

BOARD OF ALDERMEN

ITEM NO. E(1)

AGENDA ITEM ABSTRACT

MEETING DATE: Tuesday, May 14, 2002

TITLE: Adequate Public School Facilities Memorandum of Understanding and Ordinance

DEPARTMENT: PLANNING	PUBLIC HEARING: YES ___ NO <u>X</u>
ATTACHMENT: A. Resolution B. 2/8/02 Memo from Alice M. Gordon C. 4/8/02 Chapel Hill MOU Resolution D. <i>“Projections of Students Compared to Capacity by Year by Level”</i> E. 5/23/00 Orange County’s Recommended Capital Investments Plan (excerpt) F. Graph: <i>“Actual vs. Estimated New Dev. Student Population Change CHCCS 1990-2006”</i>	FOR INFORMATION CONTACT: Roy Williford, 918-7325

PURPOSE:

This item provides the Board of Aldermen with an opportunity to receive a brief presentation and public comment on the “Schools Adequate Public Facilities Memorandum of Understanding” (MOU) and the accompanying “Schools Adequate Public Facilities Ordinance”(SAPFO). Following the presentation and public comment, the Board of Aldermen may wish to consider approval of the MOU through the adoption of the attached resolution (Attachment A). In addition, the resolution instructs the Town Attorney to prepare and the staff to process a land use ordinance amendment that incorporates the provisions of the proposed “Schools Adequate Public Facilities Ordinance”.

INFORMATION:

RECENT HISTORY

DATE	ACTIVITY
11/14/01	The Schools and Land Use Councils approved the memorandum and ordinance.
02/08/02	Chair, Alice M. Gordon, submitted the revised MOU and SAPFO for consideration (Attachment B).
03/13/02	SLUC’s (Schools and Land Use Councils) reiterated that the following items must be agreed upon before an agreement can be reached on the mutual adoption of the MOU and before each governing body can adopt an ordinance i) A Capital Improvements Program that will achieve the objectives of the proposed MOU, i.e. is financially feasible, synchronized with historical

DATE	ACTIVITY
	<p>growth patterns, and provides a realistic plan for the construction of schools such that the school membership within each school level (elementary, middle and high school) does not exceed the following:</p> <p>(1) Elementary 105% of the Building Capacity (2) Middle 107% of the Building Capacity (3) High 110% of the Building Capacity</p> <p>ii) A projected growth rate for student membership (students registered on November 15 of each year) within the School District's three levels during the ten year life of the CIP (Orange County Capital Investment Plan);</p> <p>iii) A methodology for determining the projected growth rate for student membership; and</p> <p>v) The number of students at each level expected to be generated by each new housing type (i.e., the "student generation rate");</p>
03/26/02	The Board of Aldermen held a work session to consider the MOU and SAPFO
04/08/02	Chapel Hill Town Council approved the MOU (resolution-Attachment C)
04/17/02	Joint Planning Meeting; members voted to refer CIP, Building Capacity, Projected Growth Rate, Projection Methodology and Student Generation Rate to the Schools and Land Use Councils for a recommendation.

ADEQUACY OF PUBLIC SCHOOL FACILITIES

The following points highlight several key areas regarding the adequacy of public school facilities:

- The Certificate of Adequacy of Public School Facilities (CAPS) that must be obtained from the school system is proposed to be required after Town approval of a development, but before a Conditional Use or Special Use Permit for a residential development becomes effective.
- The School District will certify the school membership of each school level (elementary, middle, and high) on November 15 of each year. The School District will by February 15th, determine expected membership and capacity for each of the subsequent 10 years (using a methodology agreed to by all parties to the Memorandum of Agreement). By comparing membership and capacity, a projected available capacity will be calculated for each year in the ten-year period. Attachment D, "*Projections of Students Compared to Capacity by Year by Level*", was distributed in the March 18th meeting with the Chapel Hill-Carrboro Chamber of Commerce. These projections show that the elementary schools are expected to exceed the 105% threshold in the upcoming 02-03 school year and that the high school enrollment is expected to reach the 110% threshold in the following year 03-04. If these projections become true then CAPS could not be issued until sufficient capacity is generated through the construction of new schools to satisfy enrollment needs for each school category or the thresholds need to be adjusted upward.

