

EXHIBIT 2

ORDINANCE NO.

1
2 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD
3 COUNTY, FLORIDA, ADOPTING AN AMENDMENT TO THE BROWARD COUNTY
4 LAND USE PLAN TEXT OF THE BROWARD COUNTY COMPREHENSIVE PLAN
5 REVISING POLICY 2.16.4 OF THE BROWARD COUNTY LAND USE PLAN; AND
6 PROVIDING FOR AN EFFECTIVE DATE.

7 (Sponsored by the Board of County Commissioners)
8

9 WHEREAS, Broward County adopted the Broward County Comprehensive Plan
10 on April 25, 2017 (the Plan);

11 WHEREAS, the Department of Economic Opportunity has found the Broward
12 County Comprehensive Plan in compliance with the Community Planning Act;

13 WHEREAS, Broward County now wishes to propose an amendment to Policy
14 2.16.4 of the Land Use Plan;

15 WHEREAS, the Planning Council, as the local planning agency for the Broward
16 County Land Use Plan, held its hearing on July 28, 2022, with due public notice;

17 WHEREAS, the Board of County Commissioners held its transmittal public hearing
18 on September 8, 2022, having complied with the notice requirements specified in
19 Section 163.3184(11), Florida Statutes;

20 WHEREAS, the Board of County Commissioners held an adoption public hearing
21 on December 6, 2022, at 10:00 a.m. [also complying with the notice requirements
22 specified in Section 163.3184(11), Florida Statutes] at which public comment was

23 | accepted and comments of the Department of Economic Opportunity, South Florida
24 | Regional Planning Council, South Florida Water Management District, Department of
25 | Environmental Protection, Department of State, Department of Transportation, Fish and
26 | Wildlife Conservation Commission, Department of Agriculture and Consumer Services,
27 | and Department of Education, as applicable, were considered; and

28 | WHEREAS, the Board of County Commissioners, after due consideration of all
29 | matters, hereby finds that the following amendment to the Broward County
30 | Comprehensive Plan is consistent with the State Plan, Regional Plan, and the Broward
31 | County Comprehensive Plan; complies with the requirements of the Community Planning
32 | Act; and is in the best interests of the health, safety, and welfare of the residents of
33 | Broward County,

34 | BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
35 | BROWARD COUNTY, FLORIDA

36 | Section 1. The Broward County Comprehensive Plan is hereby amended by
37 | Amendment PCT 22-2, which is an amendment to Policy 2.16.4 of the Land Use Plan, as
38 | set forth in Exhibit A, attached hereto and incorporated herein:

39 | Section 2. Severability.

40 | If any portion of this Ordinance is determined by any court to be invalid, the invalid
41 | portion will be stricken, and such striking will not affect the validity of the remainder of this
42 | Ordinance. If any court determines that this Ordinance, in whole or in part, cannot be
43 | legally applied to any individual, group, entity, property, or circumstance, such

44 determination will not affect the applicability of this Ordinance to any other individual,
45 group, entity, property, or circumstance.

46 Section 3. Effective Date.

47 (a) The effective date of the plan amendment set forth in this Ordinance shall
48 be the latter of:

49 (1) Thirty-one (31) days after the Department of Economic Opportunity notifies
50 Broward County that the plan amendment package is complete;

51 (2) If the plan amendment is timely challenged, the date a final order is issued
52 by the Administration Commission or the Department of Economic
53 Opportunity finding the amendment to be in compliance; or

54 (3) If the Department of Economic Opportunity or the Administration
55 Commission finds the amendment to be in noncompliance, pursuant to
56 Section 163.3184(8)(b), Florida Statutes, the date the Board of County
57 Commissioners nonetheless, elects to make the plan amendment effective
58 notwithstanding potential statutory sanctions.

59 (b) This Ordinance is effective as of the date provided by law.

ENACTED

FILED WITH THE DEPARTMENT OF STATE

EFFECTIVE

Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

By: /s/ Maite Azcoitia 10/07/2022
Maite Azcoitia (date)
Deputy County Attorney

MA/gmb
10/07/2022
PCT22-2 Policy 2.16.4 Ordinance
#80041

EXHIBIT A

SECTION I
AMENDMENT REPORT
BROWARD COUNTY LAND USE PLAN TEXT
PROPOSED AMENDMENT PCT 22-2

“Policy 2.16.4”

RECOMMENDATIONS/ACTIONS

DATE

I. Planning Council Staff Transmittal Recommendation

July 19, 2022

It is recommended that the proposed amendment to the BrowardNext - Broward County Land Use Plan be approved. **See Attachment 1.**

Further, Planning Council staff recommends continuing the annual review of the implementation of Policy 2.16.4 to collect data, as well as a review of the 3% annual increase for in-lieu of fee after five (5) years of implementation.

