

Attachment "A"

**A RESOLUTION CALLING A PUBLIC HEARING ON LAND USE ORDINANCE
TEXT AMENDMENTS REVISING THE AFFORDABLE HOUSING DENSITY
BONUS PROVISIONS AND TO PROVIDE ALTERNATIVE METHODS FOR
DEVELOPERS TO FULFILL THE TOWN'S AFFORDABLE
HOUSING POLICY GOAL
Resolution No. 185/2006-07**

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for the public to consider modifications to existing policies and regulations; and

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen calls a public hearing on June 26, 2007 to consider adopting "An Ordinance Amending the Carrboro Land Use Ordinance to revise the affordable housing density bonus provisions and to provide alternative methods for developers to fulfill the town's affordable housing policy goal."

BE IT FURTHER RESOLVED that the draft ordinance is referred to Orange County for review per the Joint Planning Agreement and to the Town of Carrboro Planning Board for its recommendations.

Section 15-182.4 Residential Density Bonuses for Affordable Housing (AMENDED 05/25/99)

- (a) For purposes of this section, an affordable housing unit means a dwelling unit (i) that is offered for sale at a price that does not exceed two and a half times an amount equal to eighty percent of the annual median income level for a family of four in the Raleigh-Durham-Chapel Hill Metropolitan Statistical Area or is offered for rent at a monthly rate that does not exceed an amount equal to 12 percent of the monthly median income level for a family of four in the Raleigh-Durham-Chapel Hill Metropolitan Statistical Area, and (ii) with respect to which the developer has arranged for the affordable housing units to remain affordable as described herein for a period of not less than 100 years, commencing from the date of initial occupancy of the units, by including provisions to ensure such continued affordability in legally binding agreements (including but not limited to a ground lease, a deed restriction or other covenant) running with the unit. Such agreements shall be reviewed and approved by the Town of Carrboro prior to initial occupancy of the units. The units may not be occupied and the agreements may not be recorded or filed until such agreements are reviewed and approved by the Town of Carrboro, and (iii) that is architecturally harmonious with other units in the subject development.” For the purposes of determining whether the subdivision requires a zoning permit, special use permit, or conditional use permit under Subsection 15-147(a), the number of units shall exclude the bonus units associated with this Section. **(Amended 8/22/06)**
- (b) The maximum residential density permissible within a development whose maximum density would otherwise be determined in accordance with the provisions of subsection 15-182, 15-182.1, or 15-182.3(b) shall be increased by two dwelling units for every one affordable housing unit included within the development, up to a maximum of 150% of the density otherwise allowable. To illustrate, if the maximum density of a tract would be 100 dwelling units, a developer who chose to construct 10 affordable housing units as part of the development of that tract would be allowed to construct 10 additional dwelling units that did not satisfy the “affordability” criteria set forth in subsection (a), for a total density of 120 dwelling units. In this illustration, the maximum possible density that could be achieved would be 150 dwelling units if the developer constructed at least 25 affordable housing units. **(Amended 5/14/02)**
- (c) Within any development that provides affordable housing units, the minimum area that must be set aside as open space to satisfy the requirements of Section 15-198 may be reduced by an amount equal to twice the land area consumed by all such affordable housing units, subject to a maximum reduction of 10 percent in the amount of open space otherwise required.

- (d) Affordable housing units constructed in accordance with this section shall be segregated from the other dwellings that do not satisfy the “affordability” criteria set interspersed throughout the development rather than isolated in one area and forth in subsection (a).
- (e) In approving a special or conditional use permit for a development that proposes to utilize the density bonus provisions of this section, the permit issuing authority shall ensure, by approval of a condition, phasing schedule, or otherwise, that affordable housing units are actually provided in accordance with the provisions of this section. Without limiting the generality of the foregoing, the permit issuing authority may impose a condition specifying that units” may not be issued until the corresponding affordable housing units are constructed and offered for sale or rent for an amount that is consistent with the definition set forth in subsection (a).
- (f) If, by using the affordable housing density bonus provided for in this section, the number of dwelling units within a development increases to the point where the type of permit required for the project based on the number of units would otherwise change from a zoning to a special use permit or from a special use to a conditional use permit in accordance with the provisions of Section 15-147, the developer may nevertheless seek approval for the project under the permit process that would be applicable if no density bonus was sought under this section. **(Amended 5/14/02)**
- (g) As provided in subsection 15-92.1 (d), developments that use the affordable housing density bonus provisions of this section may be entitled to relief from the setback requirements under some circumstances. **(Amended 5/14/02)**

