

BOARD OF ALDERMEN

ITEM NO. D(5)

AGENDA ITEM ABSTRACT MEETING DATE: FEBRUARY 1, 2005

TITLE: Report on Proposal for a Two-tiered Development Review System for Residential Projects

DEPARTMENT: PLANNING	PUBLIC HEARING: YES ___ NO <u>X</u>
ATTACHMENTS: A. Resolution B. Email from Mike Brough C. Plan Review Distribution List	FOR INFORMATION CONTACT: Patricia McGuire – 918-7327 Marty Roupe – 918-7333

PURPOSE

On November 5, 2004, Alderman Alex Zaffron proposed that the Board of Alderman establish a new procedure for the review of development applications that would give preference to projects that take advantage of the Town's Affordable Housing Density Bonus, and therefore include 15 percent affordable units. A report on this matter has been prepared and a resolution is provided.

INFORMATION

Alderman Zaffron provided the following summary of the proposal:

Create a 'two queue' system of review for residential projects, or those with a residential component: Queue 'A' is reserved for all projects that include an affordability component that meets the standards (and takes advantage of) our Affordable Housing Density Bonus ordinance provisions in all subdivisions of six units or more (i.e. 15% of base number of units). These projects would ALL be reviewed and processed, in order of receipt, prior to processing of ANY projects in a newly created 'Queue B', which is reserved for projects that do not include this component. If an applicant whose project is in 'Queue B' should decide that they would prefer to change their application to include the affordability component, they would automatically move to a space in 'Queue A' corresponding to their date of initial submission. In short, this mechanism would provide an added incentive to be placed in a position that would accelerate their review on two levels---They would jump into the 'express lane' which would be faster (no potential interruptions in review), as well as shorter (since all projects without the affordability component would be behind--in Queue B.

As described, this procedure would institute two tiers of development applications for residential projects, one made up of those projects with the specified amount of affordable units, and one made up of projects without. The new system is proposed in order to create greater incentive for projects to utilize the Town's affordable housing density bonus, and therefore provide affordable housing units. The mechanism is a simplified version of the smart-growth matrix that will be developed to provide incentives for projects that set out to achieve a variety of the Town's goal. The matrix itself will be completed in conjunction with the Land Use Ordinance revisions that are being developed. It should be noted that the two-tiered review would apply to special and conditional use

permits only, since zoning permits are reviewed administratively. That process does not authorize staff to enact additional requirements (in this case, the inclusion of affordable units) based on town policies. Zoning permits are issued based solely on compliance with the Land Use Ordinance.

Town Attorney, Mike Brough, has provided an initial response to this proposal regarding its legality (*Attachment B*). Mr. Brough has noted that there does not appear to be a legal problem with this system, so long as all applications are processed. If enacted as written, and assuming that there would always be a project with an affordable component, residential projects without affordable components would not get reviewed at all. It is here that the proposal is most problematic since the requirements of the review procedure have established de facto inclusionary zoning requirement. If this is what the Board wishes to do, it must be recognized that there is an ongoing debate regarding the legality of such action, whether adopted formally or as a de facto requirement. In short, this position does not appear to be legally defensible, so a procedural alternative that does not have the same legal limitation is offered for the Board's consideration. In addition, staff would find it more appropriate to institute a specific requirement for affordable housing, rather than establishing one de facto. The following section provides some additional information on the existing development review process, policy background and the proposed alternative.

Old and New Policies and Procedures

Introduction. The subject of inclusionary zoning has been discussed by the Board of Aldermen – most recently at the April 11, 2004 meeting. Some additional action on the part of the Town that expands the provision of affordable housing would be in keeping with adopted policies, as noted below. Yet, unless the Board of Aldermen wishes to establish an actual legal requirement for affordable units, rather than a de facto one, an alternative modification to the development review procedure is proposed. Some projects that were seeking to achieve other public policies, such as mixed-use developments, may be proposed as solely commercial to avoid this hurdle. The procedure could be adjusted to accommodate such projects (this is what the smart growth matrix is expected to provide). There is also a practical need to amend the Land Use Ordinance as there currently is a requirement that “all projects be processed expeditiously”.

Description of Existing Review Process. Prior to the issuance of a Land Use Permit for projects of significant size, applications are reviewed by various members of the Town staff for compliance with the Town of Carrboro Land Use Ordinance (LUO). In many cases, outside agencies (i.e.: OWASA, NCDOT, etc) also must review and approve of the plans before a permit may be issued. The Development Review Administrator assigns each application to a particular member of the Zoning Division. This individual acts as the primary Town contact for the duration of the review.

