Reducing Regulatory Barriers to Affordable Housing in Broward County

Facilitating the Development of Affordable Housing in Broward County

January 31, 2020
<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>04</td>
<td>About Report, Focus Group</td>
</tr>
<tr>
<td>05</td>
<td>About ULI</td>
</tr>
<tr>
<td>06</td>
<td>Executive Summary</td>
</tr>
<tr>
<td>08</td>
<td>Introduction</td>
</tr>
<tr>
<td>10</td>
<td>Identification of Regulatory Barriers</td>
</tr>
<tr>
<td>14</td>
<td>Best Practices for Reducing Regulatory Barriers</td>
</tr>
<tr>
<td>16</td>
<td>Policies to Facilitate Affordable Housing Developments</td>
</tr>
<tr>
<td>18</td>
<td>Conclusions</td>
</tr>
<tr>
<td>20</td>
<td>Sources &amp; Appendices</td>
</tr>
</tbody>
</table>
About This Report

This report originated through the White House Council on Eliminating Regulatory Barriers to Affordable Housing’s efforts to work with federal, state, local, and tribal stakeholders to identify and address the laws, regulations, land use requirements, and practices that increase the cost of the development of affordable housing nationwide.

The HUD-led council engaged the ULI Southeast Florida/Caribbean to convene a roundtable discussion of stakeholder experts to review common tenets found in zoning land use regulations across Broward’s municipalities. The recommendations and feedback gathered for this report will be submitted to the White House Council on Eliminating Regulatory Barriers to Affordable Housing.

ULI would like to give a special thanks to the roundtable sponsor Gunster, as well as the participants, and facilitator without whom the report would not have been possible. We thank all participants for their valued contributions and appreciate the perspectives, experiences, and insight provided.

Note that the recommendations presented in this report reflect the consensus of the overall focus group, and may not reflect the opinions of individual members.

Focus Group Facilitator
Jim Carras
Harvard University | John F. Kennedy School of Government

HUD Representatives
Seth Appleton
HUD Assistant Secretary of Policy Development & Research
Alfonso Costa Jr.
HUD Deputy Chief of Staff
Denise Cleveland-Leggett
HUD Region IV Administrator

Focus Group
Leslie A Del Monte
City of Hollywood
Daniel Bidot
Lars Buro NY, Boca Raton
Barbara Blake Boy
Broward County Government
Karen Boutros
Broward Workshop / Regional Business Alliance
Ana Bovovic
Analytics Miami
Uwe Cerron
Selenis Construction
Korina Cornish
Champion the City
Frank Cubas
The Richman Group
Christy Dominguez
City of Hallandale Beach
Sandra Einhorn
The Coordinating Council of Broward
Andrew Frey
Fortis Design+Build
Vicky Gatanis
South Florida Regional Transportation Authority
Stephen Graham
City of Deerfield Beach
Anthony Grisby
City of Hollywood
Cora Hawkins
Gates Construction
Daniel Holmes
City of Lauderdale Lakes
Esteban Kotfsmon
Chateau Group
Jeffrey Kune
ACP Ventures LLC.
Tracy Lautenschlager
Greenberg Traurig
Lindsay Lecour
Atlantic-Pacific Communities
Vanessa Leroy
City of Hallandale Beach
Shannon Loy
City of Sunrise
Michael Marshall
Gunder
Chadwick Maxey
Nova Southeastern University
Jeffrey McDonough
Stiles
Marty McGrohan
Walker Dunlop
Clifford Moore
Journey C&G Group Inc.
Steve Morales
PLUS Architecture, Planning Design
Giovanni Moss
Pompano Beach
Donna Musial
Musial Associates, LLC
Vickki Placide-Pickard
City of Deerfield Beach CRA
Nikki Rao
Pitri Construction Company
Ranata Reeder
South Florida Community Development Coalition
John Renne
FAU Department of Urban & Regional Planning
Nancy Robin
Habitat for Humanity Broward
Adam Schnell
City of Fort Lauderdale
Jo Sesodia
Broward County Planning & Development
Eric Silva
City of Miramar
Clark Stephens
South Florida Community Land Trust
Deborah Stevens
City of Miramar
Stephanie Toothaker
Tri Scott
Thuy Turner
Kimley-Horn and Associates
Greg West
ZOM Living
Eile Zachariades
Dunkay Mikel and Backman LLP

