



January 9, 2020

VIA EMAIL

Barbara Blake Boy, Executive Director  
Broward County Planning Council  
115 South Andrews Avenue, Room 307  
Fort Lauderdale, Florida 33301



*BARBARA*  
Dear Ms. Boy:

Thank you for the opportunity to review and comment on the proposed amendments to the Broward County Land Use Plan. The City of Oakland Park values our partnership with Broward County and strives to work with the County to provide housing opportunities for all its residents.

Oakland Park Community and Economic Development staff have reviewed the proposed amendments, and after consultation with the City Manager's Office, offers the following comments:

**PCT 20-3** proposes to amend Policy 2.16.3 to increase the "market rate" formula for affordable housing units restricted for a period of 30 years.

- Regarding the proposed language to amend Policy 2.16.3(1) to separate the low-income category from the very low-income category, Oakland Park staff has **no objections** or comments.
- Regarding the proposed language to amend Policy 2.16.3(2) to increase the number of bonus "market rate" units in each of the affordability categories (moderate, low and very-low), Oakland Park staff has **no objections** to the proposed amendment. Oakland Park staff notes that the proposal continues to allow the City the right to regulate these provisions through its own Land Use Plan and Land Development Code, including application of these provisions in a more restrictive manner, or prohibition of such.
- Regarding the proposed language to amend Policy 2.16.3(3) to change the required affordability period from 15 years to 30 years, Oakland Park staff **opposes** this proposed amendment. Extending the affordability period to 30 years encourages stagnation and limits the individual property owners' ability to achieve economic advancement. Further, the longer affordability period restricts reinvestment in these units in years 16-30 at a time that they are more likely to physically deteriorate.

**Barbara Blake Boy**

**January 9, 2020**

**PCT 20-4** proposes to add Policy 2.16.4 to allow additional permitted residential density on parcels designated "Commerce" or "Activity Center" on the Broward County Land Use Plan and adjacent to a roadway classified as a State road or County arterial, subject to inclusion of an affordable housing component.

- Regarding new proposed Policy 2.16.4 to allow residential density on parcels designated "Commerce" or "Activity Center," City of Oakland Park staff note the following:
  - Oakland Park staff is generally supportive of the concept of permitting residential density on parcels designated "Commerce" or "Activity Center." However, it is our opinion that a base permitted density of 16 dwelling units per gross acre should be permitted "by-right" in the Broward County Land Use Plan for these categories, with the affordable housing bonus density provisions of Policy 2.16.3 available as an additional incentive. Further, Oakland Park staff **opposes** the requirement that the parcel be located within a ¼ mile of a State road or County Arterial, as this proposal disproportionately concentrates the eligible areas in the municipalities that already provide a majority of affordable housing opportunities. Oakland Park staff recommends that these provisions apply to all parcels designated "Commerce" or "Activity Center."
  - 2.16.4(1) Oakland Park staff has **no objections**. Oakland Park staff notes that the proposal continues to allow the City the right to regulate these provisions through its own Land Use Plan and Land Development Code, including application of these provisions in a more restrictive manner, or prohibition of such.
  - 2.16.4(2) Oakland Park staff has **no objections**.
  - 2.16.4(3) Oakland Park staff has **no objections**.
  - 2.16.4(4) Consistent with our comments above, Oakland Park staff **opposes** the proposed 30-year affordability period and proposes a 15-year affordability period requirement.
  - 2.16.4(5) Oakland Park staff **opposes** the requirement to provide at least 10% of the gross floor area for office or commercial uses. Each parcel and development scenario is unique, and this requirement would eliminate some proposals.
  - 2.16.4(6) Oakland Park staff has **no comments**.
  - 2.16.4(7) Oakland Park staff has **no objections**.
  - 2.16.4(8) Oakland Park staff has **no objections**.
  - 2.16.4(9) The City of Oakland Park **strongly objects** to this provision. The proposed mandate to require municipal adoption of specific land development regulations in order to be considered favorably for County funding (i.e. Transportation Surtax, Broward Redevelopment Program, etc.) of future public infrastructure and economic development projects is an affront to Oakland Park's home rule. The

**Barbara Blake Boy**

**January 9, 2020**

proposed language conflicts with current land development regulations and with our local vision.

**PCT 20-5** proposes to amend Policy 2.16.2 to require that local governments address affordable housing supply and programs in the “moderate,” “low” and “very-low” income categories and requires local governments to use the “Broward County Affordable Housing Needs Assessment” to estimate the supply of affordable housing.

- Regarding the proposed language to amend Policy 2.16.2(j) to require that local governments address affordable housing supply and programs in the “moderate,” “low” and “very-low” income categories, Oakland Park staff has **no objections**.
- Regarding the proposed language to amend Policy 2.16.2(j) to require local governments to use the “Broward County Affordable Housing Needs Assessment” to estimate the supply of affordable housing, Oakland Park staff has **no objections**. However, we note that although the Administrative Rules Document allows a local government to submit additional data and analysis there is no requirement for that data to be considered by Broward County staff. Oakland Park staff **proposes** adding language to Policy 2.16.2(j) acknowledging that additional information and/or studies submitted by the local government **shall** be considered.

**PCT 20-5 ARD** proposes to amend the Administrative Rules Document: BrowardNext to reflect the referenced Policy 2.16.2 amendment.

- Regarding the proposed language to amend the Administrative Rules Document, Oakland Park staff has no objections, consistent with our comments above related to Policy 2.16.2(j). However, Oakland Park staff **proposes** adding language to Section 5.4(B) **requiring** additional information and/or studies submitted by the local government to be considered.

**PCT 20-6** proposes to add Policy 2.16.5 to require municipalities to adopt an inclusionary housing ordinance within its zoning or land development code no later than 24 months after the effective date of the text amendment for development resulting in a net increase of 10 or more dwelling units with exemptions for census tracts which have a median assessed value for residential properties at or below 80% of the Broward County median value.

- The City of Oakland Park **strongly objects** to this proposed amendment. The proposed mandate to require municipal adoption of inclusionary zoning is an affront to Oakland Park’s home rule.

**Barbara Blake Boy**

**January 9, 2020**

- It is our opinion that the requirement to adopt an inclusionary housing ordinance within the municipal zoning code or municipal land development code is outside the purview of the County's land-use authority.
- It is unclear what is meant by "development resulting in a net increase of 10 or more dwelling units." Policy 2.16.2 applies to amendments to the Broward County Land Use Plan that result in a net increase of 100 or more dwelling units to that plan. Does this language contemplate rezoning or flexibility allocations that do not require an amendment to the Broward County Land Use Plan triggering these provisions? Building permits for vacant lots in which 10 or more dwelling units are permitted by-right? Oakland Park staff **objects** to this provision as written.
- Consistent with our comments above, Oakland Park staff **opposes** the proposed 30-year affordability period and proposes a 15-year affordability period requirement.
- The proposed amendment requires the municipality to provide a full offset of the developers' affordable housing contribution, as required by House Bill 7103, to make the developer "whole." The City of Oakland Park **objects** to this unfunded mandate.

Although the City of Oakland Park is generally supportive of the County's efforts, we continue to have concerns. These proposed amendments appear to perpetuate the burden of bearing affordable housing projects on the cities with affordable property values while sparing the newer, wealthier communities. Further, they shift much of the burden of this regional issue to the municipalities.

