ST. CHARLES SINCE 1834	**AGENDA ITEM EXECUTIVE SUMMARY**	
	Title:	Recommendation to Approve General Amendments to Chapter 17.04 "Administration" and Chapter 17.18 "Inclusionary Housing" of Title 17 of the City Code (Zoning Ordinance)
	Presenter:	Matthew O'Rourke

Please check appropriate box:

	Government Operations		Government Services
X	Planning & Development – (1/14/13)		City Council
	Public Hearing		

Estimated Cost:	NA	Budgeted:	YES		NO	

If NO, please explain how item will be funded:

Executive Summary:

There were requests for deviations or complete waivers to the provisions of the Inclusionary Housing Ordinance as part of proposed residential Planned Unit Developments (PUDs).

In response, the Housing Commission proposed modifications to the Inclusionary Housing Ordinance to create criteria for evaluating future deviation requests and potential alternatives for providing affordable units.

Staff is presenting the following amendments that have been developed in coordination with the Housing Commission and Planning & Development Committee to address concerns with the current requirements:

1. Eliminate Chapter 17.18 "Inclusionary Housing" as eligible to be deviated from through the PUD process.
2. Create an Alternative Affordable Housing Plan option to be considered for development sites with significant development challenges such as blight, financial hardships, or environmental contamination.
3. Create a sliding scale that adjusts the number of required affordable housing units in new residential developments based on the percentage of the City's housing stock that is considered affordable.

The Plan Commission held a Public Hearing and recommended approval of the application on 11/20/12, the vote was 3-aye to 1-nay.

Attachments: *(please list)*

Staff Report, dated 11/28/12

Recommendation / Suggested Action *(briefly explain)***:**

Recommend approval of the Application for a General Amendment to the Zoning Ordinance as presented.

For office use only:	*Agenda Item Number: 4b*

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ST. CHARLES
SINCE 1834

STAFF REPORT

TO: Chairman Cliff Carrignan
And the Members of the Planning & Development Committee

FROM: Matthew O'Rourke, AICP, Planner

RE: Proposed General Amendments to Tile 17 (Zoning Ordinance) Inclusionary Housing Ordinance and Administration

DATE: November 28, 2012

I. GENERAL INFORMATION

Project Name: General Amendment – Inclusionary Housing Ordinance and Administration

Applicant: City of St. Charles, Planning Division

Purpose: Ordinance amendments to Chapter 17.18 Inclusionary Housing and 17.04 Administration to create standards for an Alternative Affordable Housing Plan, to create a sliding scale for the number or required affordable units, and to remove Chapter 17.18 as eligible to be deviated from through the PUD process.

II. BACKGROUND

In 2011, there were requests for deviations or complete waivers to the provisions of the Inclusionary Housing Ordinance as part of proposed residential Planned Unit Developments (PUD). Since the Inclusionary Housing Ordinance is located within the Zoning Ordinance, Legal Counsel determined that deviations to the affordable housing requirements can be considered as part of a proposed PUD.

Since October of 2011, the Housing Commission has been discussing possible amendments to the Inclusionary Housing Ordinance (IHO) to create criteria for evaluating future deviation requests and potential alternatives for providing affordable units in St. Charles.

The first amendment that the Housing Commission discussed is the Alternative Affordable Housing Action Plan. This potential amendment proposes an alternative framework for properties that have significant hardships such as blight or environmental contamination. As part of this amendment, the provisions of the IHO will be removed as eligible deviations through the Planned Unit Development process.

Staff presented a draft of the Alternative Affordable Housing Plan amendment to the Planning & Development Committee on August 13, 2012. In addition to the Alternative Affordable Housing

Plan, the Committee suggested that the Housing Commission and Staff examine other amendments to the IHO. One specific proposal was to create a sliding scale that would adjust the number of required affordable housing units based on the percentage of St. Charles' housing stock that is considered affordable.

The sliding scale amendment was further discussed at the August 16, 2012 Housing Commission meeting, and the September 17, 2012 joint meeting of the Planning & Development Committee and Housing Commission. Since those discussions, Staff has prepared amendment language to incorporate a sliding scale into the IHO in addition to the proposed Alternative Affordable Housing Plan amendments. The Housing Commission reviewed the final version of these amendments at the October 18, 2012 Housing Commission meeting and recommended that Staff proceed with filing a General Amendment Application for the amendments as proposed in this Staff Report.

