



## 2022 ULDC REVISIONS STAFF REPORT

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LDRAB/LDRC MEETING, OCTOBER 26, 2022

### I. General Data

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**Project Name:** Transfer of Development Rights – Workforce Housing Units (CR-2022-0002)

**ULDC Articles:** Article 5

**Project Manager:** Maria Bello, Principal Planner, Planning Division

**Agency Manager:** Kevin Fischer, Planning Director

**Staff Recommendation:** Staff recommends *approval* based on the findings and conclusions presented in this report.

### II. Item Summary

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**Summary:** This item is proposed by the County to revise the Transfer of Development Rights (TDR) Program, in order for workforce housing units resulting from the use of TDRs are subject to the same regulations as workforce housing units that result from the Workforce Housing Program (WHP).

**Assessment:** The WHP and TDR Programs both offer means to increase density and both require percentages of the units to be provided as workforce housing. However, workforce units resulting from these programs are not subject to the same requirements, which creates confusion and reluctance to use the TDR Program. The proposed Code changes will eliminate the on-site requirement and different pricing structure for workforce units resulting from the TDR Program, and allow these subject to the same provisions as workforce units from the WHP.

**Comprehensive Plan Consistency:** The Planning Division issued a letter dated September 20, 2022 to the LDRAB Chair stating that the proposed ULDC revisions are consistent with the Comprehensive Plan.

### III. Hearing History

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**LDRAB Recommendation/LDRC Determination:** *Scheduled for October 26, 2022.*

**Board of County Commissioners Permission to Advertise:** On September 22, 2022, the BCC approved the Request for Permission to Advertise for Adoption Hearing on October 27, 2022, with a vote of 7-0.

**Board of County Commissioners Adoption Hearing:** *Anticipated for October 27, 2022.*

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## IV. Intent

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This item is proposed by the County to revise the Transfer of Development Rights (TDR) Program, in order for workforce housing units resulting from the use of TDRs are subject to the same regulations as workforce housing units that result from the Workforce Housing Program (WHP). The intent is to reduce reluctance to use the TDR Program and to simplify implementation and monitoring. This revision also clarifies terms and updates outdated references related to TDR pricing.

## V. Background

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The County's TDR Program was established in 1980, to direct development away from agricultural and environmentally sensitive lands to areas more appropriate for development. TDRs are obtained through private transfers from eligible sending areas, or from a County "bank" of development rights removed from County-purchased environmentally sensitive lands, with the proceeds from the sale of bank development rights used for ongoing maintenance of the purchased lands. Since 1998, the Comprehensive Plan has designated the use of TDRs as the required method for increasing density.

The County's WHP was established in 2006 to increase the supply of moderately-priced housing. The WHP requires that a percentage of units in new developments in the Urban/Suburban Tier be provided as workforce housing, and offers an optional density bonus in exchange for additional workforce units. After the introduction of the WHP, the TDR Program was modified to require a percentage of any TDRs used to also be provided as workforce housing units.

The TDR and WHP density bonus programs were designed essentially as expedited alternatives to the amendment process, and not anticipated to be used jointly or in combination with Plan amendments. Today, however, development proposals often use more than one of these methods to increase density. This "layering" of density has highlighted several inconsistencies and limitations of the current density provisions in the Comprehensive Plan and the ULDC.

While both the TDR and WHP Program (Full Incentive Option) require that 34 percent of any density bonus be provided as workforce units, the resulting workforce units are subject to different regulations. Unlike workforce units resulting from the WHP, the TDR workforce units must be provided on site and cannot be addressed through in-lieu payments or provided off site, including through the County's new WHP Exchange Option. In addition, TDR workforce units have a somewhat different unit pricing structure than WHP workforce units, and are not eligible for release of obligation should the units fail to sell. Along with the cost of purchasing TDRs, these requirements add to developer reluctance to use TDRs. These differences create confusion for users as well as opportunities for errors in implementation and monitoring.

## VI. Proposed Amendments

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This revision has two components, which are discussed separately below and correspond with the specific strike out and underline changes shown in **Exhibit 1**.