Sincerely,



Peter Schwarz, AICP

Assistant Director of Community and Economic Development

cc: David Hebert, City Manager  
Jennifer Frastaj, Assistant City Manager  
Brad Ostroff, Acting Director of Community and Economic Development



Main Office: 111 NW 183<sup>rd</sup> Street, # 111, Miami Gardens, FL 33169    Brickell Office: 1200 Brickell Ave, PH2, Miami, FL 33131

Barbara Blake Boy, Executive Director  
Broward county Planning Council  
115 South Andrews Avenue, Room 307  
Fort Lauderdale, Florida 33301



**Re: BCLUP Text Amendments PCT 20-4, 20-5 and 20-6.**

Dear Ms. Blake Boy:

I am writing to express the concerns of members of the Builders Association of South Florida (BASf) regarding the proposals referenced above regarding workforce and affordable housing. Their comments and concerns are below.

**Of the three (3) proposals referenced above, members support PCT 20-4, originally proposed by Senator Geller.** Briefly, it would provide that, on any property zoned Commerce, along transit lines, residential units can be built with various increasing bonuses ranging from 1 to 6 units (120% of AMI) up to 1 to 19 units (if 1 unit at 50% of AMI is built), before that City can apply for a land use change.

**PCT 20-5 originally proposed by Commissioner Nan Rich** would require cities to conduct studies to show they provide affordably priced housing in each of three categories moderate, low and very low income. Currently, no such specificity is required. Further, the study recently updated by FIU's Metropolitan Center would be used now, instead of the current firm, Meridian Group.

**PCT 20-6 originally proposed by County Vice-Mayor Dale Holness, proposes a 15% mandatory inclusionary zoning program.** This would include provisions of housing units in low, very low- and moderate-income levels.

**However, PCT 20-5 and 20-6 will have to be evaluated more closely, considering recently adopted State legislation (HB 7103).** That law now requires a local government which adopts a mandatory inclusionary zoning program, must provide builders with incentives that fully offset all costs of building such affordable housing units or their monetary, in-lieu contributions.

**It is important to note that PCT 20-4 already includes bonus units that could be put toward the offsetting cost provision of this new legislation.** For this and other reasons, BASF members respectfully recommend the adoption of PCT 20-4. This proposal would establish the start of meaningful, voluntary incentives that encourage the construction of what is needed most - more housing units – and does not raise the prices of goods or services for all other Broward residents.

BASF suggests that the Planning Council continue to explore additional ways to increase zoning and build more housing, in both municipalities and in unincorporated Broward County. As such a program matures, additional modifications and incentives can be added to this very worthy start toward providing affordably priced housing for Broward residents. Thank you for the opportunity to express the Association's views.

Sincerely,

***Truly Burton***

Truly Burton, Executive Vice President

Cc: Jose M. Gonzalez, BASF President.



January 9, 2020

Broward County Planning Council  
Barbara Blake Boy, Executive Director  
115 South Andrews Avenue, Room 307  
Fort Lauderdale, FL 33301

**RE: Response to Comments related to BCLUP Text Amendments to 20-3, 20-4, 20-5 & 20-6**

Mrs. Boy,

General Comments

- The City does not agree with a County-wide one size fits all approach. The proposed legislation does not adequately account for cities with a sufficient stock of affordable housing.
- The new requirement to subject all development with 10 or more units will drastically hinder small scale redevelopment. Infill housing and redevelopment of small parcels of land which do not have a high return on investment and which cannot accommodate and therefore not benefit from the additional development rights provided in the proposed legislation, would be adversely impacted by these new requirements. Requiring small developers to pay for a in-lieu affordable housing fee would also deter this form of development/redevelopment.
- Why should any contribution made by a developer be given to Broward County Affordable Housing Trust Fund under this proposed legislation? Each municipality should have the exclusive right to use developer contributions to further their own affordable housing needs, particularly given that they would be financially responsible to the developer to fully offset the developer's cost of the contribution.
- Has the entire Broward County Land Use Plan been reviewed in relation to the proposed changes to ensure no additional conflicts exist? Specifically sections related to, allocation of flex units, impact fees needed to maintain 3 acres of local parks for every 1,000 existing and projected residents, existing affordable housing requirements for residential uses up to 10 acres, maximum number of dwelling units per plat, Broward Next Affordable Housing Strategies AH-1 through AH-4 and how these proposed requirements could affect the needs for the rapid construction of post-disaster redevelopment.

### Response to Exhibit 1 Policy 2.16.5

- This policy is an unfunded mandate. The County’s method for addressing affordable housing issues appears to be to force municipalities to (i) adopt inclusionary zoning requirements consistent with the proposed legislation, and (ii) be financially responsible to “provide incentives to fully offset all costs to the developer of its affordable housing contribution” as required by House Bill 7103 (Ch. 2019-165, Laws of Florida).
- The reference to “net new residential development” is ambiguous and raises a number of questions since it is not defined. For example, if an existing development of 10 units or more is demolished and replaced with a development with the same amount of units, does the policy apply? If a development is done in separate and distinct phases on separately platted parcels, how would the 10 unit threshold be applied?
  - Additionally, what qualifies as “new” residential development? For example, section 2.16.2 has existed for a number of years and has required developers to address affordable housing issues at the time of a approved LUPA for a development containing over 100 units. If development has not yet commenced, will the developer who satisfied the prior requirements at the LUPA stage be required to satisfy the new requirements as well?
  - If a parcel has already been rezoned but not yet received plat or site plan approval, would the development be considered “new” development for purposes of the proposed inclusionary zoning legislation?
- (1<sup>st</sup> paragraph) – The 10 unit threshold is too low and will hinder redevelopment potential on small lots. The City suggests there be further discussion as to a higher threshold that would trigger the inclusionary policy. This should be consistent with policy 2.16.2 100 or more residential dwelling units
- (1<sup>st</sup> paragraph) Clarify if there will be any discrepancies to rental versus owned units. i.e. as provided in Policy 2.16.3(2).
- (1<sup>st</sup> paragraph) What is the purpose of rounding down the percentage requirements? If the intention of this legislation are to gain additional affordable units throughout the County, it would be optimal to round up this percentage. Additionally, rounding down is inconsistent with other traditional practices, such as parking and landscaping ratios.
- (2<sup>nd</sup> paragraph) Will a remedy be placed in this legislation to handle discrepancies or grievances between developers and cities who disagree over the value of the developer’s affordable housing contribution? Without a clear understanding of the value of developer’s affordable housing contribution or the monetary value of development rights, developers will undoubtedly want to negotiate with cities over these values. This will create discrepancies between cities and disproportionately provide affordable housing options throughout the County. This could also lead to disproportionately hurting cities with smaller tax bases or lower assessed values who have limited means to compensate developers to address the offset required by state law and may result in loss of incentives such as impact fees, building fees, and infrastructure improvements via density bonuses. Policy 2.16.3(5) has not been amended to clearly state that proposed development is responsible for such new impacts to city public facilities.

- (3<sup>rd</sup> paragraph) Is it appropriate for each city to recalculate census tracts each year? Is it possible for all municipal agencies to perform this function? Additionally, what if a developer feels that the city information is not correct? It would be best if the county maintained this information and made it available for both developers and cities.
- (3<sup>rd</sup> paragraph) If a new development meets the requirement to be exempt from inclusionary housing, are they also exempt from the affordable housing ordinance requirements of Policy 2.16.2?
- (Definition) As this definition only states the term “residential construction”, this then includes single-family homes. How does this impact infill construction, in which only one home is being built? Most cities only require a building permit for this type of construction and single family home construction (not related to tract housing) has historically been exempt from affordable housing requirements. This should be clearer.
- The proposed inclusionary policy only applies to residential development. At the workshops there was discussion that non-residential development should also be included. Is there a reason non-residential is not included?

