

**Minutes of the Plan Commission  
and Human Relations Commission Joint Meeting  
March 8, 2023**

A joint meeting of the Human Relations Commission and Plan Commission was held on March 8, 2023, at 5:30 p.m. at the Libertyville Village Hall, 118 West Cook Avenue, Libertyville, IL.

The Human Relations Commission opened the meeting at 5:30 p.m. Members in attendance included Mayor Donna Johnson, Tom Gore, Sharon Starr, Wolfgang Josenhans, Jennifer Rich, Brenda O'Connell, and Denise Hezner.

Commissioner Rich made a motion to approve the January 19, 2023, Human Relations Commission meeting minutes, seconded by Commissioner Gore.

The Plan Commission opened the meeting at 5:30 p.m. Members in attendance included Eric Steffe, Amy Flores, Tom Rankin, Rick Pyter, and Walt Oakley.

Commissioner Oakley made a motion to approve the January 19, 2023, Plan Commission meeting minutes, seconded by Commissioner Rankin.

Also in attendance were Village Administrator Kelly Amidei, Deputy Village Administrator Ashley Engelmann, John Spoden, Community Development Director, Hart Passman, Village Attorney; and David Smith, Senior Planner.

Mayor Donna Johnson stated that for the past two years the Human Relations Commission has been working on the draft attainable housing ordinance. She reported that the draft was completed in May 2021. She stated that the public will have an opportunity to provide comments on the draft at the Plan Commission public hearing which is the next step in the process. The Plan Commission will then make their recommendation to the Village Board of Trustees. She stated that the draft ordinance could be modified through the Plan Commission and Village Board review processes.

Commissioner Pyter asked if handouts will be provided to the public at the Plan Commission public hearing. Mayor Johnson stated that access to certain documents will be made available both on the Village website and hard copies provided at the meeting as well.

Mayor Johnson stated that the draft ordinance will be reviewed by the Plan Commission during a public hearing and they may recommend additional changes to the document. She noted that the Village Board of Trustees will have an opportunity to review any recommended changes by the Plan Commission.

Commissioner Rich asked for clarification regarding the review and recommendation process to be conducted by the various boards and commissions before it reaches the Village Board. She stated that it appears that an additional step has been interjected between the Human Relations work and the eventual Plan Commission public hearing.

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Deputy Village Administrator Ashley Engelmann stated that after the draft ordinance was completed by the Human Relations Commission in May 2021 there were a series of meetings with members of the Village Board which has led to the current status of the draft.

Commissioner Rich stated that it is her understanding that the formal review and approval process for the draft ordinance is for it to receive a recommendation by the Human Relations Commission to the Plan Commission who then holds the public hearing on the matter.

Mayor Johnson stated that if an ordinance such as this is going to impact the entire community then she needs to include elements that were not addressed prior to her being elected Mayor. She noted that in her role as Mayor she has learned additional facts that should be included in the ordinance, which is what she did. She stated that the ultimate goal from her position and from the position of the Human Relations Commission is to do what is best for the entire community. She reported that although commissioners are charged with making recommendations, part of that charge is to not ignore new information if it is pertinent. She stated that from her experiences that she has had as Mayor regarding the development process and from a Zoning Code amendment process, she believed that it was important to bring her ideas to the discussion relative to the draft ordinance. She stated that there is a legislative process in place but the process does not prohibit the elected leaders of the Village to bring forth additional information for consideration. She further noted that it does not mean that the commissions have to change their mind relative to what they will recommend. She stated that if new information is obtained and is considered valuable to the final product then it should be introduced for consideration.

Commissioner Rich asked for clarification regarding the additional conversations that took place amongst the Village Board members after the Human Relations Commission completed their work on the draft ordinance.

Ms. Engelmann stated it has been a very long process and that there were joint meetings held with the Human Relations Commission and the Village Board that took place in June, July and August 2021. She stated that they had Rob Anthony from Community Partners for Affordable Housing attend some of these meetings as a guest speaker to discuss the draft attainable housing ordinance.

Mayor Johnson stated that she was not trying to dilute or diminish the two years of work that the Human Relations Commission put into the ordinance. She stated that the goal was to make sure how other policies that are part of the Village Administration could be impacted by this draft ordinance. She noted that it may appear that the timing of the most recent changes is inopportune, new information should be brought forward for consideration whether it has merit or not.

Ms. Engelmann stated that the goal for the meeting was to allow the Plan Commission members to be observers with the understanding that the draft ordinance will eventually be before them for the public hearing. She stated that the Human Relations Commission will discuss each of the newly proposed amendments to the ordinance and take a straw poll vote on each revised item. She stated that if there is a consensus to add the revisions to the May 19, 2021 draft ordinance then those changes will be reflected in the draft ordinance going forward to the Plan Commission.. She

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stated that after the straw poll vote on each amended item there would then be a motion made by the Human Relations Commission to forward the May 19, 2021 draft ordinance with any amendments that passed by consensus. She noted that if none of the amendments achieve consensus then the May 19, 2021 draft ordinance would proceed without the amendments.

