



DATE: October 12, 2021

CATEGORY: Consent

DEPT.: Community Development

TITLE: 1100 La Avenida – Affordable Housing Development Appropriation of Funding

RECOMMENDATION

1. Appropriate \$13,700,000 in Below-Market-Rate funds for Eden Housing Management, Inc.'s 100-unit affordable housing development located at 1100 La Avenida. (Five votes required)
2. Authorize the City Manager or designee to negotiate the loan and agreement terms and execute a funding commitment letter, loan agreement, and related loan documents.

BACKGROUND

Project Site

The 0.96-acre (41,768 net square foot) site is located at the corner of La Avenida and Armand Drive in the North Bayshore Precise Plan Area. There is currently a vacant office building located on the site. Directly to the north of the site is the Santiago Villa Mobile Home Park, while to the south are several Microsoft office buildings. To the east and west are office uses.



Proximity to Services

Multiple transportation options are accessible from the site. Valley Transportation Authority (VTA) Bus Route 40 is located within one-half mile. Additionally, the

Mountain View Community Shuttle runs in this area on weekends and holidays with a stop a short walk from the site. The Community Shuttle would provide access to downtown Mountain View, the Mountain View Transit Center, and El Camino Hospital. The MVGo Shuttle provides weekday access from the vicinity of the development to the Mountain View Transit Center as well as to other parts of downtown during weekday daytime hours. Rail access is well within a two-mile radius; however, tenants can take VTA Bus Line 40, the MVGo Shuttle, or bike to the Mountain View Transit Center.

Project Description

The project proposes 100 apartment units in a four-story building with 63 studio apartments, 18 one-bedroom units, and 19 two-bedroom units. The units are predominantly located on the upper floors above one level of at-grade parking. The units fronting the public streets have exterior entries through private patios. The building's vehicle and lobby entries front Armand Drive, with residential units wrapping the parking garage along La Avenida and around the corner of Armand Drive. Thirty-nine (39) of the units will be affordable to extremely low-income households (30% of Area Median Income (AMI)), with the remaining units affordable to very low-income households (60% AMI).

Previous Meetings

NOFA Funding Reservation

In February 2014, the City of Mountain View released a Notice of Funding Availability (NOFA) for affordable housing developments and has been open since that date. On November 18, 2020, the NOFA Review Committee (Committee) met to review the Eden Housing Management, Inc. (Eden Housing), NOFA proposal for a 100-unit affordable apartment project at 1100 La Avenida. The Committee discussed project costs and the target population for the development. The Committee voted 3-0 to move the project forward to the City Council for a reservation of funding.

On December 8, 2020, the City Council considered the recommendation from the Committee to reserve \$15 million in Below-Market-Rate (BMR) funds for this project. After consideration and discussion surrounding the ownership of the development site, the City Council voted 7-0 to reserve \$15 million for the development and appropriate \$1.3 million out of the reservation for use on predevelopment activities. The City Council also discussed and encouraged the developer to apply for streamlined ministerial review pursuant to Government Code Section 65913.4, one of the statutes enacted under Senate Bill 35 (SB 35).

Neighborhood Meetings

A neighborhood meeting was held on November 12, 2020 via a Zoom webinar to solicit public input on the project. A total of 17 neighbors or interested community members attended the event. Most of the comments were positive and encouraged the City to move the project along. A few members of the public were not aware of the project and were seeking additional information on where the project was located and who the development would serve.

ANALYSIS

Senate Bill 35 Approval

On July 2, 2021, the City granted a streamlined ministerial approval of the project pursuant to Senate Bill (SB) 35. The approval was granted to construct a four-story apartment building with 100 affordable units and associated site and landscape improvements, a 96% density bonus with development waivers, and the removal of 17 Heritage trees, replacing an existing single-story office building on a 0.96-acre site.