#### Response to Exhibit 1 Policy 2.16.2

- It is unclear how this existing code section applies to the newly proposed inclusionary zoning code section. Are developers required to address both?

#### Response to Exhibit 2 – Policy 2.16.2

- 5.3 (5th paragraph) The City objects to the option of approval of the utilization of a contiguous local government’s affordable housing if this approval would then condition the approving city that their affordable housing remain available. A provision such as this hinders redevelopment of such areas. Also, how would this be applied when a neighboring local government is in another County (ex. Boca Raton or Miami Gardens)? Is this provision still applicable to Broward municipalities that share borders with municipalities outside of Broward County?
- 5.4(A) Why is it necessary for local governments to provide an estimate of the existing supply of affordable housing if the county requires all local governments to adhere to the findings of the “Broward County Affordable Housing Needs Assessment”? This is further stated in paragraph 3 of this document and in 2.16.2(j) This is a duplication of efforts.

#### Response to Policy 2.16.4

- The City objects to any additional requirements to any existing Local Activity Centers (LAC) already approved by Broward County. Such requirements at this point would not only cripple the city’s redevelopment efforts, but make the City’s existing development rights program, which is intended to improve the walkable nature of Pioneer Grove, useless. If conditions are added to this section which impact existing LACs, Deerfield Beach will have no choice but to formally object to these proposed changes.
- (2) What is the reasoning to permit any reduction in the size of affordable units? Developers are already receiving net cost to build these units.

- (6) How can the county still request affordable unit costs when the cities are required to provide the means for developers to add affordable housing? Will the reduction of payment to this fund count to meet the requirements of inclusionary zoning? Also, why is this fee not paid to the city's affordable housing trust fund, if such a fund exists? This code section should not codify a dollar amount that will clearly change over time (\$300,133). It should instead reference how and where this amount can be found.
- (7) Does this item need to be incorporated in municipal comprehensive plans? Has the State agreed to this?
- (8)(a) Cities should be allowed some flexibility in this language as each development is different.
- (c)(2) The sentence "the local government may establish a maximum building height limit of not less than five (5) stories" is not clear.
- (9) Do ALL of the criteria need to be met, or just some? The concern with this criteria is that cities will be forced to apply for surtax projects on state/regional roads that meet the locational criteria for density bonuses rather than on local roads where there may be a greater need for transportation improvements. This may result in inefficient spending of surtax dollars, with dollars not being spent in the areas of greatest need. Does this affect current FY20 surtax projects that have already been submitted before this criteria was drafted?
- (9)(c)(1) – A minimum density of 25 du/ac in a City such as Deerfield Beach is currently the highest density able to be achieved in a residential zoning district. Is this section requiring a minimum 25 du/ac in order to receive bonus density? What if cities choose not to have a high density requirement as many cities in Broward County currently have?
- (9)(c)(2) – Establishing a minimum 5 story height limitation in the policy is problematic. It should be up to the local government to decide the appropriate height limitation for its community. Building height should not be dictated by the County or used as a criteria to achieve bonus density. This type of form based design is only considering one type of housing model, mid to high rise apartments.

### Response to Policy 2.16.3

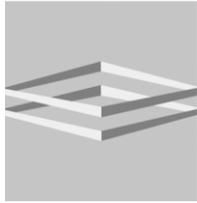
- (2) The city of Deerfield Beach objects to providing additional bonus units east of the Intracoastal Waterway.
- (3) The sentence "thirty (30) years for rental housing and at least thirty (30) years for owner-occupied housing" should be consistent throughout all revisions.
- (4) Will this maximum be taken into consideration when parcels come to the County to re-plat or change land use? Developers will certainly decrease the number of allocated units to pay a smaller amount to the County. In addition, how will the increase of these units be measured for other County agencies such as traffic, water and sewer who also review plats and will review them at a final population that is less than what the final plan will be?
- (4) Percentages are not applicable for Commerce land uses. What about Activity Centers?

- (5) In addition to the above comment, many cities rely on the County to determine these findings of adequacy. Will they be accurate if county applications are not required to consider the bonus densities?
- (9) This section conflicts with newly proposed section 2.16.4(8)(a). As each development is different, cities should have the ability to amend this section.

Sincerely,



Eric M. Power AICP, LIAF  
Director, Planning and Development Services



**DUNAY  
MISKEL  
BACKMAN** LLP

Gary Dunay  
Bonnie Miskel  
Scott Backman  
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Dwayne Dickerson  
Ele Zachariades  
Matthew H. Scott  
Christina Bilenki  
Lauren G. Odom

To: Barbara Blake Boy, Executive Director  
Broward County Planning Council

From: Dunay, Miskel & Backman, LLP

Date: Monday, January 13, 2020

RE: BCLUP Text Amendments PCT 20-3, 20-4, 20-5 and 20-6



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*PCT 20-3 Bonus Density Text Amendment:* PCT 20-3 proposes to amend Policy 2.16.3 to increase the “market rate” formula for affordable housing units restricted for a period of 30 years.

- No comments or questions at this time.

*PCT 20-4 Commerce and AC Text Amendment*

PCT 20-4 proposes to add Policy 2.16.4 to allow additional permitted residential density on parcels designated “Commerce” or “Activity Center” on the Broward County Land Use Plan and adjacent to a roadway classified as a State road or County arterial, subject to inclusion of an affordable housing component.

- It is unclear how this new policy will be implemented. Each region designated as “Activity Center” includes an allocation of residential units under the Broward County Land Use Plan. Would the affordable housing requirements be applied to the residential units already permitted under a given Activity Center, or would it allow for additional residential units within an Activity Center when affordable housing is being provided above those units already noted in the Broward County Land Use Plan?
- Similarly, under the Broward County Land Use Plan, residential uses are permitted on parcels designated “Commerce” via local government allocation of “flexibility units” and/or “redevelopment units”. Under the proposed new policy, if a project is providing affordable housing using the unit formulas described, is the allocation of “flexibility units” and/or “redevelopment units” still required? If a local government allocates flexibility units to a parcel designated Commerce, is the developed required to comply with the affordable housing formula?

PCT 20-5 2.16.2 Text Amendment: PCT 20-5 2.16.2 proposes to amend Policy 2.16.2 to require that local governments address affordable housing supply and programs in the “moderate”, “low”, and “very-low” income categories and requires local governments to use the “Broward County Affordable Housing Needs Assessment” to estimate the supply of affordable housing.

- No comments or questions at this time.

PCT 20-6 Inclusionary Text

PCT 20-6 proposes to add Policy 2.16.5 to require municipalities to adopt an inclusionary housing ordinance within its zoning or land development code no later than 24 months after the effective date of the text amendment for development resulting in a net increase of 10 or more dwelling units with exemptions for census tracts which has a median assessed value for residential properties at or below 80% of the Broward County median value.

- Under the proposed inclusionary policy, a municipality is required to adopt an inclusionary housing ordinance within 24 months of the effective date of this policy, and the City is further responsible to offset the developer’s affordable housing contribution consistent with the requirements of 2019 Florida House Bill 7103. What happens in the event a municipality has not adopted such an ordinance within the 24 month time frame? If a developer is processing applications at both the City and County level, will the developer’s applications still be processed, or will they be put on hold until a City complies with this requirement? Further, what happens in the event a municipality does not want to offset the costs?



