Annual Affordable Housing Incentives Review and Recommendations Report

Commission on Affordable Housing

December 2021

Department of Housing & Economic Development

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Table of Contents

Affordable Housing Advisory Committee
Report to Palm Beach County Board of County Commissioners
SHIP Affordable Housing Incentive Strategies

December 1, 2021

PREPARED BY:
Palm Beach County Commission on Affordable Housing

SUBMITTED TO:
Florida Housing Finance Corporation

I. BACKGROUND

As required by the Florida Statute section 420.9076 as recipient of State Housing Initiative Partnership funds, the County established an affordable housing advisory committee on May 17, 2017 through the Palm Beach County Affordable Housing Ordinance (No. 2017-17). The affordable housing advisory committee, known as the Commission on Affordable Housing (CAH) is responsible for reviewing policies, land development regulations, the Comprehensive Plan Policy, and other aspects of the County's policies and procedures that affect the cost of housing. In addition, the CAH is responsible for making recommendations to encourage affordable housing.

The CAH is required to submit an incentive report annually. The report includes recommendations by the committee as well as comments on the implementation of incentives for at least the following eleven distinct areas:

(a) The expedited processing of approvals of development orders or permits for affordable housing

(b) All allowable fee waivers provided for the development or construction of affordable housing.

(c) The allowance of flexibility in densities for affordable housing.

d) The reservation of infrastructure capacity affordable housing.

(e) Affordable accessory residential units.

(f) The reduction of parking and setback requirements for affordable housing.

(g) The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.

(h) The modification of street requirements for affordable housing.

(i) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.

(j) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.

(k) The support of development near transportation hubs and major employment centers and mixed-use developments.

II. COMMITTEE COMPOSITION

The County Commission re-appointed members to the CAH on June 15, 2021. Section 420.907 of the Florida Statutes lists the categories from which committee members must be selected. There must be no less than 8 and no more than 11 committee members, with representation from at least 6 of the following categories:

- Citizen actively engaged in the residential home building industry in connection with affordable housing.
- Citizen actively engaged in the banking or mortgage banking industry in connection with affordable housing.
- Citizen representative of those areas of labor actively engaged in home building in connection with affordable housing.
- Citizen actively engaged as an advocate for low-income persons in connection with affordable housing.
- Citizen actively engaged as a for-profit provider of affordable housing.
- Citizen actively engaged as a not-for-profit provider of affordable housing.
- Citizen actively engaged as a real estate professional in connection with affordable housing.
- Citizen actively serving on the local planning agency pursuant to s.163.3174.
- Citizen residing within the jurisdiction of the local governing body making the appointments.
- Citizen who represents employers within the jurisdiction.
- Citizen who represents essential services personnel, as defined in the local housing assistance plan.

The appointed AHAC Committee members are included here, along with their category affiliation.

Name	Category Represented	Appointed	Reappointed
Mack Bernard	Local Elected Official	2/2/21	6/15/21
Len Tylka	Resident of the Jurisdiction	7/1/18	6/15/21
Aquannette Thomas	Mortgage Banking Industry	2/9/21	6/15/21
Adam Campbell	Labor Engaged in Home Building	7/1/18	6/15/21
Ezra Krieg	Advocate for Low Income Persons	7/1/18	6/15/21
Elliot Johnson	For-Profit Provider of Affordable Housing	2/9/21	6/15/21
Timothy Coppage	Not-for-Profit Provider of Affordable Housing	2/9/21	6/15/21
Lynda Charles	Real Estate Professional	6/15/21	N/A
Corey O'Gorman	Resident of the Jurisdiction	7/1/18	6/15/21
Amy Robbins	Employers Within the Jurisdiction	2/9/21	6/15/21
Jay Boggess	Essential Services Personnel	2/9/21	N/A

