

**Minnetonka Economic Development Authority  
Meeting Minutes**

**Tuesday, April 13, 2004  
6:00 p.m.**

**Boards and Commissions Room  
Minnetonka City Hall, Lower Level**

**1. CALL TO ORDER.**

EDA Vice President Dan Duffy called the meeting to order at 6:12 p.m.

**2. ROLL CALL.**

EDA Commissioners present: Paula Chatterjee, Dan Duffy, Dave Larson, Bunny Robinson, Al Thomas, Tony Wagner (arrived late), and Bob Walker.

EDA Commissioners absent: Peter St. Peter.

Staff present: Ron Rankin and Elise Souders.

Others present: Winnie White Scherber, Dan Kelly, Kurt Williamson, Jay Lindgren, Barry Berg, John Wanninger, Tom Threlkeld, and Arnie Zachman.

**3. APPROVE MINUTES.**

Duffy asked that an amendment be made on page two of the minutes, under County Road 101 Reconstruction, that clarified where the northern limits of the road construction will be.

Walker moved, Robinson seconded a motion to approve the minutes of the March 9, 2004 EDA meeting as amended. All voted yes. Motion passed.

**4. STAFF REPORT.**

Souders reviewed the staff report items, including updates on Minnetonka Boulevard/County Road 101, new affordable housing price limits, the southwest rail study, 2201 Crosby Road, 3660 County Road 101 annexation, the EDA survey, and upcoming meetings and events.

**BUSINESS ITEMS**

**5. DEVELOPMENT REVIEWS**

*6-unit housing development at 10413, 10405, 10401, and 10402 34<sup>th</sup> Circle West (Curt Fretham).*

Rankin reviewed the proposal and said staff recommended that one, new affordable unit be a part of the project, but could be located off-site with certain stipulations. He said as part of the recommendation that the affordable unit would be located on-site as a back-up plan if a suitable off-site location could not be found. Rankin said Dan Kelly, attorney for the applicant, was concerned with some of the language of the recommendation; however, he would be addressing that with City Attorney Desyl Peterson, and negotiating the language tonight would not be appropriate.

Thomas said he was okay with the affordable unit being located off-site. He felt it was important that the city have the first right of refusal if an affordable housing organization does not want to acquire the affordable unit. Rankin said the city facilitates the process and will be involved in the transactions even if it is just momentarily. Thomas said he wants to make sure the city is approached first if the affordable housing organization does not or cannot take the unit. Rankin said it could be a situation similar to The Sanctuary. Thomas suggested the Metropolitan Council could purchase the home for their program. Rankin said it would be the intention of the city to take the lead.

Duffy opened up the comment period.

Dan Kelly, the attorney for the applicant, said the agreement for providing the affordable unit is unique; however, there was a minor language issue he would be working on with Ms. Peterson.

Wagner asked if any sites had been identified for the affordable unit. Kelly said that none had been identified and that there would be a period of two years to construct the unit; however, the applicant is currently looking for sites.

Wagner asked Mr. Kelly if the applicant felt the affordable unit would be more desirable on-site or off-site. Kelly explained it was not desirable by the applicant or the neighbors to have the affordable unit on-site.

Duffy asked what the price range would be for the market-rate units. Kelly said it would range between \$600,000 and \$750,000-\$800,000 depending on the lot.

Robinson inquired about the status of the council policy regarding on-site/off-site affordable units. Wagner replied the council was still having discussions on the matter. Rankin said there had been some previous discussions on the inclusion of affordable units into a development or if off-site or payment-in-lieu was acceptable as well. He said he was not sure how the idea of providing an off-site unit will fare, but it was worth trying.

Wagner said at the neighborhood meeting the concerns voiced by the neighborhood was that they did not want the affordable unit included on-site because much of the neighborhood is already affordable. He said because of this he would support the unit being off-site.

Larson asked if the rest of the area was single-family. Kelly said it was and the neighborhood would like to keep it single-family.

Duffy closed the comment period.

