

HOUSING ADVISORY COMMITTEE
Minutes
Basement Conference Room, City Hall
January 15, 2014
12:00 pm

Attendance Record	Present	Absent
MEMBERS		
Bob Hughes	X	
Carmelita Wood	X	
Charlie Armstrong	X	
Chris Murray	X	
Connie Dunn		X
Dan Rosensweig	X	
Frank Stoner	X	
Joyce Dudek	X	
Jennifer McKeever		X
Joy Johnson	X	
Kaki Dimock		X
Kira Drennon	X	
Kristin Szakos		X
Mark Watson	X	
Nancy Kidd	X	
Lesley Fore	X	
NON VOTING MEMBERS		
IMPACT		X
Ron White		X
Vicki Hawes		X
STAFF		
Kathy McHugh	X	
Melissa Thackston	X	
Margot Elton	X	
Missy Creasy	X	
OTHERS		
Edith Good	X	
Ed Bain	X	
Lena Seville	X (left at 12:15)	

The meeting began at approximately 12:00 pm with lunch provided for those in attendance.

The October 16, 2013 minutes were then considered. A motion to approve was made by Charlie Armstrong, and seconded by Dan Rosensweig. Vote to approve was unanimous.

Chris Murray then turned the meeting over to Kathy McHugh, who welcomed Lesley Fore from LEAP, the newest member of the HAC. She also told the group that Wes Bellamy had resigned from the Committee, which would leave a spot open for the Member-at-Large position. She mentioned that Ridge Schulyer had expressed interest in joining the HAC, and said she would discuss the position with him. Other members were encouraged to suggest and reach out to potential candidates as well. She explained that there would be an application process, and that the new member would have to be appointed by City Council.

Then, Kathy McHugh explained to the group that this meeting would be a follow-up to the previous meeting, where the committee had discussed Schedule 1 of the ADU regulations. Following that meeting, Kathy

McHugh sent revised regulations to the meeting attendees. This update contained modifications to Schedule 1, and also reflected a revision of Schedule 2 to a more bare-bones approach, which would allow applicants to propose something to the Housing Development Specialist (HDS) and allow it to be evaluated based upon its merits. This would allow for a wider variety of creative approaches. Since sending out the revisions, Kathy McHugh received written comments from Frank Stoner and Chris Murray.

After asking the group if there were any other comments on the revised Schedules, Kathy McHugh passed out a typed list of the written comments from Chris Murray and Frank Stoner, with staff response for each comment. The group proceeded to go through each comment to determine final resolution.

1. Chris Murray asked that the regulations include a provision to allow for the regulation to be satisfied through the preservation of existing affordable units at risk of losing their affordable status in the near future.

Kathy McHugh's recommendation to the HAC was that this could be added, but that the time frame for loss of affordability be extended to 5 years. There was consensus that this would be appropriate. The group directed Kathy McHugh to revise the regulations to include this provision for units at risk of losing their support mechanisms within the next 5 years.

2. Chris Murray suggested that the provision in Schedule 1 (1)(a)(i) that requires 75% of units be 2- and 3-bedrooms, as this would have to remain static for 30 years, and would not serve the senior citizen population.

Kathy McHugh responded that the ordinance was not written solely for seniors, but also had to consider the needs of low-income families that often need units with higher bedroom counts.

Dan Rosensweig suggested expressing a preference for projects that have a larger number of higher bedroom count units. He agreed that there should be some manner of ensuring that family housing is built. Chris Murray responded that he would be satisfied with this being switched to a preference rather than a hard limit. He would rather let the market dictate what is built, which provides developers with the greatest degree of flexibility in complying with the regulation.

Then followed a discussion about the need for units for seniors versus families. Mark Watson asked if there was data on the number of seniors/singles and families in need of housing. Dan Rosensweig suggested that this data could be pulled from CRHA and extrapolated to the larger population. He asked Joy Johnson if she had a sense of the need for larger units. Based on her observation, Joy Johnson indicated that there were a lot of families in need of housing, and that 2- and 3- bedroom units were often in demand. She also saw a great need for 1-bedroom units, however, and also for the even larger units, such as 4- and even 5-bedroom units. Frank Stoner added that preferences and needs are likely to change over time, so it would be smarter to put a preference, rather than a demand, in the regulation. He suggested adding in language that would give the HDS the ability to assess and determine appropriate ratio of units. Dan Rosensweig agreed that giving the HDS control would be a good compromise.

