



AGENDA ITEM SUMMARY

City Council

STAFF

Sue Beck-Ferkiss, Social Sustainability
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SUBJECT

Second Reading of Ordinance No. 095, 2023, Authorizing Expenditure of American Rescue Plan Act Funds for Affordable Housing Fee Credits as Specified.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on July 18, 2023, appropriates American Rescue Plan Act (ARPA) funding for 5 units targeting forty percent (40%) Area Median Income (AMI) households at the Heartside Hill development. Council already appropriated \$350,000 of ARPA funding for affordable housing fee credits, and this funding must be fully committed by 2024. Affordable housing fee credits have been approved administratively for 20 units serving households at thirty percent (30%) AMI or below, including 8 units at Heartside Hill. There are no additional thirty percent (30%) AMI units expected before the ARPA deadline to commit funds in 2024. Though fee credits for units up to sixty-five percent (65%) AMI are a presumptive eligible use of ARPA funds, the City's fee credit policy as codified in City Code Article VIII, Section 7.5 requires Council approval for fee credits for any units serving income ranges above thirty percent (30%) AMI. This Council action would ensure that the remaining appropriated funds are used for their intended purpose as affordable housing fee credits.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

History on Fee Credits: Historically, the City has provided financial subsidy and forgone certain development fees to incentivize the development of affordable housing. Fee waivers have been one of the consistent incentives available to developers of affordable housing in the City. Before 2013, most development fees for affordable housing were traditionally waived, especially for the Fort Collins Housing Authority (FCHA).

In March of 2013 after a large fee waiver was granted to a project that was being developed primarily by CARE Housing, with the FCHA having only a small interest, Council amended its policies on fee waivers for affordable housing to allow more discretion in determining the kinds of projects for which City fees should be waived. This greatly limited the instances where fee waivers were provided. This change limited waiver eligibility to only the housing authority and then only for projects constructed for:

- Persons Experiencing Homelessness (PEH); or
- People With Disabilities (PWD); or

- Households whose income is no greater than thirty percent (30%) of the area median income (AMI) of all City residents.

Furthermore, waivers of only certain fees (City Development Review Fees, Building Permit Fees, and City Capital Expansion Fees) were to be granted at the discretion of Council upon a determination that the proposed waiver will not jeopardize the financial interests of the City or the timely construction of the capital improvements to be funded by the fees for which waiver is sought. This recognized the difficulty of proving housing with rents affordable to these demographics while balancing the financial impacts of fee waivers to the City.

In 2017, Council expanded the availability of this limited incentive to all developers of units targeting the above referenced demographics. Lastly, the City had a practice of requiring some department fees to be reimbursed with General Fund Reserves or funds from the Affordable Housing Capital Fund.

Because the original process of calculating the sum of eligible fees and prorating the percentage of eligible units to determine the exact amount of each fee waiver request was labor intensive and administratively difficult, in 2020 Council established flat fee credits that replace the prior fee waivers available for units targeting the same demographics. These are set at \$14,000 for new construction and \$5,500 for adaptive reuse where some original fees will be credited to the project. These discretionary fee credits still required the requisite findings from Council for each request.

In 2022, the policy was further amended to allow administrative processing without Council action for fee credits for qualifying units when funding had been appropriated for such purpose.

Forecast of Eligible Units: Based on communications with affordable housing developers about known projects, there does not seem to be any qualified units (30% AMI, PWD or PEH) that will be ready to apply for fee credits in 2024. It is very hard to offer rents to serve thirty percent (30%) AMI households under current development conditions, in particular the rising costs of labor and construction materials and higher interest rates. It is not much easier to develop rentals affordable to the forty percent (40%) AMI target either. Higher rents can cover development and operating costs while lower rents are best subsidized on the front end to allow rents to go to on-going operations. Affordable rents targeting sixty percent (60%) AMI provide much more operating and maintenance revenue. For instance, under the new 2023 Colorado Housing and Finance Authority rent tables, a one-bedroom would as rent as follows:

- 30% AMI = \$639
- 40% AMI = \$852
- 60% AMI = \$1,278

While the City set the target for affordable housing fee credits at thirty percent (30%) AMI, it is notable that the American Rescue Plan Act (ARPA) sets the target at sixty-five percent (65%) AMI for presumptive eligibility.

