Staff Response/Discussion
To
Affordable Charlotte Cabinet:
Regulatory Barriers to Affordable Housing

August 2010

Representatives of the "Affordable Charlotte Cabinet" made a presentation to the City Council in March addressing the impact of local government regulation on housing. The Cabinet posits that the expense of an accumulation of land development standards is an unreasonable burden on the cost of housing, particularly affordable housing, defined locally as units built to address the housing needs for residents earning below 60% of the area median income (AMI). The group feels these costs disproportionately impact the development of affordable (subsidized) as well as entry-level (market-rate) housing since they represent a larger share of the total unit cost than that of higher price-point housing. Below is a staff response and discussion of issues raised in the Affordable Charlotte Cabinet presentation and materials.

Should affordable and entry-level housing have lower quality standards and regulations for development?

Land development regulations and requirements play a significant role in ensuring new neighborhoods and housing reflect the community's standards for quality, sustainability and protection of the environment. Over the last three decades, development standards have increasingly addressed numerous issues. Several have been a result of federal and state laws, while others reflect the community's interest in higher quality infrastructure, such as a greater sidewalk network and preservation of the tree canopy. It is true these quality standards add to the initial cost of housing development. However, allowing or dictating a lower standard of quality for affordable and entry-level housing developments, would, by design, create substandard neighborhoods, and undermine the ability of residents and the larger community to build value over time.

What are significant drivers of the cost of affordable housing other than regulations?

Developing affordable housing is economically challenging due to the limited rates of return provided on the required investment. These developments typically require some level of financial subsidy, particularly those focusing on units serving a population earning below the 60% AMI threshold. Increases in regulatory costs, as well as those of land, design fees, construction/materials, and financing, collectively impact the financial viability of affordable housing developments. A study of the affordable housing market[1] recently completed for the Charlotte Housing Authority finds that a subsidy of $33,944 to $44,863 per unit would be necessary for a typical 50 unit apartment complex to be financially viable for the private sector. These figures are based on affordability for low income households earning between 30% and 60% of AMI and very low income households earning below 30% of AMI, respectively. While the figures are based on broad, industry data rather than site specific studies, they do illustrate the cost of meeting quality infrastructure standards is only a portion of the overall financial gap in providing affordable and entry-level housing. Significantly reducing infrastructure standards for entry-level housing would create substandard neighborhoods and would not solve the majority of the affordability problem.

[1] "A Comprehensive Affordable Housing Market Study for Mecklenburg County" May 2010; UNC Charlotte Urban Institute and Metropolitan Studies and Extended Academic Programs

Are there ways to affect the supply of affordable and entry-level housing other than reducing the quality of its infrastructure and reducing protection of the environment?

The Affordable Charlotte Cabinet's mission statement includes a goal to "…increase the number of affordable housing opportunities in the Charlotte-Mecklenburg region through a comprehensive, coordinated and collaborative strategy designed to reduce or eliminate the challenges and obstacles to making affordable housing available and reduce upward pressure on housing prices at all levels." The City staff and the City Council's housing strategy are aligned with and support this mission and the staff is ready to explore solutions with affordable and entry-level housing providers.

The City and housing providers must collaborate to creatively find ways to bring affordable and entry-level housing to the marketplace, while also maintaining the standards that will insure housing provides long-term, sustainable value for the homeowners and the community. The discussion must focus equally on the sustainability of neighborhoods and the financial return on investment.

One way of reducing the cost of affordable and entry-level housing is to maximize the use of land by increasing the number of buildable units per acre through building design and site layout modifications. Small-lot, single-family detached and attached townhomes can provide viable alternatives to the typical single-family home and require less land for each housing unit. Many of Charlotte's urban zoning districts accommodate these housing types. "MX" zoning (mixed-use classification) allows innovative design standards, another possibility for reducing lot sizes.

