

October 6, 2016

Mr. Mark Torpey, Chair
Saratoga Springs Planning Board
City Hall
Saratoga Springs, New York 12866

Dear Mr. Torpey and Planning Board Members:

RE: SPA HOUSING ORDINANCE QUESTIONS AND ANSWERS

We understand that as a result of the discussion on the advisory opinion for the SPA Housing Ordinance at the September 8, 2016 meeting, the Planning Board has the following questions that are listed below. Our responses are presented after each question.

1. ***Is there a financial model available to show that developers will not lose money under this inclusionary zoning ordinance?***

- In 2006, local developer, and original IZOD committee member, Sonny Bonacio ran a financial model using his private construction cost information. He allowed it to be reviewed by some local independent housing experts and the City's housing consultants. Based on this data, Mr. Bonacio and the IZOD committee concluded that developers would not lose money under the ordinance and that even the IZ units would be modestly profitable.
- Sustainable Saratoga has not attempted an update on the financial model since we do not have the updated private construction costs. We have met with developers and have encouraged them to re-run the model if they suspected that the conclusion would be materially different than in 2006. We are prepared to find a housing expert to privately review for the City any new financial model that was run.
- We have no reason to believe today that developers would lose money on the IZ units if this ordinance was adopted. The basic reason that this ordinance will work is due to the density bonus, which essentially guarantees that there are no land costs for the IZ units. Therefore, those units can be offered at a lower rent or sale price than the market-priced units in a development.

2. What are some similar size communities that have IZ ordinances?

- We haven't done a comprehensive analysis of all the reported 500 communities that have some kind of IZ ordinance.
- We have seen reports that indicate the following "small communities" have some type of IZ ordinance.
 - Davidson, NC (12,000)
 - Salem, NH (28,000)
 - Princeton, NJ (28,000)
 - West Hollywood, CA (35,000)
 - Montclair, NJ (40,000)
 - Burlington, VT (42,000)
- Each IZ ordinance is different. There is a lot of variation with respect to the level of density bonuses, percentage of required to be affordable units, eligibility of occupants, duration for the subsidies, etc. So it is nearly impossible, and somewhat meaningless, to compare IZ ordinances with one another.
- The SPA Housing Ordinance was carefully developed in 2006 in response to Saratoga Springs' development process and housing market. The ordinance is unique to Saratoga Springs.

3. Are there some communities that have been successful in creating IZ units?

- Yes, there are studies that report successful IZ programs in other communities. There are also studies that point to failures and problems with IZ projects in other communities.
- The internet is full of information on inclusionary zoning. We see little value in studies or discussing these other ordinances, because the SPA Housing ordinance is uniquely designed for Saratoga Springs. One cannot effectively compare our ordinance with those different ordinances in other communities.
- But if the Planning Board would find a list of accomplishments from IZ ordinance in other communities helpful, here are a few:
 - In the first 10 years of Denver CO the IZ ordinance created 1,155 affordable units.
 - Since 1974 Montgomery County, Maryland created over 10,000 IZ units.
 - Between 1992 and 2003, over 1,200 IZ units were built in San Diego, CA.
 - Sacramento, CA has added 465 IZ units since 2000.
 - Burlington VT has created 284 IZ units since 1990.

4. What is the basic theory behind IZ ordinances? How do they vary from community to community?

- Inclusionary housing policies require developers of new market-rate real estate to provide affordable housing. It works well in communities where markets are driving up housing costs and displacing lower-income residents.
 - “For cities struggling to maintain economic integration, inclusionary housing is one of the most promising strategies to ensure that the benefits of development are shared widely.” (Lincoln Institute of Land Policy, 2015)
- A well-designed IZ ordinance is intended to generate significant affordable housing without overburdening developers or negatively impacting the pace of development.
- IZ ordinances vary considerably. But some of the general characteristics are as follows:
 - Some are mandatory, but some are not.
 - Most require developers to sell or rent 10 to 20 percent of their new residential units to middle- to-lower-income households. The target income groups vary but commonly are households making between 50% and 110% of local median income.
 - Communities give a variety of off-sets for this requirement. Most give the developer a right to build at a higher density, some waive development requirements such as parking and setbacks, others give tax abatements.
 - Most require the IZ units to be located on site in a mixed-use project. But some allow in-lieu fees or provisions for the IZ units to be moved off site.
- Most studies show that successful IZ ordinances are ones that are designed to reflect the local culture, economic conditions and housing market.

