

# BOARD OF ALDERMEN

ITEM NO. 1

## AGENDA ITEM ABSTRACT

**MEETING DATE: Tuesday, March 23, 2004**

**TITLE: Public Hearing to consider a LUO Text Amendment that modifies size limit requirements to provide for affordable housing and payments-in-lieu**

<b>DEPARTMENT: PLANNING</b>	<b>PUBLIC HEARING: YES <u>X</u> NO <u>  </u></b>
<b>ATTACHMENTS:</b> <b>A. Draft Ordinance</b> <b>B. Excerpt of <i>Carrboro Vision2020</i> – As amended on February 24, 2004</b> <b>C. Section 15-188 of the Carrboro LUO</b> <b>D. Section 15-182.4 of the Carrboro LUO</b> <b>E. Policy 6.12 of <i>Carrboro Vision2020</i></b> <b>F. Planning Board Recommendation</b>	<b>FOR INFORMATION CONTACT:</b> Patricia McGuire – <b>918-7327</b> Mike Brough – <b>929-3905</b>

### PURPOSE

The Board of Aldermen must receive public comments before taking action on amendments to the Town's small house and affordable housing density bonus ordinance provisions.

### INFORMATION

On February 24, 2004, the Board of Aldermen discussed housing diversity and affordability and reviewed possible policy and ordinance amendments that had been prepared. The Board of Aldermen adopted an amendment to *Carrboro Vision2020: Policies through the Year 2020* that added a new provision endorsing the provision of affordable housing units within all residential developments. A copy of the amended section to which the amendment has been made is attached (*Attachment B*).

A draft ordinance was also presented to the Board of Aldermen on February 24<sup>th</sup>. This draft ordinance had been prepared in response to directions from the Board of Aldermen at their meeting on December 16, 2003.

1. A draft ordinance that would make the size-limited housing provisions applicable to unsubdivided residential developments.
2. A draft ordinance that would allow a substitution of 15% affordable units to meet the 25% size limited requirement. The draft ordinance should also include a mechanism to allow payment in lieu for no more than one-third of the affordable units.

### Summary of Draft Ordinance Modifying the Smaller House Requirements

The draft ordinance contains four sections, two of which include substantive changes to the Land Use Ordinance and two of which are procedural. The substantive changes are described here, with explanatory comments provided, where applicable.

Section 1 of the draft ordinance modifies Section 15-188, Restrictions Designed to Mandate the Construction of Some Smaller Single Family Homes (*Attachment C*) in several ways:

- 1) Replaces “Smaller Single Family Homes” in the title with “Smaller New Homes for Sale.”
- 2) Substitutes “1,350” for “1,500” in subsection (a)(1), the ordinance findings to better reflect the unit sizes that have been exceeded by both single family homes in subdivisions and in unsubdivided developments. Two of the unsubdivided residential projects (Mulberry Street and Twin Magnolias condominiums) in town that are currently under construction contain units that exceed 1,300 square feet in size, with an average of approximately 1,445 square feet. The largest unit in the two projects is over 1,900 square feet. The advertised price range for these units is \$192,000 to \$ 249,000.
- 3) Replaces “development” for “subdivision” in several subsections to make it clear that the ordinance provisions apply to subdivided and unsubdivided developments.
- 4) Replaces “units for sale” for “lots” in several subsections so that the applicability to unsubdivided developments is clear.
- 5) Replaces “conditional use permit” for “preliminary subdivision plat” in the subsection denoting how the units are to be designated in the development review process.
- 6) Removes the reference to a “special use permit” in describing when a developer needs to designate which lots are to be designated for size-limited units. This is a housecleaning item as the ordinance is not applicable to subdivisions requiring special use permits.
- 7) Creates an exception to the size-limited unit requirement for developments that have utilized between 85 and 100 percent of the density bonus provided for under Section 15-182.4, Residential Density Bonus for Affordable Housing (*Attachment D*). This approach has been proposed in order to support greater use of the affordable housing density bonus to increase the provision of affordable and market rate units in all developments. There is a possibility that relaxing the size-limited unit requirement might result in less diversity of housing types in a development if a developer is seeking greater uniformity and is willing and able to design affordable units that are more similar to market rate units in size and style.

Section 2 of the draft ordinance modifies Section 18-182.4, Residential Density Bonus for Affordable Housing, by adding a new subsection that makes it possible for the permit-issuing authority to authorize a developer to make a payment-in-lieu for up to one-third of the affordable units to be included in a development making use of the density bonus.