Section 15-188 Restrictions Designed to Mandate the Construction of Some Smaller New Homes for Sale (AMENDED 06/22/99; 03/23/04)

- (a) The Board finds that:
 - (1) Construction of new, single-family homes within the town’s planning jurisdiction in recent years has been limited almost exclusively to homes that exceed 1,350 square feet in heated floor area and/or that sell for prices in excess of \$ 175,000;
 - (2) It is in the public interest to have available within the town’s planning jurisdiction a diversity of new housing stock such that at least some newly constructed single-family homes are potentially affordable to families other than those in the highest income brackets;

- (3) The objective of providing some diversity in terms of the affordability of new housing stock within the town's planning jurisdiction as described above can be advanced by mandating that a certain percentage of the homes within new subdivisions be limited to not more than 1,350 square feet in heated floor area.
- (b) Subject to the remaining provisions of this section, every residential development containing between thirteen and twenty units for sale shall be developed in such a manner that at least fifteen percent of the dwelling units constructed within such subdivision contain not more than 1,350 square feet of heated floor area at the time such units are initially conveyed, and an additional ten percent of the dwelling units contain not more than 1,100 square feet of heated floor area at the time such units are initially conveyed. Every residential development containing twenty-one or more units for sale shall be developed in such a manner that at least fifteen percent of the dwelling units constructed within such development contain not more than 1,100 square feet of heated floor area at the time such units are initially conveyed, and an additional ten percent of the dwelling units contain not more than 1,350 square feet of heated floor area at the time such units are initially conveyed. For purposes of this subsection the term "heated floor area" means any fully enclosed (not merely screened in or partially enclosed) space that is within or attached to a dwelling unit, where either (i) the room temperature of such space is controlled or affected by a man-made heating or cooling device, or (ii) such space, although unheated, is clearly designed to be living space (as opposed to storage space or a garage) and can readily be converted into a heated living area. Such units shall be referred to in this section as "size-limited units." Notwithstanding the foregoing, the requirement for size-limited units shall not apply to residential developments located in the R-R or W-R zoning districts.
- (c) The number of dwelling units that can be constructed within an architecturally integrated subdivision or un-subdivided development is determined at the time the conditional use permit is approved. With respect to residential subdivisions other than architecturally integrated subdivisions, each lot that is large enough for only a single dwelling unit or that is limited by restrictive covenants to development only with a single dwelling unit shall be deemed to house one single-family detached dwelling unit. Lots that are large enough to accommodate more than one dwelling unit and are not so limited by restrictive covenants shall be deemed to house the largest number of duplex or multi-family units that could be approved under this chapter. The minimum number of size-limited units shall then be determined by multiplying the maximum number of dwelling units permissible within the subdivision as determined herein by the percentage specified in subsection (b) above (resulting fractions shall be dropped).