5. Briefly describe how the approval process would work on an inclusionary zoning project that comes before the Planning Board.

- By adopting the SPA Housing Ordinance, the City Council establishes the general rules and regulations for this inclusionary zoning program in Saratoga Springs. There are provisions for the City Council to annually monitor progress and to periodically make any needed adjustments or refinements in the ordinance. But the City Council has no involvement in any of the development projects that are covered by this ordinance.
- It is the City Planning Board that has full responsibility to implement the ordinance. The following is a brief “over-simplification” of how the process works.
 - During site plan review or the subdivision review process, the PB and the developer negotiate an “Inclusionary Housing Agreement” for any project that is to have 10 or more residential units.
 - The covered projects could be single family homes, apartments, condominiums, mixed-uses or any combination of any type of residential uses.

- The developer first proposes a conceptual plan what he/she would like to build that is in conformance the zoning. The PB must then “accept” this conceptual plan.
 - In all zoning districts except the transect districts, the maximum number of units per site is set by the zoning density caps and by the site analysis of the property.
 - In the transect districts the maximum number of units is set by the allowable building envelop and the site analysis.
- The developer then proposes to the PB the target income category for the IZ units and that helps determine the number of IZ units that will be set aside as affordable. That figure can be up to 20% of the total units in the zoning correct conceptual plan. The number of units set aside as IZ units then determines the number of density bonus units that the developer will receive.
- The PB and the developer then negotiate or design a site development plan that best accommodates the density bonus units on the property and what relief (setbacks, heights, parking, etc.) the developer will be granted.
- The PB and developer then agree on a final wording of Inclusionary Housing Agreement that is a legal document between the City and the developer.
- Final site plan or subdivision approval can then be granted by the PB.
- The City staff is responsible for finding and screening households that will occupy the IZ units.
 - Priority can be given to existing city residents or people who currently work in the city.
 - A lottery may be used to select eligible households to occupy the IZ units.
 - The selected households then negotiate a rental or sale price for the IZ units, utilizing the required guidelines of the ordinance.
 - The City is required to do annual monitoring of all IZ units and project to be sure the conditions of the Inclusionary Housing Agreement are being met.

6. Why shouldn't this IZ ordinance be postponed and be included in the new UDO rezoning effort?

- In March of 2016, we submitted comments to the UDO consultants and City staff indicating that we were working on resubmitting the 2006 inclusionary zoning ordinance to the City Council. We recommended that this IZ ordinance be handled separately from the UDO process because of timing and complexity.
- We were very surprised that the September 6, 2016 UDO Diagnostic Report included the possibility that an inclusionary zoning provision be restudied and included in the UDO.

- We suspect there is an inadequate budget and resources for the UDO process to restudy inclusionary zoning and we don't think that task is necessary or a good use of public funds.
- We do not recommend that the SPA Housing ordinance be postponed and folded into the UDO process.
 - There are no formal announced target dates yet for completing the UDO process. We suspect the UDO will not be completed until late 2017.
- The Saratoga Springs real estate market is very strong now. It would be a shame to keep postponing an excellent opportunity to create guaranteed affordable/workforce housing in this community. For the last 10 years, we feel that the City has “wasted” an opportunity but action now will still make a difference.

7. Why aren't all the questions answered in the SEQRA short form that was submitted with the application?

- On August 5, 2016 Sustainable Saratoga submitted to the City a SEQRA Short Environmental Assessment Form with Part I – Project Information completed.
 - The Planning Board has noted that questions #3 through # 21 had no “yes” or “no” boxes checked and they want know why we did not provide those answers. All those questions relate to site specific issues. Since our zoning amendment is a text amendment only and is not specific to any one site in the City, we felt that these questions were all “not applicable”. Therefore, we did not answer them.
 - The City required us to provide a digital copy of this form that is downloaded from the NYS DEC website. The form does not allow one to enter “not applicable”.
- We note that the City needs to complete Part II and maybe Part III of the SEQRA Long Form for this zoning amendment.
 - In 2006, the City staff drafted a detailed Part II and Part III of the SEQRA Long Form. This data may need to be updated and placed in the new version of the SEQRA Forms.
 - The Saratoga County Planning Board has implied that the City may have to undertake a generic environmental impact statement (EIS) because this amendment involves a density bonus for a public purpose. We believe a generic EIS is not necessary unless the City Council determines the zoning amendment will have significant adverse impacts.