January 13, 2020

Barbara Blake Boy, Executive Director  
Broward County Planning Council  
115 South Andrews Avenue, Room 307  
Fort Lauderdale, Florida 33301



**Re: City of Fort Lauderdale – Comments on the Proposed Amendments to County Land Use Plan and Administrative Rules**

Ms. Boy:

The City of Fort Lauderdale is in receipt of the four proposed amendments to the Broward County Land Use Plan (BCLUP) concerning affordable housing. This letter outlines the City's comments and recommendations on each of the proposed amendments.

Amendment PCT 20-3 "Bonus Density"

Modifying the restrictive covenant from fifteen years to thirty years increases the effectiveness of the policy, doubling the duration of the affordability period. However, the percentage of market rate units permitted for development of one very-low income unit appears disproportionate to the benefit received. It is recommended Amendment PCT 20-3 be deferred so that County staff can conduct further analysis on the substantial increase in market rate units to the equivalent affordable unit. The analysis should include cost data, potential impacts on surrounding properties based on density increases, and impacts to public services.

Amendment PCT 20-4 "Commerce and Activity Center Residential Density"

City recommends against adoption of Amendment PCT 20-4. The amendment states the Broward County Board of County Commissioners shall consider future funding of public infrastructure and economic development projects for the adoption of specific zoning regulations, but does not specify the severity of the considerations. It is unknown how the City will be evaluated against municipalities who have chosen to adopt the proposed zoning language. Moreover, the amendment does not mention the future funding source. If adopted, the amendment may create unequal evaluation of projects that contain affordable housing if the municipality does not adopt the policy and zoning regulations versus a municipality that does. In addition, the payment in-lieu option would allow a developer to gain the additional density for a project, while not providing for affordable units, with such payments being made to the County not the City. The City would bear potential impacts of increased density on City neighborhoods, without the ability to plan and utilize the associated payment in-lieu fees.

Amendment PCT 20-5 2.16.2 "Income Categories"

City supports this amendment and recommends adoption.

Amendment PCT 20-6 "Inclusionary Ordinance"

City recommends against adoption of Amendment PCT 20-6 due to the requirement that cities would have to adopt an inclusionary housing ordinance, thereby forcing the City to offset developer costs, already regulated by State Statute. This amendment would also restrict the City's flexibility in creating its own affordable housing implementation policy, which is currently in progress.

The City of Fort Lauderdale is committed to providing housing options for all socioeconomic levels of the community with access to transportation, employment, local services, open space, schools, activity centers, and neighborhoods.

Thank you for your time and attention on this matter. If there are any questions, please do not hesitate to contact me at (954) 828-5980 or [ccooper@fortlauderdale.gov](mailto:ccooper@fortlauderdale.gov).

Sincerely,



Christopher Cooper, Deputy Director  
Department of Sustainable Development

Cc via email: Chris Lagerbloom, ICMA-CM, City Manager  
Rob Hernandez, Deputy City Manager  
Anthony Fajardo, Director, Department of Sustainable Development  
Ella Parker, Urban Design and Planning Manager, Department of Sustainable Development  
Jim Hetzel, Principal Urban Planner, Department of Sustainable Development  
Adam Schnell, Urban Planner II, Department of Sustainable Development

**From:** [Stoudenmire, Scott](#)  
**To:** [Blake Boy, Barbara](#); [Von Stetina, Deanne](#)  
**Cc:** [Rose, Sheila](#); [Mehaffey, Kathryn](#)  
**Subject:** RE: REMINDER \*Proposed BrowardNext - BCLUP Text Amendments PCT 20-3, 20-4, 20-5 and 20-6 Request for Comments and Workshop\*  
**Date:** Monday, January 13, 2020 11:59:04 AM

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Good morning. Below, please find comments from City staff related to the proposed BCLUP Text Amendments related to affordable housing. The City very much appreciates the opportunity to participate in this process.

**1. PCT 20-3 Affordable Housing Bonus Density – Revising Policy 2.16.3**

**Workshop Comments:** None

**2. PCT 20-4 Commerce and AC (Activity Center) – adopts new policy 2.16.4**

Workshop Comments: This amendment may offer some beneficial development and affordable housing tools, however, Subsection (9), while well intentioned, should not be included with the proposed policy. This subsection negates the flexible and optional nature of the proposed amendment and instead holds local government’s financially hostage. The tools in the proposed amendment are available without local government revisions providing flexibility and options to developers who wish to utilize the feature. Subsection 9 however, punishes a local government for conditions beyond their control - if there hasn’t been applicable development or if developers haven’t chosen to utilize the incentive. In addition, such provisions may or may not be relevant to the funding application being reviewed, depending on the type of public infrastructure or economic development project, the location of the project and type of funding application that is being reviewed. As such, the City is opposed to the provisions of Subsection (9).

**3. PCT 20-5 2.16.2 and ARD (Administrative Rules Document)**

Workshop Comments: With the reliance on the 2018 Broward County Affordable Housing needs Assessment as the required tool for determining compliance with this policy, it is unclear, given the significant gaps that have been identified in the referenced report, what will be considered “a sufficient supply of affordable housing”. County staff should provide further guidance on this matter prior to adoption.

Comment Withdrawn via  
1/14/20 Email

**4. PCT 20-6 – Inclusionary housing – adopts new Policy 2.16.5 (requiring local government adoption of an inclusionary housing ordinance)**

Workshop Comments: The City is opposed to the proposed amendment. Adoption of an inclusionary housing ordinance is a local government decision, and should be left as such, particularly where local programs exist to address housing needs. The City currently operates an alternative program (linkage fee) instead of an inclusionary housing program.

Scott Stoudenmire, Deputy Director  
Department of Sustainable Development  
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 ***Please consider the environment before printing this email. Thank you.***

**From:** [Althea Jefferson](#)  
**To:** [Blake Boy, Barbara](#); [Von Stetina, Deanne](#)  
**Cc:** [Jeff Katims](#)  
**Subject:** RE: \*Proposed BrowardNext - BCLUP Text Amendments PCT 20-3, 20-4, 20-5 and 20-6 Request for Comments and Workshop Save the Date\*  
**Date:** Monday, January 13, 2020 11:07:30 AM  
**Attachments:** [image001.png](#)  
**Importance:** High

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## External Email

Hi Barbara.

The Mellgren Planning Group offers the following comments:

### **PCT 20-5 – Amending Policy 2.16.2 and Administrative Rules Document**

This amendment proposes to amend Policy 2.16.2 to require that local governments address affordable housing supply and programs in the “moderate,” “low” and “very-low” income categories and requires local governments to use the “Broward County Affordable Housing Needs Assessment” to estimate the supply of affordable housing; Also Amends ARD 5.4

- ARD 5.4 – It appears part C will be removed. This will require updating the sequence of remaining items (D. and E.) to C. and D.

### **PCT 20-4 – Proposes NEW Policy 2.16.4 – Affordable Housing - Additional Permitted Residential Density**

The proposed amendment increases the market rate formulas for affordable housing units; and restricts such units for 30 years (current = 15 years)

- Is part (7) and (9) in conflict with one another?
  - For BCC review of funding requests from local governments: How will items 9a through 9c be “considered”?
  - Will each item be weighted? What if the local government has used (new) Policy 2.16.4, but has not formally adopted items 9a through 9c in the local plan or LDC? Can this scenario be added as item 9d?
  -
- Broward Next should provide a definition for “market rate” unit?
- “Permitted Uses” - Commerce Use – update required for number 11 for continuity/consistency throughout BrowardNext
  - Update to reflect the proposed 30 year restriction on affordable housing (PCT 20-3)
  - Should the 15% be adjusted to 20 or 25 percent?
  - Will the residential uses be held to the 10% land area standard if the bonus density is used?
- Should language be added to reflect/support/recognize Part 7 of (new) Policy 2.16.4?
- 2.16.4: In addition to that otherwise permitted in those designated by their plan.. Does this mean more units or MF use where not otherwise permitted?
  - Does a micro unit = 1 AFU or ½ AFU (for bonus unit purposes)?

