ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item
Meeting of December 13, 2008

DATE: December 1, 2008

SUBJECT: Allocation of Fiscal Year (FY) 2009 Affordable Housing Investment Fund (AHIF) funds as a loan to the Views at Clarendon Corporation, Inc. (VCC) to assist with the development of The Views at Clarendon Apartments.

C. M. RECOMMENDATIONS:

1. Allocate up to $6,500,000 in FY 2009 AHIF funds (101.456300.91102), of which $1,200,000 will be placed in a County-held contingency account while commitments for other financing sources are obtained, construction pricing is completed, and equity and interest rates are finalized, to VCC or its designated County-approved ownership affiliate, as financing assistance for the construction of the Views at Clarendon Apartments. This financing assistance would be in the form of a subordinated loan subject to the terms and conditions outlined in this report.

2. Authorize the County Manager to approve the ownership affiliate, if any, and to execute the required loan documents for a loan of up to $6,500,000 to VCC or its affiliate. Authorize and direct the trustees for the County's Deed of Trust to execute the required loan documents, including subordination documents, subject to approval by the County Attorney.

3. Authorize the County Manager, with the concurrence of the County Attorney to designate one or more County representatives to serve as voting members on the Board of Directors of the ownership affiliate.

4. Authorize the County Manager, with the concurrence of the County Attorney, to act as the County Board's representative in approving financing or program revisions that are necessary to remove any ambiguity or inconsistency or which improves the County's financial security, financial position, or enhances the housing program and which changes do not adversely affect the County financially, prior to or after execution of the County's financing documents**.**

County Manager: ______________

County Attorney: ______________

Staff: David Cristeal, Marie Randall, CPHD, Housing Division

ISSUE: Should the County allocate additional AHIF funds to cover a portion of the increased costs for proposed Views at Clarendon Apartments?

SUMMARY: The Views at Clarendon Corporation (VCC) is requesting up to an additional $6.5 million in FY 2009 AHIF funds, in long term financing, for the development of The Views at Clarendon Apartments. The additional AHIF funds are needed to cover a portion of the increases in construction and financing costs.

This project furthers Arlington's vision for diversity and inclusion by providing mixed income and special needs housing opportunities in an attractive, urban neighborhood close to many amenities including employment, transportation, shopping, recreation, and County services. This is a rare opportunity to secure affordable housing in the heart of the metro corridor. The seventy-five year affordability period is the longest ever secured by the County in any affordable housing project to date. The exceptional financing package including State as well as County financial participation allows for this extended affordability period. This project would also ensure that the County's largest child care center, serving approximately 185 children and their families, would remain in operation for the long term.

In 2004, the County allocated $4.5 million in AHIF funds and approved the Site Plan. After a lawsuit on the planning and zoning issues, the County amended its ordinance and allocated an additional $2.1 million in 2007. If approved, the AHIF loan made to VCC would now total up to $13.1 million.

BACKGROUND: The Views at Clarendon Apartments is a proposed mixed-income apartment project which includes 116 rental units with 70 affordable units (60% of the total) and 46 market rate units. The property is located at 1210 North Highland Street, one block north of the Clarendon Metro (see attached map). On October 23, 2004, the County Board approved the GLUP amendment, re-zoning, Site Plan and an AHIF loan of up to $4.5 million to assist with the development. The AHIF loan was to be combined with a private first mortgage, tax credit equity, a loan from the Virginia Housing Development Authority (VHDA), a deferred portion of the developer fee, and other grants in order to completely fund the project.

After the 2004 County Board approvals, the project was delayed by a lawsuit filed by residents living near the project. The Virginia Supreme Court ruled that the project violated the County's Zoning Ordinance. Therefore, the County Board approved a Zoning Ordinance Amendment, General Land Use Plan Amendment, Rezoning request, Site Plan for the project and an additional AHIF loan of up to $2.1 million for a total of $6.6 million in local contribution at their meeting on February 24, 2007. The additional AHIF loan was to assist with the increased project costs that occurred between 2004 and February, 2007. In addition to an increase in AHIF funds, the proposed project sought increases in its other proposed financing sources including the first mortgage, the tax credits, and the VHDA loan.