Human Relations Commission Chair Sharon Starr stated that in hindsight this process would have been a little less cumbersome if the Human Relations Commission would have had the opportunity to participate in some of the discussed changes after they completed their work on the draft ordinance. She noted that the HRC had finished their work with certain expectations as to what the next steps were to be but by considering these amended items in her opinion it feels like an afterthought. She stated that she realizes that the joint meeting with the Plan Commission lends itself an opportunity to address the changes before the public hearing.

Mayor Johnson stated that the amendments were not intended to circumvent the work of the Human Relations Commission but were the result of the need to contend with the circumstances at that time. She stated that although the document is going through different levels of review she felt it would be more efficient to combine the two groups to hear the latest revisions.

Mayor Johnson stated that she understands that the Human Relations Commission would have preferred that the draft ordinance proceed to the Plan Commission public hearing without revisions after they completed their work on the draft ordinance. However, she thought it was important to bring both the draft ordinance and the revisions to the meeting for consideration.

Commissioner Gore clarified that the criticism isn't as much about the changes to the draft ordinance as it is about the timing of the changes.

Mayor Johnson stated that elected officials try to do the best they can to balance input from the community, along with historical information and legal information. The ultimate goal is to do what is best for the community.

Commissioner O'Connell asked what the additional information was that was considered after the Human Relations Commission finished their work on the draft ordinance.

Mayor Johnson responded that some of the changes include increasing a qualifying residential development from a minimum of five (5) dwelling units to ten (10), changes to the density bonus, and changes to how the fee in lieu is administered. She stated that despite these proposed changes that the Human Relations Commission could elect not to incorporate them into the ordinance depending upon how the straw poll vote goes for each amendment.

Ms. Engelmann stated that she will present each amendment for a vote.

Chair Starr stated that it makes sense to discuss each proposed amendment and take a straw poll vote on each.

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**Amendment #1**

Ms. Engelmann stated that the first proposed change is in the Policy Statement in Section 18-2. She stated that the following language was removed:

“While this Article provides specific alternatives to the production of on-site Attainable Housing Units, the intent and preference of this Article is to provide permanent Attainable Housing Units that are constructed on the site of the Covered Development Project.”

Ms. Engelmann noted that the language was removed to reflect more flexibility regarding a preference for on-site attainable housing units. The prior draft stated that the developer would have to demonstrate to the satisfaction of the Village Board that the alternate means of compliance will further attainable housing opportunities in the Village to an equal or greater extent than compliance with on-site requirements.

Commissioner O’Connell stated that she has a clear recollection of adding the language to the draft ordinance because without requiring the actual dwelling units then the funds from a fee in lieu payment would be a challenge to convert into actual units. She stated that past discussions indicated that it makes sense to have flexibility, it makes sense to respond to the needs of the developers but if the Village has a preference, then the preference should be stated. She further noted that the preference is to have attainable dwelling units incorporated into residential developments.

Commissioner Gore responded that he agreed with Commissioner O’Connell.

Commissioner Josenhans stated that a preference for the actual dwelling units should be a given in the ordinance even if the language is revised to be weaker in content or force.

Chair Starr reported that the goal is to be able to provide attainable housing not to obtain money from pay in lieu.

Ms. Engelmann facilitated a straw poll vote on Amendment #1.

- Chair Starr stated that she was in favor of restoring the removed language.
- Commissioner Gore agreed to restore the removed language.
- Commissioner Rich agreed to restore the removed language.
- Commissioner Josenhans agreed to restore the removed language.
- Commissioner O’Connell agreed to restore the removed language.

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- Commissioner Hezner voted in favor to remove the language, per the amendment.
- Mayor Johnson voted in favor to remove the language, per the amendment.

**Amendment #2**

Ms. Engelmann stated that there are two parts that were amended in Section 18-3. She relayed that the first part is to increase the minimum required number of dwelling units needed to trigger a covered development from five (5) to ten (10). And the second part is to remove sections 18-3(A)(2) and 18-3(A)(4) from the draft. They read as follows:

(A)(2) A development consisting of the renovation or reconstruction of over 50% of the total square footage of an existing multiple family residential structure and that increases the number of residential units from the number of units in the original structure;

(A)(4) A development that includes the conversion of rental property to condominium property;

Ms. Engelmann suggested that discussion and a vote should be taken as three separate parts. She stated that they can begin with the amendment regarding the increase of the minimum required number of dwelling units needed to trigger a covered development from five (5) to ten (10).

Commissioner Rich asked if there was any analysis done to increase the number of dwelling units from five to ten. She feels this would decrease the number of opportunities for creating attainable housing.

Mr. Spoden stated that this isn't available because it would depend upon how large a development is. He stated that there are typically three types of residential development. (1) Developments where contractors build one house at a time,(2) A developer might construct three to six dwelling units as a development project, (3) A developer might construct ten dwelling units or more as a residential development project. He noted that the amendment to increase the minimum number of dwellings for a covered project came from staff based upon the residential developments they have permitted over the years.

Commissioner Rich asked if the proposed requirement is based upon a separation between 10 dwelling units and above and nine dwelling units and below. Mr. Spoden responded that there was a concern that builders would do a residential development with 4, 5, or 6 dwelling units but would choose not to do anything if confronted with lost income by providing any attainable units. He stated that if a development is proposed at 10 or more dwelling units it would then be easier for the developer to provide the required percentage of the units as attainable. He stated that we didn't want to impact the smaller developments.. Smaller developers have raised these concerns to the department.

