



COMPREHENSIVE PLAN AMENDMENT STAFF REPORT AMENDMENT ROUND 23-A2

DEO TRANSMITTAL REPORT, FEBRUARY 1, 2023

I. General Data

Project Name:	Alternative Affordable Housing Approval Process
Element:	Future Land Use, Housing, and Introduction and Administration Elements
Project Manager:	Matthew Briley, Planner I
Staff Recommendation:	Staff recommends <i>approval</i> based on the findings and conclusions presented in this report.

II. Item Summary

Summary: The proposed Comprehensive Plan amendment would revise the Future Land Use Element (FLUE), the Housing Element, and the Introduction and Administration Element (I&A), as summarized below:

- Adds a policy under Objective 2.2 of the FLUE recognizing the Board of County Commissioners' (Board) authority to approve affordable housing projects pursuant to Ch. 125.01055(6) Florida Statutes (F.S.);
- Revises FLUE Objective 2.2 for internal consistency;
- Adds a policy under Objective 1.1 of the Housing Element to recognize County procedures for considering approval of affordable housing proposals that may be made pursuant to Ch. 125.01055(6) F.S.; and
- Revises the definition of Affordable Housing when applied to this review process.

Assessment: In 2020 and 2022, the Florida Legislature passed laws (see Ch. 125.01055 F.S.) providing local jurisdictions the legislative authority to approve affordable housing projects, as defined in Ch. 420.0004 F.S., on any parcel zoned for residential, commercial, or industrial use, notwithstanding any other law, local ordinance or regulation to the contrary. This legislation provides an opportunity for the Board to expeditiously consider affordable housing proposals that meet certain criteria, which could aid in addressing the intensifying need for affordable housing in the County. This amendment adds and revises policies in the Comprehensive Plan to recognize the authority provided by Ch. 125.01055 F.S., and to provide guidance to ensure a consistent approach is utilized when processing requests for affordable housing made pursuant to this statute.

III. Hearing History

Local Planning Agency: *Approval*, motion by Glenn Gromann, seconded by Marcia Hayden, passed in a 10 to 0 vote at the January 13, 2023 public hearing. During discussion, Commission members asked questions regarding the lowest income workforce housing category, the approval process for projects meeting this statute, and public notification and public hearing requirements. There was no public comment.

Board of County Commissioners Transmittal Public Hearing: *Transmit*, motion by Commissioner Marino, seconded by Vice Mayor Sachs, passed in a 7 to 0 vote at the February 1, 2023 public hearing. During discussion, the Board asked questions regarding the timeline for adoption of this amendment and the potential ramifications of proposed Senate Bill 102. There was no public comment.

State Review Agency Comments:

Board of County Commissioners Adoption Public Hearing:

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IV. Intent

The intent of this Comprehensive Plan amendment is to revise the Future Land Use Element, the Housing Element, and the Introduction and Administration Element, to add and revise policies and definitions to recognize the legislative authority granted to the County to approve affordable housing proposals made pursuant to Ch. 125.01055(6) F.S. The specific changes are shown in strikethrough and underline format, attached hereto as Exhibit 1.

V. Data and Analysis Summary

This section provides data and analysis, including an examination of consistency with the Comprehensive Plan.

A. Background

In 2020, the Florida Legislature passed H.B. 1339, subsequently signed by the Governor, which in part amended Chapter 125.01055(6) to incorporate the following provision:

(6) Notwithstanding any other law or local ordinance or regulation to the contrary, the board of county commissioners may approve the development of housing that is affordable, as defined in s. 420.0004, on any parcel zoned for residential, commercial, or industrial use.

In 2022, the provision was further expanded through S.B. 962, which added the following:

If a parcel is zoned for commercial or industrial use, an approval pursuant to this subsection may include any residential development project, including a mixed-use residential development project, so long as at least 10 percent of the units included in the project are for housing that is affordable and the developer of the project agrees not to apply for or receive funding under s. 420.5087. The provisions of this subsection are self-executing and do not require the board of county commissioners to adopt an ordinance or a regulation before using the approval process in this subsection.

Staff has researched the approaches of the few other local governments that are prepared to address these requests, namely Jacksonville and St. Petersburg. Both cities have amended their comprehensive plans by adding Future Land Use Element policies that recognize the statute provision. St. Petersburg has incorporated a detailed approval process in its land development regulations, while Jacksonville decided to only approve proposals contingent upon specific funding sources. Staff has also consulted with the Florida Housing Coalition, which has spearheaded research and other efforts regarding this provision.

While there is no requirement that a local government use or approve projects under this provision, local governments are encouraged to establish some policies and procedures to ensure a consistent approach in considering any requests received. Although the provision in the statute is broad in nature, certain minimum standards apply:

- A project must be approved by the governing body, following a public hearing;
- Local governments may still regulate development standards as deemed appropriate, such as density, parking, setbacks, compatibility, and environmental standards; and

- Projects must be 100% affordable, for up to 120% of median household income, except when located on commercial or industrial zoned land.