Report Staff & Consultants
Eralda Agoll
ULI Southeast Florida / Caribbean
Mallory Barker
ULI Southeast Florida / Caribbean
Julie Medley
ULI Southeast Florida / Caribbean
Christopher Pometry
Terwilliger Center for Housing
Stephanie Rosendorf-Diaz
Principal Author

About the Urban Land Institute

THE URBAN LAND INSTITUTE is a global nonprofit land use and real estate development organization dedicated to providing leadership in the responsible use of land and in creating a sustainable and thriving future for communities worldwide.

The extraordinary impact that ULI makes on land use decision making is based on its members’ sharing expertise on a variety of factors affecting the built environment, including urbanization, demographic and population changes, new economic drivers, technology advancements, and environmental concerns.

Locally, the ULI Southeast Florida/Caribbean District Council includes more than 1900 members spread along the east coast of Florida from Indian River County through the Florida Keys and from throughout the Caribbean region.

More information is available at uli.org. Follow ULI on Twitter, Facebook, LinkedIn, and Instagram.
EXPEDITED REVIEW FOR PROJECTS CONTAINING AFFORDABLE HOUSING

In the effort to facilitate affordable housing development, municipal and county land use reform should include: (i) increased entitlements for developers; (ii) greater resources devoted to reviewing affordable housing projects; (iii) and overall standardization of zoning and land use rules across Broward’s 31 municipalities.

CONSISTENCY IN PLANNING, ZONING, & PERMITTING PROCEDURES

Broward’s municipalities each have their own unique regulatory processes for planning, land use, and zoning, and this fragmentation creates inefficiencies and additional costs for developers who have properties in multiple cities. By ensuring that zoning procedures and permitting processes are as consistent as practicable, both costs and uncertainty can be reduced.

PRESERVATION OF EXISTING AFFORDABLE HOUSING

Each municipality should create an inventory of vacant land, with the top priority of building affordable housing on vacant land. In addition, local governments must take stock of ongoing restrictive covenants that were only in place for 15 years and ensure that any new restrictive covenants have affordability requirements for at least 30 years.

ELIMINATION OF CERTAIN SIZE AND USE RESTRICTIONS

Mixed Use Development
Cities should review their current master plans and proactively allow for affordable housing to be mixed with retail property.

Increased Density
Single family zoning has exacerbated the housing crisis by contributing to scarcity and increased costs. Municipalities should amend their land use codes through allowing increased “gentle density” where compatible and appropriate for the surrounding areas.

Reduced Lot Size Minimums
There should be less parking requirements around source stations, and there shouldn’t be these onerous environmental requirements for smaller projects.

TRANSIT-ORIENTED DEVELOPMENT

Transit-oriented development refers to development of dense, mixed-use housing in walkable, pedestrian-friendly areas close to public transit stations. In November 2018, Broward County voters approved a one-cent surtax sales tax to be used for improving the county’s transportation system. With growing recognition of the need to eliminate the overwhelming sprawl that exists in most metropolitan areas, Broward County should aggressively pursue increased density along transit corridors using transit-oriented development (“TOD”). To that end, County planning staff should develop additional incentives for cities to fast-track projects involving transit-oriented development.

CITY COUNTY COORDINATION

Meaningful reform will require Broward County and its municipal partners to collaborate and share a willingness to learn best practices from each other. Workshop participants agreed that a critical part of understanding the best methods for reducing regulatory barriers comes through knowledge of the specific gaps for each level of income, known as AMI levels. Thus, municipalities and Broward County should increase coordination and collaborate to ensure a focus on filling the gaps and changing outcomes for those populations most in need.