ATTACHMENT B-4

- (d) The developer's plans submitted with the application for a conditional use permit shall indicate which lots in the case of residential subdivisions or which units in the case of un-subdivided residential developments the developer proposes to develop with size-limited units. The conditional use permit plans and any necessary final plats shall indicate clearly where a size-limited unit must be constructed, and, in the case of subdivisions subject to the provisions of subsection (e), purchasers of lots shall be bound by the limitation.
- (e) No zoning or building permit may be issued for the construction of any dwelling unit on any lot that has been designated as a lot on which a size-limited unit must be constructed unless the dwelling conforms to the limitations of this section. Notwithstanding the foregoing, this section shall not prevent the purchaser of any size-limited unit, or any successor to such purchaser, from enlarging the dwelling unit at any time following one year after the issuance of the initial certificate of occupancy for the unit.
- (f) This section shall not apply to any subdivision where each of the lots so created contains on the date the final plat is approved a dwelling unit for which a certificate of occupancy had been issued at least three years prior to the date of final plat approval. Nor shall this section apply to modifications of previously approved subdivisions.
- (g) Size-limited units may not be located apart from the remainder of the development in any manner designed to isolate such units or discourage the residents of such units from full participation in the enjoyment of all facilities and common properties available to other residents of the development.
- (h) This section shall not apply to the development of land that, on the effective date of this section, was subject to restrictive covenants that preclude the construction of dwellings as those prescribed in this section.
- (i) This section shall not apply to the development of land for which a conditional or special use permit authorizing the development of such land was approved prior to the effective date of this section.
- (j) A residential development that provides at least 85 percent of the maximum number of affordable housing units available under the provision of Section 15-182.4 (Residential Density Bonuses for Affordable Housing) shall not be subject to the requirements of this section.

AN ORDINANCE AMENDING THE LAND USE ORDINANCE TO REVISE THE AFFORDABLE HOUSING DENSITY BONUS PROVISIONS AND TO PROVIDE ALTERNATIVE METHODS FOR DEVELOPERS TO FULFILL THE TOWN'S AFFORDABLE HOUSING POLICY GOAL.

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 15-182.4 of the Carrboro Land Use Ordinance is rewritten to read as follows:

Section 15-182.4 Residential Density Bonuses for Affordable Housing

(a) The Board of Aldermen has established as a policy goal that at least fifteen percent of the housing units within all new residential developments should consist of affordable housing units as described in this section. The remaining provisions of this section are designed to provide incentives to encourage developers to comply with this policy goal.

(b) For purposes of this section, an affordable housing unit means a dwelling unit that satisfies the requirements of the following subsections (1) and (2):

- (1) The appropriately-sized affordable housing unit must be offered for sale or rent at a price that does not exceed an amount that can be afforded by a family whose annual gross income equals 80 percent of the median gross annual family income, as most recently updated by the United States Department of Housing and Urban Development, for a family of a specific size within the Metropolitan Statistical Area where the Town of Carrboro is located. It is conclusively presumed that a family can afford to spend 30 percent of its annual gross income on housing costs. In the case of housing units that are for sale, the term "housing costs" shall mean the costs of principal and interest on any mortgage, real property taxes, insurance, fees paid to a property owners association, and any ground lease or maintenance fees. In the case of rental housing units, the term "housing costs" shall mean the cost of rent plus utilities. In making the calculation called for in this subsection, it shall be conclusively presumed that a unit is appropriately sized when an efficiency or one bedroom housing unit serves a family of one, that a two bedroom housing unit serves a family of two; that a three bedroom housing unit serves a family of three, and that a housing unit containing four or more bedrooms serves a family of four

The developer of the affordable housing unit must arrange for such unit to remain affordable as described herein for a period of not less than 100 years, commencing from the date of initial occupancy of the unit, by including provisions to ensure such continued affordability in legally binding agreements (including but not limited to a ground lease, a deed restriction or other covenant) running with the unit. The developer shall also establish or provide for arrangements to ensure that each such affordable unit is made

available for sale or rent only to a family whose annual gross income does not exceed 80% the median gross annual income of a family of the same size within the Metropolitan Statistical Area where the Town of Carrboro is located. The documents establishing such arrangements shall be reviewed and approved by the Town of Carrboro prior to final plat approval if the units are located on subdivided lots or prior to the issuance of a certificate of occupancy if the units are not located on subdivided lots. The provisions of this subsection (a)(2) shall be considered satisfied if units are transferred to the Orange Community Housing and Land Trust at or below a price that is consistent with the provisions of subsection (a)(1) above.

(c) For purposes of this section, an affordable housing lot shall mean a lot that (i) is designed and approved for the construction of a single family dwelling, and (ii) upon creation of such lot by the recording of a final plat, is donated (without additional consideration) to a non-profit agency that is in the business of constructing on such lots affordable housing units that meet the affordability criteria set forth in subsection (b) above.

