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**Title:** Consider the three options regarding the Affordable Housing Incentive Program and direct staff accordingly - PZC 22-1-017

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**Attachments:** 1. SB Friedman Presentation - AHIP, 2. Ordinance, 3. April 4th HRFHC Meeting Notes, 4. June 6th HRFHC Meeting Notes, 5. PZC Meeting Minutes 7-6-22, 6. Letter from Naperville Park District - Naperville Affordable Housing Program, 7. Follow up letter from Naperville Park District, 8. Alliance Position Statement on Voluntary Affordable Housing Program 7-14-22, 9. Public Comment

Date	Ver.	Action By	Action	Result
10/4/2022	1	City Council	tabled	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Consider the three options regarding the Affordable Housing Incentive Program and direct staff accordingly - PZC 22-1-017

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Allison Laff, AICP, Deputy Director

**BOARD/COMMISSION REVIEW:**

The Human Rights and Fair Housing Commission (HRFHC) reviewed the proposed Affordable Housing Incentive Program (AHIP) at its April 4, 2022 and June 6, 2022 meetings. On May 18, 2022, the Planning and Zoning Commission (PZC) opened the public hearing regarding the AHIP and continued it to the July 6, 2022 meeting. Following two public speakers at the July 6, 2022 meeting and discussion by the PZC, the PZC made a motion to approve the proposed AHIP (motion failed, 8-0).

**BACKGROUND:**

Consultant SB Friedman was engaged by the City in fall 2019 to analyze the City’s housing market and project short- and long-term housing needs. The final plan entitled “Addressing Unmet Housing Needs” was reviewed by the HRFHC and approved by the City Council in September 2020.

The findings included in the plan were used as the basis for developing a menu of policy options to address identified housing challenges and capitalize on opportunities to create diverse housing options at various price points. One of the key recommendations included in the plan was the development of an Inclusionary Zoning Ordinance (IZO) that would link the creation of affordable

housing units to market-rate residential development.

In January 2021, the City Council directed staff to begin work on an IZO. On February 16, 2021, the City Council awarded Procurement 21-054, Inclusionary Zoning Ordinance Advisory Services, to SB Friedman and Duncan Associates (subconsultant).

Below is a timeline of actions taken since the February 2021 award.

### ***June 2021 Workshop***

On June 21, 2021, the City Council held a workshop to discuss a potential Inclusionary Zoning Ordinance (IZO) for Naperville. At the conclusion of the workshop, there was City Council consensus to focus affordable housing efforts on voluntary measures which would result in increasing the number of affordable units and may include the use of incentives, such as density bonuses.

### ***November 2, 2021 City Council Meeting***

At the November 2, 2021 City Council meeting, SB Friedman and Duncan Associates presented a proposed voluntary affordable housing program which was developed based on feedback gained from the City Council in August/September 2021. At the conclusion of the City Council discussion on November 2, the City Council directed staff and SB Friedman/Duncan Associates to draft an ordinance for presentation to the HRFHC and PZC.

### ***Work Following November 2, 2021 City Council Meeting***

Following Council discussion on November 2, SB Friedman tested the financial impacts of the proposed voluntary affordable housing program to confirm its viability and refine the final menu of incentives to be offered through this program.

SB Friedman, Duncan Associates, and City staff also discussed the proposed program with representatives of the residential development (Pulte Development Corporation; Lincoln Properties) to gain their feedback on program components. Each representative was receptive to the proposed program and found its components to be beneficial.

### ***April 4, 2022 HRFHC Meeting***

SB Friedman and Duncan Associates provided a detailed overview of the proposed voluntary affordable housing program at the April 4, 2022 HRFHC meeting. Following SB Friedman's presentation, two members of the public provided testimony and the Commissioners asked several questions. At the conclusion of the discussion, the HRFHC did not recommend any changes to the proposed program and did not request additional time to review the proposed program. The HRFHC did not vote on the proposed program; however, an HRFHC vote is not required on this matter. The meeting notes from the April 4 HRFHC meeting are attached for reference.