MUNICIPAL HOUSING TRUST FUNDS

Municipalities seeking to increase revenue streams for affordable housing should establish their own municipal housing trust funds similar to that of Broward County’s local version of the statewide Sadowski Trust Fund. The revenue from these funds should be allocated towards the production of new units for households in the AMI levels with the greatest need.
According to its most recent comprehensive affordable housing needs assessment, an estimated 147,313 Broward renters spend more than one-third of their income on housing, with an additional 77,000 spending more than half of their earnings on housing alone. In fact, between 2001 and 2017, the number of severely cost-burdened renters rose by more than 45 percent. In Broward County, Florida, a region of 1.9 million residents that is expected to grow to over two million people by 2030.

Since the end of the Great Recession, new residential construction in the United States has struggled to keep pace with household growth. Meanwhile, wages have risen at a slower pace than home prices in a large majority of housing markets across the country. While South Florida has the distinction of being at the top of the list, the affordable housing crisis transcends local and state boundaries. In fact, between 2001 and 2017, the number of severely cost-burdened renters rose by more than 45 percent. Nowhere is this housing crisis more apparent than in Broward County, Florida, a region of 1.9 million residents that is expected to grow to over two million people by 2030.

Using their respective zoning codes, Broward’s municipalities have the ability to generate more affordable housing to address these challenges. However, the stringent zoning and land use regulations of many jurisdictions inhibit, rather than encourage, affordable housing production, keeping housing costs out of reach for a majority of families. In fact, in 26 of 31 Broward municipalities, the percentage of cost-burdened renter households is greater than 50 percent.

Meanwhile, as the number of cost-burdened families across the country continues to rise, the federal government has recognized the need to collaborate with state and local government partners in order to assess regional and local barriers that seem to inhibit, rather than encourage, an expanded affordable housing supply.

In the Summer of 2019, President Trump established the White House Council on Eliminating Regulatory Barriers to Affordable Housing, led by the U.S. Department of Housing & Urban Development (HUD), with Secretary Dr. Ben Carson as the Chair.

The Council is charged with working with federal, state, local, and tribal stakeholders to identify and address the laws, regulations, land use requirements, and practices that increase the costs of affordable housing development and contribute to the ongoing gap between supply and demand of housing units considered affordable for low- and middle-income Americans.

To do so, the Council solicits feedback from state, local, and tribal government officials, along with relevant private sector stakeholders, in order to identify, assess, and reduce regulatory barriers to affordable housing.

With these goals in mind, the ULI Southeast Florida/Caribbean district council was recruited to convene a roundtable of Broward County’s affordable housing stakeholder experts—including developers, attorneys, planners, and housing advocates—to meet with senior HUD staff in order to review common tenets found in local land use and zoning codes throughout Broward County.

1. Identifying existing regulatory barriers that restrict the production of affordable housing
2. Identifying existing best practices that aid in affordable housing development
3. Recommending policies that can facilitate and spur the development of more affordable housing units.

Above: the Oakland Preserve affordable housing development

References:
5. Ibid.
I. Identification of Regulatory Barriers

OUTDATED ZONING CODES

Broward County’s initial land use plan was established during the 1970s and 80s based on low-density, suburban development with roads and highways built to accommodate heavy use of automobiles.9 In 2014, the County began the process of updating and rebranding its land use plan, culminating in the September 2017 adoption of “BrowardNEXT.”10 Since then, the County has incorporated additional elements into the plan, including a housing element listing specific focus areas and goals for expanding affordable housing in Broward County.

Although problems often arise from restrictive zoning codes that limit density, on the other side of the spectrum lies extremely permissive zoning codes. For instance, if a municipal zoning code already permits high density buildings, cities do not have the option of using density bonuses and other similar incentives to leverage affordable housing agreements from developers.