In April, 2007, a subsequent lawsuit was filed by the residents. In April of 2008, the Virginia Supreme Court upheld the County's approval of the project. After this decision, VCC began the process of selecting a development partner for the project with a competitive Request for

Proposal process. At the conclusion of the process, VCC selected Chesapeake Community Advisors, Inc. (CCA) and the Bozzuto Group, which has over 20 years of experience in the Mid-Atlantic region and experience with high rise construction on infill sites. Bozzuto recently completed the high-rise Delancy project in Shirlington, with a total of 241 residential units.

The Bozzuto Group will construct the property using their construction company and will also serve as the initial property management firm. Since June, the entire development team including VCC, Bozzuto, CCA, and the Arlington Partnership for Affordable Housing (APAH) acting as the owner's representative, has been analyzing the costs and the potential sources of funding for the project. This analysis has occurred during a period of almost unprecedented market volatility. In order to complete the project in the current market environment, VCC has asked each of the funding partners to increase their contribution.

DISCUSSION: The mixed-income Views at Clarendon Apartments furthers both the County's vision to be a diverse and inclusive urban community and its commitment to long-term and sustainable smart growth. Since the County Board re-approved the Site Plan and allocated additional AHIF funds in February 2007, the project budget has increased because of the dynamic financial situation and continued construction cost increases. Since 2007, these factors have combined to increase the estimated cost by 19%, or from $41.2 million to $49.2 million (see also Proposed Project Sources & Uses table on page 5). The most significant changes are described below:

- **Tax Credit Equity.** Equity comes from the sale of the tax credits and is the single largest source of funds for the project. Equity pricing for the Low Income Housing Tax Credit Program has dramatically decreased over the past two years. While the amount of credits that have been awarded by VHDA to the project has increased substantially ($1.2 million in 2004 credits, increased to $1.7 million in 2007 credits, and the current request is for $2.2 million in 2009 credits). Nevertheless, the value of the credits has decreased dramatically because of the pricing by investors. At the real estate market's peak (2005-2006), a dollar's worth of credits was generating just more than a dollar's worth of equity. Currently, prices have dropped by over 20%, and are worth about $0.80 of equity for every dollar of tax credit awarded. VCC has requested approximately $2.2 million from VHDA, a 41% increase in the amount of credits from 2007, but would only net about 21% more in the amount of equity to the project.

- **Interest Rates.** Interest rates on the first mortgage have increased from 6.4% in 2007 to a current rate of 8.45%. This rise in the interest rate on the first mortgage has subsequently <u>decreased</u> the amount of funds which VCC can borrow by over $2.5 million, or from $14.3 million to $11.7 million. Furthermore, the interest rate on VHDA's SPARC loan increased from 4.5% to 5.05% interest rate. While the amount of SPARC as a source of funds has remained the same, the annual debt service has increased approximately $5,500 annually or from $85,906 to $91,419.

- **Construction Costs.** Construction costs have continued to rise until earlier this year, and only in the past few months have these costs begun to plateau. Since early 2007, construction hard costs increased by $5.4 million, from $20.6 million to $26 million, or by 26%. Construction soft costs increased by 11%, from $7.8 million to $8.6 million. It is possible that construction costs, and specifically labor costs, may decrease in the near future. Staff recommends that any cost savings realized during the construction period after tax credit adjustors would be proportionately split among the project funders, and that split is a proposed condition of the loan, if approved.

Shared Participation in filling the financing gap. The County staff's message to VCC and its development partners has consistently been that the financing gap created by the most recent delay and the unfortunate change in the financial market must be shared. The gap for the project is being mitigated and shared by the following actions.