Charlie Armstrong asked the group to take a step back and consider that this is a document regulating on-site housing units which, to date, no one has chosen to build. He believes that adding more details, such as requiring a percentage of units to be a certain bedroom count, we will further discourage developers from taking this pathway instead of just paying into the housing fund. He

suggested striking any and all requirements from the regulation until we were getting units. Bob Hughes responded to this by asking whether, once units were being built without regulation, the HAC would reconvene to have this meeting again and put regulation in place? Charlie Armstrong responded that regulations would only be needed if the HAC thought that adding them would not discourage developers from continuing to build. Dan Rosensweig acknowledged where Charlie Armstrong was coming from, but said that he thought that some guidance was needed, since developers have been asking for them.

Kathy McHugh suggested modifying the wording so it recognized the needs of both seniors/singles and families, using language that would allow an appropriate mix to be determined on a case-by-case basis by the HDS.

Chris Murray pointed out that since the average unit has 6.7 owners/occupants over the life of the unit, it is difficult to know anything for sure about all future residents. The best solution is to let the market dictate what is built, for that will be the best approximation of what is really needed.

Several members agreed that expressing a preference, or allowing the HDS to have a say, would be the best way to approach the mix of units. Mark Watson expressed concern that this would be too subjective, as it could change from one application to the next. Frank Stoner reiterated Charlie Armstrong's point that, right now, we are not getting any units, and therefore, any units built, even if through a subjective process, would be more than we're currently seeing. He suggested spending some time to determine why units aren't being built.

There was consensus among the group, which directed Kathy McHugh to revise the text to include language that would allow for the HDS to determine the appropriate number of units with various bedroom counts, based upon need at the time.

3. Chris Murray suggested striking the comment in Schedule 1 (1)(a)(ii) requiring dispersal of units, citing the inability of this requirement to be met if a developer chooses to preserve existing units to satisfy the ADU requirement (per #1 above).

Kathy McHugh believed that the text did not need to be changed, because of the clause that allowed exceptions for "unachievable and impractical" conditions.

Dan Rosensweig suggested adding the word "undesirable" to the above clause to cover the condition of preservation about which Chris Murray was concerned. This would also address situations like group living, or senior apartments, which may want to be clustered or located solely on the ground floor.

Kathy McHugh approved of this change. The consensus of the group was for Kathy McHugh to add the word "undesirable" into the exceptions clause in this section of the regulations.

4. Frank Stoner suggested that Schedule 1 (1)(a)(iii) be eliminated as it requires too much subjective review.

Kathy McHugh recommended to the group that this text not be eliminated, for it had been added after extensive discussion in the October HAC meeting. The group consensus was that the text would remain as is.

5. Chris Murray suggested that Schedule 1 (1)(e) specify square footage rather than bedroom count – that the original text of the regulation be maintained, and the revision from the October meeting be discarded.

Kathy McHugh suggested, as with #5 above, that this text not be reverted to its original language, for it had been revised as such after extensive discussion by the full HAC in the October meeting.

There was then discussion about which option provides greater flexibility for developers – being able to substitute any 3-bedroom unit for another 3-bedroom unit, even if the substitution is slightly smaller, or being able to substitute any combination of units, as long as they meet the minimum square footage requirement. Chris Murray believes that there is no flexibility in requiring the same bedroom count to be substituted, while Kathy McHugh and Mark Watson said that they thought that this option increased flexibility for property managers. Charlie Armstrong asked whether the HAC was even allowed to allow substitution for a similar bedroom count of a smaller square footage, since the commitment was for square footage, to which Kathy McHugh responded that Lisa Robertson from the City Attorney’s office had previously indicated that such a provision would be acceptable.

Chris Murray reiterated that the square footage requirement was much more flexible, and made more logical sense, since rent revenue was tied to square footage. Mark Watson expressed concern that if the substitution was tied to square footage, that ultimately, the projects would end up with all 1-bedroom units designated as affordable and no larger units.

Kathy McHugh suggested that the language be modified to allow the HDS ability to allow exceptions.

Charlie Armstrong and Chris Murray expressed concern that this inflexibility was going to deter units from being built. Melissa Thackston responded to this that this would not deter units, for this step only comes in once units have already been built. Charlie Armstrong disagreed, saying that this would discourage building units from the start.