The following memo will explain these proposed amendments and how these amendments will fit into the Zoning Ordinance.

III. PROPOSED AMENDMENTS

A. REMOVE INCLUSIONARY HOUSING AS AN ELIGIBLE DEVIATION THROUGH THE PUD

This first portion of this amendment proposes to remove the entirety of **Chapter 17.18 Inclusionary Housing** as an eligible deviation through the Planned Unit Development (PUD) process. In reviewing the factors and findings used to determine the validity of a proposed PUD, it was determined that these factors do not readily apply to deviations to the inclusionary housing requirements. Therefore, the amendment proposes that it be stated in **Section 17.04.400.B Conformance with Codes** that deviations from the Inclusionary Housing Ordinance are **not** permitted as part of a PUD request.

Section 17.04.400.B currently states:

"Unless otherwise approved in accordance with this Chapter, development within a PUD shall conform to the requirements applicable to the underlying zoning district or districts in which the PUD is located, and all Land Improvements shall be designed and constructed in accordance with the provisions of Title 16, Subdivisions and Land Improvement, of the St. Charles Municipal Code. PUD's, however, may allow for relief from the minimum requirements applicable to the underlying zoning district and subdivision ordinance in situations where the City Council finds that:

a) Conforming to the requirements would inhibit creative design that serves community goals, or
b) Conforming to the requirements would be impractical and the proposed PUD will provide benefits that outweigh those that would have been realized by conforming to the applicable requirements."

Staff is proposing the following amendment language:

c) The provisions and requirements established in Chapter 17.18 entitled, "Inclusionary Housing" are not eligible deviations through a proposed PUD.

B. ALTERNATIVE AFFORDABLE HOUSING PLAN AMENDMENT

As an alternative to deviation requests through the PUD, the Housing Commission is recommending that a new process, specifically for requests to deviate from the standards of **Chapter 17.18 Inclusionary Housing**, be created. This new process will list clear criteria and alternative options for developers to utilize that are specific to inclusionary housing.

The following process and criteria are proposed to be added to **Chapter 17.18 Inclusionary Housing**. The new process states that the City Council will directly consider the appropriateness of an Alternative Affordable Housing Plan submitted by a developer. These proposals will be submitted to Staff and forwarded directly to City Council through the Planning and Development Committee.

1. Section 17.18.065 Alternative Affordable Housing Plan Criteria

This new section is being created to establish the criteria that the City Council will use to weight the merits of a proposed Alternative Affordable Housing Plan. The proposed language for this section is as follows:

A. As an alternative to compliance with the provisions of Section 17.18.040 or Section 17.18.050, the Developer may request the City Council to approve, concurrent with the approval of the overall development, one or more of the alternatives listed in Section 17.18.065.B. The City Council shall not approve an Alternative Affordable Housing Plan unless the Developer demonstrates and the City Council finds in the affirmative that the Alternate Affordable Housing Plan is justified based on one or more of the following criteria:

1. That a demonstrated financial hardship exists that is not of the developer's own making. Items to be considered shall include but shall not be limited to:

a. The financial hardship must be equal to or greater than 10% or more of the total project cost and purchase price, but cannot include any costs incurred as part of the normal and orderly development of the property.

b. Environmentally sensitive or natural areas to be protected are equal to or greater than 20% of the total development site area (not including stormwater retention/detention facilities or park sites related to the construction of the project).

2. The development site does not allow for the density bonus as stated in Section 17.18.060 due to limitations on development capacity: Items to be considered shall include but shall not be limited to:

a. Insufficient water or sewer utility capacities

b. Unique parcel configurations including: steep slopes above an 8% grade or irregular shaped parcels that create unbuildable areas equal to or greater than 20% of the development site.

3. The development will fulfill an alternative City Policy or goal such as redevelopment of a vacant, underutilized, or blighted parcel *that cannot*

otherwise be readily redeveloped and comply with all other applicable requirements.