### ***June 6, 2022 HRFHC Meeting***

Following the April 4, 2022 HRFHC meeting, Chairman Miller requested that the AHIP return to the HRFHC for further discussion and feedback regarding specific program components. The HRFHC again reviewed the AHIP on June 6, 2022 where seven commissioners were in attendance. Two members of the public provided comments during public forum. In general, three of the seven commissioners consistently expressed concerns with the "by-right" approach and incentives being proposed through the AHIP; one of the seven commissioners consistently noted that a "by-right"

approach is a necessary component of the incentive program; and two of the seven commissioners provided less input throughout the discussion but noted support for the program in their concluding remarks. A summary of the HRFHC's June 6 discussion regarding the AHIP is attached; note, an HRFHC vote was not taken (nor is required) on the proposed AHIP.

### ***July 6, 2022 PZC Meeting***

The public hearing on the AHIP was held on July 6, 2022. Following a presentation by SB Friedman and Duncan Associates, two members of the public provided testimony. The PZC discussed rent rates, incentives being offered, success of other voluntary programs, mapping Naperville properties which could participate in the AHIP, Illinois Housing Development Authority (IHDA) affordability calculations, Section 8 vouchers, the need for public input on development projects, and the preferred focus on the sale of City-owned land for affordable housing.

Following discussion, the PZC made a motion to approve the AHIP which failed (vote 0 in favor; 8 against). The July 6 PZC minutes are attached for reference.

### **DISCUSSION:**

A detailed overview of the proposed AHIP and partial ordinance are attached for Council review. A summary of the AHIP is also included below.

### **What is the purpose of the AHIP?**

The purpose of the AHIP is to encourage the voluntary production and availability of new affordable residential units in the City by providing density bonuses and incentives to projects that set-aside a minimum number of affordable units for low- or moderate-income households for at least 30 years.

### **Why are the ““by-right”” incentives a critical part of the proposed AHIP?**

In June 2021, the City Council discussed the possibility of instituting a mandatory IZO which would require developers to include affordable housing components in their project or to pay a fee in lieu of. With a mandatory IZO, the City would not need to offer “by right” incentives, such as increased densities or height, without going through a traditional public hearing and variance process.

At the conclusion of its June discussion, the City Council reached consensus to focus on voluntary measures to increase affordable units in Naperville instead of instituting a mandatory IZO. When an IZO is voluntary, incentives are critical in order to promote voluntary participation in the program. The ““by-right”” incentive approach offers a developer a level of certainty regarding the feasibility and design of the development and also decreases the project's overall processing timeframe.

If the ““by-right”” approach is eliminated from the proposed AHIP ordinance, and the AHIP ordinance requires an affordable housing developer to seek approval of a variance to increase density or height, for example, through the standard hearing process, there is no incentive being offered to encourage voluntary participation. Rather, the process would simply be the same as is required for any residential development. In this scenario, staff anticipates that developers would not elect to participate in the AHIP program. This result does not achieve the direction provided by City Council in June 2021 to create a program which increases affordable units in Naperville.

### **What properties will qualify to participate in the AHIP?**

A property must be able to be improved with five or more new residential units in order to participate in the AHIP. Owners of participating projects must agree to set-aside the minimum number of required affordable units for a 30-year period in order to receive the density bonuses and incentives

offered by the AHIP. Such projects are referred to as “Qualified Projects” in the proposed ordinance.

**If a development project is proposed to have multiple phases, will each phase be required to have an affordable component?**

No, the Owner can choose whether they will include the required affordable residential units in each of the phases of a development project, or only in a certain phase(s). However, the density bonuses and incentives provided in the AHIP will only be applied to those phases which include the required affordable components.

**Will the AHIP allow new multi-family units to be built on a property zoned for single-family uses?**

No, a Qualified Project can only include residential unit types that are permitted by the property’s underlying zoning. For example, a Qualified Project located on R1A zoned property would be permitted to build additional single-family units as a result of the density bonuses offered but would not be permitted to build any apartment units, since apartments are not permitted in the R1A zoning district.

**What density bonuses are offered through the AHIP?**

A Qualified Multi-Family Project, which provides at least 10% of its units as affordable, is automatically eligible to receive a density bonus of up to 200%. A Qualified Single-Family and Two-Family Project which provides at least 10% of its units as affordable is automatically eligible to receive a density bonus of up to 100%. As noted above, a development may be comprised of several phases of which only one or more phases will be a Qualified Project.