- Why are SF du not permitted? Don't we want as much AFU as possible?
- Delete #5
  - If there is an in lieu payment, how many bonus units are awarded?
  - Why is there a limitation of 25 du/ac?
  - What about townhomes? Activity Center MFHD?
  - Why 5-story minimum adjacent to low density or low-medium?

### **PCT 20-6 – Proposed NEW Policy 2.16.5 – Inclusionary Zoning**

This amendment proposes to add Policy 2.16.5 to require municipalities to adopt an inclusionary housing ordinance within its zoning or land development code no later than 24 months after the effective date of the text amendment for development resulting in a net increase of 10 or more dwelling units with exemptions for census tracts which have a median assessed value for residential properties at or below 80% of the Broward County median value.

- 2.16.5 v. 2.16.2: Why retain 2.16.2? How will 2.16.2 come into play at County level when cities already have a 15% or payment in lieu requirement?
- “Exempt” census tracts should be required to show plans and regulations to retain existing AFUs; and, any drop in current level/number of affordable units = disqualification of “exempt” status
- 2.16.5: Please explain “net new”? What if 10 units are demolished and two years later 10 new units are built? What is the “net new” in this scenario?

Overall comment: what happened to the proposed linkage fee? Please consider a proposal for a linkage fee.

Respectfully,

**Althea P. Jefferson, AICP**  
**Senior Associate**  
**954-475-3070 ext.800**



The Mellgren Planning Group  
3350 NW 53rd Street, Suite 101  
Fort Lauderdale, FL 33309

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**From:** [Jeff Katims](#)  
**To:** [Blake Boy, Barbara](#); [Althea Jefferson](#)  
**Cc:** ["Andy Berns" \(aberns@southwestranches.org\)](#); [Michele Mellgren](#)  
**Subject:** Affordable Housing Policies  
**Date:** Monday, January 13, 2020 12:48:48 PM

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Barbara, I have the following additional comments on proposed Policy 2.16.5 to add to those Althea sent on behalf of TMPG. I am sending these separately to emphasize how problematic the inclusionary mandate is to municipalities.

(1) With the understanding that in most cases a density bonus is the only feasible offset by a municipality, this policy would force municipalities to provide a density bonus in areas that cannot accommodate additional density without permanently changing the established and desired character of the area. I am referring to portions of western Broward County where large lots (i.e. 35,000 sf to two acres) are a minimum requirement and are essential to the character of the municipality or portion thereof.

(2) The bonus units needed to make the developer whole will in some cases cause a need for expensive infrastructure improvements that would not have been required without the bonus units. The cost of the improvements may exceed or substantially reduce the value to the developer of the bonus units, and may result in a lawsuit against the municipality for violating F.S. 2019-165.

(3) The county is shifting the liability under F.S. 2019-165 for its mandate to the municipalities, which are now responsible for determining how to offset developers' costs for complying with the mandate.

Finally, a request for clarification: under any of the policies, does an affordable micro unit count as one affordable housing unit or half of an affordable housing unit for the purpose of determining whether a development satisfies the minimum inclusionary requirement?

Thanks for the opportunity to comment, Barbara.

Jeff Katims  
Managing Principal  
The Mellgren Planning Group

From: Jean Dolan  
Sent: Monday, January 13, 2020 11:07 AM  
To: Blake Boy, Barbara  
Cc: Greg Harrison ; Brian Donovan ; David Recor ; Jennifer Gomez ; Miriam Carrillo  
Subject: RE: REMINDER \*Proposed BrowardNext - BCLUP Text Amendments PCT 20-3, 20-4, 20-5 and 20-6 Request for Comments and Workshop\*

Dear Barbara – attached please find Pompano’s contribution to the affordable housing policy discussion per your request. Affordable housing has been a problem since long before you and I became planners so we recognize how challenging this issue is. Knowing that taxes and insurance are over half of the typical monthly housing cost and both of those expense items are projected to increase due to the cost of adapting to sea level rise and other climate change related impacts, the focus on construction, which is less than one-half of the cost of housing, is not adequate now and wasn’t in the past. As Broward Next eloquently states in Strategy MM-2, the housing-transportation connection (H+T index) needs to be the focus. Reducing transportation costs by improving mass transit and promoting transit-oriented development can reduce or even eliminate dependency on personal cars thus saving the typical resident critical funds that can be redirected to housing and other expenses. This has the additional, and more important benefit, of reducing carbon emissions which is essential if we have any hope of reversing or even slowing the rate of climate change.

Thank you again for the opportunity to make these comments. I look forward to seeing you at the workshop on Thursday.

Jean



# DEVELOPMENT SERVICES

David L. Recor, ICMA-CM, Development Services Director  
E: david.recor@copbfl.com | P: 954.786.4664 | F: 954.786.4504

January 13, 2020

Barbara Blake Boy  
Executive Director  
Broward County Planning Council  
115 South Andrews Avenue, Room 307  
Fort Lauderdale, FL 33301



VIA: Email: bblakeboy@broward.org

Dear Ms. Blake Boy:

## CITY OF POMPANO BEACH COMMENTS ON COUNTY LAND USE PLAN AFFORDABLE HOUSING POLICY AMENDMENTS

Thank you for the opportunity to comment on the County's proposed land use plan text amendments to revise affordable housing policies. The City of Pompano Beach staff has reviewed these proposals and offer the following input:

- [PCT 20-3 Bonus Density Transmittal](#) (pdf)  
[PCT 20-3 Bonus Density Text Amendment](#) (pdf) proposes to amend Policy 2.16.3 to increase the "market rate" formula for affordable housing units restricted for a period of 30 years.

**Response:** Please consider the following questions and general observation in your deliberations:

- (1) Does this density bonus provision apply to existing Activity Centers that require affordable housing construction? If so, how does it apply for a 100% affordable project? For example, if 100 units of low income affordable housing is built using the entitlements from the basket of rights for the District, are 100 additional units added to the Activity Center's entitlements based on the double density maximum?
- (2) Policy 2.16.3(5) - in addition to public facility capacity, approval criteria should also consider compatibility with land use densities of the surrounding area, the building heights allowed in current zoning districts in the area and the avoidance of a "concentration of poverty".
- (3) Policy 2.16.3(7) indicates that the provisions are available even if the local government has not included them in their local land use plans. It should be clear that the density bonus program is not "by right" and can be denied by the local government even though it is allowed by the County's LUP. Each project must be considered on its individual merit which may include consideration of the compatibility of the additional density with the building heights in the vicinity of the project; the allowed building mass and lot coverages allowed by the various provisions of the zoning code for a particular site; the City's goals

for development or redevelopment of a given area; and the existing concentration of subsidized housing in a specific location. Each City should have the ability to create their own process for consideration of bonus density requests without concern for legal challenge of these decisions as these bonuses are discretionary and cannot be considered entitlements by right.