Florida Statute 420.0004 states the following:

(3) *“Affordable” means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households as indicated in subsection (9), subsection (11), subsection (12), or subsection (17).*

Subsections 9, 11, 12 and 17 define “extremely low-income”, “very-low-income”, “low-income”, and “moderate-income” persons, whose total annual household income does not exceed 30%, 50%, 80%, and 120%, of the median annual adjusted gross household income.

B. Consistency with the Comprehensive Plan

This proposed amendment is consistent with the following policies of the Comprehensive Plan.

1. ***FLUE, C County Directions.*** *The Future Land Use Element was created and has been updated based on input from the public and other agencies through citizen advisory committees, public meetings, interdepartmental reviews, and the Board of County Commissioners. All contributed to the generation of the long-term planning directions, which provide the basis for the Goals, Objectives and Policies of the Future Land Use Element. These directions reflect the kind of community the residents of Palm Beach County desire.*
7. ***Housing Opportunity.*** *Ensure that housing opportunities are compatible with the County's economic opportunities by providing an adequate distribution of low, moderate, and middle income housing, Countywide, through the Workforce Housing Program.*

Staff Assessment: The proposed amendment helps to further the County direction identified above because it aims to increase the supply of housing that is affordable for households with incomes between 0 - 120% AMI. These income categories coincide with most of the ranges associated with the Workforce Housing Program (60-140% AMI), while also including the 0-60% AMI that is below the Workforce Housing Program threshold.

2. Housing Element, Objective 1.1 Provision of Affordable Housing

Policy 1.1-h: *The County shall continue the review and streamlining as needed, of those ordinances, codes and regulations related to the permitting process, in order to continue the reduction of excessive requirements and amend or add other provisions that increase private sector participation in adding to the supply of affordable housing. The County shall designate the Planning, Zoning, and Building Department as the lead agency, with assistance from the Department of Housing and Economic Sustainability, Engineering and other appropriate Departments.*

Staff Assessment: This proposed amendment will further the Housing Element policy identified above by creating a new policy recognizing and providing guidance for the processing of proposals for affordable housing that may be made pursuant to Ch. 125.01055(6) F.S. This statute allows the Board of County Commissioners to approve affordable housing projects on any parcel zoned for residential, industrial, or commercial

use. This creates an opportunity for an increase in private sector participation in adding to the supply of affordable housing by increasing the number of eligible parcels in the county. It also creates path to potentially forgo the typical processes that would normally be required to allow residential use or higher densities on these parcels.

3. Policy 1.1.k: *The County shall increase its effectiveness addressing Housing need by:*

3. *The County shall also assist and encourage public/private partnerships with private community-based non-profit agencies and other private sector agencies that further County housing policy objectives, in order to improve cooperation among participants involved in housing production and to enhance the feasibility of producing and delivering affordable housing.*

Staff Assessment: This proposed amendment will further the Housing Element policy identified above. Palm Beach County will be among the growing number of local jurisdictions in Florida that are proactively responding to new legislative authority granted by Ch. 125.01055(6) F.S by developing policies and procedures that can be consistently applied in the future. With this new authority, the Board may approve affordable housing projects in locations where they are deemed appropriate. This will enhance the feasibility of producing and delivering affordable housing by increasing the number of qualifying parcels while removing some processes that may be a barrier to implementation.

4. Housing Element, Objective 1.5 Concentrations of Affordable Housing

The County shall make adequate provisions to enable the public, private and not-for-profit sectors to provide affordable housing, and shall support the distribution of housing for very low, low, moderate and middle income households, to avoid undue concentrations of very low and low income housing throughout the County through the Workforce Housing Program and the Affordable Housing Program.

Staff Assessment: The proposed amendment will further the Housing Element Objective identified above by creating a policy in response to the legislative authority that allows the county to approve affordable housing projects on parcels designated for commercial, industrial or residential use. This will support the distribution of affordable housing by giving the County the authority to approve it in a wide range of locations, not just in residential zones where it is currently allowed.

5. **Policy 1.5-a:** *The County shall provide for a sufficient amount of land for residential use to meet future housing needs, including very low, low, and moderate income, and to accommodate the projected population. The Planning Division shall be responsible for analysis and recommendations to the BCC for this task.*

Staff Assessment: The proposed amendment creates a policy in response to the legislative authority granted to the County by Ch. 125.01055(6) F.S. that results in an increase in the amount of land that could be developed into affordable housing. This action intends to help meet current and future housing needs, particularly for households with very low, low, and moderate incomes.

C. Unified Land Development Code Implications

To provide for maximum flexibility, the approval process will be outlined in a policy and procedure

manual (PPM) on the Planning, Zoning, and Building (PZB) website. This PPM shall include eligibility criteria such as zoning district, minimum lot size, minimum number of units, and maximum density, notification requirements, application process, standards for review, and procedural requirements such as the required public hearing.

