



## **VILLAGE OF DOBBS FERRY BOARD OF TRUSTEES AGENDA**

**MEETING DATE:** AUGUST 10, 2021

**AGENDA ITEM SECTION:** DISCUSSION ITEMS

**AGENDA ITEM NO. :** 2

**AGENDA ITEM:** ACKNOWLEDGE APPLICANT'S WRITTEN REQUEST FOR WAIVER OF THE AFFORDABLE HOUSING SET ASIDE MANDATE IN DF ZONING CODE §300-40 FOR A PROPOSED SITE PLAN AT 19 LIVINGSTON AVENUE AND CONSIDER A RESOLUTION TO SET A DATE FOR PUBLIC HEARING ON THE REQUEST

**ITEM BACKUP DOCUMENTATION:**

1. LETTER DATED AUGUST 2, 2021 FROM LINDA WHITEHEAD TO MAYOR ROSSILLO AND THE BOARD OF TRUSTEES
2. MEMORANDUM DATED AUGUST 5, 2021 FROM VALERIE MONASTRA/VILLAGE PLANNING CONSULTANT TO MAYOR ROSSILLO AND THE BOARD OF TRUSTEES
3. DRAFT RESOLUTION

McCULLOUGH, GOLDBERGER & STAUDT, LLP  
ATTORNEYS AT LAW  
1311 MAMARONECK AVENUE, SUITE 340  
WHITE PLAINS, NEW YORK

10605

(914) 949-8400

FAX (914) 949-2510

WWW.MCCULLOUGHGOLDBERGER.COM

FRANK S. McCULLOUGH, JR.  
JAMES STAUDT  
LINDA B. WHITEHEAD  
SETH M. MANDELBAUM  
PATRICIA W. GURAHIAN  
KEVIN E. STAUDT  
STEVEN M. WRABEL

AMANDA L. BROSY  
MEREDITH A. LEFF

CHARLES A. GOLDBERGER  
EDMUND C. GRAINGER, III  
COUNSEL

FRANK S. McCULLOUGH (1905-1998)  
EVANS V. BREWSTER (1920-2005)



August 2, 2021

Mayor Vincent Rossillo and  
Members of the Village Board of Trustees  
Village of Dobbs Ferry  
112 Main Street  
Dobbs Ferry, NY 10522

Re: Site Plan Application, The Townhouses at 19 Livingston Avenue

Dear Mayor Rossillo and Members of the Village Board:

As you will recall, this firm represents Livingston Development Group, LLC (the "Applicant"), and Victor Serricchio, Brian Dyer and Andrew Sokolik, the owners of the approximately 1.219 acre property known as 19 Livingston Avenue (the "Property"), formerly the location of Rudy's Beau Rivage. Our clients are proposing the development of eight (8) townhouses on the Property, each of which will be located on its own lot (the "Project"). We are writing to follow up on the discussion at your June 22<sup>nd</sup> meeting regarding the requirement for an affordable unit. As we indicated at that time, we would like to request a waiver of this requirement pursuant to Section 300-40C(4) of the Dobbs Ferry Zoning Ordinance and ask that at your August 10, 2021 meeting you schedule the required public hearing to issue such a waiver. In exchange for the waiver, as provided for in the Code, our client proposes to purchase or build a unit at an alternate location within the Village and lease or sell such unit as an affordable unit. We have reviewed a number of options and determined it is not practical to place a unit within the Project as discussed below, and we believe this alternative will actually present a benefit to the Village and better suit the goals of the affordable housing program.

We have reviewed the economics and financial viability of providing an affordable unit available to someone making 80% of the area median income (AMI) pursuant to the requirements of the Code within the Project. We have also spoken to experts in the affordable housing field regarding how purchasers are qualified for units and what issues have arisen in qualifying purchasers in this area, including Rose Noonan of the Housing Action Council, the

entity which has been tasked with qualifying purchasers for many affordable housing units throughout the County. We hope to have a letter from Rose Noonan reviewing these issues to support our analysis. Based upon this analysis and research, we do not believe it makes sense to include an affordable unit in the Project for many reasons.

The eight units as currently proposed for the Project are all essentially identical layouts of approximately 3,400 square feet with three (3) bedrooms. If one of these were to be an affordable unit, the requirements of the Code would require that the affordable unit be a three (3) bedroom unit with a minimum of 2,720 square feet (80% of the average size of the market units). This requirement exists so that the affordable unit does not appear very different than the market rate units in the project and will blend in.

Affordability is determined by calculating the full monthly housing costs, including mortgage payments (which would also likely include approximately \$125/month for private mortgage insurance as the buyer is unlikely to have a 20% down payment), property taxes, homeowners insurance and HOA fees. These monthly costs cannot exceed 30% of the gross income of the qualifying household, and the gross income cannot exceed 80% of the AMI. For example, for 2021, 80% AMI for a 3-person household is \$91,800 and the monthly expense cannot exceed \$2,295. I have been advised that for the purpose of setting pricing of affordable units, 1 person per bedroom is generally used to determine household size. Therefore, for a three bedroom townhouse affordability would be based upon 80% AMI for a 3 person household. Even utilizing the figures for a 4-person household, this would not significantly affect the calculation (monthly housing cost of \$2,550 for a 4-person household). We have been advised that in Westchester County very few households of greater than 3 persons have applied for affordable units, with the typical household for a "family" type unit often being made up of a single parent with two children.

