

APPROVED

**Planning & Development Committee
Meeting Minutes of September 29, 2009
Council Chambers 7:00 p.m. – 8:20 p.m.
Lorraine H. Morton Civic Center**

Aldermen Present: D. Holmes, L. Jean-Baptiste, R. Rainey, D. Wilson, M. Wynne

Staff Present: J. Chambers, K. Cox, B. Dunkley, D. Marino, J. Murphy, B. Newman,
D. Spicuzza

Presiding Official: Alderman Wynne

DECLARATION OF QUORUM

Chair Wynne called the meeting to order at 7:40 p.m., a quorum being present.

APPROVAL OF AUGUST 10 , 2009 MEETING MINUTES

Ald. Jean-Baptiste moved approval of the minutes. Ald. Rainey seconded the motion.

The Committee voted unanimously 5-0 to approve the September 14, 2009 P&D Committee meeting minutes.

ITEMS FOR CONSIDERATION

(P1) Recapitalization of Downpayment Assistance Program with \$550,000 in HOME and Affordable Housing Funds

Ald. Rainey moved approval of the item. Ald. Jean-Baptiste seconded the motion.

The Committee voted unanimously 5-0 to recommend approval of the recapitalization of the Downpayment Assistance Program.

(P2) Request from Connections for the Homeless for Families In Transition Funds

Ald. Rainey moved approval of the request. Ald. Jean-Baptiste seconded the motion.

Ms. Sarah Manaher of Connections for the Homeless Families in Transition Program (FIT) was present to answer the Committee's questions.

Ald. Rainey said she had submitted questions to Ms. Spicuzza prior to the meeting. She said she is very concerned about some of the units in which FIT is placing people. She said she would keep it confidential, but requested that the Council be told, in each case, where the funded unit is and other information. She said that simply by asking one question, she found out that one of the FIT clients had been placed in a building that has the highest number of police calls of any building in her ward, and that it is a huge mistake. She said she does not know whether Ms. Manaher is aware of it, but she believes that before she makes placements, she should call the alderman or the Police Department and ask whether they have any information about the property. She believes a problematic client should not be placed in a problematic building. Ms. Manaher responded that she does not know what problems Ald. Rainey is referring to, but her clients' problems may not be the same as the problems of the people causing problems at this building. Ald. Rainey said she is saying that if people are having stress, homelessness or family issues, and FIT has brought them along in their program, it is unfortunate to put them in a situation such that this building presents. Ms. Manaher said she does not know which building Ald. Rainey is referring to, but both buildings have reputable property management companies. She said the parameters of rent presents a challenge in Evanston, and some people may have to go to some "not so great" areas. Ald. Rainey said it is a great area and is one of her favorite streets in the 8th ward, but that building has problems. She said she did not want to get into details because she did not want to reveal the location. She clarified that she is simply asking Ms. Manaher to call the alderman before placing someone in a neighborhood. She added that big real estate developers also call her to find about the buildings and the neighborhoods.

Chair Wynne added that Ms. Manaher could also call the Community Development Department. Ald. Rainey concurred that they will have information about the conditions, but that it just so happens that this building does not have property standards issues. Mr. Marino said staff will make sure to coordinate with Connections for the Homeless with any data we have, either from Property Standards or the Police Department, or anyone else.

Ald. Jean-Baptiste clarified that Ald. Rainey is asking that we add this as part of the process. Ald. Rainey said she asked Ms. Spicuzza for information regarding the two we approved earlier this year. She said the City approves them before "Connections" finds the unit and the Committee does not receive any follow-up on the client. She asked that after Ms. Manaher finds the unit that is being approved, to please let the Committee know where it will be, etc. Ms. Manaher agreed to do so.

Mr. Marino said Ms. Spicuzza has prepared a response to Ald. Rainey's questions about the two most recent FIT families that are currently renting units and it has been distributed. He said Ald. Grover has also asked for an analysis over the next few weeks of the results of the FIT program, which will be prepared for the next P&D meeting.

Chair Wynne thanked Mr. Marino.

The Committee voted unanimously to recommend approval of the funds for Connections for the Homeless.

(P3) Consideration of Recommendation to Authorize City Manager or His Designee to Modify Loan Agreement for Projects at 602 Mulford (ECDA) and 736-738 Dobson (Reba)

Ald. Rainey motioned approval of the recommendation. Ald. Wilson seconded the motion.