In order to implement the density bonus, the ordinance provides for automatic reductions from certain zoning district requirements, such as minimum lot size, minimum lot width, minimum lot area per unit, and the 90% rule, as applicable. Absent these waivers, the density bonus would not be achievable unless additional variances were requested.

It is important to note that it may not always be feasible or realistic for a Qualified Project to build as many units as would be permitted through the density bonus formula. In those cases, the percent of affordable units required to be set-aside will be based on the actual number of units proposed.

**What other incentives are being offered through the AHIP?**

In addition to the density bonus, a Qualified Project will be able to choose from a menu of “by-right” incentives. The number of incentives that each Qualified Project will be eligible to receive is directly related to the affordability levels of the proposed units as well as the percentage of units which will be set-aside as affordable. Owners who target lower-income households and set aside more affordable units will be offered more incentives as detailed in Table 6-2 in the proposed ordinance.

For example, if a Qualified Project proposes to set-aside 10% of its units as affordable for residents at 60% of the Local Median Household Income (i.e., Naperville household income), it will be eligible to receive two “by-right” incentives. In contrast, a Qualified Project which proposes to set-aside 20% of its units as affordable for residents at 60% of the Regional Median Income (i.e., greater Chicago-area household income) will be eligible to receive 4 “by-right” incentives.

The incentives offered through the AHIP are detailed in Table 6-1 of the proposed ordinance. These incentives include items such as automatic decreases in setbacks, parking, or PUD open space requirements; automatic increases in lot coverage or building height; or an automatic waiver of the

City's brick requirements or park impact fees\*.

*\*note: the Naperville Park District has submitted a letter indicating that they are not in support of the park donation reduction proposed in AHIP.*

### **How were the density bonuses and incentives determined?**

SB Friedman reviewed multiple market-rate developments that have been approved in Naperville over the last several years to develop a market baseline. Many of those developments, particularly those including multi-family units, were granted significant variances to increase density and height, and reduce required parking.

Because the inclusion of affordable units has a direct impact on the financial feasibility of a proposed residential project, SB Friedman then determined what type and number of incentives would be needed to make a Qualified Project financially feasible. In addition, SB Friedman recommended that these incentives be provided "by-right", in order to provide a level of certainty to the Owners of a Qualified Project. Because the proposed program is voluntary, financial feasibility and process certainty are critical to encourage owner participation.

### **How will the AHIP ensure that the affordable units are built in a timely and quality manner?**

The proposed AHIP includes provisions regarding the timing of construction of the market rate vs. affordable units; the location of the affordable units within the overall development; requirements regarding unit size; and requirements regarding features and amenities which are intended to ensure that the affordable units are built in a timely and quality manner.

### **Will Qualified Projects require review by the Planning and Zoning Commission and City Council?**

A Qualified Project that requires no additional variances, and no additional entitlements, can be administratively approved by City staff provided that all Municipal Code requirements have been met (i.e., Engineering Design Manual, Citywide Design Guidelines, Building Code, etc.). Any Qualified Project requiring annexation, rezoning, conditional use, additional variances/deviations, or PUD approval will be processed through the standard PZC and City Council review process; however, the automatic density bonus and incentives applicable to a Qualified Project will not be subject to review or approval.

### **City Council Input Sought - Three Options**

Given the feedback received from the HRFHC and PZC, staff is seeking City Council direction on October 4, 2022 regarding the proposed AHIP.

Option 1: If City Council concurs with the proposed AHIP, staff will then prepare a final ordinance for review by the City Council at a future meeting. This ordinance will additionally include provisions related to Affordable For-Sale and Rental Dwelling Unit Occupancy and Rental Restrictions; Affordable Housing Agreements; and Enforcement.

Option 2: If City Council recommends significant changes to the AHIP program as presented, staff will seek approval of a change order to secure additional funds for SB Friedman to continue work on this program.

Option 3: If City Council does not concur with the AHIP program overall, staff will cease further work on this program and instead focus efforts on the remaining affordable housing goals (i.e., sale of

vacant City-owned land; preservation of naturally occurring affordable housing [NOAH]; and creating a revolving rehabilitation loan program for low-income seniors).

**FISCAL IMPACT:**

TBD