American Rescue Plan Act Funding: In 2022, a Budget for Outcomes Offer (BFO) was funded for affordable housing fee credits with Rescue Plan ARPA for \$350,000. Since then, staff has administratively processed and approved requests for 20 units of new construction at 3 affordable housing communities: Northfield Commons (5 units), Village on Impala (7 units), and Heartside Hill (8 units). A total of \$280,000 of the appropriated funding has been committed to date, leaving \$70,000 available. The remaining funding amount could support 5 units of new construction with fee credits.

ARPA funding may be used for affordable housing projects if the developments increase the supply of long-term affordable housing. Moreover, the development of units serving a maximum of sixty-five percent (65%) AMI, if legally restricted for at least 20 years, are a Presumptively Eligible Use of ARPA funding.

At the City, ARPA funding must be committed by 2024 and fully spent by 2026. The Recovery Team has asked whether the remaining balance could be used for fee credits by the end of 2024. If not, they would like to redirect these funds so they can be timely deployed.

Heartside Hill Opportunity: The Heartside Hill development project is a unique development because it will include 3 types of affordable housing options. CARE Housing is the master developer and is responsible for constructing the community's infrastructure as well as building Heartside Hill Apartments, an apartment building with 72 units. This community will also include for-sale affordable homes constructed by Fort Collins Habitat for Humanity and group homes for PWD developed by L'Arche Fort Collins (see Heartside Hill Location Map).

Heartside Hill Apartments' unit mix will include:

- 8 Units at 30% AMI
- 5 Units at 40% AMI
- 8 Units at 50% AMI
- 51 Units at 60% AMI

While Heartside Hill Apartments received fee credits for the thirty percent (30%) AMI units they are developing, they have five, forty percent (40%) AMI units that could be supported by fee credits (see Request for Fee Credits). The timing of the financing of this project allows for an infusion of funds now and the project has had unanticipated unrelated costs as the master developer of the Heartside Hill overall project. The project needs to underground electric lines which will cost approximately \$220,000. Providing additional fee credits helps to close this funding gap, is a permissible use of ARPA funds, and will commit the remaining balance for ARPA funded fee credits in a timely manner. This allows the remaining funds to be used for the intended purpose of providing fee credits in the allowable timeline and removes the risk of needing to redeploy the funding to another City program.

The City's Recovery Team supports providing ARPA funding to the forty percent (40%) units at Heartside Hill (see Letter of Support).

Awarding fee credits to units that target forty percent (40%) AMI is a permissible use of ARPA funds, however, it requires Council approval because this target is not eligible for administrative processing under the current City Code language. Staff plans to bring a BFO offer for the 2025-2026 budget to replenish the fund for administrative fee credits. If a developer seeks fee credits for eligible units in 2024, the request would be subject to Council discretion and could not be processed administratively.

CITY FINANCIAL IMPACTS

ARPA funding has been budgeted for affordable housing fee credits. This would use the entire appropriated funds for the intended purpose in the allowable timeline.

BOARD / COMMISSION / COMMITTEE RECOMMENDATION

The Affordable Housing Board supports the use of ARPA funding for the forty percent (40%) units at Heartside Hill and further recommends that staff investigate the feasibility of expanding the fee credit program in future budget cycles to provide subsidy up to forty percent (40% AMI) (see Draft Minutes, June 1, 1023 (Excerpt)).

PUBLIC OUTREACH

This matter was discussed at the May 4, 2023, Affordable Housing Board meeting which was open to the public.

ATTACHMENTS

First Reading attachments not included.

1. Ordinance for Consideration