

MEMORANDUM

TO: Roger L. Stancil, Town Manager

FROM: J.B. Culpepper, Planning Director
Loryn Clark, Housing and Neighborhood Services Manager

SUBJECT: Public Hearing: Proposed Inclusionary Zoning Ordinance

DATE: March 15, 2010

PURPOSE

Tonight, the Council will consider proposed changes to the Land Use Management Ordinance to include Inclusionary Zoning regulations that would require most residential development proposals to include provisions to expand the Town's supply of affordable housing.

The draft ordinance is consistent with the Town's Comprehensive Plan adopted May 8, 2000 that includes an objective to increase the availability of housing that is affordable to all residents who live and work in Chapel Hill, and expressly encourages the Town to pursue enactment of an Inclusionary Zoning Ordinance.

SUMMARY OF INCLUSIONARY ZONING

Inclusionary Zoning is a tool that is used in association with local municipal or county land use ordinances that requires market rate developers to provide affordable housing for lower and moderate income households. The Town proposes to incorporate Inclusionary Zoning regulations into the Land Use Management Ordinance. Provisions of this ordinance are designed to mitigate negative community impacts on affordable housing that are generated by the construction of new residential dwelling units. A support study documents that construction of new housing involves use of a workforce, part of which works at income levels that preclude most housing options available in the community. This new ordinance would require that, as new residential dwellings are built in Chapel Hill, affordable housing opportunities also be provided in the amount of 15% of the total market-rate units that are to be developed.

BACKGROUND

During the development of the Town's Land Use Management Ordinance, enacted January 27, 2003, the Council considered, but did not include, inclusionary zoning provisions. In September, 2001, the Town's consultant, provided a memorandum to the Council with advice as to how inclusionary zoning could be included in the Land Use Management Ordinance.

On April 27, 2005, the Council held a work session on the Comprehensive Plan's Affordable Housing Strategies. At that time, the Council decided to initiate a process to consider drafting an inclusionary zoning ordinance, and established a Council Committee to draft a proposal. The Council also decided to appoint a committee to help develop the draft.

On September 22, 2005, the Council adopted the following charge for an Inclusionary Zoning Task Force:

- To evaluate the data and reports collected by staff pertaining to the local housing market and need for additional affordable housing;
- To determine the need and justification for an inclusionary zoning ordinance;
- To evaluate ordinances that have been enacted or proposed in other communities; and
- To make a recommendation to the Town Council on the content of an inclusionary zoning program and ordinance for Chapel Hill.

On November 20, 2006, the Inclusionary Zoning Task Force presented a report including a draft ordinance to the Council. In response to the Task Force's recommendation, the Council also authorized the hiring of a consultant to prepare a draft Inclusionary Zoning ordinance.

The Inclusionary Zoning Task Force continued its work with a new consultant, Roger Waldon of Clarion Associates, to develop a draft ordinance. On September 28, 2009, the Inclusionary Zoning Task Force presented a report and draft Inclusionary Zoning Ordinance to the Council. The resolution adopted by the Council referred the report and draft Inclusionary Zoning Ordinance to the staff to develop a process for review.

On October 28, 2009, the Council endorsed a schedule for community input on a proposed Inclusionary Zoning Ordinance. The public process included two public information meetings held on December 3, 2009 and February 2, 2010, review by the Planning Board and also includes tonight's public hearing.

DISCUSSION

Inclusionary Zoning is one of the strategies included in the Town's Comprehensive Plan that could be used to increase the Town's affordable housing stock. The Inclusionary Zoning Task Force worked with Clarion Associates to develop a draft Ordinance that incorporates the issues and incentives raised in the Comprehensive Plan such as density bonuses and an option for providing a payment-in-lieu of providing affordable housing. In addition, one of the Council's 2008-2009 goals adopted on May 4, 2009 is to complete the Inclusionary Zoning Ordinance. The draft ordinance, which has been developed for public discussion, illustrates a possible approach to Inclusionary Zoning.

Key Elements of Ordinance

- Most residential development proposals must include provisions to expand the Town's supply of affordable housing.
- Affordable housing means dwelling units affordable to households earning 80% of the area median income. Of the affordable units provided, half must be priced so that they are affordable to households earning up to 65% of the area median income, and the remaining units must be priced so they are affordable to households earning up to 80% of the area median income.
- The amount of affordable housing required is the equivalent of 15% of the number of unrestricted dwelling units (if an applicant receives approval for development of 100 dwelling units, that applicant is responsible for providing 15 affordable housing opportunities.)
- Applicants are required to provide affordable housing and are granted density and floor area bonuses, so as not to limit the number of unrestricted units that are permitted.
- The default expectation is that the affordable housing is provided on the same site as the unrestricted dwelling units. "Safety valve" provisions are included for circumstances where that is infeasible.
- Details are provided in the Land Use Management Ordinance and in an associated Administrative Manual.
- Affordable units must remain affordable for at least 99 years or as long as permissible by law.

Community Input Process

The Town held Public Information Meetings on December 3, 2009 and February 2, 2010. These meetings were noticed through direct emails to stakeholder groups, notice on the Town's website, the Town's eNews, press releases and notification to advisory boards and neighborhood groups. Please see Attachment 1 for a summary of questions and comments raised at the meetings.

Affordable Housing Advisory Board

The Inclusionary Zoning Task Force recommended that the Town create an Affordable Housing Advisory Board. The purpose of the Board would be to review the affordable housing component of development applications and provide recommendations to the Council and/or Planning Board. Currently the staff evaluates applications that include affordable housing and forwards recommendations to the Council and/or Planning Board and we believe that a dedicated Advisory Board could provide valuable input. We believe that this Advisory Board could also provide assistance with the evaluation of funding requests for Community Development Block Grant funds and other funding sources.

FISCAL IMPACTS

There could be fiscal impacts to developers, builders, the Town and the Town staff depending on what is ultimately adopted by the Council. We believe that the proposed density bonus would offset losses that builders could experience from construction of affordable units. We also note that the proposed ordinances recommends waiving development related-fees for affordable units.

For Town staff, there would be an increase in the existing review process for all residential development applications. In addition, staff would have to provide support to a new Affordable Housing Advisory Board that is recommended by the Task Force.

These initial fiscal impacts of the Inclusionary Zoning Ordinance will be updated to reflect changes that emerge from the public hearing and deliberation process.

RECOMMENDATIONS

Planning Board Recommendation: That the Council open the Public Hearing on March 15, 2010. Please see Attachment 3 for a Summary of the Planning Board's Action.

Staff Preliminary Recommendation: That the Council open the public hearing and receive comment regarding the proposed Inclusionary Zoning Ordinance text amendment.

ATTACHMENTS

1. Summary of Public Comments (p. 5).
2. Draft Inclusionary Zoning Ordinance (p. 9).
3. Draft Administrative Manual (p. 28).
4. Summary of Planning Board Action (p. 34).
5. Members of the Inclusionary Zoning Task Force (p. 35).