

DRAFT

**MINUTES OF A MEETING OF
THE ARLINGTON HEIGHTS HOUSING COMMISSION
HELD AT ARLINGTON HEIGHTS VILLAGE HALL
VILLAGE OF ARLINGTON HEIGHTS, ILLINOIS
May 6, 2019**

IN ATTENDANCE:

Commissioners

Present: Mark Hellner Zach Creer
William Delea Andrew Tripp

Commissioners

Absent: Alex Hageli

Staff Present: Charles Witherington-Perkins, Director of Planning & Community Development
Nora Boyer, Housing Planner/Staff Liaison

On Behalf of Bruce Adreani, Developer, Arlington 425
Arlington 425: Michael Firsell, Attorney for the Developer
Debbie Smart, Briarwood Management

I. CALL TO ORDER

The meeting was called to order at 7:00 p.m.

A motion was made by Commissioner Creer, seconded by Commissioner Delea to select Commissioner Hellner to chair the meeting in the absence of Chairman Hageli. The motion passed unanimously.

II. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

III. ROLL CALL

Commissioners present: M. Hellner, W. Delea, Z. Creer and A. Tripp.

Absent: A. Hageli

IV. Minutes

Chairman Hellner suggesting deferring approval of the minutes to a later meeting due to their length. The other Commissioners did not object to this suggestion.

V. OLD BUSINESS

A. Arlington 425 Response to Affordable Housing Guidelines

Chairman Hellner opened the discussion of this item saying that the Housing Commission would only be discussing the affordable housing aspect of the development. He said that there have been discussions between staff and the developer since the last Housing Commission meeting and progress has been made. He asked for a report from staff.

Charles Perkins updated the Housing Commission on what has transpired since last Monday (date of the last Housing Commission meeting on April 29, 2019). At the last meeting, there was discussion about whether the affordable housing component of the project should be 20 units at affordable at 80% Area Median Income (AMI) and payment of fee-in-lieu for 7 units or 18 units affordable at 60% AMI and payment for fee in lieu for 9 units. Members of the public spoke at the April 29th meeting who advocated for 54 affordable units. However, this percentage of affordable units has never been attained from a developer, especially without some form of government funding or financing. Mr. Perkins further explained that the developer has provided limited financials to the Village. He called each of the Housing Commissioners present and this meeting and briefly discussed on the information in the financials. No detailed pro-forma or cash flow analysis was provided. The financials did not change staff's recommendation. Staff continues to recommend 18 units affordable at 60% AMI and fee in lieu payments for 9 units at \$25,000 each.

Mr. Perkins explained that there have been extensive discussions with the developer's attorney since the last meeting. The Housing Commission meeting packet contains a redline version of the staff's recommendation as modified as a result of those discussions. The developer has agreed to provide 18 affordable units at 60% AMI and payment in lieu of units for 9 units at \$25,000 each for a total of \$225,000 with those funds going into the Trust Fund. Originally, staff recommended that the total fee amount be paid at the issuance of the first building permit. An agreement was reached where the total would be paid in three parts: 25% at the time of issuance of the garage/Highland building permit; 25% at the time of issuance of the first garage/Highland Building occupancy certificate; and 50% at the time of issuance of first Campbell Building occupancy certificate. This recognizes that the developer has a lot of costs early in the development and this staging of the payment of the fees allows the developer to begin construction and begin receiving rental income before all of the fees are due. The revised staff recommendation also provides that the developer may have flexibility up or down 3 units when leasing studio and one-bedroom units in order to allow them to be responsive to the units size preferences sought by eligible tenants. Implementing this flexibility will require prior staff approval. The staff recommendation was amended to add employees of Arlington Heights businesses and organizations to the groups receiving preference for the affordable units. The annual reporting date was changed from January 31 to March 31. Lastly, if the Village changes the program guidelines to be less restrictive prior to 12 months after the issuance of the first certificate of occupancy for the development, the least restrictive of the of the two standards will then be applied to the development.

Chairman Hellner asked if the developer is in agreement with these conditions as summarized by Mr. Perkins. Mr. Adreani said that he agrees to all the conditions.

Chairman Hellner asked if the Housing Commission members have comments. He said that the Housing Commission members have not discussed this matter since the last meeting.