1. VCC has agreed to double the deferred portion of its developer fee (from $1.1 million in 2007 to $2.2 million in 2008);
2. The Views at Clarendon Church has agreed to accept a lower price for the development rights upon which the apartment complex is built (from $6.1 million in the 2007 application to $5.6 million in the 2008 application);
3. At their December 3, 2008, meeting, the VHDA Board agreed to allocate additional tax credits to the projects (for an estimated total of $18.4 million in tax credit equity); and,
4. The County Board will consider an additional AHIF allocation on December 13, 2008.

Timing: In addition to the increases in costs, there are scheduling sensitivities that are also pressuring the project. The tax credit program, administered by the Internal Revenue Service (IRS), requires that this project, which will be funded with a 2009 tax credit allocation, must be "placed in service" or ready for occupancy by no later than December 31, 2011. Since the project has a 20-24 month construction process, construction needs to begin soon in order to meet that deadline and not jeopardize the credits that have been awarded.

County Funding Request: VCC is requesting a County residual receipts/cash flow loan of up to $6.5 million. Because of the volatility in interest rates and equity pricing, staff recommends that $1.2 million of the $6.5 million be placed in a County-held contingency account while construction pricing is finalized and commitments for all of the sources of financing sources are obtained and rates are locked in. The proposed contingency account would only be accessed with approval by the County Manager or his designee after review of the project financing and/or construction pricing demonstrates a need for the contingency funds. This proposed loan, ranging between $5.3 million and $6.5 million would be in addition to the loan approved by the County Board in February 2007 for $6.6 million, for a total of up to $13.1 million.

The proposed loan would have a 40-year term at a 3.5% interest rate, and would be secured by a subordinated deed of trust and payable from cash flow from the residential project. For approximately the first eleven (11) years, cash flow will be split evenly to pay the deferred developer fee and the AHIF loan. After the deferred fee is paid, 75% of the cash flow will be paid to the County for repayment of the AHIF loan. It is estimated that VCC will pay off the loan in year 39.

Proposed Permanent Financing Plan: The proposed financing for the project includes three loans from VHDA - a first mortgage of $11.7 million, a Sponsoring Partnerships and Revitalizing Communities (SPARC) loan of $1.5 million and a Resources Enabling Affordable Community Housing (REACH) Multifamily loan of $2 million, $18.4 million in Low Income Housing Tax Credit Equity, $350,000 in grants and foundation funding, $2.2 million in a deferred developer fee, and $13.1 million in a long-term County loan. These sources are shown in the table below.

Proposed Project Sources & Uses

SOURCES OF FUNDS (applied for) (in millions – rounded to nearest $100,000)			**USES OF FUNDS (in millions)**		
	2007	**2008**		**2007**	**2008**
9% LIHTC	$15.2	$18.4	Land Acquisition	$6.1	$5.6
First Mortgage - VHDA	$14.3	$11.7	Construction Hard Costs	$20.6	$26.1
Arlington County Loan	$6.6	$13.1	Construction Soft Costs	$7.8	$8.6
VHDA REACH	$2.0	$2.0	Other Soft Costs	$6.7	$8.9
VHDA SPARC	$1.5	$1.5			
Deferred Developer Fee	$1.1	$2.2			
Foundation Funds/Grants	$0.5	$0.35			
TOTAL SOURCES	**$41.2**	**$49.2**	**TOTAL USES**	**$41.2**	**$49.2**

The additional proposed loan between $5.3 million and $6.5 million in AHIF funds will increase the total County loan amount to between $11.9 and $13.1 million. This amount represents a total AHIF subsidy per unit between $169,392 and $186,535 for newly constructed units based on 70 affordable units. The proposed County loan is necessary to keep the rents affordable for the loan term and to leverage other public and private funds.