NOFA Process

Financing for affordable housing is very complex and influenced by factors not found in market-rate developments. Successfully securing full funding for affordable developments requires a strategic approach in a highly competitive environment of changing funding sources. The following sections provide additional information on anticipated project funding sources. The table below identifies the amount each funding source would contribute to the overall development cost based on Eden Housing's financial pro forma.

Table 1: Funding Sources

Permanent Sources	Dollar Amounts
Tax Credit and GP Equity	\$25,391,898
City of Mountain View – NOFA	\$15,000,000
County of Santa Clara Measure A	\$19,000,000
State Funding – Multi-Family Housing Program, or other HCD funds	\$359,102
Federal Home Loan Bank – Affordable Housing Program	\$1,000,000
HTSV – Apple Affordable Housing Fund	\$3,000,000
Conventional Loan	\$6,664,200
Deferred Developer Fee	\$1,300,000
Fee Waivers	\$2,500,000
TOTAL	\$74,215,200

Currently, the Federally funded 4% and 9% tax credit programs are two of the primary outside funding sources for affordable housing projects. Both tax credit programs are administered at the State level by the California Tax Credit Allocation Committee. The 4% tax credit program is not competitive but usually requires additional local funding since the equity created by selling the tax credits to investors is far less than the equity generated in the 9% tax credit program. The result is a larger funding gap for a 4% tax credit project that must either be filled by City funds or other outside funding sources, which are scarce. Typically, there are two application opportunities per year for the 9% tax credit program, one in March and a second in late June/early July. Applications for the 4% tax credits are accepted more often, about four times a year.

The following table provides comparative data for the last seven affordable developments in Mountain View and Eden Housing’s 1100 La Avenida development.

Table 2: Comparison of Per-Unit and Per-Bedroom Development Costs

Sponsor (Year Completed)	Development Name	No. of Units	No. of Bedrooms	Total Development Cost	Cost Per Unit	Cost Per Bedroom	City Subsidy	Subsidy Per Unit	Subsidy Per Bedroom
Charities Housing 1265 Montecito Avenue (Funding Reserved)	Montecito Apartments	85	150	\$88,702,160	\$1,043,555	\$591,348	\$16,000,000	\$188,235	\$106,667
Eden Housing (Funding Reserved)	La Avenida Apartments	100	119	\$74,215,200	\$742,152	\$623,657	\$15,000,000	\$150,000	\$126,050
Alta Housing (under construction)	Luna Vista Apartments	71	72	\$53,294,200	\$750,623	\$740,197	\$22,772,844	\$320,744	\$316,290
MidPen Housing (2020)	Shorebreeze Apartments Expansion	62	94	\$38,096,381	\$614,458	\$405,281	\$8,157,608	\$131,574	\$86,783
ROEM Development Corp. (2019)	Evelyn Family Apartments	116	191	\$66,416,378	\$572,555	\$347,730	\$21,700,000	\$187,069	\$113,613
Alta Housing (2019)	Eagle Park Apartments	67	68	\$37,577,326	\$560,856	\$552,608	\$8,000,000	\$119,403	\$117,647
First Community Housing (2015)	1585 Studios	27	27	\$10,468,465	\$387,721	\$387,721	\$3,452,000	\$127,852	\$127,852
ROEM/Eden Housing (2015)	Studio 819 Apartments	49	49	\$17,396,762	\$355,036	\$355,036	\$8,952,623	\$182,707	\$182,707
	Total	577	770	\$386,166,872	\$5,026,955	\$4,003,577	\$104,035,075	\$1,407,584	\$1,177,608
	Average	72	96	\$48,270,859	\$628,369	\$500,447	\$13,004,384	\$174,193	\$152,992
	Median	69	83	\$45,695,291	\$593,506	\$478,944	\$11,976,312	\$166,353	\$121,849

City and County Funding

The City Council has already appropriated \$1.3 million in BMR funds for Eden Housing to use for predevelopment activities. The remainder of the City funding, \$13.7 million, will be used for construction activities with the entire amount rolled over into a permanent loan at the close of construction. Typical loan terms for the City loan are 3% simple interest with payments made from residual receipts, but these loan terms may vary based on the financial needs of the development. In addition to the City funding, the developer has requested up to \$19 million from the County of Santa Clara in the form of Measure A and other County funding.