Existing zoning processes will be utilized when possible in order to expedite and simplify the approval process. Therefore, no Unified Land Development Code changes are anticipated.

VI. Public and Municipal Review

The Comprehensive Plan Intergovernmental Coordination Element **Policy 1.1-c** states that *“Palm Beach County will continue to ensure coordination between the County’s Comprehensive Plan and plan amendments and land use decisions with the existing plans of adjacent governments and governmental entities.....”*

- A. Interdepartmental Review:** The Palm Beach County Department of Housing and Economic Development (HED) facilitated the review of the proposed amendment by the Commission on Affordable Housing (see **Other Notice** below). In addition, the process to implement the proposed amendment is being coordinated with the Zoning Division and with HED.
- B. Intergovernmental Coordination:** Notification of this amendment was sent to the Palm Beach County Intergovernmental Plan Amendment Review Committee (IPARC) for review on December 29, 2021. Correspondence received is added to Exhibit 2 during the amendment process upon receipt.
- C. Other Notice:** Pursuant to the Palm Beach County Affordable Housing Ordinance, the Commission on Affordable Housing (CAH) reviewed the proposed new Future Land Use Element **Policy 2.2.1-x** (Exhibit 1) on December 7th, 2022. CAH was supportive of the amendment and requested to provide comment on the draft procedure when it becomes available, prior to the transmittal public hearing.

VII. Assessment and Conclusions

In 2020 and 2022, the Florida Legislature passed laws which give local jurisdictions the legislative authority to approve affordable housing projects on any parcel zoned for residential, commercial, or industrial use notwithstanding any other law, local ordinance or regulation to the contrary. This legislation provides an opportunity for the county to expeditiously consider and approve proposals for affordable housing that meet certain criteria which could aid in addressing the intensifying need for affordable housing in the County. This amendment adds and revises policies in the Comprehensive Plan to ensure a consistent approach is utilized when processing requests for affordable housing made pursuant to this statute.

As such, staff recommends **approval** of this amendment.

Attachments

Exhibit 1 – Proposed Comprehensive Plan amendments in strikethrough and underline format	E – 1
Exhibit 2 – Correspondence	E – 2

Exhibit 1

REVISIONS: To revise the Future Land Use Element in response to the legislative authority granted in Ch. 125.01055(6) F.S. The added text is underlined, and the deleted text ~~struck out~~.

A. Future Land Use Element, Alternative Affordable Housing Approval Process

1. REVISED OBJECTIVE 2.2 Future Land Use Provisions – General

Palm Beach County shall ensure development is consistent with the County's diverse character and future land use designations. All public and private activities concerning the use, development and redevelopment of a property, and the provision of facilities and services shall be consistent with the property's future land use designation, and the applicable Goals, Objectives and Policies of this Element except for affordable housing projects approved pursuant to Ch. 125.01055(6) F.S., which states, in pertinent part, that notwithstanding any other law or local ordinance or regulation to the contrary, the board of county commissioners may approve the development of housing that is affordable, as defined in s. 420.0004, on any parcel zoned for residential, commercial, or industrial use.

- 2. NEW Policy 2.2.1-x: Alternative Affordable Housing Approval Process.** The Board of County Commissioners may approve the development of eligible, permanent affordable housing projects pursuant to Ch. 125.01055(6) F.S on any parcel designated on the Future Land Use Atlas and the Official Zoning Map for residential, commercial, or industrial use, following a public hearing. Affordable housing approved under this policy must comply with the definition of affordable as defined in Section 420.0004, F.S.

B. Housing Element, Alternative Affordable Housing Approval Process

REVISIONS: To revise the Housing Element in response to the legislative authority granted in Ch. 125.01055(6) F.S. The added text is underlined.

- 1. NEW Policy 1.1-x:** The County shall implement a process for consideration of affordable housing projects pursuant to Ch. 125.01055 (6) F.S. as described in Policy 2.2.1-x in the Future Land Use Element.

C. Introduction and Administration Element, Alternative Affordable Housing Approval Process

REVISIONS: To revise the Introduction and Administration Element to tie the definition of Affordable Housing to the definition given in s. 420.0004, F.S. when applied to projects made pursuant to Ch. 125.01055(6) F.S. The added text is underlined, and the deleted is text struck out.

- 1. REVISED AFFORDABLE HOUSING -** A dwelling unit is considered to be affordable when a household spends no more than 30 percent of its gross income on housing costs. Rental housing costs include contract rent and utilities. Owner occupied housing costs include mortgage principal and interest, property taxes, utilities, insurance, and where applicable, homeowner's association fees. For projects approved pursuant to Policy 2.2.1-x: Alternative Affordable Housing Approval Process in the Future Land Use Element, this definition has the meaning given it in s. 420.0004, F.S.

Exhibit 2
Correspondence