(d) The maximum residential density permissible within a development whose maximum density would otherwise be determined in accordance with the applicable provisions of this Article XII shall be increased by two dwelling units for every one affordable housing unit constructed within the development, up to a maximum of 150% of the density otherwise allowable. Similarly, the maximum number of single family detached residential building lots that could otherwise be created within a development tract under the applicable provisions of this Article XII may be increased by two such lots for every one affordable housing lots created within such development, up to a maximum of 150% of the maximum density otherwise allowable. To illustrate, if the maximum density of a tract would be 100 dwelling units (or single family lots), a developer who chooses to construct 10 affordable housing units (or create 10 affordable housing lots) as part of the development of that tract would be allowed to construct 10 additional dwelling units (or create 10 additional lots) that did not satisfy the "affordability" criteria set forth in subsections (b) or (c), for a total density of 120 dwelling units (or lots). In this illustration, the maximum possible density that could be achieved would be 150 dwelling units if the developer constructed at least 25 affordable housing units (or created 25 affordable housing lots).

(e) Within any development that provides affordable housing units or affordable housing lots, the minimum area that must be set aside as open space to satisfy the requirements of Section 15-198 may be reduced by an amount equal to twice the land area consumed by all such affordable housing units or lots, except in no case may the required percentage of open space be less than 20 percent (10 percent in the ORMU and R-2 districts).

(f) Affordable housing units or lots constructed or created in accordance with this section shall not be unduly isolated or segregated from other dwellings or lots that do not satisfy the "affordability" criteria set forth in this section.

(g) In approving a special or conditional use permit for a development that proposes to utilize the density bonus provisions of this section, the permit issuing authority shall ensure, by approval of a condition, phasing schedule, or otherwise, that affordable housing units or lots are actually provided in accordance with the provisions of this section. Without limiting the generality of the foregoing, the permit issuing authority may impose a condition specifying that certificates of occupancy may not be issued for the market priced units until the corresponding affordable housing units are constructed and offered for sale or rent for an amount that is consistent with the definition set forth in this section.

(h) If, by using the affordable housing density bonus provided for in this section, the number of dwelling units or lots within a development increases to the point where the type of permit required for the project based on the number of units or lots would otherwise change from a zoning to a special use permit or from a special use to a conditional use permit in accordance with the provisions of Section 15-147, the developer may nevertheless seek approval for the project under the permit process that would be applicable if no density bonus was sought under this section.

(i) As provided in subsection 15-92.1(d), developments that use the affordable housing density bonus provisions of this section may be entitled to relief from the setback requirements under some circumstances.

Section 2. Section 15-54.1 (Affordable Housing Review Requirement) is rewritten to read as follows:

Section 15-54.1 Affordable Housing Goal and Alternative Methods of Achieving the Goal

(a) The Board of Aldermen has established as a policy goal that at least fifteen percent of the housing units within all new residential developments should consist of affordable housing units as described in Section 15-182.4. That section, as well as Section 15-188, establish incentives for developers to provide for such affordable housing. The purpose of this section is to establish alternative processes whereby developers who do not completely achieve the 15% objective can nevertheless contribute to the fulfillment of this goal in another way, and also to create a process to ensure that developers understand the importance of attempting to meet this goal.

(b) An applicant for approval of any residential development containing five or more dwelling units or lots that does not elect to meet the Board's 15 percent affordable housing policy goal by constructing affordable housing units or donating affordable housing lots (as those terms are described in Section 15-182.4) shall nevertheless be considered to have met this goal if such applicant makes a payment to the Town's Affordable Housing Special Reserve Fund in lieu of such construction or donation in an amount calculated as provided in this subsection:

- (1) The number of dwelling units or lots authorized within the development (including additional units or lots authorized when the developer chooses to

ATTACHMENT C-4

utilize the bonus density provisions of Section 15-182.4) shall be multiplied by 0.15 and the product shall be carried to two decimal places.

