

UNIVERSITY NEIGHBORHOOD OVERLAY FEE-IN-LIEU

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My name is Stuart Hersh, and like most in Austin I rent. I offer you recommendations on the University Neighborhood Overlay Fee-In-Lieu based on my former work as a City staffer and my attendance at UNO stakeholder meetings.

One of the goals of the University Neighborhood Overlay Ordinance was to create more affordable housing for students in West Campus.

The City Council resolution asks for examination of other City density bonus policies to determine whether greater housing affordability could be achieved by changing the UNO fee-in-lieu to match other density bonus programs.

There appears to be no dispute that all density bonus policies outside of UNO have produced no-onsite affordability and no fee-in-lieu revenue. They have failed.

According to information obtained through an Open Records request, UNO appears to have created nearly 3,000 units with more than 10% affordable to people at either 80%, 65%, or 50% Median Family Income. In addition, UNO developers have contributed more than \$1,000,000 in UNO fee-in-lieu payments to underwrite 50% MFI affordability for at least 20 years. UNO is achieving its goals.

Please do not recommend to the City Council that UNO's fee-in-lieu structure be modified to mimic other unsuccessful public policies.

Instead, please recommend to the City Council that it direct the Planning Commission to involve UNO stakeholders in discussion of possible impediments to UNO development and the related generation of fee-in-lieu revenue. These discussions could include some of the following topics:

1. Providing affordability through beds not just bedrooms
2. Examining UNO Parkland dedication fees that currently exceed UNO fee-in-lieu payments
3. Amendments to the Tree Ordinance that are impediments to UNO development
4. Utility cost participation in UNO development
5. Capture of a portion increased UNO property tax revenue for increased housing affordability in UNO
6. Possible management of all affordable UNO housing by a not-for-profit partner in exchange for longer-term affordability and reduced administrative costs

At a time when housing affordability resources are scarce and demand for housing affordability is high, code amendments may be a way to achieve goals we all share.

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October 26, 2010

Mr. David Sullivan, Chairman
Planning Commission
City of Austin
P. O. Box 1088
Austin, Texas 78767

Subject: University Neighborhood Overlay-In Lieu Fee

Dear Mr. Sullivan:

I am writing to offer constructive feedback to the City of Austin regarding the complex and cumbersome process our development team is encountering in the University Overlay (UNO) District, which is negatively impacting efforts to bring affordable housing to the area through the Wooldridge Hall Tract development with the University of Texas at Austin (UT).

My comments stem from my role as a developer with Allen & O'Hara Development Co., LLC, a wholly owned subsidiary of Education Realty Trust, Inc., a collegiate housing Real Estate Investment Trust (REIT) listed on the New York Stock Exchange (stock symbol EDR). Specifically, I want to address the situation our team is encountering in the early stages of the Wooldridge Hall Tract development at 24th and Nueces, which is in the UNO inner west campus sub-district.

EDR's experience in Austin heretofore has been nothing but positive — our company (formerly the privately held Allen & O'Hara, Inc.) owned and operated the Castilian for its parent company, Northwestern Mutual Life. EDR is one of America's largest owners, developers and managers of collegiate student housing. Our parent company is a self-administered and self-managed REIT that owns and/or manages 62 communities in 22 states with more than 37,000 beds.

Our aim is to offer suggestions that will help us not only maintain our excellent experience in Austin but also move forward with endeavors that will allow future success.

With regard to the Woodridge Hall Tract, our company was selected through a competitive state bidding process from among more than 50 applicants — local, state and national competitors — to enter into a public/private partnership with UT to develop affordable housing for graduates, staff and upperclassmen. Our intent is to enter into a long-term ground lease with UT, and to develop, own and manage the improvements on the site.

As a Memphis-based firm, we are teamed with several local experts, including architects, engineers, consultants and a local general contractor, including PageSoutherlandPage and Hensel Phelps. Design work is under way, with a goal of having approximately 300 residential units, first-floor commercial space and structured parking. This costly, heavy-construction project will undoubtedly employ numerous workers during construction and operations.

I also am speaking as a personal and professional advocate of affordable housing, having served on several boards related to this particular need. While living in State College, Pennsylvania, I worked as vice president on the Centre County's Affordable Housing Coalition, a volunteer for the State College Land Trust, a founder of the Centre County Land Trust and as a mayoral-appointed board member of the city's redevelopment corporation. These were all volunteer activities.

Professionally, I've developed and managed collegiate housing on a national scale, providing quality multi-family housing to college students (undergraduates and graduates), staff and working professionals who surround college campuses. I can say with great pride that both my company and I do our very best to provide quality, sustainable and affordable housing — and we have the track record to show it.

While I very much applaud the City of Austin's affordable- housing goals for UNO, I must offer some constructive feedback, however, on the city's approach — which I find to be unusually cumbersome and costly. I can honestly say I've never found a development process more challenging and overtly burdensome before encountering similarly difficult financing issues.

Austin's approach is as complex as it gets, risky to pursue and requiring extraordinary costs to comply with all the requirements. This endeavor requires the most sophisticated team, and seems to require a large, public firm like EDR to underwrite it. However, I assure you that even EDR's resources are not endless. We find additional costs in Austin extremely tough in this economic period — almost disconnected with the goals of affordability the city hopes to achieve. Affordability on the resident end must be met with affordability on the developer end. Because this is not the case in Austin, we believe the requirements should be changed.

The sheer amount of front-end fees not only increases costs but also requires a financial outlay too quickly in the process, i.e., before a developer completes enough design and due diligence to understand the project's viability. Therefore, a developer must endure extraordinary risk with non-refundable financial commitments to the city. In the unfortunate event that the project doesn't proceed — either due to difficult entitlement processes or because the project doesn't prove viable in the early stages — a developer is simply out of luck.

If the city is trying to encourage developers to create quality, affordable housing, then a better approach truly must be sought. Higher development costs translate into higher lease rates for residents. This is counter to what any of us want for this district.

A substantial increase in the affordability requirements of UNO would, in my opinion, decrease the probability of additional projects, which I can only assume is counterproductive to the city's goal of providing more affordable housing for students and staff within walking distance of UT.

Last, I want to mention that the "evidence of need" for affordable lease payments is difficult — at best — to administer. I respectfully ask the city to examine carefully the requirements that potential residents demonstrate need. It is a sad circumstance if a developer invests such enormous time and money resources into a project in the UNO district, only to end up with vacant units due to issues in documenting "need."

I thank you for the opportunity to share my thoughts and opinions with the City Council, and I hope that our company succeeds in meeting the affordable-housing goals for this project. That is our intent.

I'm not suggesting that the city relinquish its affordability goals, but rather adjust the specific requirements in order to relate well to the economic times we face — which many economists and other experts assume will last at least a decade, and maybe longer.

We thank you for taking the time to read about our concerns and look forward to your feedback on these important issues.

Sincerely,



Rhonda Johannesen
Vice President

Allen & O'Hara Development Co., LLC
a subsidiary of Education Realty Trust, Inc.