Adding further complexity to the funding process, the County of Santa Clara Board of Supervisors has directed County staff to acquire properties funded through the Measure A housing bond. In addition, County staff has expressed that if the County contribution is higher than the City's contribution, the County will own the property. This County policy led some Councilmembers at the December 8, 2020 City Council meeting to express concern regarding intergovernmental immunity. Several Councilmembers asked staff to explore opportunities for the City to own the property in lieu of the County of Santa Clara in order for the City to retain land use control on the property.

Intergovernmental immunity limits local control over land use regulation by exempting property owned or leased by other governmental entities unless they waive that immunity. For example, Government Code Section 53091(a) provides generally that a local agency must comply with "all applicable building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated"; however, cities and counties are not included in the definition of "local agency" and, thus, this provision does not waive intergovernmental immunity as to the County. The City is concerned that in 55 years, after the regulatory agreements expire on the affordable housing, the County could choose to develop the site for another use and, to the extent intergovernmental immunity applies, would not be subject to the City's building code and land use authority. The County counsel's impartial analysis for the 1998 Measure A stated that affordable units funded under Measure A would remain subject to all local land use, zoning and approval procedures. The County's statement does not address other uses of property acquired by the County with Measure A funds after it is no longer used for affordable housing.

Three different options to protect the City's local control over land use have been explored. First, the County was asked to consider relinquishing intergovernmental immunity in an agreement recorded against the property. The County of Santa Clara declined this resolution.

Second, the City explored providing additional funding to any affordable development funded through the NOFA process that was also receiving County Measure A funding so that the City's contribution would exceed the County's. However, in a prior action, the City Council voted not to provide the additional funding in a 4-3 vote when considering NOFA funding for Charities Housing's 1265 Montecito development. Additionally, the City has multiple affordable housing projects in its pipeline. Staff evaluated the potential for increasing the City amount for all of the projects seeking Measure A funding as a means of avoiding the County's assertion of intergovernmental immunity in the future. However, this would impact the ability to fund the other projects in the City's pipeline. Therefore, staff did not further pursue additional funding to projects as a means to address this issue.

The final option, which staff considers to be the most promising, is to have the County of Santa Clara record an option to purchase against any property in the City of Mountain View where the City has provided funding for affordable housing. This option to purchase would be exercisable by the City when the ground lease expires, is terminated for any reason, or if the County wishes to change the use of the site. The option purchase price would be at the same price that the County paid for the site. In addition, this option would be recorded when the County purchases the property and would be senior to all mortgages. By exercising the option, the City would retain land use authority over the site and would be able to ensure long-term affordability for the developments.

Although the County has expressed being open to this concept, the County has not formally agreed or committed to this resolution. The County has indicated that they would like to review a draft of the Memorandum of Understanding (MOU) that will cover the County Measure A funding commitment to Mountain View projects and will also include the option to purchase requirement. Staff is continuing to work on the draft MOU and expects to provide the terms of the MOU to Council in November 2021. Despite the County not making a formal commitment to this resolution at this time, staff feels optimistic about the resolution and will continue to work with the County on a formal resolution, which will be presented to the City Council for approval along with the MOU terms.

Property Management

Eden Housing will be required to prepare a Management Plan describing how the property will be managed, and the Management Plan will be subject to City staff approval before beginning the tenant selection process. The Management Plan will include the tenant selection and leasing process, oversight of residential services, resident rules, policies for record keeping, and other administrative guidelines.

Tenant Selection

Where allowed by funding sources, a preference for tenancy will be given to households already living or working in Mountain View. As with all affordable developments, City staff will monitor the tenant selection process and verify that the property is being managed and maintained properly. As with other affordable housing developments, prospective tenants will be thoroughly screened. This includes a credit history check, criminal background review, rental history review, and reference checks.

