

DRAFT

MINUTES OF A MEETING OF THE ARLINGTON HEIGHTS HOUSING COMMISSION VILLAGE OF ARLINGTON HEIGHTS, ILLINOIS March 2, 2021

IN ATTENDANCE:

Commissioners

Present: Andrew Tripp Ken Kiefer John Eggum
David Miller Jennifer Sweis

Commissioners

Absent: Alex Hageli William Delea

Staff Present: Nora Boyer, Housing Planner/Staff Liaison

I. CALL TO ORDER

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

II. Roll Call

The following Commissioners responded to roll: Tripp, Kiefer, Eggum, Miller & Sweis.

III. APPROVAL OF MINUTES

A motion was made by Commissioner Eggum, seconded by Commissioner Kiefer to approve the minutes of the February 2, 2021 meeting with the correction of one typographical error.

The motion was approved

Ayes: Tripp, Kiefer, Eggum, Miller & Sweis

Nays: 0.

IV. REPORTS

None

V. NEW BUSINESS

New Business was moved ahead of Old Business by Chairman Tripp for the convenience of the persons presenting at the meeting and the public.

A. Arlington 425

Ms. Boyer stated that the affordable housing aspect of the Arlington 425 development was approved in 2019, but the developer has returned due to changes being made in the project, including a reduction in

the total number of units. The developer is seeking a decrease in the number of affordable units required and the fee-in-lieu of units to be paid proportional to the decrease in the number of total units. There are also some requests for changes in other conditions approved for the affordable housing aspect of the program. Staff does not have an issue with the proportional decrease in the number of affordable units or the decrease in the fee-in-lieu, but states that the project should comply with the approved conditions from the 2019 project ordinance or the requirements of the (2020) Inclusionary Housing Ordinance and Guidelines, but not a combination of the two.

Chairman Tripp invited the development team to make their presentation. Mr. Firsel spoke first and introduced Mr. Adriani (owner and developer) and Mr. Messutta (attorney).

Mr. Adriani thanked the Housing Commission for reviewing the changes to the proposal. He said that due to conditions such as COVID-19, it was necessary to adjust the project and they are doing so by reducing the number of residential units, the shared office space component, commercial space, and parking garage area. He commented that this development was one of the first to engage with the development of the affordable housing requirements that the Village was working on at the time. He said that at that time, they agreed to some of the affordable housing conditions that were approved, but also had issues with some of them. Since the approvals, they tried to get financing for the project but could not due to the anticipated costs, and he said that the economics were just not there, which is the reason for the proposed changes. He said they are here to look at the affordable housing conditions and want to be able to move forward with something everyone will be happy with.

Mr. Firsel reiterated the point that the project could not move forward as approved based on the costs. He commented that the parking garage (which had 125 residential units on top) was the overbearing cost. The proposed changes include there being no residential units over the garage; one floor would be added to the Chestnut building; and 1 floor added to the Campbell building. The total number of units is 319, with 85 in the Chestnut building.

With respect to the affordable housing conditions, Mr. Firsel stated that they are not proposing to do any less; however, when they were involved in the final discussion on the affordable housing, it was agreed that if the affordable housing requirements were relaxed in the new affordable housing ordinance, that the project would be able to take advantage of the relaxed standards. He said that the developer and staff have a difference of opinion with regard to the last of the affordable housing conditions in the Arlington 425 ordinance. He said the discussion at that time included, for example, if there was a relaxation of the parking requirements in the Inclusionary Housing Ordinance, that the developer would be able to take advantage of those – and that is what happened.

Mr. Firsel stated that the developer and staff agree on most of the affordable housing conditions. There are three basic differences:

1. Payment of for the fee-in-lieu. The conditions of approval provide for payment in three stages. He said this was negotiated because the developer must pay for the large up-front costs of building the parking garage before anything else is built, and having to pay the full fee-in-lieu at the time of permit for the garage would be a burden. The developer is requesting, as approved in the 2019 conditions, that there be a phasing of the payment of the fee-in-lieu.