III. AFFORDABLE HOUSING INCENTIVES

The CAH undertook an affordable housing incentives review starting in early 2021. Staff shared information on incentive review requirements and process, State-recommended incentives, current affordable housing practices, and County programs, policies, and procedures. Each of the eleven affordable housing incentives recommended by the State were discussed at several meetings of the CAH. Discussions included representatives from the County's Planning, Zoning, and Building Department, the County Engineer, and the Property and Real Estate Management Division. In addition, the CAH held a special public forum for housing industry stakeholders to share their ideas and experience as it relates to affordable housing incentives. This plan reflects the recommendations of the CAH which resulted from this process. Recommendations that are approved by the Board of County Commissioners will be included in an amendment to the Local Housing Assistance Plan (LHAP). Where applicable, the Comprehensive Plan and County land development regulations, policies, and procedures will be revised to implement the approved recommendations.

Although not related to an incentive area covered by statute, primary among CAH recommendations was the need for a communications program to build community wide support for a broad range of housing options. Many challenges to the development of affordable and workforce housing relate to negative public perception and misunderstanding of what this housing is and whom it serves. The terms affordable and workforce have acquired negative connotations that result in NIMBYism challenges for specific projects, and that more generally hamper public support for initiatives to address community housing needs. The CAH recommends that community stakeholders are organized to undertake a public education campaign to counter the negative stereotypes associated with affordable and workforce housing. The CAH Vice Chair is currently participating in a committee organized by the Housing Leadership Council of Palm Beach County that is working on such a communications program as part of efforts to develop a countywide housing plan.

F.S. 420.9076(4)(a) – The expedited processing of approvals of development orders or permits for affordable housing is expedited to a greater degree than other projects, as provided in s. 163.3177(6)(f()3.

Existing Incentive Strategy: The Unified Land Development Code (ULDC) provides opportunities for expedited review of certain development approval processes through the Workforce Housing Program (ULDC Article 5.G.1.B.2.f.2) and the Affordable Housing Program (ULDC Article 5.G.2.D.3), including expedited design and platting review, and various concurrent reviews. In addition, the Planning Division has prepared a draft Policy and Procedure Memorandum (PPM) to establish criteria for prioritization of projects to be expedited. The PPM expands the assistance provided to include coordinating a meeting with the developer and all agencies involved, identifying timelines and expectations, and appointing contact persons to address emergent issues. The Planning Division is coordinating with other applicable County departments and this PPM is anticipated to be adopted during 2021. The Building Division provides for expedited review of building permit applications for affordable and workforce housing. This typically results in a 50% reduction in review/approval time.

Summary of AHAC Discussion: The CAH discussed experiences with County development approval processes and heard from County staff administering the processes. Thoughts included increasing review agency capacity through additional funding for increased staffing to more quickly process the current high volume of development applications. Other thoughts included identification of a facilitator, either a County employee(s) or contracted entity, to liaise with all offices involved in development review in order to coordinate and expedite approvals. Also discussed were the need for eligibility criteria for expedited processing in order to limit qualification to those projects that have a substantial affordable/workforce component. It was noted that the County's Building Division has a good reputation among local builders. County staff from the Planning Zoning, and Building Department (PZB) as well as the County Engineer participated in the discussion. There was consensus that an individual(s) designated to coordinate the review/approval process across multiple departments/divisions should at a high level, such as an assistant county administrator or department director, in order that directives/requests would carry weight and spur action. At initial time of submittal, applications would need to be identified for expedited processing by some mechanism that was recognized by all reviewing entities. Additionally, there would need to be a mechanism established to validate that applications met criteria for expedited processing. PZB staff suggested that the role of the facilitator could also include a preliminary review of the application for completeness, and that this could significantly expedite processing by avoiding repetitive application submittals to correct obvious errors and major deficiencies. In recognition that reviewing County agencies are constrained by organizational capacity and currently face a large volume of development applications, the CAH suggested that the County might explore its ability to certify outside agencies (design professionals) to conduct reviews of affordable projects and make approvals in order to increase processing capacity and to expedite approvals. The CAH drafted a resolution for the County to consider adopting that would establish a process for expedited development

review and the assignment of an individual to coordinate that process. The resolution was based on the County's existing resolution and process for Business Development Board projects. The discussion included criteria, income targeting requirements, and reporting mechanism. Also considered was the fact that the County resolution would only expedite projects located within the unincorporated area over which the County holds development approval authority, but would not assist those projects located within municipalities which are home to 55% of the county's total population.