Depending on the complexity of the project, up to fifteen (15) different reviewers may be involved in the process (see *Attachment C*, Distribution List). Generally, all reviewers must approve the application before the Land Use Permit may be issued. Upon receipt of an application, the staff person assigned to the project reviews the application for completeness. Once complete, the project plans and associated information are distributed to all necessary reviewers within three days. The length of time involved in reviewing the application varies for each reviewer depending in part on the complexity of the project as well as on the individual's workload at any given time. The entire review process takes anywhere from a few days for a very straightforward application to twelve (12) months or more for a complicated project. Unless specifically directed to do otherwise

by the Board of Aldermen, applications are reviewed on a 'first come, first served' basis by members of the Town staff as well as outside reviewing agencies, many of which also receive plans from entities other than the Town of Carrboro.

For more complicated projects, the initial review usually takes from two (2) to five (5) weeks. Each reviewer forwards all applicable comments to the Zoning Division, which then forwards all such information to the applicant and/or project consultant. The applicant then is responsible for revising the plans and associated information in accordance with all the comments received. Once revisions are complete, the applicant resubmits the plans and the Zoning Division again distributes the plans to any reviewer with unresolved comments. This process continues until all reviewers are satisfied with the information submitted. Usually, the length of time needed to review plans decreases with each subsequent review; however, it can still vary significantly depending on each individual reviewer's workload when the plans are received.

After all reviewers are satisfied with the plans and associated information, Special Use Permits (SUPs) and Conditional Use Permits (CUPs), respectively, are forwarded to the Joint Review Board (i.e.: Town's Citizen Advisory Boards) prior to holding a public hearing on the potential issuance of the Land Use Permit.

Policy Background. Policy 6.18 of *Carrboro Vision2020*, adopted as the first amendment to this policy document on March 23, 2004, states as follows:

A minimum of 15 percent of the residential units in any residential development should meet the affordability criteria specified in Section 15-182.4 of the Carrboro Land Use Ordinance.

Echoing the goal for housing that would meet the needs of citizens of all income groups that was first articulated for Carrboro in the 1970s, the *Facilitated Small Area Plan for Carrboro's Northern Study Area* includes the following:

GOAL 4. A VARIETY OF HOUSING TYPES AND PRICE LEVELS.

OBJECTIVES:

- 4.A. Explore options for establishing a legal basis for inclusionary zoning.
- 4.B. Provide strong incentives for new development to dedicate a proportion of new housing units to renters or prospective home buyers in specified income levels.
- 4.C. Explore community land trust options for the provision of affordable housing.
- 4.D. Promote village development patterns as described under Goal 1.
- 4.E. Increase density incentives not only to reduce land cost per dwelling but also to offset additional cost of designing, building, and landscaping new affordable housing so that it looks like a market-rate product rather than a government project. Such housing should be integrated physically into new subdivisions through design standards for building design and for neighborhood layout.

Affordable Housing Review Requirement. Currently it is Town policies, rather than adopted regulations, that the two-tiered development review process would seek to implement. A modification to the development review procedure that is more in keeping with policy implementation may be one that directly involves the Board of Aldermen.

In an alternative approach, all development proposals would be reviewed as they are now, on a first-come, first-served basis, with one exception. Projects that do not utilize the affordable housing bonus and include at least fifteen percent affordable units would be required to make a presentation to the Board of Aldermen before the first full submittal of plans could occur. Affordable housing review sessions could be scheduled periodically, perhaps on a bi-monthly or quarterly basis. The periodic scheduling would create a queue of projects awaiting the opportunity for this review. This additional step would provide an opportunity for the Board of Aldermen to examine a development proposal and to discuss with the applicant the affordable housing policy and its importance in the community. It would also afford the applicants that had not yet chosen to include an affordable housing component an opportunity to explain their proposed development.

Should an applicant decide in the course of the development review process to remove any affordable housing that had previously been included, the requirement for a presentation to the Board of Aldermen would once again be necessary. In the event that a project had included an affordable housing component but that there was a change in the course of development review, further regular review of the project would be delayed until the applicant had an affordable housing review session with the Board of Aldermen.

FISCAL IMPACT

To the Town, none is noted.

STAFF RECOMMENDATION

The town staff recommends that the Board of Aldermen adopt the attached resolution (*Attachment A*) that accepts this report and directs the staff to prepare a Land Use Ordinance amendment to establish an affordable housing review requirement.