Additionally, the cost of affordable and entry-level housing could possibly be offset by financial subsidies in support of other policy priorities. One source of subsidy might be the payment-in-lieu option in the Tree Ordinance, where funds are derived from other market-rate projects. It is important that any public subsidies be provided to address affordability over time. This affordability requirement is more easily managed with rental units through rent rate restrictions. With respect to home ownership, unless preserved for affordability through deed restrictions or other such binding measures, the initial cost benefits received through subsidies on entry-level housing units are typically not passed along by the initial purchaser to subsequent owners.

Does the City consider the cost of quality standards and regulations? What kinds of cost studies have been done?

The City Council and City staff are cognizant of the cost of new regulations, as well as the high cost of retrofitting infrastructure with public funds in areas that have already been developed. As an example, in 2006, the City was preparing new policies/regulations – the General Development Policies (GDP), the Urban Street Design Guidelines (USDG) and the Post Construction Controls Ordinance (PCCO) - and contracted with The Citistates Group to assess how the proposed policies/regulations would impact Charlotte's overall economic development future.

The study acknowledged shifting from Charlotte's predominant development pattern during the second half of the twentieth century - a model emphasizing low-density, spread-out, auto-dependent development – will result in increased costs. However, according to the study, those costs are investments when Charlotte's future is viewed in terms of preserving quality of life and real bottom-line value, and the payoff for making these changes would be substantial and sustainable over time.

The City Council also directed completion of a cost analysis to specifically examine the cumulative effects of the USDG, PCCO, and GDP. The study was completed in 2007, and included case studies spanning various types of development and redevelopment projects, including both commercial and residential land uses. The

study was completed by LandDesign, a consulting firm capable of accurately reflecting the state of the industry. The study revealed that compliance costs were similar to the studies conducted earlier in the PCCO stakeholder process, and that stakeholders had access to valid information to form their recommendations. The analysis did lead staff and stakeholders to propose a number of changes to the PCCO that were implemented, including recommendations for tree save requirements and redevelopment projects.

A cost/benefit report specific to the Tree Ordinance was completed in December, 2009 at the request of the City Council's Environment committee. This work was done over a six-month period and focused primarily on two Ordinance amendments: 1) a 15% commercial tree save requirement and 2) increasing the number of trees required to be planted in parking lots. As a result, recommendations to adjust the Ordinance were made by both staff and a stakeholder group. These studies in part overlapped work done to address the Post Construction Controls Ordinance, noting that the 15% commercial tree save area could also satisfy the 'natural area' requirement of the PCCO.

How does the cost of quality development standards at the time of construction by developers compare to the cost of retrofitting infrastructure and environmental controls by the City?

The cost of retrofitting infrastructure and environmental controls on developed property is usually several times greater than if constructed as part of the original development. For a retrofit project, many factors can compound the costs, such as: lack of economies of scale present in the original construction, cost of construction and materials, prices escalating over time due to inflation, land and easements acquired from multiple owners at appreciated values, resident improvements such as landscaping and other features included in landowner compensation, and maintaining traffic flow and utilities serving the development during construction.

What is the origin and what are the benefits of the Stormwater Post Construction Controls Ordinance?

As rooftops, parking lots, driveways, streets and other impervious surfaces from past and new development have increased in Charlotte and Mecklenburg County, local watersheds have been impacted, increasing stormwater runoff rates and volumes, soil erosion, stream channel erosion, non-point source pollution and producing more sedimentation downstream. These increases in stormwater runoff contribute to increased quantities of waterborne pollutants and alterations to surface water, which are harmful to public health and safety as well as to the natural environment. These changes also greatly increase the potential for flooding of streets and structures.

The PCCO was debated and reviewed during 36 stakeholder meetings spanning a four-year period, and highlighted four main goals:

- Address federal and state mandated minimum requirements;
- Allow development to continue in areas affected by the endangered Heelsplitter mussel;
- Address the causes of degradation that resulted in watershed impairment and prevent further degradation; and
- Address the causes of urban flooding.

Under federal law, the City was required to enact a PCCO ordinance in 2008 to meet minimum requirements. Requirements above those mandated by law address local flooding issues and mitigating constraints on new development resulting from certain endangered species. In 2012, Charlotte is again required to renew its stormwater permit, which is expected to include more restrictive, specific and enforceable language mandated by state and federal officials.

