



Legislation Text

File #: [22-0026], Version: 2

Consider Authorizing the Town Manager to Execute Option to Ground Lease Agreements with the Developers of the Trinity Court and Jay Street Affordable Housing Development Projects.

Staff:

Faith Brodie, Director
Sarah Osmer Viñas, Director

Nate Broman-Fulks, Affordable Housing Manager
Emily Holt, Affordable Housing Development Officer

Department:

Public Housing
Affordable Housing and Community
Connections

Overview: These agreements would give the developers of the Trinity Court and Jay Street projects the sole and exclusive option to lease Town land for the construction and operation of affordable housing.

**Recommendation(s):**

That the Council authorize the Town Manager to enter into option to ground lease agreements with the developers of the [Trinity Court](https://www.chapelhillaffordablehousing.org/reimagine-trinity-court) (Community Housing Partners) and [Jay Street](https://www.chapelhillaffordablehousing.org/jay-street-affordable-housing-development) (Taft-Mills Group) affordable housing developments.

Background: Staff updated the Council on the Trinity Court and Jay Street affordable housing development projects on November 17, 2021 and informed Council that both projects plan to pursue a 9% Low Income Housing Tax Credit (LIHTC) award in 2022. Receiving the award would likely eliminate the need for Town subsidy for either project. The demonstration of site control is a requirement of the preliminary LIHTC application, which is due on January 21, 2021.

The Town and its outside legal counsel at Sanford Holshouser Law Group worked with the two development teams - Community Housing Partners for Trinity Court and Taft-Mills Group for Jay Street - to draft option to ground lease agreements that give both developers a sole and exclusive option to lease Town land on which to construct and operate affordable housing. It is anticipated that the projects will need to execute the ground leases as part of the project closing during or after summer 2023.

Authorizing these agreements is a critical step that allows both projects to pursue a key source of financing via the LIHTC application. However, Council will have additional opportunities to consider other key aspects of the projects, including:

- The rezoning application and associated development plans (Council vote likely in April 2022)
- Any Town subsidy that either project requests (Council vote on remaining \$5 Million of the affordable housing bond funding plan likely in April/May 2022)
- The development agreements spelling out the roles and responsibilities of the development team and the Town in the development of the sites (Council vote likely by June 2022).

An outline of these Council actions and other key project milestones, is included in this packet.

While it is unlikely that both projects will receive a 9% tax credit award in 2022, the Town's development teams, our development partners and our advisors are all in agreement that because of the unpredictable

nature of the tax credit scoring process, it is in the best interests of the Town to submit applications for any potentially competitive project in any given year to ensure local projects have the highest chances of receiving a 9% award. We understand that jurisdictions that consistently deliver LIHTC developments typically submit two or more competitive applications every year.

Key components of the proposed ground lease agreements:

- Offer a sole and exclusive option to lease the parcels for two years for Trinity Court and three years for Jay Street.
- Ensure the property will maintain permanent affordability (99 years).
- Offer site control to the developers for a nominal amount (\$1/year).
- Restrict use of the site to the plans proposed in each project's conditional zoning application.
- Execution of the ground lease is subject to certain conditions:
 - Receiving all government approvals needed for the project, both by Council (rezoning) and Town staff (permits)
 - Receiving a tax credit allocation
 - Securing project financing

Fiscal Impact/Resources: These Option to Ground Lease Agreements do not allocate any Town funding toward either project. Once the ground lease is signed, the agreements propose the lessor pay a nominal amount (\$1/year) to lease the land.

Staff also anticipates that at least one of these projects may request subsidy from Town affordable housing funds, Town ARPA funds, or other relevant sources in the Spring of 2022, should they learn they are not competitive for a 9% tax credit.



Attachments:

- Trinity Court Resolution
- Jay Street Resolution
- Draft Staff Presentation
- Jay Street and Trinity Court Project Milestones
- Jay Street Ground Lease
- Trinity Court Ground Lease

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE AN OPTION TO GROUND LEASE AGREEMENT WITH COMMUNITY HOUSING PARTNERS TO CONSTRUCT AND OPERATE AFFORDABLE HOUSING AT THE TRINITY COURT SITE. (2022-01-12/R-5)

WHEREAS, on [November 1, 2017 <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=3924508&GUID=FA752E2A-E07B-40D0-9C91-0A811601B405>](https://chapelhill.legistar.com/LegislationDetail.aspx?ID=3924508&GUID=FA752E2A-E07B-40D0-9C91-0A811601B405), the Council authorized the Town Manager to issue a Request for Qualifications (RFQ) to identify a development partner to pursue redevelop opportunities of the Town's public housing; and