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Ms. Engelmann stated that staff reviewed ordinances from other communities and found that 10 is not an uncommon number.

Commissioner Hezner stated that she used to do design insurance for projects and a builder starting out doing small residential projects would be challenged by incorporating 15% of their total number of dwelling units as affordable. She stated that she is in favor of increasing the minimum number of units from 5 to 10.

Commissioner O'Connell stated that it appears as though it is too early in the process to be negotiating these changes. She stated that she doesn't know what the new information is that prompted these changes for the Human Relations Commission to consider.. She noted that it was her understanding that additional changes could be made during the Plan Commission public hearing, as needed.

Chair Starr feels as though the changes being considered shouldn't have a substantial impact on the overall draft ordinance. She stated that if it makes sense then she does not have a problem making a few changes at this point, if the intent of the ordinance is preserved.

Commissioner Rich asked if there is a way of doing an analysis that would determine how many attainable units would be lost by make the change from 5 to 10. Mr. Spoden stated that even with an analysis it would be difficult to project the outcome as it is the developer's economics that would determine their ability to do a small development while providing any attainable units. He stated that the number 10 seemed to be the consistent number in other ordinances and therefore made the most sense from a staff standpoint.

Mayor Johnson stated that developers of smaller residential development projects have shown a willingness to be committed to the attainable housing mission without being forced to do it with an ordinance.

Ms. Engelmann stated that the Community Development Department has often requested attainable housing from developers when appropriate for the past several years.

Mayor Johnson noted that she has attempted to put the Village in a position where attainable housing units are provided but that they be provided by a high-quality developer. She stated that she does not want to discourage a high-quality developer from coming into the community and doing a quality residential development.

Commissioner O'Connell asked how many townhome units (market and attainable) were constructed near the credit union at Fourth and Broadway.. Mr. Spoden stated that they built six townhomes at market rate and one additional that was provided as attainable.

Mayor Johnson stated that Libertyville has a lot to offer and is attractive in a variety of ways. She noted that it is important that developers that want to build in the community are quality builders.

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She is concerned about the competition for quality developers and that the layered process may become too cumbersome.

Commissioner Rich stated that it is her understanding that the task of the ordinance is to provide enough clarity on the requirements so that Village staff will not have to negotiate with the developer over the requirements.

Mayor Johnson reported that the ordinance requirements should not be a take-it or leave-it situation. She stated that there should be a level of confidence in staff that they will be able to exercise discretion when discussing the requirements with developers. She noted that there will be instances when high-level quality developers will approach the Village who have done well in other communities, but her concern is that they would not follow through if confronted with overly restrictive requirements. She feels the requirements should provide staff the ability to consider quality options.

Chair Starr noted that the original draft ordinance is already flexible. She stated that developers have options to choose from. She stated that it may come down to what the developer chooses or if staff, the Plan Commission and Village Board have any discretion as to what the developer chooses.

Mayor Johnson stated that it won't be the developer telling the Village what it chooses but it would be the Village staff advocating on behalf of the Village the appropriate option. She noted that consideration should be given to remembering that all options have a price tag associated with each one of them. She stated that she is looking for a compromise so that the options in the ordinance are implemented in such a way that is efficient. She stated that going through the review and approval process with the various board agendas takes time and time is money for the developers. She would like to see as few layers as possible so that an application for residential development that includes attainable housing units does not stretch out six or nine months or take a year to get through the process.

Commissioner Rich stated that consideration could be given to providing an option to a developer that when they are providing five (5) or more units that they present their case to staff for a waiver of other ordinance requirements.

Mayor Johnson stated that at the level of development that Commissioner Rich is suggesting to include a waiver would be too cumbersome however she supported the line of thinking. She stated that increasing the minimum number of dwelling units from 5 to 10 in order for a development to qualify as Covered Development offers some flexibility for developers. She noted that if the trigger is too low then there is a likelihood of eliminating too many development opportunities.

Commissioner Gore stated that he supports the minimum number of dwelling units to start at ten (10).

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Ms. Engelmann facilitated a straw poll vote on Amendment #2.

- Mayor Johnson voted in favor to increase the minimum number of dwelling units from five (5) to ten (10).
- Commissioner Hezner voted in favor to increase the minimum number of dwelling units from five (5) to ten (10).
- Chair Starr voted in favor to increase of the minimum number of dwelling units from five (5) to ten (10).
- Commissioner Gore voted in favor to increase the minimum number of dwelling units from five (5) to ten (10).
- Commissioner Josenhans voted in favor to increase the minimum number of dwelling units from five (5) to ten (10).
- Commissioner O'Connell voted in favor to increase the minimum number of dwelling units from five (5) to ten (10).
- Commissioner Rich voted in favor to increase the minimum number of dwelling units from five (5) to ten (10).