2. **Parking.** The developer had agreed to discount the charge for parking spaces for the affordable units. With the change in requirements, they proposing to not offer the discount. They seeking to take advantage of the new provisions concerning parking for the affordable units, at the option of the Village Board as presented in the Inclusionary Housing Ordinance, by asking for the "credit" of 1 parking space per affordable unit. The Inclusionary Zoning Ordinance offers, at the option of the Village Board, one parking space per affordable unit in the Village's Vail garage. This would bring the developer's parking requirement down from a total of 247 spaces to 235 spaces for the Campbell building.

Mr. Firsel elaborated on the phasing of the development which would be in two parts: 1) the construction of the Campbell building, parking garage, all infrastructure, and most of the landscaping; and 2) construction of the Chestnut building and the parkway between the Chestnut and Campbell buildings. He commented that the up-front costs are enormous. He said that 12 affordable units would be provided in the Campbell building and 4 in the Chestnut building. If the Chestnut building is changed to a condo building, they will comply with Code on that building.

3. **Number of Affordable Units.** The developer agrees to provide 5% actual affordable units (16 affordable units).
4. **Affordability period.** The developer is asking to reduce the minimum affordability period on the affordable units from in-perpetuity to 20 years. Mr. Firsel said that they would address this with the Village Board if they need to do so.
5. **Fee-in-Lieu.** There is no issue.
6. **Income qualification.** The developer proposed no change from the 2019 conditions.
7. **Maximum rent.** The developer proposed no change from the 2019 conditions.
8. **Unit mix.** The developer seeks to keep the 1/3 studio unit and 2/3 one-bedroom mix as approved in the 2019 conditions. This would mean a revision to 4 studio units and 8 one-bedroom units. The unit mix under the Inclusionary Housing Ordinance would be 3 studios, 9 one-bedrooms; and 4 two-bedroom.
9. **Preferences.** The developer agreed to the preferences requested at the time of the 2019 approval. They have no issue with changing to the preferences included in the new policy.
10. **Reporting.** The developer agreed at the time of the 2019 approval to submit an annual report on March 31. They have no problem with reporting on March 1st as per the new policy.

Mr. Firsel said that even with the modified proposal, this is still a thin deal with minimal profit. He pointed out that construction costs have gone up and the availability of materials has decreased due to COVID-19. He said that the developer's intent is to follow the spirit and intent of the Village on the affordable housing component. He pointed out that they are not getting any incentives from the Village. He said this will be a high-end development and that the affordable units will be the same as the market rate units, and the affordable unit tenants will benefit from all of the high-quality aspects of the project. He asked for approval of

the affordable housing component as submitted in his letter.

Commissioner Eggum asked about the value of the utility allowance called for in the Inclusionary Housing Ordinance for this project. It was reported that the units will be metered and billed individually for electric. It is not certain yet if water and gas will be individually metered, and it is not certain which utilities will be divided and charged to the tenants. Some of these points are building design decisions that have not been finalized.

Ms. Boyer reiterated that staff is okay with the proportional reduction in the number of affordable units and the fee-in-lieu, but not with the going back and forth between the 2019 conditions of approval and the Inclusionary Housing Ordinance. She pointed out that with respect to the parking and fee waiver cost off-sets, the Inclusionary Housing Ordinance states that these cost off-sets may be available for projects that meet the other requirements of the Inclusionary Housing Ordinance, which this proposal would not – particularly with respect to the new, proposed affordability period and the unit mix (which was adjusted in the original approval as a cost off-set). She repeated that staff's position is that the development should comply with the 2019 conditions of approval, or the Affordable Housing Ordinance and Guidelines, but not a combination of the two.

Mr. Firsel disagreed saying that is not what the 2019 approval ordinance says. It says the development should be afforded all relaxed provisions; otherwise the language in the last condition of the 2019 approval ordinance is meaningless.

Commissioner Miller asked about the developer's statement about paying the fee-in-lieu being a burden and about the proposed phasing of the development.