Mr. Marino said this item was in front of the P&D Committee on August 10th in a different form and at that time the Committee asked staff to work with the two affordable housing developers and HUD to try to work out an alternative solution. He reported that a loan modification approach has been devised that would apply the already invested HOME funds to the units that have already been sold. He explained that in Reba's case, 4 out of 12 units have been sold so the current subsidy that has gone into that development will be assigned to those 4 units and will still be under the HUD maximum for per-unit rehab cost. The ECDA property is a 6 flat with 3 units sold, so the HOME subsidy will be assigned to those 3 units. In each case in each project, the affordable housing developer will be able to sell the remaining vacant units to people above 80% of the median income. The HUD requirement is that it must be sold to people with 80% of median income who are eligible for a loan, which has become a narrow band of households, in this environment of stringent underwriting requirements. This modification will allow both developers to sell units from 80% to 100% of median income, which is more typical of requirements for City-funded housing programs and indeed they can go above 100% of the median income, as well. Mr. Marino said the HUD representative, who was not amenable to this several months ago, suggested this loan modification, since HUD has experienced this situation throughout the country.

Ald. Rainey said one of the reasons why we had not moved in this direction before was because the City was advised by HUD that it would have to pay back approximately \$800,000 to HUD if the income requirement was violated. This new arrangement absolves the City of the requirement to pay it back. She said she appreciates HUD's understanding of this country-wide problem and the concession that has been made.

Ald. Holmes asked whether the two affordable housing developers are amenable to this arrangement. Mr. Marino said staff met with both of them and that they are present to speak about it, but he said they both appreciated the flexibility of the options in terms of who they could sell the units to, even though they both are very committed to affordable housing. But, he said, for example, in one case Reba had a buyer just over 80% of median income who might otherwise have qualified, so this will allow that household that might have a better chance of getting a home in this more difficult underwriting environment, to be able to buy a unit. There is no income cap for buyers of those units that will not be assisted at this point.

Mr. Keith Banks of Evanston Community Development Association (ECDA), the developer of the Dobson property, thanked Ald. Rainey and the City Manager and staff for working with them on the exit strategy and coming up with this solution, which appears to be viable, however, he explained, the dynamics with ECDA are different

because of the pricing structure. He said while this option is very palatable for Reba, for ECDA, at the time of the last P&D meeting, they only had 3 interested applicants and since then they have 2 more units under contract and about to close within weeks, so they want to keep the covenant restrictions on the units under contract in order to maintain and preserve the affordability. If there is going to be any modification and restructuring, he prefers it be done after the 5th sale, and use it to free up the last unit for which they do not yet have a buyer. He explained that this option does not hurt ECDA, but ECDA wants to maintain the integrity of their plan and preserve the affordability of all the units. He said they will be \$60,000 short when they close the last unit, but the intent will be preserved.

Ald. Rainey said the Committee is not requiring the developers to comply with the alternative plan. It is only an option. Both buildings do not have to comply with the same conditions. Mr. Marino said ECDA will still have the flexibility to sell to the people they have contracted with. This only gives them more flexibility on the 80% to 100% of median income group. They can sell to whomever they wish, other than the 3 units that have already been sold. Ald. Rainey clarified that this does not restrict ECDA from proceeding with the 2 pending closings. Mr. Banks asked whether the units under contract would still be under the City's covenant restrictions, because he wants to maintain the integrity of the intent to keep the units affordable. He said that they are selling to 2 buyers who are at 60% of median income. Mr. Marino said the covenants would not be required once the loan modification occurred on the additional units. But ECDA still has the flexibility to sell those units to who they wish.

Ms. Spicuzza, the Housing Planner clarified that the City does not have to modify the covenants for the units under contract at ECDA's Dobson project and the City has intended on going forward with the 2 units under contract, as they were originally done. If they get an interested buyer who is over the required income and they want to modify the last sale, then it could be done, but it will be up to the developer.

Ald. Holmes clarified that this loan modification will not affect the 2 units that are pending closing.

Mr. Marino said from a risk perspective, the 6th unit has not been spoken for, so if that unit were not to sell, then the City would still have an obligation to HUD, if we did not do a modification. Ald. Rainey said we could then, implement the modification. Mr. Marino agreed. Ald. Rainey said we do not want to force the modification on anyone.

Mr. David Janzen of Reba Place Development Corporation (RPDC) said this concession from HUD is a life line to RPDC and gives them a lot more freedom in how to sell the remaining units. For them, this is hopeful and they have no argument with it. He said that Reba and ECDA work closely together. It just happens that RPDC has more vacant units, so this proposal helps them more. They are very glad for the opportunity to sell to a wider range of buyers and it gives them an opportunity to survive in a way that it did not appear they would before.