Commissioner Gore asked for clarification regarding the original draft ordinance. He stated that it outlines five types of Covered Developments listed in Section 18-3 (A). He asked if they stand alone or if all are needed together for any single development project. Ms. Engelmann confirmed that they each can separately apply and do not need to be combined in order for a development to be a Covered Development.

Mr. Hart Passman, Village Attorney, stated that each of the listed development types listed in 18-3(A) are independent triggers.

Commissioner Gore asked for a development example that would apply to Section 18-3(A)(1).

Mr. Spoden stated that the Young property located at the southwest corner of Rt. 137 and Milwaukee Avenue would be an example of that development type where they are approved to construct a new townhome development.

Commissioner Gore asked for a development example of Section 18-3(A)(3).

Mr. Spoden stated that the building located downtown that had the Dance Center would be an example. He stated that it was commercial and they converted the second and third floors to residential.



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Commissioner Gore asked if the apartment development needed any zoning changes. Mr. Spoden stated that it did not and that residential above commercial in the downtown is permitted and encouraged.

Ms. Engelmann stated that those two subsections that Commissioner Gore asked about were intended to remain in the draft Ordinance along with the third subsection regarding the development of senior citizen homes without nursing care.

Commissioner Gore asked if 18-3(A)(2) would cover any combination of converting rental to condo or vis a versa.

Mr. Spoden stated that the conversion question relates more to 18-3(A)(4). He stated that 18-3(A)(2) is more relative to renovation and construction, not conversion between rental and condo.

Mr. Hart stated that subsections (A)(2) and (A)(4) are very similar but subsection (A)(2) is about physical changes and subsection (A)(4) is about converting rental units to condo units regardless of any physical changes.

Commissioner Rich stated that in the (A)(4) scenario it appears that there is a risk of requiring the renters to leave if the rental units are being converted to condo units. She stated that as an example there are apartment buildings across the street from Libertyville High School that could be converted to condominiums. If they were converted, it would not go well for the renters that reside there.

Mr. Spoden provided an example that the building located at 375 Winchester Rd. converted all their units from rental to condo. He stated that they didn't make any physical changes when that happened. He noted that if that conversion was subject to the draft ordinance requirements he doesn't know where they could have put the attainable units.

Chair Starr stated that in that situation they would have needed to designate which of the existing units are attainable.

Commissioner Josenhans asked which subsection in the draft Ordinance would cover the 375 Winchester Road example. Mr. Spoden stated that it would be covered by subsection (A)(4).

Commissioner Rich asked what new information has been presented that persuaded the removal of subsections 18-3(A)(2) and 18-3(A)(4). Mr. Spoden stated that it may appear that a residential building owner is being penalized by imposing these subsections.

Commissioner O'Connell stated that subsection (A)(2) states that when a substantial renovation or reconstruction of an existing multifamily building takes place and there is an increase in the number of residential units it is then considered a Covered Development so it would be reasonable to assume in that situation that the developer is bringing a substantial amount of capital to the project.

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Ms. Engelmann stated that (A)(2) does include both the improvements and the increase in units in order for it to qualify as a Covered Development.

Chair Starr stated that with the limited amount of open space that could be developed in Libertyville it makes sense that most development projects would more likely be reconstruction or renovation projects. She stated that the Village might lose an opportunity for more attainable units if they only relied on new developments.

Commissioner Rich stated that it seems like subsections (A)(2) and (A)(4) will help to protect some of the rental residents.

Mayor Johnson stated that the building owners that would be subject to these two subsections have certain ownership rights. She asked the group how these subsections would protect the renters that might be currently residing in those multifamily residential buildings. She stated that it doesn't seem like the rental residents would be protected in view of the fact that the property owners have the right to set rental rates or condo price points. She stated that the Village does not have the right or the authority to prevent a property owner from setting their rental rates. She further noted that the Village can ask the property owners under the draft ordinance if they can make a certain percentage of the units, they own attainable. She stated that the remaining units that would fall under market rental rates are left up to the property owner.

Commissioner Rich stated that it should be the intent of the ordinance to at least keep as many of the renters in the building that is subject to renovation or reconstruction as possible.

Commissioner Gore asked how likely these subsections could be applied to existing rental buildings. Village Attorney Passman stated that subsection (A)(2) would be applied to a building that has apartments for rent and the owner is doing substantial renovation or reconstruction that would include gutting and adding additional dwelling units.

Ms. Engelmann facilitated the straw poll vote on Amendment #2 regarding the removal of 18-3(A)(2)

- Commissioner Rich stated that she is in favor of keeping (A)(2).
- Chair Starr stated that she is in favor of keeping (A)(2).
- Commissioner Gore stated that he is in favor of keeping (A)(2).
- Commissioner Josenhans stated that he is in favor of keeping (A)(2).
- Commissioner O'Connell stated that she is in favor of keeping (A)(2).
- Commissioner Hezner stated that she is in favor of removing (A)(2).

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- Mayor Johnson stated that she is in favor of removing (A)(2).

Commissioner Gore stated that relative to (A)(4) conversions from rental to condo has become quite prevalent in the Chicagoland area.

Commissioner Rich asked if the Village would know at the time that an apartment building was converting from rental to condo. Mr. Spoden stated that there is a condominium ordinance in place so in principle the Village should know about those conversions when they occur. He stated that these conversions can also happen with commercial properties as well. He stated that historically when these conversions happen with commercial properties then parking has become an issue.