Proposed Affordable Housing Plan: The proposed affordable housing program is improved because VCC has agreed to increase the affordability term from 60 to 75 years. Also, because the County's Department of Human Services (DHS) has committed to providing VCC with project-based rental assistance, twelve (12) units would serve households with special needs below 60% of the area median income (AMI). Specifically, the affordable housing plan includes 70 units (60%) that are affordable: 58 to families earning up to 60% of the area median income (AMI), six (6) units at rents affordable to households earning up to 50% of the AMI, and six (6) units at rents affordable to households earning up to 40% of the AMI. This unit mix is different from the 2007 proposed unit mix with the addition of 6 units at rents affordable to households earning up to 40% of the AMI. These affordability levels translate to annual household incomes ranging from approximately $27,500 to $64,000.

The bedroom mix of affordable units includes 17 efficiencies, 31 one-bedroom, 16 two-bedroom, and 6 three-bedroom units. This is the same unit mix as proposed in February 2007. The table below shows the proposed unit mix and rents.

Proposed Unit Mix and Rents (Affordable Units at 60% of AMI; 2008 rents)

Bedroom Size	Affordable Units	60% Rents	Market Units	Market Rents
Efficiencies	17	$963	0	
1 Bedroom	31	$1,016	30	$2,150
2 Bedroom	16	$1,217	16	$2,725
3 Bedroom	6	$1,402	0	
TOTAL	**70**		**46**	

The 60% rents shown in this chart do not include utilities.

Proposed Housing for Persons with Special Needs: The VCC proposes to commit a minimum of 12 units to be used by the County Department of Human Services (DHS) Permanent Supportive Housing (PSH) Program using either federal or local project-based rental assistance funding. VCC has also committed to providing six (6) units (4 efficiencies, 1 one-bedroom unit and 1 two-bedroom unit) as fully accessible to persons with mobility disabilities. These units will have roll-in showers, roll-under sinks, and accessible controls on appliances. Additionally, three (3) more units will be equipped to meet the needs of persons with hearing and visual impairments, and all the units in the property will be visitable.

Community Benefit: The Views at Clarendon Apartments provides many community benefits to the residents of the County. The residential units will provide housing for mixed income and special needs households, and the affordable units will remain affordable for seventy five years. The two and three bedroom affordable units will be a unique affordable housing opportunity for families. The renovation of the education wing will retain the largest child care center in the County providing quality care for 185 children and their families. The location of the project in the Metro Corridor, one block from metro, and close to retail and County services furthers the County's smart growth initiative. These benefits of the project advance the County's vision of being a diverse, inclusive and sustainable community.
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Schools Impact: Arlington Public Schools (APS) staff has reported that the proposed development will result in a projected total of 31 APS Pre-K to 12th Grade students. APS staff project that the students will fall into a 50%-20%-30%- breakdown of elementary, middle, and high school with the greatest impact on Key, Taylor and Science Focus Elementary schools, Swanson and Williamsburg Middle Schools and Washington & Lee High School.

Housing Commission: At its meeting on December 4, 2008 the Citizens' Advisory Commission on Housing voted unanimously (9-0) to advise the County Board to allocate up to $6.5 million in additional long term AHIF loan funds as outlined in the draft staff report. The Commission discussed concerns about the VCC Board composition that there is not a resident of

Lyon Village on the Board. The Commission voted 6-3 against an amendment to recommend to the County Board that they consider appointing a representative from Lyon Village to the VCC Board. The members that did not support the amendment felt that they did not have enough information and that it was not in their purview to advise the County Board on having a Lyon Village representative on the VCC Board. It is anticipated that a letter from the Housing Commission will be provided to the County Board describing their recommendation.