Commissioner Delea said that at the last meeting the developer's attorney said that there was an over supply of affordable housing at the 60% AMI level and a shortage of supply of affordable housing at the 80% AMI level in this area; and therefore, the need is for more affordable housing at the 80% AMI level.

Mr. Michel Firsel responded he had referred to data for the project area from the Illinois Housing Development Authority website that states that 28% of the available units in the area affordable at 60% AMI were used for affordable housing and that 43% of the units affordable at 80% AMI were used for affordable housing. He said that the developer is comfortable with providing the 18 affordable units at the 60% AMI standard and that the data he cited is just one measure which he brought up to clarify that they did not necessarily concur that the need was greater at 60% AMI than 80% AMI.

Commissioner Delea said that he did some calculations and it seems to him that there is the need for more units. He asked if, since there is a need according to the developer for more units in the area at 80% AMI, the developer could provide the 9 affordable units as actual units rather than paying a fee in lieu of those units. He suggested that it would be better to have the units occupied to households at 80% AMI rather than having unoccupied units in the building since they would be getting some rental income.

Mr. Firsel said that there is a difference between something that is mandatory and voluntary. He said that they do not expect unusual vacancy rates, but the developer can always voluntarily decide to rent units below the market rate. There is a significant difference between the 80% affordable rental rate and the market rate; therefore, there would a significant difference in cash flow if that were done.

Commissioner Delea said that there would be a break even point after 4-5 years if the units were rented at the 80% AMI affordable rent rather than paying the fee in lieu amount. He said that income at the 80% AMI affordable rent would be a better use of the units rather than leaving them vacant.

Mr. Firsel said that Commissioner Delea's comments assume that there will be vacant units. Also, rather than restricting additional units, Mr. Adreana thinks that contributing the fee in lieu to the affordable housing fund is important. They believe that the 18 affordable units at 60% AMI is a fair compromise between what the developer has proposed and what the Village requested.

Chairman Hellner said that he made a calculation based on the \$225,000 fee which, if the developer kept that money in his pocket, would represent a subsidy for the 9 units for 4.5 – 5 years. By then, the development would be finished and close to 100% occupancy, revenues will be coming in, and the cash flow may be better with the 9 units at 80% keeping in mind that the \$225,000 was saved. He asked what was erroneous about that hypothetical.

Mr. Firsel said that Chairman Hellner is correct for the 5 years, but he assumes that something is going to happen at the end of that time in and into perpetuity. He said that the developer has asked to limit the affordable period to 20 years but agreed to in perpetuity. The developer cannot afford to risk assuming that revenues will continue to grow in perpetuity. Also, taxes and other costs will go up.

Chairman Hellner asked if the developer would consider renting the 9 units at 80% AMI for 10 – 15 years and renegotiate after that time if revenues have continued to increase. Mr. Adreani asked if the number of affordable units can be renegotiated after some time if revenues do not increase over time to which Chairman Hellner responded that he cannot answer that questions. Mr. Adreani said that neither can he answer Chairman Hellner's question.

Mr. Firsel stated that Mr. Adreani feels that the contribution to the trust fund is also important since the fund can help the Village meeting its goals. Chairman Hellner said that actual affordable units are more viable for immediate impact than is the trust fund.

Mr. Firsel said that the 9 units as affordable units will also decrease the value of the development due to the decrease in revenue for the units.

Commissioner Tripp said that he had no questions at this time, but staff has done a good job as reflected in where things stand currently.

Commissioner Creer said that it was probably too late, but perhaps the \$180,000 in the trust fund could be used with respect to the affordable units in this project.

Mr. Firsel said that one of the issues has been the lack of other ways to fund the gap between the affordable rents that can be charged and the market rents. Since there are no other mechanism about which they are aware, that is the basis for the current proposal. He said that the affordable housing component could be revisited in the future if funding becomes available.

Commissioner Delea asked Nora about the \$180,000 in fund now. He asked how much more is expected in the future since there is expected income. Chairman Hellner clarified that this is income for projects that will be paying fees in lieu in the future and that are under construction. Ms. Boyer asked for a few minutes to add up the fees in lieu that have been approved.

