

A RESOLUTION FOLLOWING UP ON REQUESTS FROM THE COMMUNITY
HOME TRUST AND CALLING A PUBLIC HEARING ON AN ORDINANCE
AMENDING THE CARRBORO LAND USE ORDINANCE PROVISIONS RELATED
TO PAYMENTS-IN-LIEU OF AFFORDABLE HOUSING

Resolution No.155/2011-12

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

WHEREAS, the Carrboro Board of Aldermen continues to support the provision of owner-occupied affordable homes by the Community Home Trust; and

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen amends the fee waiver policy to include application fees for land use ordinance text amendments among those that can be waived by the Board under the policy.

BE IT FURTHER RESOLVED that the Board of Aldermen calls a public hearing on June 26, 2012 to consider adopting "AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE RELATING PAYMENTS-IN-LIEU FOR AFFORDABLE HOUSING UNITS."

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

BE IT FURTHER RESOLVED that the draft ordinance is also referred to the following advisory boards and commissions for consideration and recommendation prior to the specified public hearing date:

☐ Appearance Commission

☐ Transportation Advisory Board

☐ Environmental Advisory Board

☐ Economic Sustainability
Commission

☐ Recreation and Parks Commission

☐ Northern Transition Area Advisory
Committee

☐ _____

☐ _____



From: Robert Dowling and Anita Badrock
 Re: The affordable homes in the Ballentine development
 Date: February 7, 2012

As the Board may recall, the Ballentine subdivision includes 17 affordable townhomes that are to become part of the Home Trust inventory. The first eight of those townhomes are scheduled to be complete in April/May of this year. The rest are to be built in late 2012 but not ready to close until 2013.

We are coming before you tonight with 3 requests for you to consider, in this order:

1. To, with due haste, amend your ordinance so that we can sell 2 of the Phase One townhomes to buyers making above 80% of the AMI. **This action will need to be completed before the end of March in order to affect the sales process for these homes.**
2. To allow the Developer to make a reasonable payment in lieu for the final 2 townhomes that will be part of a mixed building of market rate and affordable townhomes.
3. To modify the performance schedule for the pace of completing the second phase of affordable housing components of the development.

Item #1

- The Carrboro Board of Alderman approved serving these higher income buyers last year.
- Ballentine is the first and only development scheduled for completion since the Alderman approved the higher income limits that can provide affordable homeownership opportunities for these buyers in Carrboro in the foreseeable future.
- By allowing 2 of these homes to be sold to higher income buyers, we can preserve diminishing funds for more needy buyers. Buyers over 80% cannot receive subsidy for purchase.
- Allowing sale to higher income buyers expands the buyer pool.

The Ballentine project, as currently proposed, needs at least \$265,000 of subsidy for the initial sale of 8 units. By allowing 2 of the units to be sold as unsubsidized, we will reduce our subsidy need by more than \$60,000 at initial sale. Since HOME Funds have been cut twice in the past 12 months, this savings is important to all organizations that rely on HOME funds.

We have been working with the Planning Staff on the proposal to sell 2 units to buyers above 80% of median, and we recognize that an ordinance change will be required. **Since these townhomes will be built in the next 3 months, we thought we should bring this matter to the immediate attention of the Mayor and Board. Any action required will need to be completed by the end of March 2012 to allow us to serve these**

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Item #2:

- The final 2 townhomes will be part of a mixed building. This configuration presents design issues as well as issues with long term maintenance.
- A reasonable payment in lieu will provide funds for affordable housing initiatives under the control of the Town of Carrboro.
- Loss of 2 units would not significantly impact the goals of the inclusionary ordinance or the community's access to affordable housing

This change would require a revision to the Ballentine CUP and to the Town's Affordable Housing Ordinance. June 30, 2012 is a requested date for completion.

Item #3:

- The developer is currently required to build the 17 affordable townhomes concurrent with the market rate townhomes.
- Current reductions in subsidy funding are expected to continue, making it more difficult to project when sufficient funds will be available to assist the buyers of the second phase of affordable Ballentine townhomes with funds for purchase.
- The Home Trust wants to be sure funding is secure before making a commitment that it can sell future affordable housing.
- It seems unreasonable to expect the developer to produce affordable homes which the Home Trust is unable to sell because local and state governments do not have the necessary funds to provide subsidy for these buyers.
- If the Town does not amend this development schedule, then the Town risks losing assurances that the Phase Two townhomes will be owner occupied and owned by lower income people.
- If the Town grants some flexibility as to when the developer can build the second round of affordable homes, the Home Trust can better maximize the use of subsidy from other sources such as NCHFA. This action will further preserve local HOME funds for other uses.

This action will also require a revision to the Ballentine CUP. June 30 is a requested date for completion.

General Information

The Home Trust predicts that the Ballentine subdivision, as currently proposed, will need more than \$500,000 to make the homes affordable on the initial sale.

Because the local AMI figures are now less than they were seven years ago, these homes, and others like them, will continue to require subsidy funds at resale.

The Payment in Lieu option remains a way for the Town of Carrboro to develop a local source of funds to assist Home Trust buyers and fund other housing initiatives.

Federal funding is **rapidly** dwindling, and the success of the local affordable housing initiatives will be more and more dependent upon developing a local pool of funds to support the mission of inclusionary housing.

Section 15-54.1 Affordable Housing Goal and Alternative Methods of Achieving the Goal
(REWRITTEN 6/26/07; AMENDED 10/28/08)

(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 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% 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 under Section 15-182.4 when the developer constructs affordable units, provides affordable housing lots, or is authorized by the Board to construct density bonus units by making a payment in lieu of constructing units) shall be multiplied by 0.15 and the product shall be carried to two decimal places. **(REWRITTEN 1/22/08)**
- (2) There shall be subtracted from the product derived under subsection (b)(1) of this section (i) the number of affordable housing units or affordable housing lots the developer proposes to provide under Section 15-182.4, plus (ii) the number of affordable housing payment in lieu fees the Board has agreed to allow to be regarded as the equivalent of providing an affordable housing unit under Subsection 15-182.4(d1). **(REWRITTEN 1/22/08)**
- (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. 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: **(AMENDED 10/28/08)**
 - a. Once every twelve months, each affordable housing agency that operates within Orange County will be asked to provide the town with a list of new affordable units within the County during the previous twelve-month period 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, including, if appropriate, the net-present-value discounts on financing, and may represent the difference between the appraised market value and the sales price,

- b. The per unit average of the subsidies will be calculated and this average shall represent the annual payment in lieu fee.

(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% 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 makes 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 render 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 ninety 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 ninety 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.
 - (10) If the funds received exceed the amount necessary to purchase the lots that have been reserved then such funds shall be retained in the fund and used for other purposes authorized for that fund.

(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.

**AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE WITH
RESPECT TO AFFORDABLE HOUSING PAYMENTS IIN LIEU**

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Subsection 15-54.1(b)(4) of the Carrboro Land Use ordinance is amended to read as follows:

(4) The affordable housing payment in lieu fee shall be an amount established by the Board of Aldermen and shall be included in the Town's Miscellaneous Fees and Charges Schedule. This fee shall be established so that it roughly corresponds to the difference between the amount it costs a developer to produce a two bedroom affordable housing unit (including land cost, the cost of construction, and other costs allocable to such unit) and the maximum amount for which that housing unit could be sold (as an affordable housing unit) by the developer in accordance with Section 15-182.4.

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.