4. **The creation of the Alternative Affordable Housing Plan represents an equal or greater opportunity to create Affordable Housing in the City. Examples of these greater opportunities shall include but shall not be limited to:**
   a. **Providing units below the maximum affordability thresholds established by Illinois Housing Development Authority for rental or owner-occupied units. (Example: Pricing rental units at or below 50% of area median income).**
   b. **Providing offsite affordable units in vacant or foreclosed homes.**
   c. **Providing affordable units for a period of time longer than the seven year minimum affordable period stated in Section 17.18.090 Maximum Price of Affordable Units.**

2. *Alternative Affordable Housing Plan Specifics*

Along with the deviation request, developers will be required to submit a detailed Alternative Affordable Housing Plan that states how they plan to provide affordable units in St. Charles utilizing one or a combination of the following options:

17.18.065.B Alternative Affordable Housing Plan

For instances in which the Developer is requesting to utilize an Alternative Affordable Housing Plan, the Developer shall submit the proposed Alternative Affordable Housing Plan. This plan shall detail the Developer's course of action chosen to create Affordable Housing opportunities in St. Charles. This plan is required to be submitted in writing and must detail how the Alternative Affordable Housing Plan fulfills the criteria listed in Section 17.18.065.A.

One or more of the following options shall be utilized by the Developer:

1. **External Funding Sources- The Developer will apply for grants, tax credits, and/or any other applicable funding mechanism, each year that the project is under construction. These funds will be used to subsidize the costs associated with the construction of onsite or offsite Affordable Housing Units.**
2. **Purchase Offsite Units- The Developer shall purchase for-sale or foreclosure properties and then sell or rent them at the established Affordable Housing price.**
3. **Construction of a portion of the required Affordable Units onsite and any combination of the two options listed above.**

3. *Development Applications*

Staff has created a new Subsection 5 to be inserted into **Section 17.18.110 Development Applications** of the Inclusionary Housing Ordinance. This new section clearly identifies what items are required at the time the initial applications are submitted by a developer intending to utilize the proposed Alternative Affordable Housing Plan.

(Current Ordinance)

17.18.110 Development Applications
As part of the application for approval of a Residential Development, the Developer shall submit information describing how the Residential Development will comply with the requirements of this Chapter. The Director of Community Development may require any or all of the following to be submitted for review:

A. Developments

I. *The number and rental/for sale status of Market-Rate Units and Affordable Units to be constructed including type of dwelling, number of bedrooms per unit, proposed pricing, and construction schedule, including anticipated timing of issuance of building permits and occupancy certificates.*

II. *Documentation and plans regarding locations of Affordable Units and Market-Rate Units, and their exterior appearance, materials, and finishes.*

III. *A description of the marketing plan that the Developer proposes to utilize and implement to promote the sale or rental of the Affordable Units within the development; and,*

IV. *Any proposal to pay fees in lieu of providing the required Affordable Unit, per section 17.18.050.*

(New Requirements per proposed amendment)

V. Alternative Affordable Housing Plan

- **The Applicant shall submit a financial statement or pro-forma including the following:**
  1. **Purchase price of the property.**
  2. **Identification of the financial hardship and cost estimates associated with absorbing and/or remediating the identified hardship.**
  3. **All non-hardship development costs and expected profits.**
- **Application for External Funding Sources**
  - **i. An action plan clearly identifying the external funding sources that will be applied for during the construction phase and frequency with which the Developer plans to apply for each funding source. The Developer shall clearly demonstrate that the project is eligible for the funding source that will be utilized.**
  - **ii. The Developer will provide a copy of all grant applications at the same time the application is submitted to the funding authority.**
  - **iii. The Developer shall state the number of Affordable Units targeted to be affordable.**
  - **iv. Documentation and plans regarding locations of Affordable Units and Market-Rate Units onsite or offsite, and their exterior appearance, materials, and finishes should external funding be awarded.**
- **Purchase and Resale of Offsite Units**
  - **i. An action plan or market study identifying the number of offsite units planned for purchase, the location of available offsite units, and purchase price of these units.**
  - **ii. Any supplemental information necessary to support the proposed plan such as, anticipated cost of renovations for offsite properties.**

iii. The Developer shall state in writing the expected timing for the purchase of offsite units. The Developer will commit to submitting a copy of the home inspection report to the City for review. This report shall include the following:

- **Identification of the age and condition of all major systems (plumbing, HVAC, electrical, and structural)**
- **Identification and condition of all major appliances.**
- **The Developer shall provide a copy of this inspection report to the affordable household who has signed a contract to purchase the unit.**
- **As part of this report the Developer shall submit a list of all necessary repairs that the Developer proposed to perform before the offsite unit is resold to an Eligible Household.**

C. LEGAL REVIEW

Staff has had the proposed amendments reviewed by Robin Jones of the Law Offices of Gorski and Good. She has determined that there are no legal issues with this proposal.

IV. SLIDING SCALE AMENDMENT

A. PROPOSED AMENDMENT

Staff is proposing to amend **Section 17.18.030.B** of the IHO to create this sliding scale requirement. Section 17.18.030.B currently states:

"Notwithstanding the preceding paragraph, the construction of new Affordable Units and the payment of fee in-lieu of Affordable Units shall not be required for any new Residential Development following a determination by the Director that the percentage of the total number of Dwelling Units within the City of St. Charles that are Affordable Units is 25% or greater. Thereafter, the provisions of this Chapter shall apply following a determination by the Director that the percentage of Dwelling Units within the City of St. Charles that are Affordable Units has fallen below 15%."

The sliding scale amendment proposes that four percentage categories be created to adjust the amount of affordable units required as part of new residential developments. These categories are divided into equal percentages between 10% *(the minimum percent of affordable units mandated in the Affordable Housing Planning and Appeal Act)* and 25% *(the point at which the current requirements of the IHO can be suspended by the Director of Community Development)***.** The per-unit fee-in-lieu amount will not be altered by the proposed amendment. However, the number of required units will decrease, which will lower the total fee-in-lieu amount paid by residential developers.

The draft amendment proposed by Staff is as follows:

Notwithstanding the preceding paragraph, the construction of new Affordable Units and the payment of fee in-lieu of Affordable Units shall be adjusted to account for the percentage of affordable housing in St. Charles as determined by the Director of Community Development. The rates of adjustment shall be as follows:

Percentage of Affordable Housing	Percentage of Affordable Units Required
13.75% or less	100%
13.76% to 17.5%	75%
17.51% to 21.25%	50%
21.26% to 24.99%	25%
25% of Greater	0%

No Affordable Units shall be required for any new Residential Development following a determination by the Director that the percentage of the total number of Dwelling Units within the City of St. Charles that are Affordable Units is 25% or greater. Thereafter, the provisions of this Chapter shall apply following a determination by the Director that the percentage of Dwelling Units within the City of St. Charles that are Affordable Units has fallen below 15%.

B. HYPOTHETICAL DEVELOPMENT EXAMPLES

Staff has prepared the following hypothetical development examples to illustrate how the proposed changes to the IHO would be reflected in residential developments.

The IHO requires the following percentage of affordable units for different sized developments:

- 10 units or less – 5% of total units are required to be affordable (100% can be provided as fee-in-lieu).
- 11 units to 49 – 10% of total units are required to be affordable (50% can be provided as fee-in-lieu).
- 50 units or more – 15% of total units are required to be affordable (50% can be provided as fee-in-lieu).

Table 1 shows three different development scenarios. The number of units shown in the following hypothetical developments has been chosen to represent all three of the requirement categories listed above. The table also illustrates how the number of required affordable units and/or fee-in-lieu would be adjusted based on the proposed sliding scale categories.