Chairman Hellner asked if the developer is assuming that Housing Choice Vouchers will not be used at the development. Mr. Firsel said that has not been taken into consideration.

Chairman Hellner said that that Housing Choice Vouchers would result in the developer receiving market rate rents. He wondered what should be done in that case since the developer's deficit would be reduced. Perhaps additional affordable units should be provided if that occurs.

Chairman Hellner also asked if the developer would consider waiving the \$100 - \$125/month parking space rental fee for the affordable units. Mr. Adreani said he would consider that on a per case basis. Other forms of transportation were mentioned.

Chairman Hellner said that the loss of revenue does not appear that great when spread across all of the units, at \$500/year per unit. Mr. Adreani responded that there are unknowns including anticipated increases in property taxes and possible increases in other costs to be covered by the project revenue.

Commissioner Tripp asked about the distribution of the affordable units. Mr. Adreani said that the plans are not far enough along for them to have discussed that level of detail yet.

Ms. Boyer reported on the income to the trust funds. She said that two projects have been approved that are completed or under construction that have or are paying into the trust fund for a total of \$150,400. There was some other income from the sale of some tax-exempt bond volume cap resulting in the \$180,000 to \$200,000 that has been mentioned. Two other projects are approved that are to pay fees in lieu, which are Arlington Downs at \$100,000 and the project in Hickory/Kensington at \$275,000. The total

approved is around \$550,000. Commissioner Delea said that he asked for that total number since the developer kept referring to there being \$180,000 in the fund and there is anticipated revenue just as the revenue from this project would initially be only anticipated. He wanted to compare apples and apples.

Chairman Hellner opened the meeting for public comments.

Geri Wasserman, representing Reclaim the NW Suburbs, asked if there are projections of income or profits for the development. She said the developer is very definite about losses but is not providing projections on profits.

Mr. Adreani listed a number of unknowns that prevent him from estimating revenues at this time. Chairman Hellner said that based on his experience, losses are more readily estimated than income.

Ms. Wasserman said that any developer can claim that they can't afford to provide affordable units. Mr. Firsel said that he did not think of affordable housing as a profit sharing endeavor. He said they are required to provide the affordable units whether they experience a profit or loss. He said they don't have the numbers because they do not have final plans and there are other unknowns.

Keith Moens stated that affordable units are needed in town and that he thinks that 18 affordable units and the other 9 units being provided as actual units with no fee in lieu payments would be reasonable. He thinks the difference between providing the 9 units at 80% AMI and paying the fee has to be marginal and could be worked out over the next few years. The developer will also receive more income due to inflation. He asked if the public can look at the financial information that was provided or if it can be obtained by filing a Freedom of Information Act (FOIA) request.

Mr. Perkins said that the financial information received was marked confidential. If a FOIA request is received it would be reviewed by the Village's Legal Department to see what information can and cannot be released.

Mr. Moens commented that last week the developer said that units at 60% AMI cannot be done and now they have agreed to it. Also, he said that what the developer is agreeing to is not consistent with letters that were provided earlier to the Village. He said that he does not think the developer would walk if more was required, and that someone else would be happy to develop that block. He said he wants units not fees. He asked the Housing Commission to approve 18 units at 60% AMI and 9 units at 80% AMI.

Cathy Motto commented that money in the fund can come and go, but units last forever. She said that both are good, but the units would be lasting.

Tom Mussar said that he can't believe that the developers don't have any projections of revenue and income.

Heidi Graham, from the League of Women Voters and an Arlington Heights resident, said that she understands that this is a negotiation and that the developer should make money. However, she recently talked to a single mother about her need for affordable housing and she is concerned about there not being any affordable 2-bedroom units. She said that the children that she works with as an advocate in the foster care system need affordable housing. She asked that the Housing Commission push as hard as it can for as much affordable housing as it can get.

Dawn Frenzell, a neighborhood resident, said that there is an incredible need for affordable housing. She said that this is a great location for seniors moving out of their homes and who may no longer drive. She said that she has a son with Asperger's who would never be able to afford a market rate unit like this. She said that there are a lot of people in need of affordable housing through no fault of their own.