Affordable Housing Goals: This proposal meets many of the County Board-adopted Affordable Housing Goals and Targets as follows:

- Goal 1, Target 1A and Goal 5, Targets 5A and 5B: 22 of the affordable units would be available to families with children (16 two-bedroom and 6 three-bedroom units).
- Goal 2: The proposal will ensure that all housing is safe and decent since this will be new construction housing subject to all applicable building codes and ordinances and will be subject to annual inspection by the County to ensure the units are maintained in safe and decent condition.
- Goal 3, Target 3B: 70 new committed affordable units (all of which will be located one block from the Clarendon Metro station).
- Goal 6, Target 6A. The proposed units would be in NSA E (Target is for 60% of new, non-elderly, rental committed affordable housing units in NSA's D, E and H).

Conclusion: The proposed development will add 70 new affordable units of concrete, high rise construction and underground parking in the Clarendon Metro station area, which is an extremely difficult and expensive location in which to acquire or develop affordable housing units. Staff concludes that the project presents a rare opportunity to secure affordable housing this close to metro.

Loan Terms and Conditions: Approve a loan of up to \$6,500,000, of which \$1,200,000 will be placed in a County-held contingency account while commitments for other financing sources are obtained, construction pricing is completed, and equity and interest rates are finalized. This amount, up to \$6.5 million, will be combined with the \$6.6 million of AHIF allocated by the County Board in 2004 and 2007. The total loan of up to \$13.1 million will be made to VCC or its designated County approved ownership affiliate, as project financing assistance for the development of the Views at Clarendon Apartments subject to the following terms and conditions:

1. The applicant shall execute a generally standard AHIF Program Agreement and loan instruments for the County loan in a form acceptable to the County Manager and the County Attorney.

2. This financing assistance would be in the form of a subordinated residual receipts loan, secured by the property, and repayable from the cash flow from the property. This loan will be made at an interest rate of 3.5%, compounded annually, over a term of 40 years. This loan will be subordinate to VCC's primary financing and the VHDA loan if necessary, of approximately \$17 million. The County financing assistance shall be

utilized to fund a portion of the construction hard costs or the construction soft costs of the housing only.

3. The applicant agrees to a plan for a proportionate split on all cost savings during the financing period when interest rates are locked in and during the construction period when cost savings may be realized. Such plan would be subject to approval by the County Manager or his designee. No funds will be disbursed to VCC or its County approved ownership affiliate until this plan has been approved by the County Manager or his designee.

4. The applicant must comply with the affordable housing set-aside for the rental units as follows: Seventy (70) rental units shall be affordable to households earning 60% or less of AMI for 75 years. Six (6) of the units shall be affordable to households earning 50% or less of AMI for 75 years, and an additional six (6) units shall be affordable to households earning 40% or less of AMI for 75 years.

5. The applicant must secure a commitment of up to $17 million from a lender for primary financing with terms acceptable to the County Manager. In addition, the applicant must secure commitments for all remaining funds listed under the Proposed New Permanent Financing Plan in this report prior to disbursement of any funds from the County.

6. The affiliate developer or its designee shall commit a minimum of 12 of the units for the County Department of Human Services (DHS) Permanent Supportive Housing (PSH) Program using either federal or local project-based rental assistance funding. The Owner shall enter into a PSH agreement with DHS approximately 90 days prior to initial occupancy of the building.