Dan Rosensweig suggested that the text be revised to allow arrangements that maintain the spirit of the designated units. **The group reached consensus, and directed Kathy McHugh to revise the regulations to include language that would give the HDS ability to allow any changes that conform to the original commitment.**

6. Chris Murray suggested that Schedule 1 (2)(a-g) be subordinated to any State or Federal funding requirements, as applicable.

Kathy McHugh responded by saying that, as these regulations were also the result of lengthy discussion at the October meeting that she suggested keeping the revised text as is. She suggested adding language that would allow for any substantive conflict related to State or Federal funding to be waived by the HDS. She also added that the 60% AMI requirement was a set requirement from the enabling legislation, and couldn’t be changed, but that the rest of the items in question could be modified if they group so chose.

Frank Stoner said that while he didn’t believe there would often be any conflicts that it would be unfortunate for State/Federal funding to be lost due to conflicts with the ADU regulations.

Dan Rosensweig suggested including a comment that reflected this in the text of the regulation. **The group reached consensus on this point, and directed Kathy McHugh to revise the text of the ordinance to include language along the lines of: “These regulations are not intended to conflict with**

State and Federal funding requirements. In the case of a conflict, the HDS has the option to subordinate these requirements."

7. Chris Murray noted that the marketing plan requirement is both unnecessary and redundant.

Kathy McHugh disagreed with Chris Murray, saying that she thought the marketing plan would ensure that adequate attention is devoted to marketing the affordable units, as it was likely that they would be second priority to the market rate units.

Frank Stoner asked about whether there was a way out of leasing the affordable units to income-qualifying tenants, to which Kathy McHugh responded that there was not. Kathy McHugh then continued to say that she worried that, as monthly reports had been eliminated in the revision, annual oversight could result in things slipping through the cracks, and therefore she felt more confident about compliance if the text about marketing plans was left in the regulation.

Bob Hughes added that he recollected the regulations leaving the marketing plan guidelines fairly loose and flexible, and Dan Rosensweig agreed that it was his memory that the regulations essentially dictated that the developer come up with a marketing plan and tell the City what the plan was, but didn't dictate the terms of the plan. Both agreed that this didn't feel burdensome to developers, and didn't see the need to eliminate anything further.

Frank Stoner suggested making sure that the regulations included the wording "does not have to be separate from State/Federal funding source marketing plans." The group agreed to ensure that this language was included.

8. Chris Murray has noted that State/Federal guidelines already designate lease processing procedures and therefore these requirements are unnecessary.

Kathy McHugh recommended keeping the revised text as is, as it is not overly cumbersome. The group agreed that the text will remain as stands.

9. Frank Stoner suggested changing the income level specified in Schedule 2 (1)(b) from 60% to 80%.

Kathy McHugh responded that the State enabling legislation specifies 60% AMI; therefore, this change is not feasible. The text of the regulation will remain as is.

10. Chris Murray recommended rewording Schedule 2 (1)(c) to exclude the requirement of having the owner execute the agreement to commit affordable units and to require the HDS to approve the agreement as meeting the requirements of this section.

Kathy McHugh recommended leaving this paragraph in the regulations, as this is essentially the only mechanism that the bare-bones version of Schedule 2 has to ensure accountability. This piece of the regulation gives the City an idea of how the owner plans to comply with the ordinance, while still maintaining flexibility.

There was then some conversation, initiated by Dan Rosensweig, about the previous paragraph (Schedule 2 (1)(b)), which, in Dan Rosensweig's opinion, tied affordability to specific units. He would like to see this text revised to see greater flexibility for the 5% square footage requirement to be met with a floating average, without tying the affordability to specific units. In response to this, Kathy McHugh said that the goal was not to tie affordability to a specific unit, as it was reworded specifically to allow models like the Lochlyn Hills Housing Trust.

The group then reached consensus that the word “units” could be struck from Schedule 2 (1)(b) to reduce confusion, and that Schedule 2 (1)(c) would remain as written.

11. Chris Murray’s written comment stated that subsections i and ii of Schedule 2 (2)(a) would prevent a third party from aggregating units to apply for LIHTC.

Kathy McHugh responded that Schedule 2 is specific to purchase units only and the LIHTC program is for rental only. Accordingly, this comment did not apply to this section. The group agreed that the original wording should remain.

12. Frank Stoner suggested changing the income level specified in Schedule 2 (2)(a)(i) from 60% to 80%.

Per #9 above, the group agreed that it was not within their power to make this change due to State enabling legislation, and that the text of the regulation would remain as is.