Wagner moved, Larson seconded a motion to recommend to city council that a restrictive covenant in a form acceptable to the city attorney providing that one housing unit, to be located within the City of Minnetonka, must be built and sold to the city or an affordable housing organization designated by the city. The unit would be sold at a cost not exceed the Metropolitan Council's definition of affordable housing, as it exists at the time of offering. If the unit is not sold to the city or affordable housing organization it must be subject to resale indexing covenants approved by the city council. This unit must be built and sold within 2 years from the date of final plat approval, or if not, one lot within this development will be automatically transferred to city ownership. The city must approve specifications for the construction of the affordable unit. No building permit will be issued for one of the lots, until the off-site affordable unit is built and sold to the city or an affordable housing organization designated by the city. Only one certificate of occupancy may be issued for this development before a purchase agreement for the affordable unit is executed. All voted yes. Motion passed.

*164-unit condominium development at 5621 Smetana Drive (Kurt Williamson)*

Rankin reviewed the development, and said the discussions with the developer have been around how to preserve the affordable units. He said the developers' concerns were that using 50% of the average metropolitan sales price in the formula for the indexing would make the units hard to market. Rankin reviewed the discussion that the EDA had in 2003 when the indexing system was reviewed and said the 50% number was something the EDA commented could be changed later.

Duffy opened up the comment period.

Jay Lindgren, attorney for the applicant, said the developers had come up with an affordable project and there was commitment to affordability. He said the affordable units will remain affordable without the indexing even with market forces. Lindgren said using 50% of the average metropolitan sales price for the formula for the indexing system would make the units hard to market and be sold. He requested also that the 34 units being recommended to be affordable be more clearly defined as to whether they are base prices and what upgrades would be allowed.

Barry Berg, real estate agent for the applicant, said they were happy to provide so many affordable units; however, there were some minor technicalities they were sensitive to. He requested direction be given concerning the upgrades for the affordable units. Berg addressed the question Rankin asked earlier in the day about buyers who may want to merge units. He said in similar projects this does not happen more than once or twice per project, and because of the layout of the building, the affordable units are spread throughout the building making merging more difficult. In addition, if a buyer was to merge two units, then it would be over the average price of the units in the building, and so it is less likely to happen. Berg also said they would like the 100% indexing formula to be used, but they could accept 75%; however, it may create some disincentives.

Duffy said his concern with merging two affordable units was not with the buyer, but with the developer. He said in other projects, the developer has been merging two smaller, affordable units into one, larger unit because the larger units were what the market wanted.

John Wanninger, real estate agent for the applicant, said this is less likely to happen because of the way the floor plates work and the location of the affordable units.

Walker asked what the distribution of the affordable units would be within the building. Berg said there would be between two and five affordable units on each floor. Wanninger said the affordable units would be smaller, but the quality would be the same as the rest of the building.

Walker asked which units, the affordable or the market-rate units, do they expect to be sold first. Berg said it was anticipated the affordable units would sell throughout the entire process.

Larson asked if some of the affordable units are larger than a studio or one bedroom. Berg said the price of the units is driven by square footage. He said condominium buyers like more "open" floor plans and the floor plans depict that.

Larson inquired who the affordable units might be sold to. Berg said it was anticipated that they would be young buyers or single parents.

Wagner asked about the number of units priced under \$160,000 and how it would help toward the affordable housing goals. Rankin said that it was good to get units that are priced under the affordability

threshold rather than right at it. Rankin also mentioned from a tax capacity standpoint at the current time, the condominiums would be the same as an office building, and the residential use of the building will also create less traffic. Wanninger said that there would be two units less than \$145,000 and there would be seven units priced between \$149,900 to \$159,900.

Walker asked if the buyers would have to put in a lot of upgrades. Berg said the base standards are good, but the buyers may want to add on. Usually, he said, they try to create a unit buyers could live with at the base price.

Walker inquired to how the association dues would be dealt with for the affordable units. Berg said the association dues are based on the square footage of the units, and there would be a management company for the association.

Chatterjee asked if the EDA will now be reviewing the indexing percentage on a case-by-case basis. Duffy replied it was his sense that this would happen and this project was the first case.