The recommended *Orange County, NC 2002-12 Capital Investment Plan* (see Attachment E) proposes the opening of Elementary School #9 in 03-04 and elementary School #10 in 06-07. A third high school is scheduled to come on line in 05-06. The provision of new school facilities within the time frame proposed by the CIP will not provide the capacities needed to accommodate the projected student enrollment and allow for the issuance of CAPS under the current thresholds.

- If capacity is determined by the School District to be available, CAPS will be issued on a first come-first served basis to developments approved during the ensuing 12 months, or until available capacity is gone.
- If capacity is not available and a request for a certificate is denied, the developer may seek approval from the appropriate planning jurisdiction of modifications to the development (i.e. a phasing plan) that would allow for the issuance of a certificate, and then re-apply.

According to a population projection report conducted by Tischler and Associates for Orange County the average single-family unit generates 0.39 students and multifamily generates 0.18 students. The attached graph (Attachment F) illustrates the total student population change and the amount of student population change from new development (CO's multiplied by student generation rates). Over the 12-year time period (1990 to 2001), existing development contributed to about 45% and new development to about 55% of the increase in student population. If the trend over the last 12 years continues over the next 5 years, then approximately 400 to 550 students will be added each year with about 250 to 350 students coming from new housing.

MEMORANDUM OF UNDERSTANDING

The attached Memorandum of Understanding is a proposed agreement between the County, the Chapel Hill/Carrboro City Schools, and the municipalities of Chapel Hill and Carrboro. The Memorandum provides the framework for this initiative, and would commit all parties to support this cooperative approach (which includes the adoption of the proposed Adequate Public Facilities Ordinance for Schools).

The Board of Aldermen may wish to consider the following items regarding the adoption of a MOU:

- iv) A Capital Improvements Program that will achieve the objectives of the proposed MOU, i.e. is financially feasible, synchronized with historical growth patterns, and provides a realistic plan for the construction of schools such that the school membership within each school level (elementary, middle and high school) does not exceed the following:
 - (1) Elementary 105% of the Building Capacity
 - (2) Middle 107% of the Building Capacity
 - (3) High 110% of the Building Capacity
- v) A projected growth rate for student membership (students registered on November 15 of each year) within the School District's three levels during the ten year life of the CIP (Orange County Capital Investment Plan);
- vi) A methodology for determining the projected growth rate for student membership; and
- vii) The number of students at each level expected to be generated by each new housing type (i.e., the "student generation rate");
- viii) The Board of Aldermen, after reaching agreement on the previously listed items, may adopt the MOU by resolution.

During the SLUC's (Schools and Land Use Councils) March 13, 2002 meeting, the first four items were discussed. The council reiterated that these items must be agreed upon before an agreement can be reached on the mutual adoption of the MOU and before each governing body can adopt an ordinance. As previously discussed the building capacity thresholds may need to be adjusted upward.

The proposed Memorandum of Understanding if adopted will:

- Direct all parties to work cooperatively to develop a realistic Capital Improvement Plan for the construction of new school facilities.
- Establish the levels of crowding that define “over capacity.”
- Establish the process for determining projections of student enrollment, key to determination of whether capacity will be available in future years.
- Establish the sequence and process for a developer obtaining a certificate of capacity.
- Direct parties with zoning jurisdiction to incorporate implementing language in their respective zoning regulations.

ADEQUATE PUBLIC FACILITIES ORDINANCE AMENDMENT

The attached draft Adequate Public Facilities Ordinance for Schools is a development regulation tool that proposes to synchronize new residential development with the availability of school facilities. The draft Ordinance proposes to pace growth by affecting the timing of development in keeping with the availability of school facilities as noted in the school district’s Capital Improvement Plans.