- (2) The number of affordable housing units or affordable housing lots proposed to be provided by the developer (as described in Section 15-182.4) shall be subtracted from the product derived under subsection (b)(1).
- (3) The product derived under subsection (b)(2) shall be multiplied by the affordable housing payment in lieu fee. The result is the amount that must be paid to satisfy the provisions of this subsection (b).
- (4) The affordable housing payment in lieu fee shall be an amount established annually by the Board of Aldermen at the beginning of the fiscal year. This fee shall be established so that it roughly corresponds to the average subsidy required for an affordable housing agency to complete an affordable unit. In making this determination, the Board shall be guided by the following:
 - a. At the end of each fiscal year, each affordable housing agency that operates within the Chapel Hill-Carrboro School District will be asked to provide the town with a list of new affordable units within that district during that year and to specify for each such unit the dollar amount of subsidy needed to make such unit affordable. The subsidies considered will be inclusive, i.e. donated lots, discounted land, public funds, private funds, donated infrastructure, donated or discounted labor and materials, or other forms of subsidy and shall represent the difference between the appraised market value and the sales price, less any addition subsidies provided at the time of sale.
 - b. The per unit average of the subsidies will be calculated.
 - c. The per unit average will be multiplied by the average percent increase in the cost of new homes constructed in the Chapel Hill Carrboro [consider Carrboro only?] area for that fiscal year, and the result will be the payment in lieu fee for the coming year.

(c) An applicant for approval of any residential development containing five or more lots restricted to single-family residential use (which lots the developer intends to sell undeveloped) who does not elect to meet the Board's 15 percent affordable housing policy goal by donating affordable housing lots (as those terms are described in Section 15-182.4) or making a payment in lieu as provided in subsection (b) above shall nevertheless be considered to have met this goal if such applicant chooses to follow the process that reserves lots for purchase by the Town of Carrboro and made a payment for the eventual purchase of such lots as outlined in this subsection.

- (1) The developer shall request that a condition that obligates the developer to comply with the provisions of this subsection be added to

the special or conditional use permit that authorizes the subdivision in question, and such condition shall be added by the permit issuing authority.

- (2) Before the final plat is approved, the developer shall designate on the plat a number of lots that are reserved for purchase by the Town of Carrboro. The number of lots so reserved shall be equal to the product of the number of lots within such subdivision multiplied by 0.15, rounded down to the nearest whole number.
- (3) The purchase price for each reserved lot shall be the estimated market price as agreed upon by the Town and the developer, which price shall be specified in the condition added to the special or conditional use permit.
- (4) The lots so designated shall be restricted by the permit to the development of affordable housing as defined in Section 15-182.4 of this chapter.
- (5) The lots so designated shall be in all other ways equal to the market rate lots and shall be provided with utility connections and other necessary infrastructure so as to deem them buildable at the time of sale.
- (6) With respect to all other lots within the subdivision, no certificate of occupancy shall be issued for any dwelling unit constructed on such lots unless and until a payment is made to the town in an amount determined as follows:
 - a. Prior to approval of the permit for such subdivision, the applicant for the permit shall estimate the total market value of all developed lots (i.e. lots with houses completed on them) within the subdivision that are not restricted to affordable housing units, and calculate from this number the percentage number that, when applied to the total market value of such developed lots, would yield the number of dollars necessary to purchase the lots within the subdivision that are restricted to affordable housing use.
 - b. If the town accepts the percentage number derived above as a reasonable estimate, such percentage shall be included as part of the condition on the permit prohibiting the issuance of a certificate of occupancy until a payment is made to the town as provided in this subsection.
 - c. The amount of the payment shall be determined by applying the percentage determined in accordance with this subsection to the

appraised value of the completed house and lot, as determined by a licensed appraiser.