In reviewing the components of this draft ordinance, staff has identified two areas where additional clarification would be beneficial. Two additional subsections have been included in the draft ordinance to revise existing text and to add a new subsection. Both of these changes are included in Section 2 of the draft ordinance.

Within subsection (a), the phrase “the Metropolitan Statistical Area to which the Town of Carrboro is assigned” is proposed as a replacement of the term “Raleigh-Durham Metropolitan Statistical Area.” This change has been included to reflect the U.S. Department of Housing and Urban Development’s change in the MSA definition and delineation for the region and to allow for future changes without the need for an amendment to the Land Use Ordinance.

A new subsection (i) is proposed to clarify that payments-in-lieu collected instead of providing an affordable unit shall be reserved and used solely to meet the purpose described in Section 15-182.4.

### Discussion of Draft Ordinance Provisions

The draft ordinance accomplishes several objectives specified by the Board of Aldermen. First, it broadens the reach of the size-limited housing unit requirements by expanding its applicability to include unsubdivided development where units are to be sold. Second, it provides an optional approach to meeting the size-limited requirement that will result in the provision of truly affordable units. And third, it adds a flexibility provision to the affordable housing density bonus that will allow a developer to propose and the Board of Aldermen to consider accepting a payment-in-lieu for up to one-third of the affordable units within a development. The major emphasis of the draft ordinance does represent a policy trade-off. By excusing a project from the size-limited requirements if it utilizes 85 percent of the affordable housing density bonus, the number of units controlled is being reduced and affordability is being exchanged for diversity.

The payment-in-lieu may make the density bonus more palatable; its flexibility can allow a developer to reduce the number of affordable units included within a development while generating funds that the Town can use to support the provision of affordable housing. Staff has been evaluating various approaches to structuring the payment ranging from partial to full capture of the cost of providing an affordable unit. This evaluation is still underway. Should the Board proceed with adoption of the draft ordinance, the Board of Aldermen will be provided with a report on this matter so that a fee can be incorporated into the Miscellaneous Fees and Charges Scheduled for the upcoming fiscal year. Staff recognizes and supports flexibility, but has noted that the payment-in-lieu may present some concerns. The provision will require creation of a dedicated fund that will need to be managed and disbursed in association with furthering community policies related to affordable housing. This action in and of itself is not inconsistent with Vision2020’s subsection 6.12, which encourages the investigation of alternative public and private financing for low and moderate income housing (*Attachment E*).

Yet, the opportunity to pay for, rather than provide, some affordable units may be less likely to advance community interests to create neighborhoods that can accommodate citizens of different life stages, economic means, abilities and interests. Due to the limited supply of undeveloped and/or under-developed properties in Carrboro’s jurisdiction, and the increasing competition for these sites by developers, locating suitable sites for allocating any funds received under this program may present something of a challenge. Such limitations suggest that alternative use of the payments made in-lieu of providing affordable units may be needed. These alternatives could include buying land for specific projects or buying existing market-rate units, placing restrictions on future sales, and selling them at the price level determined by the MSA’s median income. Since the

units would later be sold at a controlled price, the payment-in-lieu fund would be used to cover the difference between the market price and the affordable one.

One other concern about the ordinance is the applicability to unsubdivided developments only where units are to be sold. Some might view the possibility for applicants to later create condominiums from a project that was approved as an apartment development as a way to circumvent the ordinance's intent, since this modification does not require the Town's approval. If the Board is concerned about this possibility, the ordinance could be modified so that it applied to particular use classes rather than relying on the distinction between properties that would be rented or sold. Such a change would likely require re-advertisement.

As required by the Land Use Ordinance and the Joint Planning Agreement, copies of the draft ordinance were submitted to both the Planning Board and Orange County for review. A copy of the Planning Board recommendation is attached (*Attachment F*).

### **FISCAL IMPACT**

The Board of Aldermen requested information on the effect these Land Use Ordinance changes would have on housing costs. There are differing perspectives on this question. In general, cost impacts do not appear to be attributed to provisions resulting from comprehensive land use policy and regulations to promote, rather than require, the development of affordable housing. At present, Carrboro's process includes only mechanisms that seek the voluntary inclusion of affordable housing units, and when utilized, allows an increase in the number of market-rate units as well. Should any further detail on this topic be revealed in preparing a recommendation related to the payment-in-lieu, that information will be provided to the Board of Aldermen.

### **ADMINISTRATION'S RECOMMENDATION**

The Administration recommends that the Board of Aldermen adopt the attached draft ordinance (*Attachment A*).