

**BOARD OF ALDERMEN**

ITEM NO. (5)

**AGENDA ITEM ABSTRACT**

**MEETING DATE: October 28, 2008**

**TITLE: Public Hearing on a Land Use Ordinance Text Amendment to Modify Affordable Housing Provisions**

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| <b>DEPARTMENT: PLANNING</b>   | <b>PUBLIC HEARING YES <u>X</u> NO <u>  </u></b>                |
| <b>ATTACHMENTS</b><br>A. Resolutions finding consistency<br>B. Draft ordinance<br>C. Recommendation and comment | <b>FOR INFORMATION CONTACT:</b><br>Patricia McGuire – 918-7327 |

**PURPOSE**

Earlier this year, staff identified some needed adjustments to the formula and schedule for making payments-in-lieu for affordable housing. A draft ordinance was prepared, a public hearing set, and the ordinance was referred to the Planning Board for review. The Board of Aldermen must receive public comment before taking action on the draft ordinance.

**INFORMATION**

Existing ordinance provision. In 2007, the Board of Aldermen adopted Land Use Ordinance provisions to accept payments in lieu of units provided to meet the Town’s affordable housing goal. This amendment to Section 15-54.1 of the Land Use Ordinance, which established a formula for payments-in-lieu of affordable housing, specified the following procedure for annual establishment of a payment in lieu fee:

- (1) 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 additional 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 area for that fiscal year, and the result will be the payment in lieu fee for the coming year.

Limitations of specified process. Though the ordinance states that the Board will be guided towards establishing a fee that would approximate the subsidy needed to produce an affordable unit, a fairly detailed process was included. A few limitations of the specified process have been identified, detailed below:

- 1) Timing of fee adoption. The ordinance calls for the compilation of data that will be used to set a payment in lieu fee at the end of a fiscal year and for the Board of Aldermen to adopt the fee at the beginning of a fiscal year. Typically, annual fees such as this one are established as part of the budget process, with data compiled from January to March and a fee offered for the Board of Aldermen's consideration in the Fees and Charges Schedule in May. Staff suggests modifying the language in the ordinance to allow collection of data for a one-year period that would likely span from March of one year to March of the next year. This would allow compilation and inclusion of the fee with others when a fee schedule is adopted as part of the Aldermen's action on the Town's annual budget.
- 2) Market adjustment. Since the fee is to be set each year based on the previous year's activity, a market adjustment is not needed.

Agency and Advisory Review. Staff has met with and/or discussed the changes with representatives of local agencies in the business of providing affordable housing units (i.e. Empowerment, Habitat for Humanity of Orange County HHOC), and Orange Community Housing and Land Trust. These representatives have expressed support for simplifying the formula and process for establishing this fee, providing some flexibility in calculating the subsidy, and have suggested that the text be further simplified. These representatives have suggested that all homes provided within Orange County be included each year, rather than limiting the pool to those provided with the Chapel Hill-Carrboro City School District. Due to the small number of units provided within the school district, outliers tend to skew the average subsidy. This can also occur when the appraised market values are much higher than the sales price. These representatives believe that payments-in-lieu of some units are necessary for the community to achieve its desired goal of expanding the supply of affordable homes. The concern is that a payment-in-lieu that is skewed too high or too low as a result of a small pool of new units would either be rejected by the development community or, if accepted, would yield significantly lower than the amount needed to subsidize the development of these new homes.

The draft ordinance (*Attachment B*), if adopted, would revise the provisions pertaining to setting the affordable housing payment in lieu fee by

- 1) modifying the timing of fee adoption to allow for data collection on a schedule consistent with the annual fee schedule update,
- 2) removing the market adjustment calculation; the annual fee would result from the average subsidy alone,

- 3) allowing homes built throughout Orange County, rather than only within the CHCCS school district to be used to calculate the average subsidy, and
- 4) making the calculation of the difference between the appraised market value and the sales price an optional, rather than required, step in the process of determining the subsidy. The changes that were made to the draft ordinance subsequent to presentation of the draft ordinance to the Planning Board are shown in strikethrough/underlined text.

The draft ordinance was referred to the Planning Board and Orange County for review. Recommendations and comments are attached (*Attachment C*).

### **STAFF AND FISCAL IMPACT**

The proposed changes seek to simplify the collection of data on affordable housing and calculation of an annual fee on schedule with the creation of the annual fees and charges schedule. A slight reduction in staff time needed to accomplish the task is anticipated.

### **RECOMMENDATION**

The staff recommends that the Board of Aldermen adopt the resolution finding consistency with adopted policy and the draft ordinance itself (*Attachments A-1 and B*).