- **Art. 5.G.3.I, TDR Density Bonus Limitations.** This amendment will eliminate the current requirements for TDR workforce units that differentiate these from the WHP workforce units, including:

- Eliminating the requirement to provide the workforce housing units on site and allowing access to other disposition options.
  - Eliminating the requirement that any Workforce Housing TDRs purchased beyond the required 34 percent be used to provide workforce units only in the “Low-Income” category. Any additional TDRs purchased at the workforce price will be provided in all applicable income categories.
  - Eliminating the limitation on access to incentives available in the WHP as well as in the voluntary Affordable Housing Program.
- **Art. 5.G.3.G.4, The Application, Sale, and Value of Development Rights.** This amendment will establish that the discounted Workforce Housing TDR price is only available for the TDR if the workforce housing unit will actually be provided on site. As discussed above, workforce units resulting from TDRs will no longer be required to be provided on site. If the resulting workforce units are provided off site or addressed through an in-lieu fee or other option, the TDR will necessarily be used for a market rate unit, and should be priced as such. This amendment also clarifies terms and updates outdated references related to TDR pricing, including:
    - grouping townhouses with multi-family units, for consistency with the median sales data from the Realtor’s Association used for TDR pricing purposes; and,
    - replacing Countywide Community Revitalization “CCRT” references with Redevelopment, Revitalization, and Infill Overlay “RRIO” for consistency with the Comprehensive Plan policy establishing the discount for these areas. Not all CCRT areas are within the broader RRIO area referenced in the Comprehensive Plan Policy.

## VII. Assessment and Conclusions

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The WHP and TDR Programs both offer means to increase density and both require percentages of the units to be provided as workforce housing. However, workforce units resulting from these programs are not subject to the same requirements, which creates confusion and reluctance to use the TDR Program. The proposed Code changes will eliminate the on-site requirement and different pricing structure for workforce units resulting from the TDR Program, and subject them to the same provisions as workforce units from the WHP. Staff recommends ***approval***.

### Attachments

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Exhibit 1 – Proposed changes in strike out and underline format

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EXHIBIT 1

ARTICLE 5 – SUPPLEMENTARY STANDARDS  
TRANSFER OF DEVELOPMENT RIGHTS  
FOR WORKFORCE HOUSING UNITS  
CR-2022-0002

**Revision Key:** Proposed revisions are shown with new text as underlined, deleted text in strike-out, and relocated text italicized. *Stricken and italicized* means text to be totally or partially relocated. Relocation notes are shown in brackets as **[Relocated to: ]** or **[Relocated from: ]**. Unaltered text omitted for brevity is indicated by a series of four bolded ellipses....

Part 1. ULDC Art. 5.G.3.G.4, Supplementary Standards, Density Bonus Programs, Transfer of Development Rights (TDRs) – Special Density Program, Transfer of Development Rights (TDR) Bank, The Application, Sale, and Value of Development Rights (page 98, Supplement 30), is hereby amended as follows:

1 CHAPTER G DENSITY BONUS PROGRAMS

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3 Section 3 Transfer of Development Rights (TDRs) – Special Density Programs

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5 G. Transfer of Development Rights (TDR) Bank

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7 4. ~~The Application, Pricing and Sale, and Value~~ of TDR Bank Development Rights

8 PBC may sell development rights to Property Owners who meet the receiving area  
9 criteria pursuant to this Chapter.

10 a. A Property Owner seeking an increase in density must apply to become a receiving  
11 area and submit a draft Contract for Sale and Purchase of Development Rights.  
12 **[Ord. 2011-001]**

13 b. ~~The value and~~ price of a development right shall be set annually pursuant to a  
14 methodology approved by the BCC. No TDR price or price reduction other than  
15 those included in this Section shall be permitted. The County shall utilize the  
16 median sales price data for Palm Beach County, as established-published by the  
17 Broward, Palm Beaches and St. Lucie Realtors Association-of the Palm Beaches,  
18 using data for the month of March to set the price each year: **[Ord. 2011-001] [Ord.**  
19 **2012-027]**

20 1) For Single Family units (Single Family, ~~and Zero Lot Line, and Townhouse~~) the  
21 full price shall be ten percent of the median sales price of ~~FRA~~ single-family,  
22 existing homes ~~data~~. **[Ord. 2011-001]**

23 2) For Multifamily units, the full price shall be ten percent of the median sales  
24 price of ~~FRA~~ existing condominiums ~~data and townhouses~~. For TDR pricing  
25 purposes, the Multifamily price applies to Townhouses, Cottage Homes, and  
26 CLF units. **[Ord. 2011-001]**

27 c. For proposals including a mix of Single Family and Multifamily units, the pricing of  
28 TDR units shall proportionally reflect the proposal's unit type ~~mix-of the non-TDR~~  
29 ~~units~~. **[Ord. 2011-001]**