NIMBYISM AND THE STIGMA OF AFFORDABLE HOUSING:
The NIMBY (“not in my backyard”) philosophy refers to resident opposition and hostility toward new development, particularly when that proposed development contains affordable housing. While often at least partially driven by the stigma of apartment living or multifamily housing, the explanation for opposition is most often expressed to local governing bodies in the form of fears over increased traffic, decreased property values, and neighborhood architectural incompatibility.

While housing advocates and other community stakeholders have made efforts to educate communities and alleviate their misplaced fears of multifamily housing, developers frequently lack the level of expertise in community outreach necessary for overcoming these barriers.

As such, although opportunities are ripe for converting various retail and commercial spaces in Broward County to mixed use or residential properties, the NIMBY (“Not in My Backyard”) philosophy shows little sign of waning, with local elected officials and administrators having little to no control over this anti-development sentiment.

Many older retail centers sitting on very large tracts of land have the potential for infill and redevelopment, but developers run into large regulatory hurdles and NIMBY sentiment, both of which do not bode well for the chances of contributing to the expansion of affordable housing stock.

DISJOINTED AND UNPREDICTABLE DEVELOPMENT APPROVAL PROCESS:

Roundtable participants from the development community agreed that local permitting and development approval processes are extremely disjointed. Reportedly, under current regulations, it can take up to an entire year just to get a proposed development through the planning and permitting process.

However, given that Broward is divided up into 31 incorporated municipalities, each of those cities has their own planning, zoning, and land use regulations, which are often more restrictive than those of the county. In fact, evidence shows that a major driver of high housing costs is compliance with overly strict construction and development requirements and regulations. Strict land use and zoning codes keep development costs artificially high, and for multifamily properties, this percentage can be up to 30% or even 45%.11

Although certain municipalities have attempted to expedite the permitting process for affordable housing projects on an informal basis, staff run into constant challenges due to the limited resources and limited planning and zoning staff. Developers emphasized that unless—and until—local governments form a coherent and consistent regulatory process for permitting and development approval, it will prove difficult to meaningfully contribute to an expanded affordable housing supply in Broward County.

10 Ibid.
At the State Level:

**Sweeping of the Sadowski Affordable Housing Trust Fund**

In 1992, the Florida Legislature established the William E. Sadowski Affordable Housing Trust Fund, which increased the documentary stamp tax on all real estate transactions and dedicated the additional revenue to affordable housing programs throughout the state.\(^{13}\)

70% of funds generated are allocated to the State Housing Initiatives Partnership (SHIP) program, which provides funds to local governments to help produce and preserve affordable homeownership and multifamily housing.\(^{14}\) The remaining 30% of funds are dedicated to Florida Housing Finance Corporation programs, such as the State Apartment Incentive Loan (SAIL) program.\(^{15}\) SAIL funding is then provided to individuals, public agencies, nonprofit, or for-profit organizations that are proposing new construction or significant rehabilitation of multifamily units for very low-income individuals and families.

In the previous fiscal year (FY2019-20), had the legislature not swept Sadowski Trust Fund monies, Broward County would have received $22,790,234.\(^{16}\) Instead, due to the sweeps, that amount was $2,576,919, a mere 11% of the original total.\(^{17}\) Over the past few legislative sessions, lawmakers from both sides of the aisle have introduced legislation to prohibit further sweeps of the Sadowski trust fund, unfortunately to no avail.

Notably, during the 2019 legislative session, Florida Governor Ron DeSantis requested that all Sadowski funds be used for the purposes in which they were intended. Nevertheless, the majority leadership in the Florida House of Representatives swept $125 million dollars of the trust fund monies to use for other purposes.\(^{18}\)

Governor DeSantis has proposed $387 million dollars for affordable housing programs in the FY 2020-21 budget, continuing his commitment to no proposed raiding of the Sadowski Trust Fund. It remains to be seen whether the years-long tradition of Sadowski sweeps will continue during the upcoming 2020 legislative session and beyond.

