



### **Agenda Action Form Overview**

The County Manager recommends that the Board approve the revised Durham County Policy for Conveying County Owned Real Property. The Board has expressed its commitment to support the provision of affordable housing. As part of this effort, the Board asked staff to draft a policy to prioritize the conveyance of County surplus property to the City for affordable housing development. Under the proposed amended policy, properties that are not retained by the County for other public purposes are routed first to the City of Durham Department of Housing and Community Development for affordable housing, then to other City Departments for other public purposes. Properties that are declined by the City would subsequently be made available to non-profit affordable housing providers through a County-issued RFP. If no viable proposals are received from any qualified non-profit providers, the property would then be declared surplus and made available for public purchase via the upset bid process.

The attached amended policy addresses this process, and would replace the current County policy on conveyance of surplus property which has been in place for some time without major modification. It would also replace a 2007 Durham County Policy for Conveying Real Property for Affordable Housing.

The County currently has approximately 25 properties that may be appropriate for conveyance under this policy. In order to maintain forward momentum while staff revised the policy as directed by the Board, staff has shared this list with the City's Housing and Community Development staff informally so that they could begin their due diligence to determine which parcels they are interested in acquiring. Thus far, they have expressed interest in 7 of the parcels, rejected 6 more, and are still evaluating the remaining 12. Once this policy has been approved by the Board, and the City has completed their assessment and determined which parcels they are interested in acquiring, staff will bring an agenda item to the Board to approve each of the recommended conveyances.

### **Background/Justification**

At the May 2018 work session, the Board of County Commissioners (Board) received a presentation on the Revised Durham County Policy for Conveying County Surplus Property, and provided feedback to staff requesting several changes. The revised policy reflects updated procedures to prioritize the use of County-owned surplus property for Affordable Housing, as it is defined in the policy. Staff has updated the draft policy to reflect the Board's discussions. The changes are:

1. Changed the definition of "Suitable" lots to delete the reference to % of parcel in the flood plain, and to broaden the definition to address whether the lot is buildable.
2. Broadened the definition of Affordable Housing to include rental housing.
3. Amended the draft to state that parcels will be conveyed to the City of Durham for \$10, with a restriction that if the parcel is not used for Affordable Housing as defined, but is used by the City for any other public purpose, or sold for any use other than Affordable Housing, the City shall compensate the County an amount equal to the County's full investment at the time of the original conveyance.



4. Added a provision that the City cannot sell a parcel to any other party for any amount that exceeds their actual cost to acquire and develop for Affordable Housing.
5. Added a provision that the City will require that construction begin within 5 years and report back to the county on the status of the parcels at 3 and 5 years after conveyance;
6. The Board requested more details regarding the length of time that properties developed for Affordable Housing would remain affordable after the City's conveyance to a qualified property owner for owner-occupied or rental units, and how that length of time is determined. The Board requested that staff further explore this issue with the City to determine what makes sense operationally for the City, while not making requirements so burdensome for the City or future providers of Affordable Housing that the requirements create a disincentive to develop the properties. See more detailed discussion below.

The City of Durham's Housing and Community Development Department has a well-established program for developing affordable housing in partnership with non-profit organizations. The City staff indicates that on the issue of the required period of affordability, there is not a hard and fast rule that is appropriate in all instances. Some federally funded programs establish minimum periods of affordability based on the level of funding provided per unit. In other cases, the period of affordability is tied to the total dollar amount of Community Development project funding requested by the developer. In some instances, the City's required period will be determined administratively, taking into account the requirements of the various funding sources used to complete the projects. In general, the greater the amount of public investment (i.e. the subsidy), the longer the period of affordability required. For example, in the City's most recent RFP for project funding, the minimum period of affordability was 10 years for requests of subsidy totaling \$20,000 or less per unit, and 20 years for over \$20,000 per unit, with additional points for committing to longer periods. Housing and Community Development staff bring a significant majority of these funding contracts to City Council, so the terms of the agreement are subject to Council review and approval.

The Department of Housing and Community Development has recently issued its first Request for Proposals (RFP) for affordable housing development of vacant City-owned parcels. Conveyances of these parcels for affordable housing will be subject to Council review and approval. City staff have indicated that in future RFPs it would be unwieldy to establish separate periods of affordability for parcels that were acquired from the County, creating a potential disincentive for non-profit housing providers to participate in the process, and may not result in a better outcome for the community overall. As a result, it is not recommended that the Board establish specific periods of affordability for parcels conveyed to the City for the purpose of developing Affordable Housing, and to allow the City to make those determinations based on the specific project, organization, and overall public contribution to the projects.

For parcels that are not offered to, or accepted by the City for Affordable Housing, the proposed policy includes a method for the County to issue its own RFP to engage non-profit housing providers to create Affordable Housing. Again, the period of affordability that would attach to these parcels would be determined by the public funding sources and the overall percentage of public funding used to complete the project. Setting a minimum period of affordability without



knowing what funding sources are being brought to bear on a project is discouraged. The RFP evaluation process can award additional points for longer commitments to affordability. Finally, each parcel that would be conveyed under the county RFP process would be brought back to the BOCC for approval and can be addressed on a case by case basis.

It is anticipated that shortly after the Board approves the revised policy, staff will be able to bring back to the Board two related items:

- 1) A proposed Interlocal Agreement that formalizes the City's agreement with the requirements that apply to the City, as stated in the policy. This is necessary because the Board's adoption of the Surplus Policy only directly affects County actions and the City will need to concur on the portions of the policy that relate to City actions that are required when properties are conveyed to them.
- 2) A list of properties the City of Durham is interested in receiving via this amended policy from the Board's approval.

Concurrent with this revised policy, staff has also prepared a comprehensive County Property Inventory to facilitate the Board's discussion and direction regarding real property asset management.

**Policy Impact**

The adoption of the Amendment to the Durham County Policy for Conveying County Owned Real Property helps to advance the Durham County Strategic Plan, Goal 1. Community Empowerment and Enrichment by supporting the provision of affordable housing in Durham and Goal 5. "Accountable, Efficient and Visionary Government" by developing policies that help to maximize the use of the County's resources.

**Procurement (Acquisition) Background**

N/A

**Fiscal Impact**

N/A

**Recommendation**

The Manager recommends that the Board adopt the Amendment to the Durham County Policy for Conveying County Owned Real Property and direct the staff to bring back a draft Interlocal Agreement for adoption by the City and County to ensure the City's concurrence with the provisions of the policy.