Commissioner Gore stated that it seems like the property owner has a financial incentive to convert rentals to condos.

Commissioner Josenhans stated that the property owner would be inclined to do some upgrades in that situation as well.

Mayor Johnson stated that at the beginning stages of their due diligence, developers must weigh their options as they give consideration to the potential costs associated with a prospective residential development. She stated that there is a risk that the costs will be too high and may go elsewhere to do their developments.

Commissioner O'Connell stated subsection (A)(4) seems to be one of the more viable elements to keep in the ordinance as it would help to keep renters in the Village.

Village Attorney Passman stated that this subsection is a form of subdivision. He stated that a title company would most likely not get involved with the sale of a condo that was previously a rental unit without seeing all of the previous Village approvals.

Ms. Engelmann facilitated the straw poll vote on Amendment #2 regarding the removal of 18-3(A)(4)

- Chair Starr stated that she is in favor of keeping subsection (A)(4).
- Commissioner Gore stated that he is in favor of removing subsection (A)(4).
- Commissioner Rich stated that she is in favor of keeping subsection (A)(4).
- Commissioner Josenhans stated that he is in favor of removing subsection (A)(4).
- Commissioner Hezner stated that she is in favor of removing subsection (A)(4).
- Commissioner Johnson stated that she is in favor of removing subsection (A)(4).

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Commissioner Rich stated that she feels that removing the subsection if any of the rental units currently located across the street from Libertyville High School were to convert to condo units there is nothing that the Village can do to preserve them as rental or attainable.

**Amendment #3**

Ms. Engelmann introduced the next amendment in Section 18-6 regarding Density Bonuses. She stated that the proposed change is to allow both an increase in floor area ratio of .25 for Covered Development Projects located in the C-1, C-2 and the C-3 districts and be granted density bonuses. She stated in the original draft ordinance density bonuses were not included in the C-1, C-2 and C-3 districts. She stated that this clarification is a good thing for the developer and expands the incentive to develop on-site attainable housing in those districts.

Mr. Spoden stated that the adjustment is coming from staff as there is noticeable development pressure primarily in the C-1 district. He stated that it will create a better opportunity to incorporate the attainable units in the downtown area. He noted that the Economic Development Commission has also been supportive of this as an important tool for the economy in the downtown area and the draft ordinance should be consistent with the density bonus across the board.

Commissioner O'Connell stated that this makes sense as it is near transit and it will help to cultivate transit oriented development.

Ms. Engelmann facilitated the straw poll vote on Amendment #3 regarding section 18-6.

- Chair Starr stated that she is in favor of adding the provision of bonus units.
- Commissioner Gore stated that he is in favor of adding the provision of bonus units.
- Commissioner Rich stated that she is in favor of adding the provision of bonus units.
- Commissioner O'Connell stated that she is in favor of adding the provision of bonus units.
- Commissioner Josenhans stated that he is in favor of adding the provision of bonus units.
- Commissioner Hezner stated that she is in favor of adding the provision of bonus units.
- Mayor Johnson stated that she is in favor of adding the provision of bonus units.

**Amendment #4**

Ms. Engelmann introduced the next amendment to the draft ordinance in Section 18-8 alternatives to On-Site Attainable Housing Units. She noted that it includes updated language to offer the applicant the option of several ways to comply with the ordinance, to include: cash payment in

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lieu, land donation or combination of cash payment and on-site units (original draft allows for alternative means of compliance only if granted by the Village Board and when the alternative is shown to advance attainable housing greater than or equal to on-site units).

Commissioner O'Connell stated that it was her understanding that the original draft ordinance stipulated Village Board approval was required before the developer could utilize any of the other alternatives.

Mr. Spoden stated that the commissions are recommending bodies and the Village Board has the final authority to make approvals.

Village Attorney Passman stated that the original draft ordinance stipulated that the Village Board had to approve a request for the alternative to providing on-site attainable dwelling units for a Covered Development. He further noted that the proposed amendment would not give the Village the authority to tell a developer that they are required to provide on-site units or which alternative they must choose. He stated that in either case the developer will still be required to provide an Attainable Housing Plan and Development Agreement. He stated that the amended ordinance does not remove the developer from the process. The Village Board would not give the final say (authority) to the Plan Commission because the Plan Commission is a recommending body.

Commissioner O'Connell noted that she feels consideration should be given to whether a developer can choose an alternative prior to the project reaching the Village Board. She stated that a good policy makes reaching the desired outcome easier. She noted that the intention of the original ordinance was to provide predictability for the developer. She stated that the developer should provide on-site attainable units the easiest way. She stated that the alternatives to providing on-site attainable units should come with extra steps to accomplish them. She asked if there is another option than only the Village Board granting the alternatives.

Village Attorney Passman stated that the presumption is that almost any Covered Development will require some sort of zoning relief regardless of whether attainable units are provided on-site or not. He stated that the only kind of relief that would be sought can only be granted by the Village Board.

