October 28, 2020

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin
Senior Legislative Budget and Policy Analyst

FROM: Isabel Williams
Senior Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Note
CR-096-2020, Payment in Lieu of Taxes ("PILOT") Agreement for Woodyard Station Senior Apartments

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CR-096-2020 (*Proposed and presented by:* The Chair of the Council at the request of the County Executive; *Introduced by:* Council Members Turner, Franklin, Glaros, Harrison, Davis, Streeter, and Taveras)

Assigned to the Committee of the Whole

A RESOLUTION CONCERNING PAYMENTS IN LIEU OF TAXES ("PILOT") AGREEMENT FOR THE Woodyard Station Senior Apartments for the purpose of approving the terms and conditions of a Payments in Lieu of Taxes ("PILOT") Agreement between Prince George's County, Maryland (the "County") and Woodyard Station 4 LLC (the "Owner").

Fiscal Summary

Direct Impact:

Expenditures: No additional expenditures

Revenues: The revenue will increase by the amount brought in under the PILOT.

Property taxes revenues on the currently undeveloped land would increase by approximately $33,600 per year after the project is completed. However, revenues for the units subject to the PILOT agreement will be reduced by approximately $51,548.20 per year for the 40-year term of the agreement, compared to projected revenues in the absence of the agreement.

Indirect Impact:

Potentially positive.

Legislative Summary:

CR-096-2020, proposed by Council Chair Turner by request of the County Executive and sponsored by Councilmembers Franklin, Glaros, Harrison, Davis, Streeter, and Taveras, was presented to the County Council on September 22, 2020 and referred to the Committee of the Whole. CR-096-2020 would approve the terms and conditions of a Payments in Lieu of Taxes ("PILOT") Agreement between Prince George's County, Maryland (the "County") and Woodyard Station 4 LLC (the "Owner") concerning the Woodyard Station Senior Apartments project in Clinton, Maryland.

Background/Current Law:

Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland authorizes the County to exempt certain real property from County property taxes in certain circumstances. Specifically, the law permits such exemptions if:

- the real property is owned by a person engaged in constructing or operating housing structures or projects;
- the real property is used for a housing structure or project that is constructed or substantially rehabilitated under a federal, state or local government program that:
  - ✓ funds construction, or insures its financing in whole or in part, or
  - ✓ provides interest subsidy, rent subsidy or rent supplements;
- the owner thereof enters into an agreement with the governing body of the county and, where applicable, the municipal corporation where the real property is located, wherein such parties agree that the owner shall pay a negotiated amount in lieu of the applicable county or municipal corporation tax;
- the owner of the real property:
  - ✓ agrees to continue to maintain the real property as rental housing for lower income persons under the requirements of the governmental programs described in (a)(2)(ii) of this paragraph and
  - ✓ agrees to renew any annual contributions contract or other agreement for rental subsidy or supplement, OR
  - ✓ enters into an agreement with the governing body of the county or municipal corporation to allow the entire property or the portion of the property which was maintained for lower income persons to remain as housing for lower income persons for a term of at least five (5) years.

Resource Personnel:

- Terry Bell, Office of the County Executive

Discussion/Policy Analysis:

The Woodyard Station Senior Apartment (the 'project'), if approved, would be located at 8999 Woodyard Road, Clinton, MD, and is planned to consist of one hundred and twelve (112) multifamily residential apartment for low- and moderate-income residents and seniors. The Owner is an entity formed by the development team Pax-Edwards, LLC and Osprey Property Company II, LLC. The developer will reserve one (1) unit of the one hundred and twelve (112) units for low-to-moderate-income families earning thirty percent (30%) of the Area Median Income (AMI). Two (2) units will be reserved for households whose income is at forty percent (40%) of the AMI. Eight (8) units will be reserved for households whose income is at fifty percent (50%) of the AMI. The remaining one hundred and one (101) apartment units will be reserved for senior households earning sixty percent (60%) of the AMI. Additionally, the unit mix will consist of seventy-five (75) one-bedroom units and thirty-seven (37) two-bedroom units. CR-096-2020 would authorize the County to accept a payment in lieu of taxes for each below-market rate unit of a residential multi-unit building.

The Project is expected to cost twenty-seven million, nine hundred twenty-four thousand, eight hundred sixty-two dollars ($27,924,862), including the acquisition, infrastructure development and construction. Financing proceeds include tax-exempt bonds proceeds totaling approximately thirteen million, ninety-five thousand dollars ($13,095,000) issued by the Community Development Administration (CDA), a unit of the Division of Development Finance of the Department of Housing and Community Development of the State of Maryland; approximately nine million, one hundred ninety-five dollars ($9,000,195) from the investment of investor member equity provided in connection with 4% Low-Income Housing Tax Credits (LIHTC) awarded by the CDA; approximately two million, five hundred thousand dollars ($2,500,000) from a Maryland CDA Rental Housing Works (RHW) loan; deferred payment of approximately three hundred twenty-nine thousand, six hundred sixty-seven dollars ($329,667) from the developer's equity; and a Prince George's County HOME Investment Partnerships (HOME) Program loan of three million dollars ($3,000,000).

According to staff in the Department of Housing and Community Development, the Project's annual real property assessed value after Development will be approximately $8,514,820, and the County real property tax that will be due on the Project is an estimated $85,148 ($760.25/unit). Factoring in an annual 2% increase, the County would receive real property taxes equating to approximately $5,143,120.14 (A) over a 40-year period.

If adopted, the proposed PILOT agreement shall become effective on the date of execution of the PILOT agreement, and the obligation to pay negotiated payments in lieu of taxes shall commence from completion of the Project, as defined within the PILOT agreement. The PILOT agreement shall remain effective until the termination date, as defined within the agreement. Under the agreement, the Owner agrees to pay an annual PILOT payment of $300 per unit, or $33,600 per year, which shall increase by 2% each year. All other agency taxes are to be paid in full, each year. Over a 40-year period, the estimated PILOT payment totals $2,029,506.63 (B) with the remaining $3,113,613.51 (A-B) deferred.

Increasing the availability of affordable housing, both through preservation of existing stock and the construction of new housing, is a stated objective of the Council, and a key component of the Comprehensive Housing Strategy.

Fiscal Impact:

Direct Impact

Development of the Project will result in approximately $85,148 in additional annual real property tax revenue to the County, or $5,143,120.14 over the next 40 years, factoring in an annual 2% increase. There is currently no County real property tax being assessed and collected on the undeveloped property.

Adoption of CR-096-2020 would result in an adverse fiscal impact for the County of approximately $3,113,613.51 related to the Project's PILOT Agreement, over a 40-year period. This amount is the difference between the developed Project's cumulative annual County real property tax ($5,143,120.14) and the cumulative value of the annual PILOT payments ($2,029,506.63), combined over the 40-year period.

However, should CR-096-2020 not be adopted the Owner may decide not to purchase and develop the Property as proposed and the County would receive no real property tax revenue from this property.

Indirect Impact

Adoption of CR-096-2020 may have a positive indirect fiscal impact upon the County to the extent that new residents generate additional economic activity.

Items for Committee Consideration:

- Is the acceptance of the PILOT agreement a condition precedent of the completion of the development as proposed (*i.e.*, does it pass the "but-for" test)?
- Does encouraging this type of development provide a reasonable return, economic or otherwise, to the County for the forgone tax revenue?

Effective Date of Proposed Legislation:

The proposed Bill shall become effective immediately upon the date of adoption.

If you require additional information, or have questions about this fiscal impact statement, please call me.