AHAC Recommendation: The County should continue current efforts towards expediting development approvals and building permits for affordable housing projects. The County should create a position or designate an individual to be responsible for and to shepherd development applications through approval process. This could entail the use of an entity external to the County which would perform the service under contract.

F.S. 420.9076(4)(b) – All allowable fee waivers provided for the development or construction of affordable housing.

Existing Incentive Strategy: The County waives the customary fee for letters of determination addressing workforce or affordable housing potential density bonuses and program requirements. Further, the Comprehensive Plan Policy 1.5-f describes the elimination of processing fees for residential zoning petitions providing affordable housing units in areas of low very low, and low income households. The County operates an Impact Fee Affordable Housing Assistance Program that is funded with up to $3M annually in interest earnings from Roads, Parks, and Public Building impact fee collections. The funds are offered to developers and owner-builders to pay impact fees due on new residential construction serving households up to 140% of Area Median Income. Additionally, the County does not charge any impact fees on residential development in the western Glades Region of the county.

Summary of AHAC Discussion: The CAH discussed numerous fees and in-lieu payments that contribute to cost of residential development. For example, in the case of a small scale multifamily residential development, if recreation space cannot be provided on-site then an in-lieu fee must paid. The sum total of numerous fees contributes substantially to development cost and can result in an affordable project being economically infeasible. Overall, these fees result in higher housing prices to the consumer. Next year, we will delve deeper into the impact of development fees on cost of affordable housing. Fee information is not located in one place, but on various web pages. The Planning Zoning and Building Department does have a document posted online with information on development fees, however, it is not entirely transparent and difficult to interpret for someone who is not a development professional. There is no single source of County information for developers of affordable housing. All the various web pages and documents should be consolidated to one central location on the county's main web page.

AHAC Recommendation: The County should review its fee structure in terms of advancing affordable and workforce housing and report back to the CAH. In addition, the County should

offer a transparent development fee structure with clear directions for determining fees in a simple document that is easily accessible to public.

F.S. 420.9076(4)(c) The allowance of flexibility in densities for affordable housing.

Existing Incentive Strategy: The County's Workforce Housing Program (WHP) and Affordable Housing Program (AHP) provide opportunities to developers to increase density up to 100 percent in accordance with the ULDC. Per Article 5.G.2.E.1. (AHP), AHP projects requiring a density bonus of greater than 30% are required to conduct a two-step sector analysis. The first step considers the concentration of very low and low income housing within the sector in determining the minimum density bonus permitted. Step two considers the location of the proposed development with regard to neighborhood amenities, including public transit, employment and shopping opportunities, and educational, medical, social service and recreational facilities, in determining whether additional density may be added.

The County's Workforce Housing Program was substantially revised in 2019, to facilitate additional density where appropriate. Under the revised WHP, Density Bonuses up to and including 50% do not require special review and approval processes. Projects seeking a density bonus of greater than 50%, up to 100%, require enhanced staff review, and approval by the Board of County Commissioners. The enhanced review is intended to balance the County's objectives of promoting the production of workforce housing while preserving the quality and character of existing communities. First, a project's proposed approach to WHP is assessed using a Point System, to determine the extent to which the project furthers the County's WHP objectives. WHP units delivered on-site, as for-sale, single-family, units in areas with Workforce-income households below the overall concentration in the County are most desirable and earn the most potential density bonus for the parent project. Second, the suitability of the site to accommodate the density bonus, and the compatibility with the surrounding area, is assessed. An overall density bonus is then recommended to the Board of County Commissioners considering the outcome of both the point system application and the suitability assessment.