He further noted that even with the change to section 18-8 of the draft ordinance and if a developer were to pay a fee in lieu, the Village Board can still tell the developer that they do not meet the standards for the pay in lieu alternative and can leverage the units if they deem appropriate.

Commissioner Gore stated that the Village Board should take into consideration what has transpired at the Housing and Plan Commission levels and will have to approve a Covered Development project with or without conditions regardless of if the project includes on-site attainable unit or not.

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Commissioner Pyter stated that there have been other situations where a fee in lieu has been accepted by the Village. He stated that the Plan Commission hasn't traditionally gotten involved with regulating the pay in lieu aspect of past projects.

Mayor Johnson stated that no matter what is decided projects will still go through the process and ultimately to the Village Board. She stated that what typically happens before a project goes through the process is that there are preliminary discussions with a developer. By the time a project reaches the Village Board, the board will examine the project for its merits and whether or not on-site units should be provided. She stated that she might have looked at this differently if the Village was not compliant with its existing attainable housing stock but the Village is currently compliant with almost 15% of its housing stock provided at attainable rates. She noted that the Village has already been seeking attainable housing in past projects. She stated that she is concerned that by crafting an attainable housing ordinance that does not provide adequate flexibility it will discourage good development projects from coming to the Village.

Commissioner O'Connell stated that when she first joined the Human Relations Commission she came to understand that the Village already had a good practice in place for obtaining attainable housing but came to believe that the attainable housing ordinance would serve to support that practice. She noted that if the practice was codified it would provide the necessary path to obtaining attainable housing long after current staff are gone. She stated that by codifying the attainable housing regulations it will help to make the practice clearer. She noted that while the HRC was working on this ordinance Deerfield passed their own attainable housing ordinance which does not provide any alternatives to providing on-site housing.

She stated that Libertyville's original draft ordinance is already flexible by stating that on-site attainable units are preferred but if the developer cannot provide the on-site units there are alternatives that can be utilized.

Mayor Johnson stated that operationally the original draft is not flexible. She stated that when a project still needs to go through the process in order to achieve the end goal then it is not flexible. She noted that going through the process requires being on an agenda, being on the schedule, and time is money. She stated that the Village is already getting attainable units and that the attainable housing ordinance will function as a safeguard.

Chair Starr asked if the Village has already been getting attainable housing units then why has the Human Relations Commission been working on this ordinance for the past two years. Mayor Johnson stated that she inherited this process and was not the initial driving force behind the drafting of the ordinance. She stated that she was asking the same question herself as to why the Village is creating this ordinance when the Village already had established a practice. She stated that prior to putting a group together in order to create an ordinance like this there should be a cost-benefit analysis done in order to determine how much of a priority such an ordinance should be and how it will benefit the Village. She noted that before the establishment of a committee takes place the Village should first determine what the goal is for the community.

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Commissioner Rich believes that if the HRC votes to change Section 18-8 then all petitioners will choose the option to pay a fee in lieu. She stated that the HRC has heard from other communities that have a pay in lieu option that it is difficult to turn those funds into actual units. She stated that the Village is then not getting actual units. She stated that the amendment will only make it easier for the developer to get what they wanted and that is not to have to provide units. She noted that the goal is to be able to provide housing for seniors and workers for Condell and teachers and so on. She feels it is hard to understand how making the section more flexible will help to achieve what is intended by the ordinance. She stated that it seems that the Village would have more leverage when negotiating with developers if the preference for actual on-site units is in the ordinance.

Mr. Spoden stated that it is a philosophical issue. He stated that the Village intends to enter into an agreement with CPAH to manage the funds obtained from the pay in lieu option. He stated that by the time the Liberty Junction townhome development is finished there will be over one million dollars in the pay in lieu fund.

Village Attorney Passman stated that there is another lever that is currently not being debated by the HRC but will go before the Village Board and that is the pay in lieu fee amount. He stated that regardless if section 18-8 is amended to provide the developer equal opportunity for all options the fee amount could have an influence on which option the developer chooses. He stated that Highland Park over the years has moved the fee in lieu amount up and down based upon market conditions.. He further noted that Highland Park provides an annual grant to CPAH to fund scattered sites. He stated that it is often used to buy properties and rehab them for attainable housing opportunities.

Commissioner O'Connell stated that CPAH is an excellent organization. She feels that there is no mechanism that can turn fee in lieu funds into an on-site attainable dwelling unit. She stated that by amending section 18-8 to allow for all options available without the statement of preference, then it will become harder to provide on-site attainable dwelling units.

Commissioner O'Connell stated that part of the work that the Human Relations Commission did was to get feedback from the community. She stated that it was an effort by the HRC to better understand how the community felt about the issues surrounding attainable housing.

Mayor Johnson stated that the survey results obtained from the community are not an adequate representative sampling of the 22,000 plus residents and because of that we need to be mindful of drawing conclusions from them..

Chair Starr stated that she disagrees and feels that the survey results were very compelling. She stated that there were 522 Libertyville residents that responded to the survey.

Ms. Engelmann clarified that caution should be exercised when interpreting the survey results as there were no survey questions that specifically asked if the respondents would support attainable housing in the Village and that the term attainable housing was not clearly defined in the survey.