Did the example described by the Cabinet accurately reflect the requirements of PCCO?

A case study presented by representatives of the Affordable Charlotte Cabinet showed how a Habitat for Humanity development would be significantly affected by the costs of complying with the PCCO. In that example, the number of housing units dropped from 60 to 50 to accommodate the ordinance requirements, and the average cost per unit to comply was stated to be $8,300. A staff review of the Habitat case identified alternate designs available through the flexibility in the ordinance which would allow at least 56 units in the project. Also, since the Habitat project was located in a Distressed Business District, the requirements would be reduced, further reducing the cost of compliance. Based on a simpler, less expensive drainage basin and a higher number of units, the staff estimates the cost of compliance to be less than $3,000 per unit rather than the $8,300 projected by Habitat. Other industry examples reviewed by the staff have also not taken into account the flexibility afforded in the ordinance, specifically the options available within approved Transit Station Areas and Distressed Business Districts.

What is the origin and what are the benefits of the Urban Street Design Standards?

The Urban Street Design Guidelines were developed by staff from CDOT, Planning, Engineering and CATS. They were adopted by the City Council in 2007 and are being implemented to respond to several challenges, including providing enough and appropriate transportation infrastructure to support and complement Charlotte's growth. Streets, and particularly properly designed streets, will be necessary for this purpose.

The combination of these circumstances elevates the need to both continue to retrofit the existing street network and to create new streets that afford Charlotte residents more mobility, accessibility and connectivity options. By providing a better street network, improved street designs and streets that are "right-sized" to their context, the USDG are intended to provide capacity and safety for motorists, pedestrians and cyclists as the City continues its inevitable growth. The US EPA recognized the USDG with a National Award for Smart Growth Achievement.

Would the USDG prohibit much of Myers Park and Dilworth from being developed today?

No. The USDG were developed to help create in Charlotte's newer neighborhoods the types of streets that exist in these great streetcar-era neighborhoods – streets that are well-connected, walkable, highly functional for all travel modes, provide a great public realm and are associated with lasting value. Implementation of the USDG in the proposed Subdivision Ordinance language supports the critical street design elements that earn Myers Park, Dilworth and similar neighborhoods their acclaim. The block lengths recommended in the USDG are typically consistent with those of these neighborhoods. The inclusion of a new regulatory tool, "Alternative Compliance," specifically allows for flexible adjustments if deemed necessary for a development to re-create or emulate these types of streets and neighborhoods.

What is the origin and what are the benefits of the Tree Ordinance?

The Tree Ordinance was adopted in 1978, primarily as a planting requirement on commercial properties. In order to gain the National Arbor Day Foundation's *Tree City USA* designation, cities must have a tree ordinance and a budget dedicated to trees. Charlotte has done so for the last 30 years. Charlotte's residents and visitors benefit daily from cleaner air, shadier streets, reduced storm water runoff and the greater aesthetic beauty that healthy, well-managed urban forests provide. In 1989, measures to provide for "tree save areas" along street frontage on commercial properties were added. In 2002, borne of the realization that large swaths of tree canopy were being lost in Charlotte, tree ordinance provisions were added to single-family residential development standards. These single-family requirements include street tree plantings and the preservation of

a minimum of 10% of the subdivision land area in tree canopy. In 2006, a stakeholder group was formed to revise the Tree Ordinance. The notable change proposed by this group was to allow flexibility and options for the commercial tree save requirement, allowing the proposed 15% area to be located nearly anywhere on a site. The intended result was to prevent construction conflicts and increase tree protection. These new options for commercial tree save are scheduled for a public hearing on August 23 and consideration by the City Council in September.

What is Charlotte-Mecklenburg's status on maintaining our tree canopy?

