application for Willard Street. This would allow DHA to be the only entity that the City would support in the submittal of a LIHTC application.

Financial Impact

If both entities were to submit a 9% LIHTC application and the JV received the allocation of tax credits, the subsidy request from the JV to the City is estimated at approximately \$1,000,000 - \$1,500,000, with a formal specific request to be made and approved by City Council in advance of the May 2020 full application deadline. If DHA received a 9% tax credit application, the City does not anticipate a need for City subsidy for the project. If DHA does not receive an allocation and proposes to move forward with a 4% LIHTC application for the project to stay on schedule with the Downtown Development Plan, their request to the City is assumed to be similar to the request for J.J. Henderson new construction (\$3,000,000).

Equal Business Opportunity Summary

Not applicable.

Attachments

Construction Pictures