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She further stated that there were some questions included in the survey about affordability but they were not definitively about attainable housing.

Chair Starr stated that the survey revealed that there are concerns about affordability and this was one of the reasons for having the focus groups. She stated that focus groups are not designed to provide data but rather they are qualitative and designed to drill down and determine what is meant by affordability. She stated that during the discussions in the focus groups there were statements made about property taxes and examples were provided such as can nurses afford to live in Libertyville.

Mayor Johnson stated that the numbers derived from the survey are not representative of the Village, which has an estimated population of 22,000 residents. She noted that the focus group attendance was lower than the 538 residents who responded to the survey. She noted that understanding the context of the resulting numbers is important.

Chair Starr responded that the focus groups were not designed to just focus on numbers. She stated that articles are often found in the newspaper where a major research company will survey only 1,200 to gain insight into the opinions of all Americans. She stated that this example is a much smaller survey sample than the survey completed in Libertyville. She feels that the number of respondents are more than adequate and provided good reliability and one of the issues revealed from that Libertyville survey and from the focus groups is that housing prices in Libertyville are perceived to be too high.

Commissioner Rich stated that we all know someone that cannot afford to live in Libertyville.

Chair Starr asked the Mayor if she believes that more data is needed. Mayor Johnson responded that more data is not needed but stated that caution should be used when using the outcomes to persuade others. She stated that in the prior workshop meeting the discussion revolved around the affordability to live in Libertyville for employees. She stated that she has spoken with employees, some of who have indicated that affordability is not the issue for them, rather it is for other reasons. She stated that caution should be used when making statements about the lack of affordability.. She stated that there may be a number of people that do struggle with the affordability issue but there are also a significant number of people who would rather live elsewhere in communities for reasons of their choosing. She stated that all of the facts should be considered while having these conversations.

Commissioner O'Connell stated that she remembers concerns that were brought up during the focus groups. She stated that one of the concerns stated during the focus groups was whether the attainable housing ordinance would bring a problem building into the community. She noted that this was one of the subtext concerns mentioned. She stated that the ordinance would not promote housing with problematic tenants or residents. She stated that on-site dwelling units in a Covered Development will not promote those kinds of problems. She relayed that the Village can promote affordability that would be integrated into the community.



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Commissioner Josenhans asked if off-site attainable units are still within the scope of the draft ordinance. Ms. Engelmann stated that off-site attainable units are still an option in the ordinance.

Village Attorney Passman stated that he has never seen land donated for attainable housing nor has he ever seen off-site attainable housing part of a development project.

Chair Starr stated that the intent is to avoid ghettoization. She stated that instead of allowing a developer to provide off-site attainable housing on the edge of town they should be incorporated into the development. She feels that if there is consideration to removing the statement that attainable housing must be included in the Covered Project development then the HRC should discuss this issue as well.

Village Attorney Passman stated that if the ordinance is changed to allow all the options with no preference by the Village, then the statement to require the attainable units to be on-site doesn't need to be in the text of the ordinance.

Commissioner O'Connell asked if there is an option to require a time limit to allow a developer to decide which alternative to on-site attainable housing units they want to select while still having a preference to on-site units.

Mr. Spoden stated that there could not be such a limitation as each commission is making a recommendation to the Village Board. He stated that the Village has recently begun to schedule Committee of the Whole Village Board meetings to allow developers to present their project proposals prior to submitting a formal application to the Village. He stated that these Committee of the Whole board meetings function in a similar fashion as the HPC taking a straw poll on the proposed edits..

Commissioner O'Connell stated that when the HRC completed the draft ordinance it stipulated the on-site unit provision preference, and the developer would have the obligation to demonstrate to the Village Board that they have justification for one of the other alternative options. She stated that in that scenario if the Village Board denies a developer's request for one of the alternate provisions, then that is where that additional time was spent negotiating with the Village Board.

Mayor Johnson responded that the developer will still need to go through the process and the Village Board can add additional conditions for approval of a development project.

Commissioner O'Connell stated that there is a lot that can happen that can drive up the cost of a development. She stated that the preference for the developer to provide on-site attainable units as it was originally included in the draft ordinance may also drive up the costs for a development, but she is concerned that on-site attainable dwelling units should not be subject to a prejudicial distinction relative to other factors that drive costs for development. She feels that there is evidence that the on-site unit preference will not be the deal breaker. She would like to see the on-site attainable units be the priority outcome from a development.

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Ms. Engelmann facilitated the straw poll vote on Amendment #4 regarding section 18-8. She stated that a NO vote would be to NOT remove the provision in the draft ordinance that requires Village Board approval to allow the developer to choose an alternate to providing on-site attainable units upon demonstrating to the satisfaction to the Village Board that the alternate means of compliance will further Attainable Housing opportunities in the Village to an equal or greater extent than compliance with the on-site requirements of this chapter.

Village Attorney Passman stated that a YES vote would be to remove the provision that requires Village Board approval to allow the developer to choose an alternative option.

- Chair Starr - **NO**
- Commissioner Gore - **YES**
- Commissioner Rich - **NO**
- Commissioner O'Connell - **NO**
- Commissioner Josenhans - **YES**
- Commissioner Hezner - **YES**
- Mayor Johnson - **YES**

Ms. Engelmann stated that the results of the vote was four to three to make the change in Section 18-8.