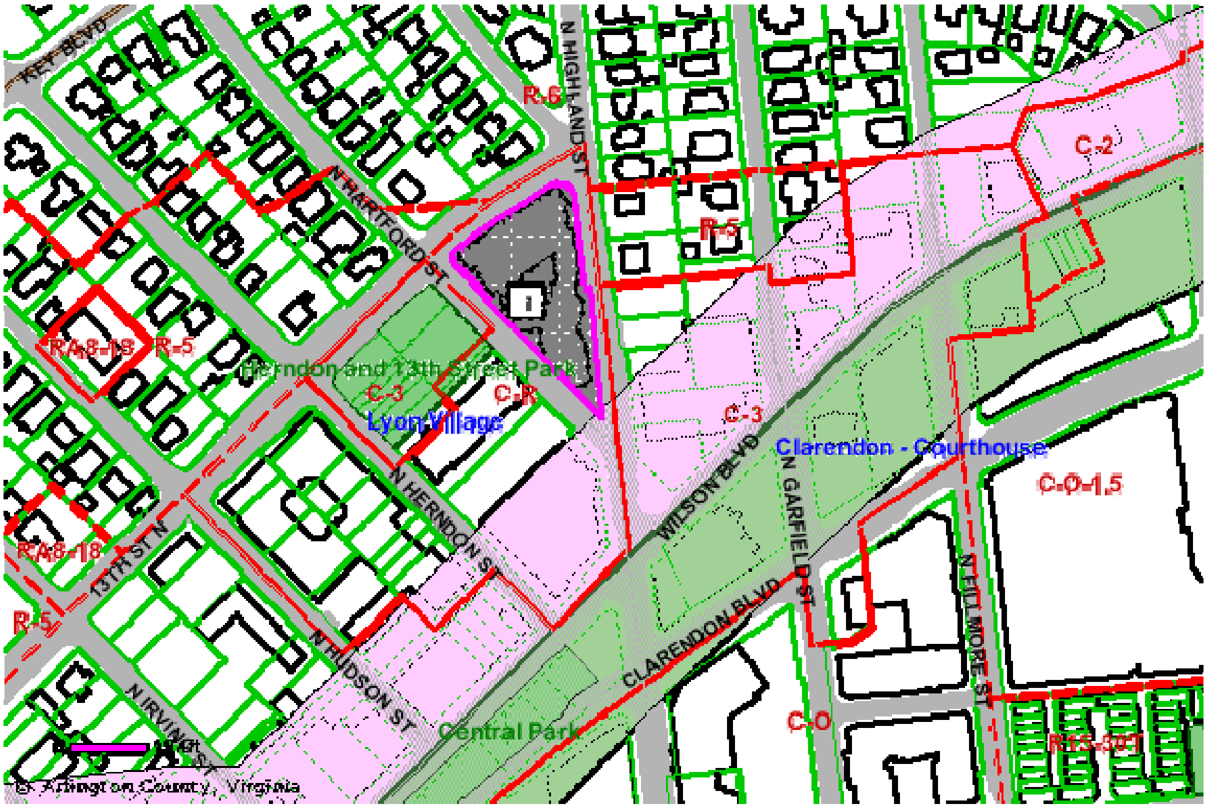
7. The developer or its designee will agree to provide 6 affordable units for persons with physical disabilities (Type A dwellings as described in International Code Council / American National Standards Institute A117) and to fully cooperate with an affirmative marketing program to market these units to households in need of such accommodation.

8. The developer, its designated ownership entity, heirs or assigns shall provide a purchase option including a right of first refusal to the County or its designee, if the developer decides to sell the property any time prior to or at the end of the 75-year affordability term, wherein the County or its designee shall have the right, but not the obligation, for a period of up to 180 days, to purchase the property at 90 percent of its then-appraised fair market value. If the owner's appraiser and County's appraiser do not concur on the fair market value of the property, the two appraisers shall select a third appraiser using the industry-standard three appraiser method to determine the fair market value.

FISCAL IMPACT: The current AHIF/HOME balance for FY 2009 is $7,242,977. Approval of the staff recommendation of an amount up to $6,500,000 from AHIF/HOME would result in a remaining AHIF/HOME balance of $742,977.

In addition to the AHIF/HOME balance stated above, the Housing Reserve Fund (HRF) has a current balance of $4,654,391. Once appropriated to AHIF by the County Board, this HRF balance also is available for future housing development projects.

The Views at Clarendon Apartments
Location Map – Crosshatched Parcel 1



The Views at Clarendon Apartments would be located at 1201 N. Highland Street. The Clarendon Metro Station is located on the east, or left side of Highland Street between Wilson and Clarendon Boulevards.