- (4) The \* that requires tenants to move out when their income increases should be deleted. The assumption that tenants will want to upgrade their housing as their income rises and their personal financial condition becomes healthier is adequate to ensure the long-term availability of this supply of affordable housing. There has been no data presented to indicate that the “upwardly mobile renter” is the problem or is in any way exacerbating the affordable housing crisis. The enforcement of this provision is questionable from both a practical and cost-benefit perspective.
  - (5) Why would any market-rate housing developer use this provision when they can get more than double density with unrestricted Flex or Redevelopment Units? To our knowledge, the City of Pompano is the only city in Broward County that requires flex units to provide some affordable housing or pay an in lieu fee. Is the County considering affordable housing or max density restrictions on the future use of Flex and Redevelopment Units to ensure that projects looking for additional density don’t use that pool of units instead of providing affordable housing to get the additional density?
  - (6) **General observation:** The City of Pompano Beach, in Chapter 154 of the City Code, has required affordable housing and encouraged mixed income projects as a condition of approval of flex units for many years. No “mixed income” housing developers ever materialized and Pompano’s flex units were only used by subsidized housing developers (mainly tax credit housing) that build 100% affordable housing. Only since the City introduced the current in lieu of fee so that developers could buy out of the affordable housing requirement have the flex units been “moving” and now they are nearly gone. If Pompano’s experience is typical, the question should be asked “why isn’t mixed income housing commonly built in Broward County?” The answer could help determine what economic and market factors are influencing this decision. Until we figure that out, density bonus provisions will not necessarily result in mixed income housing projects and may result in larger subsidized housing projects which tend to be clustered where land values are relatively low and can result in less than optimal concentrations of poverty.
- [PCT 20-4 Commerce and AC Transmittal](#) (pdf)  
[PCT 20-4 Commerce and AC Text Amendment](#) (pdf) proposes to add Policy 2.16.4 to allow additional permitted residential density on parcels designated "Commerce" or "Activity Center" on the Broward County Land Use Plan and adjacent to a roadway classified as a State road or County arterial, subject to inclusion of an affordable housing component.

**Response:**

- (1) Our interpretation of this policy is no entitlements in an Activity Center's basket of rights will need to be used if a project comes in with either a mixed use, 100% affordable housing project or a mixed-use, mixed-income project that meets the criteria in Policy 2.16.4. Please confirm.
- (2) Policy 2.16.4 does not specify a maximum density so we are assuming the cities will set the max density through their zoning regulations for mixed use residential projects in their commercial corridors if the cities desire to set a density limit. Otherwise, the density will be controlled by the building mass limits already included in the commercial zoning district.
- (3) Policy 2.16.4(5) should eliminate the 10% requirement and only require an unspecified portion of the ground floor to be office or commercial uses not ancillary to the residential units. This is because (1) 10% is an arbitrary number and may not be the "right" number; (2) office/commercial only works on the ground floor so forcing upper stories to be nonresidential to meet the 10% GFA total will not meet the intent of activating the street and is likely to be unsuccessful; (3) 10% of large buildings may be too much resulting in buildings with vacant ground floor spaces thus having the opposite effect of deactivating the street. Residential buildings built on these primary commercial corridors may be competing with well established businesses in the corridor making their new and more expensive places more difficult to lease. A glut of commercial space leads to high vacancy rates and undesirable and unintended uses moving into the excess commercial space that would otherwise sit vacant. (4) The intent should be to ensure that parking garages on the ground floor are wrapped with nonresidential uses to the maximum extent practical and desirable to activate the street, capture trips and improve the pedestrian quality of the street while acknowledging that the lobby, management office, parking structure access, garbage truck access and other ancillary uses must be on the ground floor.
- (4) Policy 2.16.4(6) specifies the in lieu of fee to buy out of the affordable housing requirement is \$42,876. This raises several questions and issues. (1) Pompano Beach has the highest in lieu of fee in the County at \$2,333 for every market rate unit in a project that was required to provide 15% affordable housing units (the math works out to \$15,553 per affordable unit not built). If the \$42,876 must be paid for EVERY unit granted through this density bonus program, the proposed fee is 18 times higher than what Pompano is currently assessing. If it is just for each affordable unit not built it is 2.8 times higher than Pompano's fee. The challenge is to keep the in lieu fee at a level where it can be "made up" by choice of finishes or cost savings during construction to ensure that the cost is not passed on to the ultimate tenant through rents or sales prices. This would just further exacerbate the affordable housing crisis by making "market rate" units even more expensive thus pushing residents who may have been "marginally" able to afford a market rate unit to now need a subsidized unit. (2) Do the cities have access to the County's Affordable Housing Trust Fund or is that only spent by the County and the cities have no input on what those funds are used for or where they are spent?

- (5) Policy 2.16.4(7) allows the cities to use this density bonus provision even if it is not adopted in our local land use plans. As stated above in regard to the density bonus program, it should be clear that allowing density to be granted in commercial districts is not “by right” and can be denied by the local government even though it is allowed by the County’s LUP. Each project must be considered on its individual merit which may include consideration of the compatibility of the additional density with the building heights in the vicinity of the project; the allowed building mass and lot coverages allowed by the various provisions of the zoning code for a particular site; the City’s goals for development or redevelopment of a given area; and the existing concentration of subsidized housing in a specific location. Each City should have the ability to create their own process of consideration of commercial density requests without concern for legal challenge of these decisions as these bonuses are discretionary and cannot be considered entitlements by right.
- (6) As also stated above in regard to the density bonus program, it is not clear why any market-rate housing developer would use this provision when they can get residential density in commercial districts with Flex or Redevelopment Units. To our knowledge, the City of Pompano is the only city in Broward County that requires flex units to provide some affordable housing or pay an in lieu fee. Is the County considering affordable housing or max density restrictions on the future use of Flex and Redevelopment Units in commercial land use categories to ensure that projects looking for additional density don’t use that pool of units instead of providing affordable housing to get the residential entitlements?
- (7) Policy 2.16.4(9) should be eliminated for several reasons. (1) The County does not have the authority to dictate how cities write zoning regulations. The County’s charter authority is limited to land use planning only. (2) Cities can write zoning regulations that meet these criteria and still never approve an application for affordable housing. (3) The nexus between this *one method* of encouraging affordable housing and the need for funding for public infrastructure and economic development projects has not been made. Many cities, like Pompano Beach, already provide affordable housing and, more significantly, subsidized housing that serves the poorest of the County’s residents. The idea that cities that have no affordable housing could get more infrastructure and economic development funding over cities that already have a considerable affordable housing supply just because they adopt regulations that meet these criteria is, at a minimum, inequitable.
- (8) If the County insists on keeping Policy 2.16.4(9) it should be revised as follows:
  - (9) In addition to the provisions of this Policy, the Broward County Board of County Commissioners shall consider the following in their review of funding applications submitted by local governments for future public infrastructure and economic development projects:
    - ~~(a) Local government adoption of this Policy into the municipal Comprehensive Plan;~~ (Note: 2.16.4(7) already makes this unnecessary)
    - (b) Local government adoption of specific regulations, in the municipal zoning and/or land development code, to allow ~~allocation of additional~~ residential density units as a permitted use, ~~by right~~, within specific nonresidential

zoning district(s) if residential entitlements are granted through County Land Use Policy 2.16.4;

- (c) Local government adoption of specific regulations to implement the provisions and criteria of this Policy, including:
1. Establishment of a minimum net residential density of twenty-five (25) dwelling units per acre within specific nonresidential zoning districts;
  2. Where a proposed mixed use building meeting the criteria in County Policy 2.16.4 is located within 100 feet of any parcel which ~~prohibits,~~ allows, through the applicable zoning regulations, residential development of (10) dwelling units per ~~gross net acre or less, or more,~~ the local government may establish a maximum building height limit of ~~not less than~~ five (5) stories or more within the applicable nonresidential zoning district; and
  3. ~~The~~ Zoning regulations that establish reduced on-site parking designated for residential uses built in nonresidential zoning districts in conformance with County Policy 2.16.4, as compared to standard residential zoning district parking standards, and with a minimum parking requirement of one (1) space per dwelling unit.