Table 1: Sliding Scale – Development Examples

Proposed Developments			
	Small Development	**Mid-Sized Development**	**Large Development**
Total Number of Units Proposed	6	30	350
% of Affordable Units Required	0.05	0.1	0.15
Number of Affordable Units Required	0.3	3	52.5
Sliding Scale	**Affordable Units Required**		
13.75% or less = 100%	0.3	3.0	52.5
13.76% to 17.5% = 75%	0.2	2.3	39.4
17.51% to 21.25% = 50%	0.2	1.5	26.3
21.26% to 24.99% = 25%	0.1	0.8	13.1
Minimum Units Required Onsite			
13.75% or less = 100%	0	1.5	26.3
13.76% to 17.5% = 75%	0	1.1	19.7
17.51% to 21.25% = 50%	0	0.8	13.1
21.26% to 24.99% = 25%	0	0.4	6.6
Fee-In-lieu Based on Current Per Unit Amount ($104,500)			
13.75% or less	$31,350	$156,750	$2,743,125
13.76% to 17.5%	$23,513	$117,563	$2,057,344
17.51% to 21.25%	$15,675	$78,375	$1,371,563
21.26% to 24.99%	$7,838	$39,188	$685,781

V. PLAN COMMISSION RECOMMENDATION

The Plan Commission held a public hearing to receive testimony and offer comments regarding the proposed amendments on 11/20/12.

The Plan Commission recommended approval of the application for a General Amendment on 11/20/12. The vote was 3-Aye to 1-Nay.

VI. RECOMMENDATION

Review and recommend approval of the proposed amendments.

Staff recommends approval of the Application for a General Amendment to the text of the Zoning Ordinance as it relates to removing Chapter 17.18 Inclusionary Housing as an eligible deviation through PUD process, to creating an Alternative Affordable Housing Plan process and requirements, and to create a sliding scale to adjust the number of required affordable units based on the percentage of the City's housing stock that is considered affordable.

Staff has provided draft Findings of Fact to support the positive recommendation for the General Amendment Application.

VI. ATTACHMENTS

- Draft Finding of Fact for a General Amendment

FINDINGS OF FACT
GENERAL AMENDMENT

(Inclusionary Housing and Administration)

1. **The consistency of the proposed amendment with the City's Comprehensive Plan.**

   This amendment will not supersede or alter the land use recommendations contained in Chapter 13 Land Use of the City's Comprehensive Plan. Chapter 8 Housing of the Comprehensive Plan does not address affordable housing requirements.

2. **The consistency of the proposed amendment with the intent and general regulations of this Title.**

   The intent of this amendment is to continue to encourage the development of affordable housing units by creating flexibility in the ordinance to adjust to market conditions and create a new Alternative Affordable Housing Plan to be utilized on properties that have substantial barriers to development such as blight, financial constraints, and/or environmental contamination.

   Removing these requirements as eligible deviations through the PUD will remove the conflict between requesting deviations to Chapter 17.18 "Inclusionary Housing" and factor #8 of Section 17.04.400.B of the Zoning Ordinance used to determine if a proposed PUD merits a deviation from the standards of the Zoning Ordinance. Factor # 8 states, "The PUD provides affordable dwelling units in conformance with, or in excess of, City policies and Ordinances". Requesting a deviation through the PUD to the requirements of the Inclusionary Housing Ordinance is in direct conflict with this factor.

3. **Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, is more workable than the existing text, or reflects a change in policy.**

   The proposed amendments are more workable than the existing text contained in both Chapter 17.18 "Inclusionary Housing" and 17.04 "Administration" of the Zoning Ordinance. The proposed amendment creates a more flexible ordinance that will ebb and flow with regional economic circumstances and accommodates properties that contain large financial or physical hardships. The proposed amendment also eliminates an existing conflict between the factors used to judge the merit of a proposed PUD and deviations to Chapter 17.18 "Inclusionary Housing". Eliminating Chapter 17.18 as being an eligible deviation from the PUD will eliminate this discrepancy.

4. **The extent to which the proposed amendment would be in the public interest and would not serve solely the interest of the applicant.**

   The amendments will apply to all new residential development within the City of St. Charles.

5. The extent to which the proposed amendment creates nonconformities.

The proposed General Amendments to Chapter 17.18 “Inclusionary Housing” and Chapter 17.04 “Administration” of the Zoning Ordinance will only be applied to future residential development proposals. This amendment will not create any new nonconformities on existing properties.

6. The implications of the proposed amendment on all similarly zoned property in the City.

The proposed General Amendments to Chapter 17.18 “Inclusionary Housing” and Chapter 17.04 “Administration” of the Zoning Ordinance will be applied evenly to all new residential development within the City of St. Charles.