A recent study of Mecklenburg County's tree canopy was completed by the non-profit organization American Forests, the City of Charlotte and Mecklenburg County. The findings were reported to the City Council in May, 2010. The study showed the City of Charlotte (including the ETJ) lost approximately 2% of its tree canopy between 2002 and 2008. This is notable because those years were a period of particularly rapid development. Although the City of Charlotte, at 46% tree coverage, is currently within the American Forests' recommended coverage range, the recently-proposed modifications to our Tree Ordinance are necessary to reduce future canopy depletion and remain at the current level of coverage. Charlotte's approach for maintaining and enlarging the City's tree canopy is to strategically protect trees where practical and possible, as well as to plant and replace trees lost during development. The Tree Ordinance changes will strengthen both methods used to maintain our tree canopy.

Do these standards conflict with each other or neutralize each other?

Taken as a whole, these ordinances, standards and policies are complementary and do not conflict with the overall goal of providing a sustainable community with mobility choices and quality infrastructure that supports the development. More streets and sidewalks do create impervious surface, but more trees reduce stormwater runoff. The USDG will help create tree canopy and streets like those in Charlotte's most cherished neighborhoods. Similarly, the PCCO requirements for open space can be partially met through the planting strips and medians included in the USDG cross-sections.

For commercial development, the Tree Ordinance requirement for tree save provides more flexibility by not restricting tree protection to the front building setbacks, but allowing it anywhere on site. Additionally, certain development scenarios have compliance options such as off-site mitigation, green roofs and payment-in-lieu of planting on-site.

How will these standards be administered to insure both predictability and flexibility and prompt decision making at the staff level?

Applying multiple development standards inherently creates conflicts and the need for trade-offs. The City staff is continually working to empower reviewers to resolve these issues in a collaborative way with developers and their designers. When a conflict cannot be resolved at that level, the City Manager has authorized the Planning Director to make timely decisions necessary to advance the overall goals of the community.

The USDG are inherently flexible, providing for street designs and network expectations that match a variety of different contexts. For example, while local street designs are prescriptive, the USDG provide a greater variety of cross-sections available to be used in the appropriate context. The designs for thoroughfare-type streets are very flexible to meet existing constraints and to ensure suitability for use in retrofit and infill conditions.

As the USDG have been drafted into ordinance language, flexibility has been maintained, even as the language provides the predictability necessary for the regulatory environment. The draft Subdivision Ordinance language includes context-based standards that provide for options such as private streets, paper streets and half streets to meet the USDG standards. Importantly, the ordinance language also allows for optional levels of review to create the greatest flexibility in meeting the intent of the USDG policies. The draft ordinance language includes an "Alternative Compliance" option to provide flexibility for developments proposing innovative approaches that meet or exceed the intent of the USDG.

The Tree Ordinance guidelines are intended to aid both designer and developer in understanding and compliance. The proposed Tree Ordinance has several options for tree save and tree planting. The major proposed Tree Ordinance changes were borne out of City staff's recognition that commercial tree save needs to have location flexibility, allowing tree save anywhere on site and not regimented to road frontage where many conflicts occur.

For PCCO, during the four-year process of meetings, cost analysis and negotiation, a careful balance was struck between environmental protection, controlling costs and providing flexibility. The ordinance achieves this by demonstrating:

- **A watershed district approach**: Applying more protection where needed and less where it is not, controls costs. This has added complexity to the ordinance, but ensures an optimal balance. For example, wider stream buffer widths and controls for specific pollutants such as phosphorous are only applied in the watersheds where needed most, such as along the lakes and near habitat of the Heelsplitter mussel.

- **Flexibility:** The stakeholders representing development interests were very vocal about the need for predictability, flexibility and having "relief valves" built in. Numerous ways to achieve this are specifically spelled out in the ordinance, such as:
    - Exemptions for small sites and industrial properties;
    - Fee-in-lieu options for small sites and redevelopment sites in Transit Station Areas and Distressed Business Districts;
    - Off-site mitigation of phosphorous and total suspended solids (TSS) removal;
    - On-site and off-site mitigation of natural area; and
    - Stream buffer mitigation options, including fee-in-lieu.