Lisa Doty said that she lives a block west of the proposed development. She said that she is all for affordable housing and thinks that affordable housing is a great idea for this development. However, she does not think that it is fair to put the burden of all of the past mistakes of the Village, and that other villages have made about affordable housing, on the backs of the developer of this project. She said that she thinks that the compromise staff and the developer have made is a good working compromise, and that it could be something that is a very good start for push developers to do more affordable housing. She said that she has pretty much been at every meeting on this project. The developer has talked about parking and other stuff. They have talked to them as neighbors. She said that the developer has been unbelievably good at listening, taking advice, making changes, changing direction, and doing all the things that need to be done. She thinks the developer is doing what they can on affordable housing, that staff has been a really good guide, and she thinks we need to accept the compromise in order to allow the development to move forward.

She said when we talk about jobs and income equality; this development will be bringing jobs and support local businesses. She pointed out that there will be \$2 million per year in property taxes that will go to Cook County and the Village, to our parks and library. They will bring in consumer spending that will make the downtown vibrant. She said that the affordable housing advocates should work with the Village in a separate way to see what we can do to make the ordinance have a little more teeth and to show developers that the Village is serious about affordable housing. She said that since the beginning, no one ever told the developer exactly what they needed to do for affordable housing. They were told what they needed to do for parking, building height and they complied with those requirements, but they were never told exactly about affordable housing and that the affordable housing has been all over the place. She said that the Housing Commission should agree to the compromise and move this along to the Village Board because every time there is a meeting it delays the project and money and the benefits to the Village are delayed, and she thinks that it is time that we stopped doing this.

Commissioner Hellner asked "tongue in cheek" if Ms. Doty isn't an employee of the developer. Ms. Doty said that she is not. She objected to the question, and there was an exchange between Commissioner Hellner and Ms. Doty about whether this inquiry impugned her integrity.

Commissioner Delea said that it was not correct that the developer was never told what the affordable housing requirement was. He said they were told that there was a specific requirement of 54 units, and we have now reduced that substantially. He said that you can't say that they were not told the requirement or that we have done nothing toward that.

Commissioner Tripp said that he agreed with Ms. Doty that there could be more clarity on the guidelines and how they are applied moving forward.

Chairman Hellner also agreed with Ms. Doty that there will be overall benefit to the community including the tax revenues and the overall support of businesses. These are things that should not and are not being ignored.

Geri Wasserman said that all of those things will happen and there can be affordable housing. She said that they are not against development and profit, but she feels they need to speak for people with needs.

Mr. Firsel said that the developer appreciates everyone's comments. He wants to make clear that the developer has been pushed by staff and he pointed out that what the developer is agreeing to is in alignment with the staff proposal. He urged the Housing Commissioners to take all comments into consideration and support the staff recommendation. He said that we all know what the alternative is.

Mr. Moens said he took Mr. Firsel's comment as a threat. Chairman Hellner said that he understood Mr. Firsel's comment and that the most powerful part of negotiation is your feet.

Mr. Firsel said that this has been discussed at great length; they have done a lot of research and have looked at other projects. He made the statement that the guidelines have to be reviewed, to which Chairman Hellner agreed. He said that the guidelines not having been strictly followed can't be put on one developer, although he isn't saying that is what is happening here. Mr. Adreani and he have offered to meet and talk about the guidelines to help frame standards that are economically viable and add meat to the bones of the guidelines as far as what can be achieved in the best way possible. He said that they are in favor of affordable housing, but there is a big pie here and this is a piece of that pie. He said that working with staff, staff and Mr. Adreani have come to an agreement they are comfortable with. He urged the Housing Commission to adopt the staff proposal.

Chairman Hellner turned the Housing Commission to its deliberation.

At motion was made by Commissioner Tripp, seconded by Commissioner Creer to accept the staff recommendations for Arlington 425.

Discussion followed. Commissioner Creer stated that this is a good package overall. He said that you have to look at the whole picture. He is excited for this development. He thanked everyone for coming and thanked the developer for participating in the process. He said that this is a good step on which to move forward. He said that it is hard to get affordable housing when the Village isn't offering anything in terms of money such in the case with a development is a tax increment financing (TIF) district. In this case, the Village not putting anything into the kitty. He said that parking is being provided also, which is not his priority, but that is why this is a community process. He thanked staff for their work and thanked everyone for coming. He said that staff negotiated a good and hard deal.

