



EAST PROVIDENCE WATERFRONT SPECIAL DEVELOPMENT DISTRICT COMMISSION

MEMORANDUM

Date: February 22, 2021
To: East Providence Waterfront Commission
From: Chris Martin, Executive Director
RE: Proposed Zoning Ordinance Amendment re: Fees in Lieu of Affordable Housing

The attached memo from our Legal Counsel, Amy Goins, Esq, addresses the purpose of this proposed amendment. I wanted to also give you some extra background on how we arrived at this point.

At our meeting on February 25th, 2021 the Commission will be asked to review and approve the proposed amendment to the Inclusionary Zoning Ordinance, keeping in mind that further review and approval by the Planning Board and City Council (including a public hearing before the City Council) is required.

The proposed amendment changes the zoning ordinance to: (1) provide that in-lieu fees must be spent on affordable housing serving families earning no more than 80% of AMI; (2) provide that developers, not the Commission, shall determine whether to pay fees in-lieu of development; and (3) provide that in-lieu fees shall be determined by Rhode Island Housing.

Background

In late 2017, the former Waterfront Commission Executive Director began drafting the Affordable Housing regulations. The key feature of these draft regulations was to allow an applicant who chose not to provide on-site affordable housing units and was interested in payment in-lieu of development, to partner with a provider of affordable housing units with a priority for construction of affordable units within the Waterfront District. This was done through a collaborative effort by Pam Sherrill (former Executive Director), Diane Feather (former Planning Director), David Bacharach (Community Development Director) and reviewed by David Sluter (Waterfront Commission member).

In 2018, the Waterfront Commission voted to approve the draft regulation 885-RICR-00-00-01 – “Calculation, Payment and Use of Fees In-Lieu of Affordable Housing” on May 17, 2018. The Executive Director filed the draft regulations in accordance with the RI Administrative Procedures Act with the Office of Regulatory Reform on July 25, 2018. During the public review period of this draft regulation, over twenty-five comments were received, so that triggered a public hearing on August 27, 2018. A revision to address the submitted comments began.

The draft regulation (885-RICR-00-00-01) was withdrawn on February 4, 2019 due to time considerations. The Executive Director continued to work to address the comments received. In December 2019, the Waterfront Commission voted to approve the revised regulations. A summary of the proposed changes to the original draft reflected: (1) zoning amendments that limit application for in-lieu payments for onsite affordable housing to the initial project application; (2) elimination of the requirements to tie the request for in-lieu payments to an affordable housing “partner” in recognition

that affordable housing projects may take considerably longer to receive funding than private development; and (3) requires a lien for return of in-lieu funding if affordable units are not developed.

A new draft (885-RICR-00-00-03) was filed with the Office of Regulatory Reform in January 2020. During the interoffice state review, counsel for Rhode Island Housing pointed out that one of the RIGLs cited was subject to various interpretations and recommended that we seek the Waterfront Counsel review. This is addressed in the attached memo dated February 19, 2021 from Waterfront Counsel, Amy Goins.

In March 2020, Waterfront Counsel Amy Goins advised the Executive Director that it would be simpler to incorporate the draft affordable housing regulations into the zoning ordinance with an amendment to Section 19-485, "Affordable/ Inclusionary Housing." A revised draft zoning amendment was created in May 2020 to (1) provide that in-lieu fees must be spent on affordable housing serving families earning no more than 80% of AMI; (2) provide that developers, not the Commission, shall determine whether to pay fees in-lieu of development; and (3) provide that in-lieu fees shall be determined by Rhode Island Housing. This revised draft is what is being presented to the Waterfront Commission at the February 25, 2021 meeting for approval.

Respectfully Submitted,



Chris Martin, Executive Director

cc: Waterfront Commission
East Providence Planning Department

Attachments:

- Memo from Amy Goins, Esq, Legal Counsel dated February 19, 2021 on the Proposed Zoning Ordinance Amendment re: Fees in Lieu of Affordable Housing, including Exhibits A & B