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- d. Additional prices adjustments are available for TDR ~~units shall be as follows as indicated below:~~ **[Ord. 2011-001]**
    - 1) For TDR units-receiving areas located within an area that has a BCC-accepted Neighborhood Plan pursuant to FLUE Policy 2.4-b, and the proposed density increase is identified within ~~or and~~ supported by the Neighborhood Plan, the TDR price shall be 75 percent of full TDR price ~~as established in Art. 5.G.3.G.4.b.1) and Art. 5.G.3.G.4.b.2) above;~~ **[Ord. 2011-001] [Ord. 2012-003]**
    - 2) For TDR units-receiving areas located within ~~a CCRT area the RRIO as depicted on Map LU 1.1, Managed Growth Tier System, in the Map Series of the Plan,~~ the TDR price shall be 25 percent of full TDR price ~~as established in Art. 5.G.3.G.4.b.1) and Art. 5.G.3.G.4.b.2) above;~~ **[Ord. 2011-001]**
    - 3) The price of TDRs used to provide Workforce Housing TDR units on site shall be five percent of full-the applicable TDR price as established in Art. 5.G.3.G.4.b.1) or Art. 5.G.3.G.4.b.2), and-or Art. 5.G.3.G.4.~~b.d.1) or Art. 5.G.3.G.4.d.2)~~ above. This discount is not available for TDRs purchased for CLF purposes; and, **[Ord. 2011-001]**
    - 4) Affordable Housing TDR units are required to be provided on site and shall be priced at one percent of full-the applicable TDR price as established in Art. 5.G.3.G.4.b.1) or Art. 5.G.3.G.4.b.2), and-or Art. 5.G.3.G.4.~~b.d.1) or Art. 5.G.3.G.4.d.2)~~ above. This discount is not available for TDRs purchased for CLF purposes. The dollar difference between the TDR price and the Affordable Housing TDR price can be used as a price waiver to be counted as part of the Local Government contribution for housing funding application purposes. **[Ord. 2011-001]**
  - ~~e. Applicants may request Workforce Housing TDR units at greater than the required percentage (34 percent), however in order to receive the Workforce Housing TDR price, those additional Workforce Housing TDR units (greater than 35 percent) must be priced for WHP Low Income (60 to 80 percent of AMI) households only. [Ord. 2011-001][Ord. 2019-033]~~
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**Part 2. ULDC Art. 5.G.3.I, Supplementary Standards, Density Bonus Programs, Transfer of Development Rights (TDRs) – Special Density Program, Transfer of Development Rights (TDR) Bank, The Application, Sale, and Value of Development Rights (page 98, Supplement 30), is hereby amended as follows:**

**Section 3 Transfer of Development Rights (TDRs) – Special Density Programs**

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**I. TDR Density Bonus Limitations-Housing Program Requirements**

**1. WHP 34 Percent Requirement**

In accordance with FLUE Policy 2.4-a.5 of the Plan, ~~34 percent of all~~ TDR density bonus units acquired from the TDR Bank shall ~~be provided as WHP units have a workforce housing obligation of 34 percent. These units shall be constructed on-site; comply with the affordability range requirements of this Chapter; and, Art. 5.G.1.A.3.h, Design Standards. The project shall only be eligible to apply for the following WHP incentives: Art. 5.G.1.B.2.f.1), Traffic Performance Standards Mitigation; Art. 5.G.1.B.2.f.2), Expedited Review; and, Art. 5.G.1.B.2.f.3), Flexibility in Property Development Regulations.~~ The 34 percent requirement does not apply to TDRs used

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for CLF purposes. All WHP units resulting from TDRs shall comply with the requirements of Art. 5.G.1, Workforce Housing Program (WHP). [Ord. 2008-003] [Ord. 2011-001] [Ord. 2019-033]

**2. AHP-100 Percent Requirement**

When using the voluntary AHP, all TDR density bonus units shall be provided as AHP units. These AHP units shall be constructed on site; and shall comply with the affordability range requirements of ~~Table Art. 5.G.2.B, Affordable Housing Program (AHP) and Art. 5.G.2.F, Affordability Requirements; and, Art. 5.G.2.C, Design Requirements. The project shall only be eligible to apply for the following AHP incentives: Art. 5.G.2.D.2, Traffic Performance Standards Mitigation; Art. 5.G.2.D.3, Expedited Review; and, Art. 5.G.2.D.4, Density Bonus Development Options.~~ **[Ord. 2009-040]**

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