Commissioner Delea said that he is not happy with deal, but it is in line with what we have done in the past. He is looking forward to more strict requirements for the future. He said that he is not happy, but it would not be fair to be so easy-going and then changing on this project. However, we need to be stricter going forward.

Commissioner Tripp thanked members of the audience and community at large, including people not here tonight for their involvement in the process. He said that the Housing Commission is charged with a complicated balancing act involving concerns from throughout the community including those of the developer. He said that developments like this are complicated and staff came up with reasonable solution. He said that what is most important is fairness, consistency and transparency, and that we tried to provide that. He thinks this is consistent with what we have done in the past.

Chairman Hellner pointed out that one of the issues is that the Village has guidelines not mandates. He said the Village went in this direction because there had been no multi-family development in a long period of time. One project generated the belief that we needed to get into this. Not many communities have affordable housing requirements in this area. Other than the City of Chicago, the communities that do are Arlington Heights, Highland Park, Evanston, Lake Forest, St. Charles and Oak Park. He said that is sad, and he is glad we have this, but agreed that we need to work on it. The economy is different now and this is only the second large development project in that period of time. The first was Arlington Downs. He said that he thinks he supports all of the comments made by the other Commissioners.

Chairman Hellner said that he still has a preference and wondered if a modification to the motion would be allowed stating that our preference is to have 18 units at 60% and 9 units at 80% with the second alternative - an a/b proposal basically to the Village Board – being the staff recommendation. He said that he concurs with Commissioner Tripp that staff did a good job. The developer was flexible, moved a good deal and brought about a fast turnaround. He appreciated that the public came out twice in a period of eight days and said that was commendable. The Housing Commission has learned a lot in the two meetings. He said there are weaknesses in what we are dealing with, but asked that people please keep in mind that everyone needs something of a win. He said that this is an enormous project in a village of this size with the addition of 361 residential units, parking, property tax generation, and spending of people who live there. All of these are important. He does not want to prevent this from going forward. He thinks that his economic argument about the 9 units at 80% is sound. He recognizes that with any project that the revenue projection come with speculation associated with them, but he thinks his proposal makes more sense and is more helpful to the community. He doesn't think it would be as burdensome to the developer as they may think, although he admittedly doesn't have skin in the game.

There was a procedural discussion about whether to proceed by amending the current motion or voting on that motion and considering a second motion. Commissioners Tripp and Creer indicated that they would accept Chairman Hellner's proposed modification to the motion. Chairman Hellner said that the motion then was that the Housing Commission recommends the staff motion subject to a further recommendation that in lieu of the \$225,000 there is a preference that the developer provide the 9 units at 80% AMI instead, with no cash fee in lieu.

Ms. Boyer asked for clarification on the motion. Mr. Perkins asked that the maker of the amended motion restate the motion. Commissioner Tripp, who made the original motion followed up with the motion below, which was amended from the original motion with the amendment accepted by Commissioner Tripp (the maker of the motion) and Commissioner Creer (who seconded the original motion):

Commissioner Tripp moved to accept the staff's recommendations with the modification with that the Commission states a preference for the additional 9 additional units to be at 80% AMI with no cash in lieu requirement. The vote was taken and the motion was approved unanimously.

Chairman Hellner thanked everyone for coming. He said that he appreciates the comments and will welcome comments about how to change the guidelines and how to use the trust fund money. Comments can be sent to Planningmail@vah.com.

Mr. Adreani thanked the Housing Commission, staff and his attorney. He said that he still thinks that providing money to the trust fund would be beneficial to the community and his providing that contribution is

consistent with the values that have resulted in his making other charitable contributions in the community.

Mr. Perkins announced that the Arlington 425 project will be going to a special meeting of the Village Board on May 13, 2019. The time is to be determined and will be available on the Village's website.

VIII. ADJOURNMENT

A motion was made by Commissioner Delea, seconded by Commissioner Creer, to adjourn the meeting. The motion passed unanimously. The meeting adjourned at 7:20 pm.

NEXT MEETING: TO BE DETERMINED