The County's Transfer of Development Rights Program (TDR) is a voluntary program administered by the Zoning Division that allows a property owner to achieve a density bonus for new residential development within the Urban/Suburban Tier in unincorporated Palm Beach County. The owner purchases the increase in density from the Palm Beach County TDR Bank, or from a property owner with land in a designated area, without going through the land use amendment process. TDR provides for increased density of up to five (5) units per acre based on geographic location, and requires that thirty-five percent (35%) of all TDR units be WHP Units.

Summary of AHAC Discussion: See "Flexible Zoning" page 11.

AHAC Recommendation: See "Flexible Zoning" page 11.

F.S. 420.9076(4)(d) The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons

Existing Incentive Strategy: The County requires all developments to have the appropriate concurrency for public facilities and infrastructure, but does not require developments to ensure there is infrastructure capacity in place for any other developments, including affordable and workforce housing. However, the Comprehensive Plan allows for a 30% concession in Traffic Performance Standards for affordable and workforce housing. This increases the available concurrency for traffic and reserves that traffic for those affordable and workforce developments that need it.

Summary of AHAC Discussion: The CAH acknowledged the need to maintain traffic and other concurrency, and concluded that the current incentive offered by the County is helpful.

AHAC Recommendation: Maintain current incentive strategy.

F.S. 420.9076(4)(e) – Affordable accessory residential units.

Existing Incentive Strategy: County land development regulations allow Accessory Dwelling Units in certain residential zoning designations. The County is currently reviewing ADU requirements that the unit electrical feed come through the meter of the main house, that the kitchen be removed when the owner's relative vacates the ADU, and other covenants required of the owner.

Summary of AHAC Discussion: ADUs are an important tool to help meet local affordable housing needs. Greater flexibility in the allowance of ADUs will increase the development potential of the County's limited remaining supply of vacant land, and also increase the potential for additional development on existing properties. Greater proliferation of ADUs will increase the overall housing stock and exert mitigating pressure on prices, thereby contributing to affordability. The County's current land development regulations governing ADUs excessively restrict development and impose unnecessary requirements on the property owner. The market tends to price ADUs affordably compared to comparable units, and without the need for government price intervention. There could be a tax incentive to keep the ADU affordable. This will create requirements for monitoring that will require new processes and staffing.

AHAC Recommendation: The County should address restrictions on ADUs in order to allow for greater opportunity, including the elimination of requirements for an electrical feed from the main home and the owner covenant to remove the kitchen when a relative vacates the ADU. The County should proceed with its planned review of regulations governing ADUs. Further, the County should consider a property tax exemption for ADUs that are committed to serve as affordable housing.

F.S. 420.9076(4)(f) The reduction of parking and setback requirements for affordable housing.

Existing Incentive Strategy: The County's Workforce Housing Program (WHP) and Affordable Housing Program (AHP) provide identical "setback reduction" opportunities to developers in accordance with the Unified Land Development Code (ULDC) Article 5.G.1.B.2.f.3.h. (WHP) and Article 5.G.2.D.4.h. (AHP).

Flexible regulations are described in ULDC Articles 5.G.1.B.2.f.3) and 5.G.2.D.4., and are applicable to projects with Medium Residential, 5 units per acre (MR-5), High Residential 8 units per acre (HR-8), High Residential 12 units per acre (HR-12), or High Residential 18 units per acre (HR-18) Future Land Use designations, or if approved as a Planned Development District or Traditional Development District. Projects with these designations may deviate from the residential requirements of Table 3.D.1.A, Property Development Regulations, or Table 3.D.2.B, ZLL Property Development Regulations (PDRs), as follow:

- Single Family Dwelling (SFD) units may be permitted up to a maximum ten percent deviation for the following PDRs: lot size; width and frontage; building coverage; and, side, and rear setbacks.
- SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDRs: building coverage; and front and side street setbacks.
- Zero Lot Line lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages.

Summary of AHAC Discussion: The incentives currently offered by the County are not aggressive enough to have meaningful impact on the production of affordable housing.

AHAC Recommendation: See "Flexible Zoning" page 11.

F.S. 420.9076(4)(g) The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.