- [PCT 20-5 2.16.2 and ARD Transmittal](#) (pdf)  
[PCT 20-5 2.16.2 Text Amendment](#) (pdf) proposes to amend Policy 2.16.2 to require that local governments address affordable housing supply and programs in the “moderate,” “low” and “very-low” income categories and requires local governments to use the “Broward County Affordable Housing Needs Assessment” to estimate the supply of affordable housing  
[PCT 20-5 Administrative Rules Document Amendment](#) (pdf) proposes to amend the Administrative Rules Document: BrowardNext to reflect the referenced Policy 2.16.2 amendment.

**Response:** The supply of subsidized housing (public housing, tax credit housing, section 8 housing, etc.), should be considered differently from free-market housing that happens to be affordable due to size, location or condition. Cities, like Pompano Beach, that have subsidized housing should be given more latitude to determine where new affordable housing projects are located to avoid concentrations of poverty.

[PCT 20-6 Inclusionary Transmittal](#) (pdf)

[PCT 20-6 Inclusionary Text](#) (pdf) proposes to add Policy 2.16.5 to require municipalities to adopt an inclusionary housing ordinance within its zoning or land development code no later than 24 months after the effective date of the text amendment for development resulting in a net increase of 10 or more dwelling units with exemptions for census tracts which have a median assessed value for residential properties at or below 80% of the Broward County median value.

**Response:** The City of Pompano Beach staff is strongly opposed to this policy for several reasons.

- (1) The County does not have zoning authority and should not be dictating to the cities how to do zoning.
- (2) This policy is diametrically opposed to HB 7103 which was written to specifically discourage inclusionary zoning and was just adopted last legislative session so the cities haven't even figured out how this bill impacts our existing housing programs yet. Now is not the time for an inclusionary zoning ordinance requirement.
- (3) The only way to fully compensate for this affordable housing requirement without paying cash to developers is through density and height bonuses and 10 unit projects are too small to take advantage of these types of bonuses. The land areas would be too small to park additional density and these small projects are usually townhomes that can't take advantage of height bonuses.
- (4) The policy calls for an in lieu of option to buy out of the affordable housing requirement. How does the City fully compensate the developer for buying out of the affordable housing requirement per HB 7103? If more units won't fit on the site, the City would have to give the money back and the entire program is negated.
- (5) Since this program would be a city zoning requirement, each city would set their own buyout amount so cities could set that amount low and diminish the relevance of this approach.
- (6) Requiring density and height bonuses for every residential project over 10 units makes the densities shown on both the land use and zoning maps inaccurate for every residential district except for single-family residential. Making these maps that inaccurate does not seem supportable.
- (7) The concept of excluding census tracts where the median assessed value is less than 80% of the "Broward County median value" doesn't take rental housing into account so census tracts dominated by rental property could be subject to the inclusionary zoning ordinance regardless of affordability status. It must be clarified that "Broward County Median Value" as stated in this part of the policy means "Broward County median assessed value" because if it means the "Broward County median market value" which is what the gap analysis is based on, the 80% or less target for assessed values would be much easier to achieve because market value is always greater than assessed value.
- (8) Note: The base map for the census tract map provided in this agenda item should be more detailed in order for cities to determine how much of their city the County intends to exempt from this requirement.
- (9) The City of Pompano staff encourages the County to go back to the "all carrot, no stick" approach because now is not the time to force cities to do inclusionary zoning right when the State prohibited it without full compensation.

Barbara Blake Boy  
January 13, 2020  
Page 7

(10) The City of Pompano staff reserves the right to make specific comments on any zoning-related policies the County considers adopting if the objections of the cities are disregarded and the County moves ahead with this approach.

We will attend the workshops the County has on this topic to answer any questions you may have and to provide additional input as necessary. Thank you again for the opportunity to provide input on the County's constructive efforts to try and address this ongoing, difficult problem.

Sincerely,



Jean E. Dolan, AICP, CFM  
Principal Planner



January 13, 2020

Via email: [BBLAKEBOY@broward.org](mailto:BBLAKEBOY@broward.org)



Daniel J. Stermer  
*Mayor*

Thomas M. Kallman  
*Commissioner*

Margaret Brown  
*Commissioner*

Byron L. Jaffe  
*Commissioner*

Mary Molina-Macfie  
*Commissioner*

Donald P. Decker  
*City Manager/CEO*

Ms. Barbara Blake Boy, Executive Director  
Broward County Planning Council  
115 South Andrews Avenue, Room 307  
Fort Lauderdale, FL 33301

**Re: *The City of Weston's (the "City") Concerns Relating to Proposed Amendments PCT 20-3 Amendment to Policy 2.16.3 of the Broward County Land Use Plan (BCLUP), PCT 20-4 Amendment to 2.16.4 of the BCLUP, PCT 20-5 Amendment to Policy 2.16.2 of the BCLUP and Article 5 of the Administrative Rules Document of the BCLUP, and PCT 20-6 amending policy 2.16.5 of the BCLUP.***

Dear Barbara,

The City is in receipt of your email, dated November 26, 2019, regarding the City's opportunity to submit comments concerning the Proposed Amendments to the Broward County Land Use Plan (BCLUP). First and foremost, the City appreciates this opportunity to provide comments regarding this important matter.

After review and consideration, the City has identified four major concerns with the Amendments: (1) Encroachment upon home rule power; (2) Unfunded mandates; (3) Rational nexus of regulations to other funding sources; and (4) Inaccurate and incomplete methodology of the data and analysis.

(1) Encroachment Upon Home Rule Power

The City has a significant concern that the Amendments encroach upon its home rule powers granted pursuant to Section 2, Article VIII, of the Florida Constitution and Chapter 166, Florida Statutes. This concern is based upon the requirement in PCT 20-6 requiring the creation of an inclusionary housing ordinance. This requirement goes beyond the current requirements of Policy 2.16.2 of the BCLUP which allows cities to consider and implement ten specific policies to address affordable housing in their communities. Requiring an inclusionary housing ordinance mandates a one size fits all methodology and severely constrains the ability of cities to uniquely address affordable housing to meet the needs of their community.