The Board of Aldermen may wish to consider the following items regarding the adoption of an Adequate Public School Facilities Ordinance:

- a) Instruct the Town Attorney to prepare APFO as a text amendment to the Carrboro Land Use Ordinance;
- b) Hold a work session to receive the APFO text amendment and staff report.
- c) Set a date for a public hearing and refer the ordinance amendment to the Planning Board and Orange County for review;
- d) Planning Board and Orange County complete their review and make recommendations;
- e) The Board of Aldermen hold a public hearing, receive comments from the Planning Board, Orange County, citizens and the staff;
- f) Aldermen Adopt the APFO text amendment that will coordinate the approval of residential development with the adequacy of existing and proposed school facilities;
- g) Staff incorporates ordinance amendment and forwards the approved agreement to all parties.

The Adequate Public School Facilities text amendment:

- Proposes new provisions that require a developer to obtain a Certificate of Adequacy of Public School Facilities (CAPS) from the Chapel Hill Carrboro City Schools before a Conditional Use Permit or Special Use Permit become effective. The Board of Aldermen or Board of Adjustment will continue to process permit approvals for new residential developments as they do now, except the permit will not become effective until CAPS are issued.
- Requires that CAPS be requested by a developer from the Chapel Hill/Carrboro School Board. The Memorandum of Understanding addresses the allowable capacity for the district.
- Allows a CAPS to run with the land (it could not be transferred to another parcel).

- Provides the Board of Aldermen with the authority to grant special exceptions.
- Provides the Board of Aldermen with the authority to review the denial of a CAPS request by the School District.

Administration of the Adequate Public School Facilities Ordinance:

- a) Land Use Permits -The staff will continue to process applications for residential projects requiring SUP's and CUP's as before and the Board of Adjustment or Board of Aldermen will act on applications as they presently do. The permit; however, will not become effective until the applicant applies for and obtains a Certificate of Adequacy of Public School Facilities ("CAPS") from the Chapel Hill-Carrboro Schools. The staff will process the CUP or SUP as approved once the applicant submits a number of CAPS that matches the number of lots or units authorized by the permit or a phase authorized by the permit. If a permit expires as provided for by the Land Use Ordinance then the CAPS expire as well.
- b) Zoning Permits- The proposed APFO doesn't require CAPS for projects of four or less units permissible with a zoning permit.
- c) Minor Subdivision Final Plats will require CAPS but Exempt Subdivisions will not require a CAPS.
- d) A general rezoning or conditional use rezoning for a master land use plan is not subject to the APFO but subsequent CUP's or SUP's will require CAPS.
- e) Dormitory housing for university students, housing for the elderly/adult care living or adult special needs housing will not require a CAPS.
- f) Amendments for projects approved before the effective date of the ordinance (that have not expired and do not propose an increase in the number of units beyond 5 units or 5% whichever is less) will not require a CAPS.
- g) The Board of Aldermen shall issue a special exception to the CAPS requirement for permits needed to complete a planned unit development or a master plan project approved before the effective date of the ordinance where the CAPS have been denied by the schools, where substantial expenditures have been made and where the applicant would be unreasonably prejudiced due to the ordinance provisions.
- h) Appeals to the denial of CAPS by the schools will be heard and decided upon by the Board of Aldermen.

RECOMMENDATION:

The administration recommends that the Board of Aldermen:

1. Select one of two alternatives under section 1 of the attached resolution. The first alternative approves the MOU subject to the provision of adequate school capacity through an adopted CIP or member threshold adjustment. The second alternative approves the MOU with an understanding that changes will be made to reconcile the need for adequate school capacity.
2. Adopt section 2 that instructs the Town Attorney to prepare APFO as a text amendment to the Carrboro Land Use Ordinance.
3. Adopt section 3 that instructs the staff to prepare an agenda item for: a review of the ordinance, setting a public hearing and refers the MOU and Ordinance to Orange County for review and to the Carrboro Planning Board for consideration and recommendation.