Larson liked that the building was already built and asked if accessibility had been addressed. Williamson replied it will be addressed during the construction process.

Rankin noted, that in the recommendation it states, the developer would be committed to having 34 affordable units, so even if they would decide to combine units in the future they would be held accountable for 34 units under \$193,700. He also said during the construction of The Gables and Ridgebury townhouses upgrades were addressed. However, what exactly that entailed could not be recalled, and if Commissioners were okay to allow staff to address what had been done in the past concerning upgrades. Wagner mentioned with his unit at The Gables that they had limited choices for upgrades.

Duffy said the issue has been with the indexing system used at The Gables, and if we use the same indexing system in the project, then the units will eventually become unaffordable.

Duffy closed the comment period.

Wagner said given experience, that even using 75% he was concerned. He said at The Gables there have been a lot of sales of the units that are indexed. Wagner said he would not support using 75%, but would support using 50% because it would help maintain the affordability longer.

Lindgren said he understands the reasoning behind using 50%; however, he mentioned that the project is solely privately financed and because they would be the first project using 50% he was concerned about that.

Duffy asked if the applicants would be willing to index more than 16 units at 75%. Berg said he would like not to. He said he realizes Minnetonka's affordable housing efforts began about ten years ago and that was the time that values began to significantly increase. Historically, Berg said, these significant increases do not happen very often. Berg said there would be serious concern if the indexing was set at less than 75% because units may go unsold, and that he would also like to see only 10% of the units indexed.

Thomas said when the EDA reviewed the indexing, 50% was chosen because it would be easier to increase the percentage rather than decrease it; however, this is the first project, and he was concerned what would happen if they deviated immediately from it. He said there is a high demand to live in Minnetonka, and the intention at The Gables was not to lose affordable units, but it happened. Thomas told the developers they could argue the 75% at the council meeting as well.

Walker inquired if it was possible to do the indexing based on sales. Lindgren said he wasn't sure how that could be done.

Wanninger said the difference with this project compared to The Gables is that there is no public subsidy involved, and all of the units are being sold at market-rate, even the affordable units. He said he also is beginning to see a more level appreciation in prices.

Wagner said because of what has happened in the past, he is basing his decision on now.

Rankin said the city has not financed a housing project since Ridgebury.

Wagner said the challenge is the city is fully developed and with using the 100% indexing system the city lost a lot of affordable units and ground in the amount of affordable housing. The EDA, he said, did a lot of studying about the indexing system last year, and while he understands the developers concerns he also has to weigh the public good.

Walker said the city has a density issue and there has to be a solution to this. He said he was not sure on the indexing and he wants both parties to be happy.

Berg said they would have to treat all of their buyers equally and there would be problems if there was different indexing. Wanninger said there were a lot of units priced just over \$170,000 that buyers might reach in order not to have the indexing covenant attached.

Duffy said he could see both sides, and 16 units at 50% would be difficult to sell; however, there are a lot of businesses in the area that would be looking for affordable units for their employees.

Rankin said the discussion the EDA had in 2003 was similar to this discussion, and the indexing formula may need to be taken on a case-by-case basis.

Wagner asked if there had ever been discussion to tiering the indexing system over 30 years. Rankin said no, and based on past experiences staff is reluctant to complicate the process. He explained the resident/city/real estate relationship.

Thomas moved, Wagner seconded a motion to recommend to City Council that 34 units be priced at a cost not to exceed the Metropolitan Council's definition of affordable housing at least 60 days prior to the closing of the affordable units, and that the 16 units priced under \$170,000 be indexed using 50% of the average metropolitan sales price to maintain affordability. Wagner, Thomas, and Robinson voted yes. Duffy, Walker, and Larson voted no. Motion failed.

Rankin said the EDA could review this development at their May meeting, since it is tentatively scheduled to go to City Council on May 24. Lindgren said he was hopeful to continue on the schedule with the Planning Commission on May 6 and the City Council on May 24.

There was discussion on what additional information staff could prepare and what other ways affordability could be maintained.

Lindgren suggested perhaps the nine units under \$160,000 could be indexed at 50% and the seven units priced between \$160,000 to \$170,000 could be indexed at 75%.