WHEREAS, on [September 5, 2018 <https://chapelhill.legistar.com/View.ashx?M=F&ID=6577880&GUID=3A39DFF9-A149-483D-82A7-627D3D5D4B3B>](https://chapelhill.legistar.com/View.ashx?M=F&ID=6577880&GUID=3A39DFF9-A149-483D-82A7-627D3D5D4B3B), the Council authorized the Town to submit an application to the U.S. Department of Housing and Urban Development for the Rental Assistance Demonstration (RAD) for the Trinity Court public housing neighborhood; and

WHEREAS, on [April 24, 2019 <https://chapelhill.legistar.com/View.ashx?M=F&ID=7185720&GUID=F5388887-50AE-4819-A073-4A33780AB438>](https://chapelhill.legistar.com/View.ashx?M=F&ID=7185720&GUID=F5388887-50AE-4819-A073-4A33780AB438), the Council authorized the Manager to execute documents to enter into an Exclusive Negotiating Agreement with a selected developer to explore options to stipulate responsibilities of the Town and the Developer concerning development of the site; and

WHEREAS, on May 20, 2020 the Town expressed support for the comprehensive redevelopment of Trinity Court; and

WHEREAS, on June 4, 2021 the Town executed a Memorandum of Understanding with Community Housing Partners to establish the terms and conditions for negotiating an agreement to redevelop Trinity Court; and

WHEREAS, on [December 1, 2021 <https://chapelhill.legistar.com/View.ashx?M=F&ID=10317310&GUID=F08EE091-6003-4A6A-BC94-347FC499538C>](https://chapelhill.legistar.com/View.ashx?M=F&ID=10317310&GUID=F08EE091-6003-4A6A-BC94-347FC499538C) the Council provided feedback on the concept plan for Trinity Court.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Town Manager to execute an option to ground lease agreement Community Housing Partners for the Trinity Court site, as described in the January 12, 2021 meeting materials.

This the 12th day of January 2022.

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE AN OPTION TO GROUND LEASE AGREEMENT WITH TAFT-MILLS GROUP TO CONSTRUCT AND OPERATE AFFORDABLE HOUSING AT THE JAY STREET SITE. (2022-01-12/R-6)

WHEREAS, on [June 20, 2018 <https://chapelhill.legistar.com/View.ashx?M=F&ID=6331688&GUID=F33634A5-0A6F-4270-92F4-990A14E0C494>](https://chapelhill.legistar.com/View.ashx?M=F&ID=6331688&GUID=F33634A5-0A6F-4270-92F4-990A14E0C494), he Council prioritized the Town-owned Jay Street parcel as an affordable housing site and authorized the Town to pursue development on the Jay Street site; and

WHEREAS, on [September 18, 2019 <https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4135814&GUID=964ED0B2-5590-4A53-A7A5-E09507E79EB5&Options=ID|Text|&Search=jay+street>](https://chapelhill.legistar.com/LegislationDetail.aspx?ID=4135814&GUID=964ED0B2-5590-4A53-A7A5-E09507E79EB5&Options=ID|Text|&Search=jay+street), the Council heard the feasibility report on development potential for prioritized Town-Owned affordable housing sites, including Jay Street; and

WHEREAS, on [November 13, 2019 <https://chapelhill.legistar.com/View.ashx?M=F&ID=7881855&GUID=5DDDF984-71BF-4B7A-B863-30DDE7FFC84C>](https://chapelhill.legistar.com/View.ashx?M=F&ID=7881855&GUID=5DDDF984-71BF-4B7A-B863-30DDE7FFC84C), the Council authorized the Town Manager to seek an affordable housing partner for Town-owned land on Jay Street and begin negotiating an agreement under which the parties would prepare a proposed development project; and

WHEREAS, on March 5, 2021, the Town executed a Memorandum of Understanding with Taft-Mills Group to establish the terms and conditions for negotiating an agreement to develop Jay Street; and

WHEREAS, on [June 21, 2021 <https://chapelhill.legistar.com/View.ashx?M=F&ID=9506551&GUID=0F494F8B-1646-4091-9FCB-FAFACE5FF7B9>](https://chapelhill.legistar.com/View.ashx?M=F&ID=9506551&GUID=0F494F8B-1646-4091-9FCB-FAFACE5FF7B9), the Council provided feedback on the concept plan for Jay Street.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Town Manager to execute an option to ground lease agreement Taft-Mills Group for the Jay Street site, as described in the January 12, 2021 meeting materials.

This the 12th day of January 2022.

The Agenda will reflect the text below and/or the motion text will be used during the meeting.

PRESENTER: Faith Brodie, Public Housing Director
Emily Holt, Affordable Housing Development Officer

RECOMMENDATION: That the Council authorize the Town Manager to enter into option to ground lease agreements with the developers of the Trinity Court (Community Housing Partners) and Jay Street (Taft-Mills Group) affordable housing developments.