\(^{13}\) Section 420.0005, Florida Statutes (1992).


\(^{15}\) Ibid.

\(^{16}\) Ibid.

\(^{17}\) Ibid.

Reforming Land Use and Zoning Regulations

Meaningful expansion of affordable housing supply in Broward will require municipalities to reform their zoning codes to permit higher density residential development in their downtown urban core and city centers. The City of Hollywood, for example, has adopted new regulations for its RAC downtown area, such as reduced parking requirements, lower minimum unit sizes, increased density, and addition of areas zoned for mixed use development.14

CURRENT BROWARD COUNTY PROPOSALS

On November 5, 2019, the Broward County Commission approved several motions to initiate the following amendments to Broward’s Land Use Plan policies and transmit them to the Broward County Planning Council for consideration:

- PCT 20-3 Bonus Density Text Amendment proposes to amend Policy 2.16.3 to increase the “market rate” formula for affordable housing units restricted for a period of 30 years.20
- PCT 20-4 Commerce and AC Text Amendment proposes 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.
- PCT 20-5 2.16.2 Text 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.
- PCT 20-8 Inclusionary Text proposes to add Policy 2.16.5 to require municipalities to adopt an inclusionary housing ordinance within their 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.

Broward County staff is also looking at how they can help expand affordable housing production in municipalities, and particularly for those cities in need of affordable housing for families making 50% AMI. Over approximately the past year, the Broward Planning Council has focused on promoting incentives for affordable housing through providing bonus densities, allowing accessory dwelling units (ADU) and creating other tools for community use. In addition, the county currently provides impact fee waivers on affordable housing developments for low and very low-income categories.

Public-Private Partnerships

Public-private partnerships can provide the necessary capital to leverage buy-in from local governments. One local example is the City of Hollywood’s Pinnacle at Peacefield, a 120-unit affordable rental housing development for seniors. The development is still under construction, with residents expected to move in during the Spring of 2020.21

Best Practice: Adding Flexibility in Minneapolis, Minnesota

In December 2018, the City of Minneapolis eliminated single-family zoning, abolished minimum parking requirements, and permitted high-density buildings along transit corridors. The zoning changes allowed for more flexible use of property, such as the addition of accessory dwelling units (ADU). Further, vacant lots and city-owned lots may now be used for duplexes or triplexes.

An important message to emphasize is that of “gentle density.” In other words, these zoning reforms do not eliminate all restrictions or completely overhaul the land use and zoning code. For example, property owners still must maintain setbacks and height limits consistent with single family uses. The impacts and changes associated with the amended code are manageable, closely regulated, and conform with the neighborhood character.

At the State Level:  
ADVOCATE FOR A LEGAL PROHIBITION ON THE APPROPRIATION OF SADOWSKI FUNDS FOR PURPOSES OTHER THAN AFFORDABLE HOUSING  

Despite robust bipartisan support in Tallahassee and across the state for prohibiting further sweeps of the Sadowski trust fund, leaders in the Florida House have expressed a willingness to continue raiding the trust fund and allocating much of its revenue for purposes other than affordable housing.  

Nevertheless, Senate Bill 306, introduced by Republican Senator Bill Mayfield would exempt the Sadowski Trust Fund (State Housing Trust Fund and the Local Government Housing Trust Fund) from a provision in the General Appropriations Act authorizing the Legislature to transfer unappropriated cash balances from specified trust funds to the Budget Stabilization Fund and the General Revenue Fund.

SUPPORT SENATE BILL (SB) 306 - HOUSING  

SB 306 would authorize local boards of county commissioners to approve the development of affordable housing on any parcel currently zoned for residential, commercial, or industrial use; and would require counties, municipalities, and special districts to include certain data relating to impact fees in their annual financial reports.