Mr. Firsel responded said that a phased payment of the fee is requested. The following scenario was discussed:

Campbell Building:

25% of the proportional fee for the Campbell building at issuance of permit

25% of the proportional fee for the Campbell building at the issuance of the garage permit

50% of the proportional fee for the Campbell building at issuance of first occupancy permit

Chestnut Building:

50% of the proportional fee for the Chestnut building at issuance of permit

50 % of the proportional fee for the Chestnut building at issuance of first occupancy permit

Mr. Firsel said that it is not known when the Chestnut building would be built, although it is hoped right away, but it is difficult to know due to the COVID impact, other things going on in the Village, etc.

Commissioner Miller asked about the portions of the fees to be paid for the Campbell building and the Chestnut building. He said that he understands that many things are impacting the project, but the fees-in-lieu going into the Trust Fund are important and every dollar counts. He is concerned that this is coming back again with regards to the fee. He said that he is okay with the majority of what has been asked for, but is concerned about a delay in the payment of the fee into the Trust Fund.

Mr. Adriani asked how much is in the Trust Fund now, and the response was about \$500,000. Mr. Adriani asked if it would be possible to borrow funds from the Trust Fund (to be repaid with interest) to jump start this

program. Chairman Tripp said the Housing Commission is developing a formal process for application for Trust Fund monies, and cannot act on such a request tonight, but it may be a good idea.

Commissioner Eggum said that he looked up the 2019 approval ordinance (2019-010) for Arlington 425 and he screen shared the affordable housing requirements. He read condition #31 which states:

"If the Village's Affordable Housing Guidelines applicable to this project are revised prior to 12 months after the issuance of the first Certificate of Occupancy to standards that are less restrictive than this requirement, than the least restrictive of the two standards will be applied."

Commissioner Eggum stated that the paragraph references paragraphs 24 – 30 as being "this requirement" and the new guidelines (what is the Inclusionary Housing Ordinance) as "the other of the two standards." He said that he does not read this as meaning that if any aspect of any part of the Ordinance (Inclusionary Housing Ordinance) is less restrictive than the 2019 approval ordinance then it will apply. He said that the Inclusionary Housing ordinance was passed by the Village Board and requires strict compliance of provisions such as the affordability in perpetuity, the proportional bedroom mix (which would require 2-bedroom units), inclusion of utility costs in the rent, etc. He said that he believes the developer has two options: 1) to comply with the 2019 approval ordinance (2019-019); or 2) the Inclusionary Housing Ordinance (2020-025).

The meeting was opened for public comment. Mr. Moens stated that he is concerned about what the Village will end up getting in affordable housing. He referenced letters from Mr. Firsel; one letter said that all 16 affordable units would be in the Campbell building, which violates the requirement that the units be evenly distributed in the development; and the second letter said that the affordable units will be in the Campbell and Highland buildings, but the new plan is to not have units in the Highland building. He said that proportionally, if there are 16 affordable units, 12 should be in the Campbell building and 4 should be in the Chestnut building. He agreed that they should follow one ordinance or the other, and said that with an inclusionary housing ordinance in place, they should simply follow that ordinance.

Ms. Lane asked about profitability and the project. Mr. Firsel said that the developer is entitled to a reasonable return on his risk and investment. Ms. Lane said that she does not think that anyone thinks that there should be no profit but she asked if the developer could be more specific on that. Mr. Adriani replied that he cannot be more specific because there are still too many unknowns. Ms. Lane asked how much the interest would be on a loan from the Trust Fund. An answer to that question is also not known at this time.

Mr. Firsel requested a few minutes to talk with the development team privately.

VI. OTHER BUSINESS

While they were having their consultation, the Housing Commissioners addressed Item VII. on the agenda and decided to try having their meetings on the third Wednesday of the month at 7 pm rather than the first Tuesday since several commissioners have conflicts on Tuesday evenings. Due to the lateness of the evening, it was also decided to table Agenda V.A. Affordable Housing Trust Fund Discussion to the next meeting when it may be possible for more commissioners to be present.