13. Chris Murray commented that if deed restrictions are in place that Schedule 2 (2)(b) is unnecessary.

Kathy McHugh responded that this provision was included so that unique approaches such as those used at Lochlyn Hills could be incorporated. The group agreed to leave the text of the regulation as stands.

14. Specific to Schedule 2 (2)(b), Frank Stoner asked about the options included at Section §34-12.

Kathy McHugh responded that the paragraph has been included to provide for maximum flexibility for the developer/owner to determine how to best meet the needs of the development while complying with our ordinance. Her recommendation, which the group agreed to, was to keep the text as is.

15. In his written comment, Frank Stoner asked what would happen if a qualified purchaser can’t be found for a unit. He asked if the income scale could be adjusted up, as the builder should not be required to hold a unit indefinitely for a qualified purchaser. In the meeting, he followed this up by stating that it is virtually impossible for a person with an income of 60% AMI or lower to afford a home, to which Dan Rosensweig responded that these will require additional subsidy.

Kathy McHugh explained that, per our enabling legislation, the group cannot choose to allow the developer to adjust the income scale upward. Projects which trigger the requirement are bound to comply with sales to households meeting the 60% AMI requirement. The only option for change would be to go through the General Assembly, which can often be risky, for the Assembly may choose to make the ordinance more restrictive, rather than less restrictive. Many cities would love to have what we have, as imperfect as it is. Frank Stoner responded that this will virtually ensure that everyone pays into the fund and no units will ever be built. Missy Creasy responded to that this funding is money that the City would not have otherwise.

Dan Rosensweig voiced a desire to, as a next step, conduct research into *why* units aren’t being built under this regulation. He postulated that: (1) most of the developments triggering the ordinance were student housing, and not necessarily the right environment for low-income family housing, and (2), that ownership opportunities will, as Frank Stoner mentioned, require deep subsidies. He suggested that perhaps the ADU payments that are being received could be used to provide these subsidies for future ownership projects under Schedule 2.

Kathy McHugh agreed that this was a potential idea, and indicated that this could be part of a later conversation.

This concluded the conversation on the ADU regulations.

Proffer Discussion

Kathy McHugh then explained to the group that, in the subcommittee meeting, a proposal had been made for the HAC to draft a letter to the Planning Commission to ask them to include additional items in the proffer guidelines. These items would include programs such as job training, job readiness, and child care. She explained that she had discussed this with Missy Creasy, who said that the HAC would have to provide more guidance before she could determine the appropriateness of such a letter. Kathy McHugh continued to explain that proffers must be: voluntary, on-site, and related to the impacts of development.

She then asked Missy Creasy (Charlottesville's Planning Manager) to comment, who went on to explain that the specific items mentioned above are not items that can be proffered. Proffer items are physical things, or money for something physical to be built, but cannot be programs. For example, a proffer could include a building for a child care program, but not the child care program itself.

Dan Rosensweig asked for clarification on one of the points that Kathy McHugh had mentioned, asking whether proffer money actually had to be spent on site. He recalled a proffer that the Planning Commission had accepted which included money for the Charlottesville Housing Fund, which would not be spent on site. To this, Missy Creasy responded that proffers did not necessarily have to be specifically on site, but had to be tied to the site and impacts of construction.

Dan Rosensweig asked whether a developer could proffer a policy saying that they would hire local labor for construction, to which Missy Creasy responded that this could possibly be accepted, but that it would pose numerous problems in enforcement. If no local workers applied for the jobs, she wasn't sure how this would affect the zoning decision made in accordance with the proffer. Because of the difficulty in enforcing such a proffer, she said that would likely not be feasible.

Dan Rosensweig then explained the logic of the subcommittee in suggested this letter, which was based on the proffer of the Standard to provide money for job training for PHAR. Missy Creasy responded that this is not a legal proffer, and that the City would not be involved with enforcement, as this proffer was not part of the SUP consideration. Proffers, in general, are relatively rare according to Missy Creasy who stated that they only happen 1-2 times per year, and do not generally involve high dollar amounts.

Joy Johnson said that it sounded like, from Missy Creasy's perspective, there was nothing the HAC could do. Missy Creasy responded that planning and zoning deal exclusively with land use, but that there are other funding mechanisms for working with social programs, such as ABRT.