Page 1 of 3

*The Nation's Premier Municipal Corporation<sup>SM</sup>*



January 13, 2020  
Ms. Barbara Blake Boy  
Page 2 of 3

(2) Unfunded Mandates

*If PCT 20-06 was to be adopted and an inclusionary ordinance established, cities will be required to refund any fee incurred regarding inclusionary housing to the developer. The Florida Legislature, through its adoption of House Bill 7103 requires cities to provide a full offset of the developers' cost for any fee imposed that does not directly impact infrastructure. As affordable housing is not identified as infrastructure, cities would be required to offset any inclusionary housing fees collected back to the developer which creates a financial burden to all cities.*

(3) Rational Nexus of Regulations to Other Funding Sources

*Within Amendment PCT 20-4, the County is proposing to allow for affordable housing in Broward County's commerce land use category as well as within Community Redevelopment Areas. While the City commends the ability to allow for affordable housing within this land use, the proposed amendments place specific restrictions on cities whether they implement these policies which impact a city's ability to implement zoning policies for their districts. In addition, if cities do not implement these specific policies, the Broward County Board of County Commissioners will consider the implementation of these policies (or lack of these policies), "...in their review of funding applications submitted by local governments for future public infrastructure and economic development projects." What type of infrastructure and economic development projects do these relate to? Will this impact cities abilities to apply for future funding through the infrastructure 1/2 penny sales tax recently approved? More information is needed to determine if a rational nexus exists between cities implementing these policies and other funding not directly related to affordable housing.*

(4) Inaccurate and incomplete Data and Analysis

*The Broward County Needs Assessment completed by Florida International University's (FIU) Metropolitan Center provides a review of the status of the housing market in Broward Study. Although the study does provide a summary of the state of the housing market, it includes a one page sheet of each city's affordable housing need. The study does not provide any methodology on how this information was obtained nor is there any information on the source of the data. The existing methodology, created by the Meridian Appraisal Group is a simple, easy-to-use format that allows anyone to easily decipher and determine how the data was created. As there is no methodology provided, there is no way to determine how the data was created and if the data provides an accurate representation of each community's unique market.*



January 13, 2020  
Ms. Barbara Blake Boy  
Page 3 of 3

Summary

*In general, the City of Weston agrees that affordable housing is an ongoing issue for Broward County and with continued collaboration and coordination with all levels of government, we can begin to make inroads to provide affordable housing to all. Additional coordination and collaboration between the County and its municipalities will be the only way to resolve this complex issue.*

*The City objects to the adoption of the Proposed Amendments and requests additional coordination and collaboration on a long-term solution for this complex issue.*

*Sincerely,*

**THE CITY OF WESTON**

A handwritten signature in blue ink that reads 'Donald P. Decker'. The signature is fluid and cursive, with a long horizontal line extending to the right.

Donald P. Decker  
City Manager/CEO

C:     Honorable Mayor and City Commissioners  
          Chad Friedman, City Attorney  
          Sarah Sinatra Gould, AICP  
          James Hickey, AICP

#73276

## City of Sunrise Comments on Broward Next BCLUP Text Amendments – Affordable Housing

January 13, 2020



- **General Concerns**
  - The City has significant concerns with any amendment that mandates affordable housing requirements that pre-empts local City of Sunrise.
  - The City may have additional comments upon conclusion of the public meeting on January 23, 2020 and clarification on the items included.
- **Policy 2.16.3**
  - **Subsection 4:** In the last sentence, what is “similar designation” as Commerce? Are these simply the land use zones that were collapsed into Commerce?
  - Page 3, the asterisk (\*) is referenced in Section 1 for moderate, low, and very low incomes; however, the note appears to only account for increases in income for moderate. Is this correct?
  - Page 3, is the increase in income as prescribed by the asterisk (\*) only permitted one time, etc? What if the annual income maintains an increase of 20%, making a moderate family have an annual income of 140% for multiple years in a row?
- **Policy 2.16.4**
  - **Subsection 1 & 6:** This section requires affordable housing be included within a multi-family residential development as prescribed by the policy and Subsection 6 permits this requirement be satisfied by an in-lieu fee; however, it is not clear what the minimum number of affordable units required to be built are. It appears Subsection 1 defines what the bonus density is, not the minimum number of units to be built.
  - **Section 6:** In-lieu fees should be allocated directly to the City in which the project is located, such that the in-lieu fee can be utilized in the local impacted area.
  - **Section 7:** This section indicates cities do not have to amend their land use plan to utilize Policy 2.16.4; however, if a city is processing a LUPA not using this policy and has not amended their Comprehensive Plan to include this policy, will the Comprehensive Plan be out of compliance with the County?
  - **Subsection 9:** The City has significant concerns with linking the proposed affordable housing policy to County Commission review of funding applications submitted by local governments for future public infrastructure and economic development projects.
    - Is this intended to impact surtax funded municipal projects?
- **Policy 2.16.2**
  - The City does not support modifications that preclude the opportunity for municipal review and comment or opportunity for public review and comments at public meetings.
- **Policy 2.16.5**
  - The City does not support any policy that obligates a code amendment to local municipal code ordinances.

**From:** [Lebrun, Nixon](#)  
**To:** [Blake Boy, Barbara](#)  
**Cc:** [Silva, Eric B.](#)  
**Subject:** City of Miramar Comments of the Proposed Amendments to the BCLUP  
**Date:** Monday, January 13, 2020 6:19:15 PM  
**Attachments:** [image001.png](#)

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## External Email

Hello Barbara,

This email is in response to your November 26, 2019 email in which you had solicited input on the four proposed amendments to the BCLUP from all municipal mayors, planners and managers in the County. While the City of Miramar is generally in agreement with these amendments, the City would nonetheless like to offer the following comment, especially on PCT 20-4 Commerce and AC Text Amendment and PCT 20-6 Inclusionary Text Amendment.

- **PCT 20-4 Commerce and AC Text Amendment:** The proposed amendment will allow multifamily residential use on parcels designated ‘Commerce’ or ‘Activity Center,’ and fronting and with direct access to a roadway classified as a **State road or County arterial**, per the Broward Highway Functional Classification Map, in addition to the uses permitted otherwise in these designations. The City would love that definition to be expanded to include roadways that are designated as major corridors on a municipal comprehensive plan and otherwise not listed on the Broward County Highway Classification Map. For instance, Miramar Parkway is not listed as either a County arterial or State road, from University Drive westward. As written, the proposed amendment would be of no benefit to that segment of this corridor, which for the most part is 6-lane divided highway, bisects the City’s RAC and features many large parcels designated as Commercial on the City Future Land Use Map.
- **PCT 20-6 Inclusionary Text Amendment:** This amendment provides that the application of the percentage requirements to a development shall be rounded down (e.g. 15% of 10 units equals 1 unit). The City would like to offer the following language in lieu thereof:
  - In calculating the required number of Inclusionary Units, fractional units or percentage requirements of .75 or above will be rounded-up to a whole unit if the Residential Development consists of ten (10) to twenty (20) units; fractional units of .50 or above will be rounded-up to a whole unit if the Residential Development consists of twenty-one (21) or more units.

Additionally, the City would like to know what types of incentives would be, in addition to the density bonuses, available to the municipalities to offset the cost to the developers and ensure compliance with HB 7103. For cities that do not have a CRA and/or the financial wherewithal, that could be quite challenging.

Regards,

**Nixon Lebrun, AICP, MPA, CFM**



Senior Planner | Community Development Department  
City of Miramar | 2200 Civic Center Place, Miramar, FL 33025  
O: 954.602.3281 | F: 954.602.3497 | [nlebrun@miramarfl.gov](mailto:nlebrun@miramarfl.gov)  
Hours: M – Th., 7am – 6pm, F – Closed | [www.miramarfl.gov](http://www.miramarfl.gov) [[miramarfl.gov](http://miramarfl.gov)]  
***It's Right Here In Miramar... And So Are You!***



**“A vision is like a lighthouse, which illuminates rather than limits, giving direction rather than destination.” - James J. Mapes, Foresight First**

Please note: Florida has a very broad public records law. Most written communications to or from City officials regarding city business are public records, and are available to the public and media upon request. Your e-mail communications, including your email address, may therefore be subject to public disclosure. This message, together with any attachments, is intended only for the addressee. It may contain information which is legally privileged, confidential and exempt from public disclosure. If you have received this e-mail in error, please notify the City of Miramar immediately by return e-mail.