Ald. Jean-Baptiste moved to modify the proposal to authorize the City Manager to remove ECDA from the proposal for now and retain RPDC. Ald. Rainey seconded the motion.

The Committee voted unanimously 5-0 to recommend approval of the proposal.

(P4) Ordinance 83-O-09 Amending the City of Evanston Municipal Code by Removing all References to the Property Services Board

Ald. Rainey moved approval of the ordinance. Ald. Jean-Baptiste seconded the motion.

The Committee voted unanimously 5-0 to recommend approval of Ordinance 83-O-09.

(P5) Ordinance 93-O-09, Amending Section 6-3-8-12 of the Zoning Ordinance, which Establishes the “Minimum Change Necessary” as a Standard for Zoning Variations

Ald. Rainey moved approval of the ordinance. Ald. Jean-Baptiste seconded the motion.

Ald. Rainey said she understands why they want to change it, but she does not understand why they would not eliminate this section altogether, of the Zoning Ordinance.

Mr. Dunkley explained that staff and the Zoning Committee feel strongly that the intent of the standard is a valid one; that we should be encouraging all those who are seeking zoning relief in the form of a variance to ask for the smallest variance that they need. However, unfortunately, the way the standard is worded, it is not possible to substantiate or to defend because one can never prove that someone has the minimum. Ald. Rainey said they should just stick with the first “whereas, don’t ask for anything more than you need” because the list makes perfect sense except for that. Chair Wynne asked Mr. Dunkley to explain how the minimum change necessary is different from the “least deviation from the applicable regulation?” Mr. Dunkley explained that when the standard states that in order to grant the variance, it has to be the smallest one possible, but in terms of variances, you can always find a smaller one than the one that is being proposed, so if you really wanted to challenge a variance, this would be a way to do it because you cannot prove that something is the smallest that is possible and that is what the standard is requiring. So we have said we want it to be the smallest possible, but it should be the smallest among those options that have been discussed. Chair Wynne clarified that the amendment actually expands the possibilities. Mr. Dunkley said he believes it contracts them because if there is Option A and Option B and both will work fine, we are going to require you to take Option A, if it is the smallest change from what is required, if both will fit the need. So it is saying that it must be one of the options that has been discussed. Otherwise, if you leave it open ended, someone could always say “You could have made do with a variance that is slightly smaller” and that would not meet the standard. Chair Wynne said if the Zoning Committee feels that this is a more workable standard, then she will accept that. Mr. Dunkley said there was little discussion

and the members of the Zoning Committee all felt that it was a worthwhile change to make.

The Committee voted unanimously 5-0 to recommend approval of Ordinance 93-O-09.

(P6) Ordinance 94-O-09, Amending Subsection 6-3-8-3(A) of the Zoning Ordinance to Make Second-Floor Additions to Certain Legal Non-Complying Structures Minor Variations

Ald. Rainey moved to approve the ordinance. Ald. Jean-Baptiste seconded the motion.

Ald. Rainey said it seems that this is exactly the kind of thing that people want to get involved in and talk about, and as a minor variation it would be an administrative determination. She asked whether there would be notice to neighbors, to which Mr. Dunkley replied that there is notice to all property owners within 250 feet and an opportunity to comment within 10 working days. Mr. Dunkley explained that all of this text is addressing 4 inches and that it is an unfortunate measurement situation because the threshold between a minor variance and a major variance is defined as 35% of the standard. 35% of the current 5 foot required interior side yard falls at 3.25 feet. Because our side yard setbacks used to be, before 1960, 3 feet, we have a lot of structures that are built out to 3' away from the property line and because part of their first floor in between from 3 feet to 3.25 feet away from the property line, that have to be treated as major variances. There is often no other viable alternative to a second story addition that does not put the outside bearing walls right on top of the first floor bearing walls. It can be done, but it is not pretty and it is expensive, and he said in his tenure here he has ever seen a second floor addition in such situations, even really challenged by the ZBA or any negative public comment. If they were 4 inches further away, they would be a minor variance anyway, so in essence, what they are asking for in this particular situation, is if we can make the threshold 4 inches closer, we would save staff and the ZBA a lot of time, and he said, often people don't understand why they have to have a public hearing for this type of work. Ald. Rainey said she agrees, as long as the notice is sent.

The Committee voted unanimously 5-0 to recommend approval of Ordinance 94-O-09.

ADJOURNMENT

The meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Bobbie Newman