Joy Johnson responded that the issue is related to land use, as these developments are contributing to overall gentrification of low-income neighborhoods. To that end, developers should be encouraged to participate in Section 3 and hire local people who are affected by the construction. She asked Missy Creasy how the City could make this happen. Dan Rosensweig reiterated this point, and asked what the best (legal) mechanism would be to encourage this type of assistance (as demonstrated by the Standard) to residents?

To this question, Missy Creasy responded that the best we can do is encourage developers to have interaction with neighborhoods, and allow for private dialogues to occur. The City cannot get involved in any private

deals, or tie approval of any zoning-related applications to these deals. These private dialogues would have to be entirely voluntary and informal.

Dan Rosensweig explained that this was what the subcommittee had wanted – a way to signal to developers that there are practices looked on favorably, that will likely garner community support for their project. Missy Creasy reiterated that the best way to do this was to continue to encourage dialogue with adjacent neighborhoods. She mentioned that City planners do this when they meet with developers, and that the Planning Commission can also do this when they have hearings for developments. However, she told the group that the deal the developer of the Standard struck with PHAR was very atypical, and we cannot assume that a similar informal proffer will ever be made again.

Lesley Fore suggested using the media as a manner of encouraging developers to offer these types of informal proffers, saying that if developers who did this got positive media buzz, that there might develop a level of peer pressure that would encourage others to do the same. Missy Creasy responded that anything like that would have to be grassroots, and couldn't come from the City. With that, the conversation on proffers was concluded.

Subcommittee Report

Dan Rosensweig then presented a short report of the recent subcommittee action to the group. He summarized that, since the October HAC meeting, that the subcommittee had met three times to discuss use of CHF funding (specifically for uses other than housing construction, like Section 3 programming). They had come to three main points of consensus:

1. The only acceptable use of CHF funding was unit construction (and associated costs), with few exceptions. This decision was reached because the 2025 goal report that the HAC produced determined how much funding was needed to reach this goal, and the subcommittee decided that, as Council had adopted an ambitious 2025 goal, all allocated CHF funding should go towards trying to reach it. The possible exceptions would occur if it was determined that the City was ahead of its goal. In this case, some percentage of additional monies that come into CHF (from ADU payments) could be considered for programmatic use rather than unit construction.
2. The subcommittee felt a strong need for flexibility throughout the policy regulating CHF funding. This, Dan Rosensweig emphasized, was similar to how the HAC felt about the ADU regulations.
3. The subcommittee, using advice from the City attorney's office, chose to modify the Policy letter with regards to residency, changing the requirements to preferences.

Kathy McHugh then told the group that she plans to redraft the Policy letter based upon the feedback received from the subcommittee, and intends to bring it to the full HAC at the March meeting. She applauded the committee for being proactive with regulations and policy (both the ADU regulations and the Policy letter being examples), for too often, City government ends up in a reactive role.

Frank Stoner added that, in the discussion of appropriate use of CHF funds, that the subcommittee had discussed the possible use of monies for data collection and analysis, and had concluded that this could be deemed appropriate. Kathy McHugh told the group that \$30,000+ of CHF funding was used for a housing conditions survey and land use inventory conducted by TJPDC in 20011 and that the results of this effort provided data for the Comprehensive Plan. Further, she stated that if CHF funds were going to be used for data collection and analysis, that the HAC would have to be strategic about what it was looking for and the results it was hoping to get from such analysis. Further than a RFP would have to be written and disseminated to find someone to perform the work.

There was then discussion between Frank Stoner and Kathy McHugh about past efforts to collect and analyze data. Frank Stoner asked about the status of collecting data through the Assessor's office, to which Kathy McHugh responded that in the meeting she had attended with the Assessor's office, she learned that there would be a cost associated with this work, as they would have to write code to extract the requested data. The Assessor's office had told her that they would follow up; however, she has not heard back. She said that, if the HAC asked her to do so, she could follow up with them again.

Chris Murray asked about the possibility of charting progress towards the 2025 goal, to which Kathy McHugh responded that this was something that she was currently working on. She explained to the group that originally, the data collection had been fairly vague and unscientific. Currently, she is in the process of verifying the current database of supported affordable units to determine what the actual number currently is. One significant question involved the Hearthwood property, which is a LIHTC project that had been possibly on the verge of expiration. Luckily, she had been able to verify that it has entered into its 15-year extended compliance period. Joy Johnson asked about the current status of Friendship Court, and Missy Creasy responded that it was supported until at least 2017.

This concluded the meeting. The next meeting is scheduled for March 19th at 12 pm.