Eden Housing has applied for up to \$19 million in Santa Clara County funds, from a combination of Measure A and other County sources, which the County has reserved for this project. This translates into 33 permanent supportive housing (PSH) units in the proposed project. Permanent supportive housing provides longer-term rental assistance, case management, and supportive services to the County's most vulnerable populations, the chronically homeless. The PSH units will focus on extremely low-income levels, and supportive services will be provided to the residents on-site. The 33 PSH units will be filled through the Santa Clara County Community Queue after assessment, as described below.

In Santa Clara County's coordinated assessment system, all homeless individuals complete a standard assessment, referred to as the Vulnerability Index-Service Prioritization Decision Assessment Tool (VI-SPDAT). The assessment considers the household's current situation and identifies the best type of housing intervention to address the individual's needs. A community queue of eligible households is generated from the standard assessments received. This community queue is used to fill spaces in the permanent housing programs, including PSH and rapid rehousing throughout the County of Santa Clara. Targeted marketing to Mountain View residents and workers will also be incorporated and has been used in the past at Eagle Park Apartments (located at 1701 West El Camino Real).

Eden Housing will fill the other 67 units through an application process, which incorporates the City's live/work preference subject to Federal and State fair-housing regulations. The implementation of the live/work preference is always subject to other funding sources' review for projects not funded solely with City funds.

Resident Services

Eden Housing Management, Inc., currently operates more than 12,000 units in the State of California and is highly experienced. Eden Housing will manage the project after construction and the property will have an on-site resident manager who coordinates

on-site support services. On-site amenities will include a community room with kitchen, lounges, and laundry facilities.

Project Schedule

If the City Council approves this project, the following are the next steps anticipated to move forward with the development:

- Design Development Phase October - December 2021
- Construction Documents January 2022 - March 2022
- 4% Tax Credit Application February 2022
- Building Permit Submission March 2022
- Construction Start August 2022
- Project Completion August 2024

FISCAL IMPACT

There is no fiscal impact to the General Fund. The funding for the project will come from the City's BMR Fund. For Fiscal Year 2021-22, there is an estimated uncommitted balance of \$38.0 million in Housing Funds (BMR, Housing Impact, and Rental Housing Impact). This figure accounts for the funds reserved for Charities Housing's Montecito development and the full appropriation for Eden Housing's La Avenida development. Pipeline projects still awaiting funding reservations include Alta's Terra Bella Avenue and Linda Vista Avenue developments as well as Lot 12 and the VTA Evelyn Avenue site. The total funding necessary to fully fund all four proposals would be approximately \$65 million over the next four years. With projected revenue, sufficient funding should be available when the projects enter the construction phase, approximately 18 to 24 months after receiving the funding reservations from the City Council.

The City Council is being asked to appropriate \$13.7 million in BMR funds for the NOFA proposal. Including the \$1.3 million in predevelopment funds that has been appropriated, the total amount of City funding for this project from the BMR fund is \$15 million. Eden Housing will be a managing and general partner in the ownership structure. Due to Eden Housing's nonprofit status, the development will be exempt from paying property taxes.

The City will not collect Park Land Dedication In-Lieu Fees from this project due to the Park Land Acquisition Policy and Chapter 41 of the City Code (October 2015), which exempts projects from collection of park land fees in proportion to the number of affordable units provided at the very low- and low-income levels. Since the project is

providing all units within these affordability levels, it is exempt from the Park Land Dedication Fee payment.

CONCLUSION

The proposed development will create new affordable housing for diverse populations within Mountain View. The proposed building employs an attractive design and high-quality amenities. If Council approves the appropriation of funds and tax credit funding is awarded, construction could be completed in 2024.

PUBLIC NOTICING

The Council's agenda is advertised on Channel 26, and the agenda and this report appear on the City's website.

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894-10-12-21CR
201234

Attachments: 1. [NOFA Proposal: City Council Meeting December 8, 2020](#)
2. SB 35 Ministerial Approval Letter Dated July 2, 2021