Duffy suggested because there was one more EDA meeting before the City Council meeting that the EDA review this again at the May meeting.

Thomas said he does not look at the buyers perspective, but rather how long these units will remain affordable.

Lindgren wants to ensure the project will sell.

Duffy moved, Walker seconded a motion to table the discussion on the affordable housing component associated with 5621 Smetana Drive until the May 11, 2004 EDA meeting and direct staff to continue working with the applicants. All voted yes. Motion passed.

*39-unit condominium development at 408 Parkers Lake Road (Tom Threlkeld)*

Rankin reviewed the proposal and said the applicant was requesting the number of affordable units be reduced from eight to six. He said staff recommended the change from eight to six.

Wagner asked if they would be using the \$170,000 threshold. Rankin said staff recommended using \$170,000 and there had not been a request to change it.

Arnie Zachman, potential buyer of the project, said he would like to use the \$193,700 number. Tom Threlkeld, the applicant said \$170,000 was the number that was used when the project was approved.

Zachman said \$170,000 may work if the city could waive park dedication fees, WAC and SAC fees, and building permit fees for the affordable units. He thought the waive in fees was appropriate because \$170,000 was an older number.

Duffy asked what the cost of the 33 market-rate units would be. Zachman said they would range from \$300,000 to \$550,000.

Rankin said the request made to staff was to only reduce the number of affordable units, and the additional reduction in fees. He said if that was to be considered he would like to provide Commissioners with more information.

Walker said by waiving the fees it would set precedent.

Threlkeld said he still owns the property, but is now trying to sell it. He said from a marketability standpoint of the units that six units at \$170,000 using a 75% indexing would be appropriate.

Walker asked if there was a revised staff recommendation for this. Rankin said there was no revised recommendation concerning the indexing, and that it may need further discussion at the staff level.

Walker asked Mr. Threlkeld if there was a certain time frame that he was on if staff could discuss the indexing system more. Threlkeld said it would not effect the situation. Zachman asked if the EDA could vote on the issue and they could go to City Council with the fee reduction requests. Rankin said he would prefer it goes to City Council with a complete recommendation from the EDA.

Zachman said time may be factor and he suggested the EDA vote on staff's recommendation. Walker said it would be nice however, to have consistency with other indexing.

Robinson said she agreed with staff's recommendation.

Duffy said the EDA needs to be consistent. With Smetana Drive Condominiums there were a lot of affordable units offered with the project, while this proposal offers a lower percentage of affordable units. He also said he thought they needed to be consistent and when using the Metropolitan Council standard.

Walker moved, Duffy seconded a motion to recommend to city council a change in the number of affordable units at the 408 Parkers Lake Road Condominium project to six affordable units to be built on-site at a price of \$193,700 or less, and be subject to indexing covenants using 50% of the average metropolitan sales price.

Rankin said staff had recommended there be a change from eight units to six units because with six units, 15 percent of the building is affordable.

Walker and Duffy voted yes. Wagner, Thomas, Robinson, and Larson voted no. Motion failed.

Robinson moved, Larson seconded a motion to recommend to city council a change in the number of affordable units at the 408 Parkers Lake Road Condominium project to six affordable units to be built on-site at a price of \$170,000 or less, and be subject to indexing covenants using 50% of the average metropolitan sales price. Wagner, Thomas, Robinson, and Larson voted yes. Walker and Duffy voted no. Motion passed.

#### **6. March 1 City Council Study Session update and continued discussion on lifecycle/affordable housing.**

Rankin explained that on April 14 there would be an additional study session on this topic and staff would provide an update at the next EDA meeting.

#### **7. Boards and Commissions Training re-cap.**

This item was tabled to the May 2004 EDA meeting.

#### **8. Other Business.**

The next EDA meeting was announced as Tuesday, May 11 at 6:00 pm.

#### **9. Adjourn.**

Thomas moved, Robinson seconded a motion to adjourn the April 13 EDA meeting. All voted yes. Motion passed. The meeting adjourned at 8:20 pm.