Based upon the monthly expenditure for a 3- or 4-family household, and estimating the combined expenses to be within what is affordable at 80% AMI, the maximum purchase price for the proposed unit would be approximately \$175,000 or potentially up to \$200,000 if the taxes are reduced and the HOA fee kept to a minimum. This pricing would represent a sales price of only approximately \$70 per square foot. Even if the unit were able to be made as small as 2000 square feet, the sales price would still be less than \$100 per square foot.

There is no question that even at \$100/square foot, the cost of construction will significantly exceed the purchase price for the affordable unit. In addition to typical building costs, given the soil conditions and steep slopes on the Property and existing utility conditions, this Project will have higher than usual costs. In addition, as you are likely aware, costs of materials have increased significantly since the start of the pandemic, further adding to construction costs. The client has estimated construction costs ranging from \$331 to \$386 per square foot for pure building costs (labor and materials only) and when soft costs and financing costs are added in this increases to \$357 to \$417 per square foot (not including marketing, broker

commissions, transfer taxes and other closing costs). Using the most conservative numbers set forth above of sale price of \$200,000, or \$100 per square foot for a 2000 square foot unit, the construction cost will equal \$714,000 (\$357 per square foot x 2000 square feet), resulting in a loss of \$514,000. Typically a builder can make up some of the loss from an affordable unit through the sale of market units. However, there will be only seven market rate units here and just to break even would add at least \$75,000 to the purchase price of each of the market rate units. Again, these are conservative numbers not reflecting all costs which will actually be incurred. The loss is too great for the project to be economically feasible.

Another significant concern with including an affordable unit in this Project will be the difficulty of finding an eligible purchaser. There has actually been much discussion amongst lenders and developers of affordable housing around the problems qualifying buyers to purchase for sale affordable units. Qualification of buyers for these units has been an ongoing problem, which has gotten worse as costs have gone up. A qualified buyer must have funds available for a down payment, have sufficient income to qualify for the mortgage, but not have income exceeding 80% AMI. This combination greatly limits the number of qualified buyers for this unit. Adding an affordable unit for which a very limited group of purchaser's will qualify, if any, does not seem to further the goals of the Village to ensure the availability of fair housing for residents of various income levels.

As an alternative, and as provided for in your Code, our client proposes to purchase or build a housing unit at an alternate location within the Village and lease or sell the unit subject to the applicable affordability restrictions. We would be happy to work with the Affordable Housing Task Force and local real estate agents to identify an appropriate property and prepare same for sale or rental. This option has been used elsewhere and has even been used by Westchester County. We believe this alternative better meets the goals of the Affordable Housing Program as it will result in the addition of an affordable unit which will be available to a wider range of qualifying parties. Therefore, this represents a viable alternative anticipated under your Code to support the Villages goal of providing affordable housing.

Thank you for your consideration and we look forward to continuing to work with you on this Project.

Very truly yours,



Linda B. Whitehead

cc: Livingston Development Group, LLC  
Christina Griffin AIA  
Paul Petretti, P.E., L.S.



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## MEMORANDUM

**TO:** Mayor Rossillo and Members of the Village Board of Trustees

**FROM:** Valerie Monastra, AICP

**Re:** 19 Livingston Avenue

**DATE:** August 5, 2021

**CC:** Richard Leins Esq., Village Administrator  
Lori Lee Dickson Esq., Village Attorney  
Ed Manley, Building Official and Land Use Officer



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Livingston Development Group LLC., (the “Applicant” and “Owner”) is seeking Site Plan and Subdivision approvals to construct eight (8) townhomes. The property is located at 19 Livingston Avenue, Section Block and Lot 3.12-104-1 (“Project Site”). The property is located in the MDR-1, Mixed Density Residential-1, zoning district.

This application is before the Village Board for a waiver to the affordable housing set aside per Section 300-40(C)(4). A resolution calling for a public hearing for the waiver is also before the Board.

### General and Procedural Comments

1. SEQR. The SEQR process has not yet commenced. The Applicant has provided a Full Environmental Assessment Form (EAF), and this application is categorized as an Unlisted Action under SEQR. The Village Board will be the Lead Agency for this application due to its site plan approval authority. The Village Board and Planning Board are both involved agencies. Therefore, it is recommended that the Village Board undertake a coordinated SEQR review for the entire action, which also includes subdivision approval. It is recommended that the Village Board circulate a Notice of Intent to be Lead Agency.
2. County Board Referrals. This project will require a referral to the Westchester County Planning Board per Section 239 L, M and N of the New York State General Municipal Law and Section 277.61 of the County Administrative Code as it is greater than 5,000 square feet and within 500 feet of Route 9.
3. Affordable Housing. This application requires the set-aside of one (1) affordable housing unit per Section 300-40 of the Zoning chapter. The Applicant is requesting a waiver to the affordable housing set aside per Section 300-40.C(4). In order to grant a waiver to the set-aside, the Village Board will need to undertake the following process:

- a. The Village Board must vote during a public meeting whether to take further action on the request. In the event that the Board of Trustees affirmatively votes to consider the request, a final determination may be made only following a public hearing duly published noticed between four (4) and 20 days prior to the date of the hearing.
- b. At the hearing, the Applicant needs to provide information to the Village Board to justify the waiver in light of the goals of the affordable housing program and provide evidence that the inclusion of any or all the affordable housing units required would render the development financially infeasible.
- c. After conducting a public hearing, the Board of Trustees is to deliberate by balancing the request for waiver against the goals of the affordable housing program and may vote to grant or deny, in whole or in part, the request for the waiver. In the event the request is granted in whole or in part, the Board of Trustees must require an applicant to undertake the following actions:
  - i. To purchase, construct or affirmatively facilitate the construction of the affordable housing unit(s) at alternate location(s) within the Village; or
  - ii. To deposit into the affordable housing fund a per-unit fee in lieu, in an amount to be determined by the Board of Trustees based upon the unique facts and circumstances of the proposed development; or
  - iii. To undertake a combination of both construction of a unit(s) at another location or payment of per-unit fee in lieu, but in no event should the combination fail to represent the totality of the applicant's obligation for required affordable housing units in the proposed development.

The Applicant submitted a letter dated August 2, 2021, proposing to purchase another dwelling unit within the Village and selling or renting it as an affordable unit. It is recommended that the Village Board considers calling for a public hearing on the Applicant's request.

4. Site Plan Approval. Per Section 300-52 of the Zoning chapter, this application requires Site Plan approval by the Village Board of Trustees because it is located on a property that is over one acre, and it requires a recommendation by the Planning Board. A public hearing conducted by the Village Board is required for Site Plan approval.
5. Subdivision Approval. This application will require a Subdivision approval from the Planning Board per Section 300-70 of the Zoning chapter. A public hearing conducted by the Planning Board is required for Subdivision approval.
6. Architectural and Historic Review Board. This application will require Architectural and Historic Review Board approval.
7. Local Waterfront Revitalization Consistency. The Village Board will need to make a consistency determination with the Village's LWRP per Section 300-52.D as part of the final Site Plan approval.

**Affordable Housing Waiver Documentation Comments**

1. The Applicant provided some information as to the financial infeasibility of including an affordable housing dwelling unit within the proposed project. However, the Applicant should provide backup documentation of the estimated construction costs.
2. The Applicant proposes purchasing another dwelling unit within the Village and selling or renting it as an affordable unit. Will this unit also be a 3-bedroom unit? What is the proposed period of affordability?
3. It is recommended that any purchase of an off-site unit and filing of deed restrictions take place prior to any issuance of a certificate of occupancy of the proposed market-rate dwelling units.

**19 LIVINGSTON SITE PLAN APPLICATION –ACKNOWLEDGE RECEIPT OF AND SET HEARING FOR WAIVER OF AFFORDABLE HOUSING SET-ASIDE AND COMMENCE SEQRA REVIEW**

**WHEREAS**, the Board of Trustees of the Village of Dobbs Ferry has received a site plan application, referred in accordance with Dobbs Ferry Zoning Code §300-52(B)(2) by the Building Inspector serving as Land Use Officer, for property located at 19 Livingston Avenue in the MDR-1 Zoning District for construction of a proposed residential 8-unit townhome project on vacant property in excess of one acre (“Project”); and

**WHEREAS**, the Project concept was presented at the Board’s meeting on June 22, 2021, following which the Board received a written request dated August 2, 2021 for waiver from the mandatory set-aside of on-site affordable housing which triggers the need for public hearing on this discrete issue prior to any further review of the Project in compliance with the Village Zoning Code.

**NOW, THEREFORE, BE IT RESOLVED**, that, as an essential precondition to any further review of a proposed site plan application for the Project at 19 Livingston Avenue, the Board of Trustees of the Village of Dobbs Ferry hereby acknowledges receipt of a request dated August 2, 2021 for waiver of the Dobbs Ferry Zoning Code §300-40(A)(1) affordable housing set-aside and sets the date of September 28, 2021 for a public hearing to be noticed and conducted in the Board Room at 112 Main Street at 6:30 p.m., or as soon thereafter as the matter may be heard, in accordance with Zoning Code §300-40(C)(4), at which hearing the property owner shall have the burden of justifying the request for waiver request in light of the goals of the affordable housing program; and

**BE IT FURTHER RESOLVED**, that, the Board of Trustees of the Village of Dobbs Ferry hereby confirms its intent to retain approval jurisdiction over the Project derived from Village Code §300-52 (B)(2), declares its intent to serve as Lead Agency for SEQRA review of the Project, an Unlisted action, and requests the Village Planner to circulate a notice of intent and any other procedures as may be required by SEQRA.