

Exhibit B



It is our understanding that Chapel Hill has adopted an informal policy of requiring a 25% payment in lieu of recreation, regardless of whether a project meets the requirements of the land Use Ordinance or not. We also believe in the case of the Bridgepoint project recommending such a requirement would make providing middle income housing more difficult and may impact the feasibility of the proposed community. I have listed below some of the reasons we believe the 25% payment in lieu is not appropriate for the proposed Bridgepoint project.

1. Bridgepoint is exceeding the recreational requirements of the Chapel Hill Land Use ordinance by providing 110% of what the ordinance requires as active recreation space. As part of that recreation requirement the Applicant has agreed to dedicate a 20" Greenway Trail easement running from the Town owned 2200 Homestead Road site to Weaver Dairy Road Extension completing a vital link towards a pedestrian connection to Homestead Park and the Aquatics Center. The Greenway Trail easement proposed for dedication has been part of the comprehensive Chapel Hill Greenway Plan since its adoption. The dedication of links in the Greenway system is highly encouraged in the Land Use Ordinance as a top priority in providing the required recreational contribution.
2. The Bridgepoint community is a town Home community proposed to serve middle income households. In Chapel Hill it is often referred to as the "missing middle". There has not been a single town home community proposed in Chapel Hill in the last 13 years. Part of the reason for this is the way that the Chapel Hill Land Use Ordinance was set up. It has an application and a set of rules governing recreational contributions for single family homes, and one for multi-family homes. There is no town home application and for decades the only option for potential town home applications has been to go under the multi-family application. This has resulted in a terribly unfair system of regulations which require a 53-unit town home development on a nine-acre site, like Bridgepoint, to contribute the same amount to Chapel Hill Parks and Recreation as a 450-unit apartment complex. This undermines the ability for potential developers to build town home communities and is exactly what is happening at the proposed Bridgepoint community. This becomes even more acute when the Town of Chapel Hill imposes a 25% payment in lieu, in addition to what is required in the land use ordinance. In addition to exceeding the requirements spelled out in the Land Use Ordinance Chapel Hill Parks and Recreation is requesting that the proposed

town home community of Bridgepoint pay an additional \$60,000. This is not in line with any sense of equity.

3. Requiring a payment in lieu in an amount equal to 25% of the total recreational requirement as an “informal policy” regardless of a developers ability to provide on-site recreation is a questionable policy from a community benefit standpoint, is questionable from a fundamental fairness standpoint, and questionable from a legal standpoint. The Chapel Hill Land Use Ordinance Section 5.5.2(h) states that “ In lieu of providing recreation space required pursuant to this section, a developer of a multi-family dwelling or planned development **MAY**, with the approval of the Town Council make a payment to the Town whereby the Town may acquire or develop recreational land or greenways to serve the development”. While language was later added that the Town may require such payments a couple of things should be noted.
 - a. The intent the above section, by using the word “may”, has always seemed to allow developers who may not have adequate land to meet the recreational requirements specified in the Land Use Ordinance to make a payment to the Town as an alternative. Conversely, if there were recreational amenities in the immediate vicinity of the proposed community, and the construction of additional amenities was redundant, then the developer could make a payment in lieu of providing the recreation on site. To turn this section into a provision that allows to Town to require an additional recreation payment after the recreational requirements in the Land Use Ordinance have been fully complied with seems out of line with fundamental values of fairness.
 - b. Both State Law and the Chapel Hill Land Use Ordinance require that any recreational payment in lieu be used “for the acquisition or development of recreation, park, or open space sites to serve the residents of the development or the residents of more than one development within the **immediate area**.” It truly contorts both State Law and the Chapel Hill Land Use Ordinance to claim that any improvements to a park elsewhere in town qualifies as “**acquisition or development**” in the “**immediate**” area. It is highly doubtful this would survive a court challenge when there are no parks in the immediate vicinity where the payment in lieu would be used for acquisition and development. The closest park is Homestead Park where no current pedestrian connection exists and where the acquisition and development of the park took place over a decade ago.
 - c. There is nothing in the Chapel Hill Land Use Ordinance which requires a development applicant to make a payment in lieu of 25% of the recreational requirement. The Parks and Recreation staff claims this is now the Town’s “policy” to require a 25% payment in lieu of all residential developments in Chapel Hill. My understanding is that amendments to the Land Use Ordinance require very carefully laid out steps that involve public hearings and ultimately Town Council approval. Again, this seems to go outside the lines of both legality and fundamental fairness. In addition, if this “policy” is enforced with consistency and regularity it could certainly be construed as an “impact fee” and not a payment in lieu at all. State law requires Legislative approval of impact fees.

For these reasons we believe the Town of Chapel Hill seriously needs to consider amending the Land Use Ordinance. First and foremost, so that it encourages middle income housing as opposed to discouraging it as the Land Use Ordinance does by lumping apartments (multi-family) and town homes (single family) under the same set of rules and requirements. Secondly if the Town intends to enforce a “policy” which requires all residential developments to make a payment in lieu of 25% of the required recreational requirement then it should amend the Land Use Ordinance following the requisite procedures and seek State Legislative approval. However, we believe doing so would continue to discourage the development of middle-income town homes.

Until the ordinance can be amended, for the reasons listed above, we believe the proposal for middle income town homes as part of the Bridgepoint site should be considered as an exception to the “policy” of requiring a 25% payment in lieu for all residential developments.

Best Regards, Eric Chupp

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