Existing Incentive Strategy: The ULDC Article 5.G.1.B.2.f.3.h. (WHP) and Article 5.G.2.D.4.h. (AHP) provide for flexible lot configurations, including zero-lot-line configurations, as described above.

Summary of AHAC Discussion: See "Flexible Zoning" page 11.

AHAC Recommendation: See "Flexible Zoning" page 11.

F.S. 420.9076(4)(h) The modification of street requirements for affordable housing.

Existing Incentive Strategy: The County's Comprehensive Plan Transportation Element Policy 1.2-d.4 permits Workforce and Affordable Housing developments to generate vehicular traffic on streets beyond the level otherwise allowable. Opportunities for Traffic Performance Standards mitigation are codified in ULDC Article 5.G.1. B.2.f.1. (WHP) and Article 5.G.2.D.2. (AHP).

Summary of AHAC Discussion: This incentive is intended to address reduction of development cost of affordable housing through the reduction of street width, numbers of parking spaces, and similar design modifications. However, the County has addressed the incentive in terms of traffic volume or Level of Service standards, but this is not intent. The CAH also discussed that street and related requirements (storm water runoff, etc.) cannot be reduced to the extent that it is detrimental to adequate functionality. Current incentive strategies are misaligned with intent of incentive strategy.

AHAC Recommendation: The County should base street and related requirements for affordable housing on sound engineering practices.

F.S. 420.9076(4)(i) — The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.

Existing Incentive Strategy: The State requires that all proposed changes to the Unified Land Development Code, Comprehensive Plan, Zoning Code, and Zoning Map are reviewed and approved through a public hearing process. In Palm Beach County, the bodies that perform the review and approval functions are the Land Development Regulation Advisory Board (LDRAB) and the Board of County Commissioners (BCC). The ULDC provides that the composition of the LDRAB include seats specifically for a residential builder (Gold Coast Builder's Association), an architect (American Institute of Architects), and a realtor (Broward, Palm Beaches and St. Lucie Realtors) in addition to other professions. These experts provide input and insight to staff on how proposed changes may impact the cost of housing, and help inform BCC decision making. In addition, when any significant changes are proposed to the Workforce Housing Program, the County's process is to hire a consultant to calculate the potential impacts on the cost of developing housing and the effect on project profitability.

Summary of AHAC Discussion: This is a requirement of FHFC. There is certainly process in place where proposed policies are reviewed before adoption, but it is not clear if there is a review specifically for impact on cost of housing. County staff advised that potential impact on housing cost is a consideration and part of LDRAB discussions, and sometimes a subject of public comment at LDRAB meetings, however, there is no prescribed structure to the discussion or formal cost analysis.

AHAC Recommendation: The County should officially recognize LDRAB's role in considering the impact of changes to Property Development Regulations on housing costs.

F.S. 420.9076(4)((j) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.

Existing Incentive Strategy: The Comprehensive Plan (Housing Element Policy 1.1-i) requires an inventory of all surplus County owned land and foreclosed properties that may be suitable for affordable housing. The County's Property and Real Estate Management Division (PREM) is responsible for identification of such properties, and for coordinating with the Palm Beach County School Board, the South Florida Water Management District, and other public landowners to produce a list of viable sites for affordable housing developments and special needs housing, including rural and farmworker households. The Department of Housing and Economic Development is responsible for review of the inventory in order to advise on suitability of properties for affordable housing purposes. Countywide Policy and Procedure Memorandum (PPM) *CW-L-023 Requirements for the Acquisition, Disposition, Lease, and Exchange of Real Property* establishes procedures for disposition of County-owned real estate. Surplus property may be donated to a not-for-profit entity, but must be sold to for-profit entity. Recipients for disposition of County owned property must be selected through a competitive process, except for not-for-profits whom may be selected on a non-competitive basis. All dispositions must be approved by the Board of County Commissioners.