The meeting was opened to any other public comment. Dr. Motto stated that the Senior Commission was dismayed that senior housing was removed from the Inclusionary Housing Ordinance. He said that affordable housing is a big issue for seniors. He agreed that the Arlington 425 project should be done in strict compliance

with the ordinance. He mentioned that the age-friendly initiative action plan has affordable senior housing as a high priority issue. He said they will be sending a letter; however, some kind of education or collaboration is needed in the area of affordable senior housing. He would like to see this conversation continue, including the exemption of senior housing from the IZ ordinance. Commissioner Eggum responded that the Housing Commission is not looking to take up the IZ again since it is so new, but that could be something the Senior Commission could possibly address with the Village Board. Comm Eggum pointed out that the developers for 310 Arlington project seemed interested in working with the local community and maybe that could be an opportunity for seniors. He is looking forward to more dialogue between the commission in the future.

VII. ITEM B V (B) NEW BUSINESS DISCUSSION OF ARLINGTON 425 RESUMED

The developers for Arlington 425 returned to the meeting. Mr. Firsel said they understand staff's interpretation and they don't believe that was the intent of what was negotiated. They are open to discussing the timing of the payment of the fee- in-lieu as brought up by Commissioner Miller.

Mr. Firsel stated that if the Housing Commission adopts staff's recommendation, they will respectfully take that up again at the Village Board level. He said that if the Housing Commission is willing to adopt the developer's proposal, they are willing to accelerate payment of the fees-in-lieu.

Commissioner Eggum said the Inclusionary Housing Ordinance was created through an extensive process, with public comment, with consideration of multiple versions, and the Village Board ultimately adopted the final Ordinance that included various staff and commission recommendations. He said that the Housing Commission put forth its positions when the Ordinances was reviewed by the Village Board, and the Village Board indicated through the approved Ordinance how they wish for the Housing Commission to proceed. He said that he cannot speak to the 2019 project approval ordinance (2019-019), and if it was incorrect the Village Board can amend that if it sees fit. However, as a Commissioner he does not see that the Housing Commission can act in a way other than how the 2019 ordinance was enacted.

Mr. Firsel said that he respected Commissioner Eggum's points. He said the Inclusionary Housing Ordinance does not strip away the 2019 ordinance, but agreed that the Village Board approved exceptions to Inclusionary Housing Ordinance. He said he appreciates the Housing Commission's respect for the developer's position.

Chairman Tripp said that he agreed with Commissioner Eggum's position that the Housing Commission is bound to follow the Inclusionary Housing Ordinance which was the product of a lot of work and input. He said the Ordinance was adopted so that there would be clarity and certainty with regard to the affordable housing requirements. However, speaking as a citizen of Arlington Heights, he said that if there is a project that deserves consideration due to its complexities, this is the one, and he encouraged the development team to raise their issues at the Village Board level.

Mr. Firsel asked Chairman Tripp if the Housing Commission is obligated to make recommendations to the Village Board. Chairman Tripp responded that the developers have asked for relief that he does not think Housing Commission can offer. Commission Eggum asked if this was a request to staff to amend the affordable housing conditions, and Ms. Boyer said the requests for modifications to the project are made to the Village, and the aspects of the project are routed to the Village commissions as appropriate. Ms. Boyer also stated that it is the role of the Housing Commission to advise the Village Board, and that is what they are asked to do with regard to this matter.

A motion was made by Commissioner Eggum, seconded by Commissioner Miller, to concur with the staff's reading of both ordinances (*Arlington 425 Ordinance (19-019)* and the *Inclusionary Housing Ordinance (20-025)*), as enacted, that the options available as written to the developer are to comply with one Ordinance or the other or otherwise exercise their right to seek direct relief from the Village Board.

Ayes: Tripp, Eggum, Sweis, Kiefer, & Miller

Nays: None

The Housing Commission and the development team thanked each other for their time and consideration.

A motion was made by Chairman Tripp, seconded by Commissioner Eggum to postpone the Affordable Housing Trust Fund Discussion item to the next meeting.

Ayes: Tripp, Eggum, Sweis, Kiefer, & Miller

Nays: None

VI. ADJOURNMENT

A motion was made by Commissioner Kiefer, seconded by Commissioner Eggum, to adjourn the meeting. The motion was approved.

Ayes: Tripp, Kiefer, Eggum, & Miller

Nays: 0.

NEXT MEETING: The next meeting be held on April 21, 2021 at 7 pm.