SUPPORT SENATE BILL (SB) 856 - AFFORDABLE HOUSING TAX REDUCTION  

SB 856 would create a reduction in certain property taxes to taxpayers building or renovating certain affordable, elderly, or workforce housing projects; specifying the calculation of property assessments over the reduction term; authorizing certain counties to limit the total number of qualifying projects subject to certain requirements; and specifying a taxpayer's liability for back taxes, penalties, interest, and remedies under certain circumstances.

At the Local Level:  
EXPEDITED PERMIT REVIEW FOR PROJECTS CONTAINING AFFORDABLE HOUSING  

In the effort to facilitate affordable housing development, municipal and county land use reform should include increased entitlements for developers, greater resources devoted to revamping affordable housing projects, and overall standardization of zoning and land use rules across Broward’s 31 municipalities.

CONSISTENCY WITH PLANNING, ZONING, & PERMITTING PROCEDURES  

Broward’s municipalities each have their own unique regulatory processes for planning, land use, and zoning, and this fragmentation creates inefficiencies and additional costs for developers who have properties in multiple cities. By ensuring that zoning procedures and permitting processes are as consistent as practicable, both costs and uncertainty can be reduced.

PRESERVATION OF EXISTING AFFORDABLE HOUSING  

Each municipality should create an inventory of vacant land, with the top priority of building affordable housing on vacant land. In addition, local governments must take stock of ongoing restrictive covenants that were only in place for 15 years and ensure that any new restrictive covenants have affordability requirements for at least 30 years.

ELIMINATION OF CERTAIN SIZE AND USE RESTRICTIONS  

Mixed Use Development - Cities should review their current master plans and proactively allow for affordable housing to be put with retail.

Increased Density - The widespread prohibition on multifamily residences in over 70 percent of most cities’ land area has created artificial scarcity that makes real estate in the few existing walkable, transit-served areas incredibly expensive.

Reduced Lot Size Minimums - There should also be less parking requirements around transit stations, and there shouldn’t be these onerous environmental requirements for smaller projects.

TRANSIT-ORIENTED DEVELOPMENT  

Transit-oriented development (TOD) refers to development of dense, mixed-use housing in walkable, pedestrian-friendly areas close to public transit stations. In November 2018, Broward County approved a one-cent surtax sales tax to be used for improving the county’s transportation system. Broward should aggressively pursue increased density along transit corridors using transit-oriented development by developing additional incentives for cities to fast-track projects involving transit-oriented development.

CITY-COUNTY COORDINATION ON AMI LEVEL GAPS  

Meaningful reform will require Broward County and its municipal partners to collaborate and share a willingness to learn best practices from each other. Workshop participants agreed that a critical part of understanding the best methods for reducing regulatory barriers comes through knowledge of the specific gaps for each level of income, known as AMI levels. Thus, municipalities and Broward County should increase coordination and collaborate to ensure a focus on filling the gaps and changing outcomes for those populations most in need.

MUNICIPAL HOUSING TRUST FUNDS  

Similar to Broward County, individual municipalities in the region should create their own housing trust funds with ongoing revenue streams and prioritization of new units for households in the AMI levels with the greatest need.

As the majority of Broward households remain cost burdened through increased housing costs and stagnated wages, there exists a growing mandate for policies and practices to expand the local supply of affordable housing.

To that end, participants agreed that in order to make a dent in the county’s affordable housing deficit it is incumbent upon us to work toward reducing regulatory burdens which stifle affordable housing development.

Recommendations for achieving these outcomes is threefold: streamlining development approval processes; reforming land use and zoning regulations; and improving city-county coordination, particularly as it pertains to municipal funding for affordable housing, preservation of existing affordable housing stock, and ongoing tracking of availability of public land for affordable housing.
Sources


Section 420.0005, Florida Statutes (1992).


Appendix A - Broward County Municipalities

Appendix B - Broward County Current Land Use Plan