The majority of surplus County-owned lands are undevelopable or face significant development constraints due to property size, shape, access limitations, easements, adjacent uses, and/or remote location. A smaller subset of these surplus lands has the potential for affordable housing development. Mainly, these are small vacant lots within established neighborhoods that have the potential to be developed with a single-family home or a small multi-family structure (duplex, triplex, etc.). Additionally, existing homes occasionally come into County ownership through foreclosure, and may be suitable for affordable housing purposes.

Summary of AHAC Discussion: The limited supply and high cost of land pose a huge challenge to affordable development in Palm Beach County. The provision of surplus County lands for affordable housing has the potential for a significant positive impact on affordable housing supply. The list of surplus County land should be made accessible to developers so that private industry can determine if properties are viable for development. First preference should be given to not-for-profits that will maintain property affordable in perpetuity. It is not clear how to access the inventory or request land from the County. The CAH was provided with the County PPM that outlines the requirements and process for disposition of County owned real estate. The County needs to make the inventory widely and easily accessible by posting it online. The County might consider a proactive approach to disposition by actively marketing available properties to the development community, however, this may require a competitive selection process.

AHAC Recommendation: The County should make available a regularly-updated inventory of surplus lands accessible online and offer a clear process for disposition so that private industry / not-for-profits can utilize available lands for the development of affordable and workforce housing.

F.S. 420.9076(4)(k) The support of development near transportation hubs and major employment centers and mixed-use developments.

Existing Incentive Strategy: Transit Oriented Development (TOD) is a type of development that includes a mixture of housing, office, retail, and other amenities integrated into a walkable neighborhood and located within a half-mile of quality public transportation. It should be noted that there are limited opportunities for TOD in the unincorporated area over which Palm Beach County has jurisdiction, and that opportunities for TOD along passenger rail lines are present exclusively within local municipalities. More generally, when determining the available density bonus in the County's Affordable Housing Program, proximity of the proposed site to mass transit and employment opportunities are among the items considered, thereby providing an incentive for affordable development in closer proximity to the same. Likewise, proposed project proximity to transportation and employment is taken into consideration competitive funding processes administered by HED.

Summary of AHAC Discussion: Transportation costs are a major factor in affordability. Distance between place of residence and place of employment increases cost of living. Locally, transportation hubs are more often located in municipalities. County could purchase land at transportation hubs within municipalities in order to develop affordable housing. County should play a more active role facilitating development of transportation hubs.

AHAC Recommendation: The Board of County Commissioners should consult with local government jurisdictions and transportation providers to provide a comprehensive solution to providing affordable housing near transportation hubs.

Additional Incentive – Flexible Zoning

Summary of AHAC Discussion: The County's zoning code is a prescriptive code; it defines exactly what is allowable, and conversely, what is not allowed. Further, the code focuses on suburban style development. Although the code works well for suburban development, it is not conducive to housing affordability. Economic conditions and the development landscape have changed, and it is time for the County's Property Development Regulations (PDRs) to catch up. Other jurisdictions within Florida, such as Collier County, Port St. Lucie, and to a lesser extent Palm Beach Gardens, have adopted a self-regulating approach to PDRs. With this approach, each development proposes its own PDRs which are then subject to staff review and approval by elected officials. This approach contributes to housing affordability by allowing greater utilization of smaller sites and infill sites, as well as by offering the flexibility necessary to bring alternative

housing product types to market. Further, this approach facilitates the development approval process by avoiding the time and expense associated with obtaining the numerous variances necessary to utilize density bonuses offered by the County. The County could employ the option of a self-regulating development order for affordable and workforce housing through amendments to the ULDC.

AHAC Recommendation: The County should consider adoption of alternative PDRs community-wide, including an approval process designed to develop a flexible self-regulating development order.

IV. IMPLEMENTATION

Following adoption of this Report, the Department of Housing and Economic Development will further discussions with other departments and County leadership regarding implementation of the incentive recommendations. Within 90 days following adoption, an amendment to the Local Housing Assistance Plan will be brought to the Board of County Commissioners for consideration. The amendment will identify the incentive recommendations which the County will implement and will outline a general plan and timeframe for implementation.