- (7) The funds so received shall be held and reserved for the purchase of the lots designated to be developed with affordable housing.
- (8) The town shall have the right to purchase the designated lots at any time after final plat approval, and must purchase the lots not later than thirty days after sufficient funds to do so have been received by the town from the other lots.
- (9) If sufficient funds have not been received by the town to purchase one or more of the affordable housing lots after the last certificate of occupancy is issued for the other lots within the subdivision, then the town shall either purchase such affordable housing lot or lots using such funds as may be available to the town within thirty days after the date of issuance of such certificate of occupancy, or the condition limiting the use of such designated lot or lots to affordable housing shall be deemed to have expired and such designated lot or lots may thereafter be conveyed without this restriction.

(d) The Board finds that some developers may not fully understand how the affordable housing provisions of this chapter operate or the incentives that are available under the ordinance to encourage affordable housing. Therefore, the Board concludes that, when developers of proposed developments containing five or more dwelling units propose to construct such developments without meeting the affordable housing goals established by the town for new developments, it may be beneficial to both the developers and the town for the Board and such developers to have an opportunity, prior to the formal consideration of a permit request, to discuss the town's affordable housing policy, the affordable housing opportunities and incentives provided by this chapter, and any questions or concerns such developers may have about utilizing those provisions. Subsections (e) and (f) below provide for that opportunity.

(e) The applicant for any residential development containing five or more lots or dwelling units, and therefore required to obtain either a special use permit from the Board of Adjustment or a conditional user permit from the Board of Aldermen, shall be required to participate in an Affordable Housing Review Meeting with the Board of Aldermen if the residential development does not meet the Board's affordable housing goal in any of the ways described in this section or Section 15-182.4.

(f) Should an applicant for any residential development containing five or more lots or dwelling units decide in the course of the development review process to change the application in such a way that it no longer satisfies the Board's affordable housing policy goal, further review of the project will be delayed until the applicant participates in an Affordable Housing Review Meeting with the Board of Aldermen.

Section 3. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 4. This ordinance shall become effective upon adoption.

A RESOLUTION CREATING AN AFFORDABLE HOUSING
SPECIAL REVENUE FUND
Resolution No. 194/2006-07

WHEREAS, the Board of Aldermen has, through the adoption of policies and ordinances attempted to endorse and encourage the creation of affordable housing within the Town and its planning jurisdiction; and

WHEREAS, the Board believes that the creation of an Affordable Housing Special Revenue Fund will be another way in which the Board can advance its goal of increasing the stock of affordable housing within the Town and its planning jurisdiction; and

WHEREAS, the term “affordable housing” shall have the meaning specified in Section 15-182.4 of the Carrboro Land Use Ordinance;

NOW THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. The Town shall establish and maintain an Affordable Housing Special Revenue Fund. Payments to the Town made by developers in lieu of providing affordable housing under the applicable provisions of the Land Use Ordinance shall be deposited into this fund. Other revenue sources for the fund may include grants, donations, loans, interest payments, or other revenues that may become available.

Section 2. The Board shall authorize all disbursements from the fund. [Alternatively, the resolution could provide that disbursements up to a certain amount in furtherance of the purposes of the fund could be authorized by the manager].

Section 3. Appropriations from the fund may be in the form of grants or loans and may be used for any of the following purposes:

- To guarantee the payment of loans or subsidize the interest rate on loans made by financial institutions to qualified individuals for the purpose of acquiring or rehabilitating affordable housing (such guarantees shall not extend beyond funds available in the Affordable Housing Special Revenue Fund);
- To provide direct deferred payment loans to qualified individuals supplement loans made by financial institutions for the purpose of acquiring or rehabilitating affordable housing;
- To purchase land for reconveyance to nonprofit affordable housing agencies;
- For down payments, earnest money, or first options on properties to be placed in the Orange Community Housing and Land Trust;
- To pay some or all of the expenses associated with the construction of affordable housing;

- To acquire developed properties suitable for resale to qualified low and moderate income buyers;
- To pay some or all of the pre-development costs (such as feasibility studies, appraisals, land options and preparation of an application) for projects to be developed for the purpose of providing rental or owner-occupied affordable housing.
- To provide grants to organizations for land trust projects that guarantee long-term affordability of a property through a 100-year renewable ground lease.

Section 4. This resolution shall become effective upon adoption.