Ms. Engelmann reviewed the straw poll votes for the group.

Ms. Engelmann stated that **Amendment #1** is regarding the Policy Statement in **Section 18-2** where the following language was removed from the original draft ordinance:

“While this Article provides specific alternatives to the production of on-site Attainable Housing Units, the intent and preference of this Article is to provide permanent Attainable Housing Units that are constructed on the site of the Covered Development Project.”

She stated that **consensus of the HRC was to not remove the language** from the original draft ordinance in Section 18-2.

Ms. Engelmann stated that Amendment #2(1) is regarding **Section 18-3(A)** which stipulates the minimum number of dwelling units required in order to qualify as a Covered Development. She stated that **the consensus from the HRC was to increase the minimum number of dwelling units from five (5) to ten (10).**

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Ms. Engelmann stated that Amendment #2(2) is regarding **Section 18-3(A)(2)** which stipulates the following:

- (2) A development consisting of the renovation or reconstruction of over 50% of the total square footage of an existing multiple family residential structure and that increases the number of residential units from the number of units in the original structure;

She stated that **the consensus of the HRC was not to remove the language** from the original draft ordinance in Section 18-3(A)(2).

Ms. Engelmann stated that Amendment #2(3) is regarding **Section 18-3(A)(4)** which stipulates:

- (4) A development that includes the conversion of rental property to condominium property;

She stated that **the consensus of the HRC was to remove the language** from the original draft ordinance in Section 18-3(A)(4).

Ms. Engelmann stated that Amendment #3 is regarding **Section 18-6** is to allow both an increase in floor area ratio of .25 for Covered Development Projects located in the C-1, C-2 and the C-3 districts and **to add the provision of bonus units.**

She stated that **the consensus of the HRC was to add the language** to the draft ordinance in Section 18-6.

Ms. Engelmann stated that Amendment #4 is regarding **Section 18-8** which discusses the Alternatives to providing On-Site Attainable Housing Units. She stated that the amended language offers the developer alternatives to providing on-site attainable units. The alternatives include (1) cash payment in lieu, (2) provision of attainable units off-site, or (3) land donation. She stated that the original draft allows for alternative means of compliance, only if granted by the Village Board and when the alternative is shown to advance attainable housing greater than or equal to on-site units.

She stated that **the consensus of the HRC was to remove the language** from Section 18-6 that requires Village Board approval upon the developer demonstrating that an alternative chosen by the developer is shown to advance attainable housing greater than or equal to on-site units. This will enable the developer to elect to implement one or more of the alternatives to constructing some or all of the attainable housing units otherwise required by the ordinance.

Ms. Engelmann stated that the next step would be for the HRC to make a motion on the amended draft ordinance.

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Chair Starr asked for a motion.

Commissioner O'Connell asked for clarification as to the legislative process from this point forward. Mr. Spoden stated that the next step after this meeting will be the Plan Commission public hearing on the matter.

Ms. Engelmann stated that the meeting minutes from the meeting including the consensus achieved from the straw poll votes will become part of the public record and will be provided to the Plan Commission as part of the public hearing packet of materials. She stated that the public in attendance at the Plan Commission public hearing will also have the benefit of hearing the history of the HRC's work on the draft ordinance. She stated that changes could occur to the draft Ordinance based on the Plan Commission's deliberations and the testimony given from the public.

Ms. Engelmann further noted that the draft ordinance and any additional changes recommended by the Plan Commission will then go forward to the Village Board where more public comment will be heard, and other changes may be made to the draft ordinance. She also stated that there could be multiple meetings at both the Plan Commission and Village Board levels.

Commissioner O'Connell stated that change number one (1) relates to change number four (4) whereby number one utilizes the term Village preference for on-site attainable units but change number four has removed the requirement for a developer to obtain Village Board approval to seek an alternative to providing on-site attainable units.

Village Attorney Passman stated we will have to wait and see how these changes impact future proposals, but the general preference is that a developer should provide on-site attainable units and that is in Section 18-2. He stated that the boards and commissions can convey to a developer that they recognize their right to providing an alternative to on-site units, but they may not meet the standards for relief and can still ask the developer to demonstrate that they meet the standards for doing so.

Commissioner Hezner made a motion, seconded by Commissioner Josenhans to recommend approval for the original draft ordinance with amendments by the majority obtained by the straw poll votes by the Human Relations Commission.

Motion passed with a vote of 6 to 1. Commissioner Rich voting no.

Commissioner Flores asked when the ordinance goes into effect if there is a grace period. Ms. Engelmann stated that the plan was to provide a three-to-four-month time period in order for Village Staff to prepare the ordinance implementation and to allow CPAH to prepare the Administrative Guidelines.

Commissioner Hezner moved, seconded by Commissioner Rich, to adjourn the Human Relations Commission meeting at 7:40 p.m.

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Commissioner Pyter moved, seconded by Commissioner Rankin, to adjourn the Plan Commission meeting at 7:41 p.m.

Respectfully submitted,

Ashley Engelmann  
Deputy Village Administrator