8. What are the true costs to the City of administering this ordinance?

- In 2006, the IZOD committee, working with the City staff, developed a projection of administrative costs. They created a detailed spread sheet with tasks and assigned person-hours to each task. They then totaled all the hours and assigned an annual cost to those hours. They included costs for employee benefits and City overhead.

- The 2006 estimates were: \$55,000 for the first year (for startup) and \$46,500 for sequent years.
- In 2006, developer Sonny Bonacio suggested that the project cost estimate might be too low and that he was concerned that the program wouldn't succeed and that developers would lose valuable time and money if the program was not adequately staffed.
 - The IZOD Committee chair Monte Franke (a national housing consultant) did review the numbers for a second time and did not recommend any further revisions in the Committee's original estimates.
- On May 5, 2016, Sustainable Saratoga met with Mayor Yepsen and recommended that the Mayor's department take another look at the 2006 estimate to determine if they were still valid or needed to be revised. The Mayor told us that her staff would take care of this.
 - We are unsure of the current status of this review.
 - Sustainable Saratoga can NOT produce these cost estimates. The estimates have to come from the City.
- Some communities assign their own staff to administer the program. Some contract out the administrative tasks to other entities.
- Some communities with IZ programs fund the administrative costs with: general budget expenditures; federal housing block grant funds; new local inclusionary housing fee revenues collected from developers or IZ unit tenants/homebuyers; or, from a percentage of unit resale fees

9. *What is the maximum rental or sale price in today's dollars for an IZ unit?*

- In 2006 the IZOD Committee and City staff worked with a formula to project these costs. They were as follows:
 - Based on current (2006) income levels, the maximum sale prices are approximately:
 - \$140,500-\$180,00 for 1 bedroom units
 - \$180,000-\$299,500 for 3 bedroom units
 - Based on current (2006) income levels, the maximum rents are approximately (per month):
 - \$800-\$1,280 for 1 bedroom units
 - \$1,000-\$1,600 for 3-bedroom unit
- Sustainable Saratoga does not have access to the formula or the data that goes into the formula. So, we can't update these figures, but we believe that the City Planning staff should be able to accomplish this task with the resources they have at their disposal.

10. *Is the SPA Housing Ordinance compatible with the 2015 Comprehensive Plan and the general purpose and intent of the Zoning Ordinance?*

- On September 2, 2016 Sustainable Saratoga submitted a separate letter that specifically addressed the two tasks that the Planning Board must address in their advisory opinion to the City Council.

- At a minimum, the Planning Board must determine 1) whether the proposed revision is consistent with the Comprehensive Plan; and 2) whether the proposed revision is not contrary to the general purpose and intent of the Zoning Ordinance.
- Consistent with 2015 Comprehensive Plan:
 - Our letter reference 5 specific policies in the Comp Plan that we believe are consistent with the SPA Housing Ordinance.
 - Our letter also references a specific policy of the Comp Plan that supports development density increases for a public purpose. In this case the public purpose is affordable housing.
- Not contrary to general purpose and intent of the Zoning Ordinance:
 - Our letter presents the two major purpose and intent of the Zoning Ordinance and we conclude our SPA Housing Ordinance is not contrary to of either of those.

We look forward to discussing this issue further with the Planning Board at the October 13, 2016 meeting during the advisory opinion review of the SPA Housing Ordinance.

Respectfully,

Harry Moran
Chair

cc: Mayor Joanne Yepsen
Commissioner John Franck
Commissioner Michele Madigan
Commissioner Chris Mathiesen
Commissioner Skip Scirocco