As the Planning Council is aware, the Broward County Charter requires at least one Planning Council public hearing and Article 1.2(A) of the *Administrative Rules Document: BrowardNext* outlines the following circumstances in which a second Planning Council public hearing may be recommended or required:

- (1) At its initial public hearing, the Planning Council takes an action to recommend denial of a proposed amendment; or
- (2) At its initial public hearing, the Planning Council takes an action to recommend approval subject to meeting specific criteria or policy prior to a second Planning Council public hearing; or
- (3) At its initial public hearing, the Planning Council votes by a majority of the members present with a minimum of six (6) affirmative votes for a second Planning Council public hearing; or
- (4) If the County Commission requests by a vote of the majority of members present to request a second Planning Council public hearing; or
- (5) If an objection or comment on adverse impacts to important state resources or facilities is issued during the State of Florida Chapter 163 review process; or
- (6) If State of Florida Chapter 163 requires or is modified to require a second local planning agency public hearing.

If the Planning Council chooses to require a second Planning Council public hearing per Article 1.2(A)(1)(2) or (3), such recommendation must be made as part of its motion.

RECOMMENDATIONS/ACTIONS (continued)

DATE

II. Planning Council Transmittal Recommendation

July 28, 2022

Approval per Planning Council staff transmittal recommendation, including not requiring a second Planning Council public hearing. (Vote of the board; Unanimous; 13-0: Blackwelder, Castillo, Fernandez, Gomez, Good, Hardin, Horland, Levy, Rich, Rosenof, Ryan, Williams and DiGiorgio)

III. County Commission Transmittal Recommendation

September 8, 2022

Approval per Planning Council transmittal recommendation.

IV. Summary of State of Florida Review Agency Comments

October 13, 2022

The State of Florida Review Agencies issued no comments or objections regarding the proposed amendment.

ATTACHMENT 1

BROWARD COUNTY LAND USE PLAN Proposed Text Amendment PCT 22-2

BrowardNext → 2017 BROWARD COUNTY LAND USE PLAN

SECTION 2: POLICIES

...

AFFORDABLE HOUSING

Policy 2.16.4 was adopted on March 9, 2021, and the following modifications are proposed to enhance its implementation. All changes are indicated in ~~strike-through~~/underline format.

POLICY 2.16.4 Within parcels located west of and including US 1*, and designated “Commerce” on the Broward County Land Use Plan and fronting with direct access to a roadway classified as a State road, County arterial, per the Broward Highway Functional Classification map, or other road or portion thereof, as approved by the Board of County Commissioners, herein after referred to as a “Qualified Road,” or within a parcel designated “Activity Center,” multi-family residential use is permitted in addition to that permitted otherwise in those designations by this Plan, subject to the following:

- (1) One or more of the affordable housing categories, as defined by this Plan, must be a component of the residential development based on the following “bonus” units to “affordable” unit formula(s) described below:
 - (a) Moderate income: six (6) bonus units for every (1) one moderate income unit.
 - (b) Low income: nine (9) bonus units for every (1) one low income unit.
 - (c) Very-low income: nineteen (19) bonus units for every (1) one very-low income unit.
- (2) (a) Each required affordable housing unit must be no smaller than ten percent (10%) less than the average gross floor area of ~~all~~-each bonus unit corresponding type (i.e., one-bedroom, two-bedroom, three-bedroom, etc.) in the development project; or
(b) The number of bedrooms/bathrooms provided in the affordable units must be proportional to the number provided in the bonus units type (i.e., one-bedroom, two-bedroom, three-bedroom, etc.).
- (3) Single-family dwelling units are not permitted. Residential units shall not be permitted on the ground floor portion of any building that fronts a Qualified Road. As per Policy 2.2.5 of the Broward County Land Use Plan, studio or efficiency housing units, no greater than 500 square feet in size, may be counted by the local government as 0.5 dwelling units for residential density purposes.

- (4) These additional permitted residential density provisions are conditioned on the developer or purchaser providing, in a manner acceptable to the affected unit of local government, guarantees, at a minimum through the use of restrictive covenants, that the affordable unit(s) will be maintained as affordable to the applicable designated income group(s) for a minimum period of thirty (30) years.
- (5) Within a development containing residential units, the following shall apply:
- (a) Office and commercial use may either be vertically or horizontally integrated providing the following:
1. At least fifty percent (50%) of the ground floor of any portion of a building or development, excluding ingress and egress, facing a Qualified Road shall provide office and/or commercial uses;
 2. Portions of a development not facing a Qualified Road within an Activity Center is not required, but encouraged, to provide for office and/or commercial uses.
- (b) On parcels greater than five (5) acres, a minimum of ten percent (10%) of the gross floor area, excluding parking garages, must be reserved, or utilized for office and/or commercial uses not ancillary to the residential units.
- (6) “Affordable unit” requirements may be satisfied via an in-lieu payment to the Broward County Affordable Housing Trust Fund** equal to \$10,000 per unit for the total number of units within the development which sum shall increase by 3% annually. ~~based on the Florida Housing Finance Corporation (FHFC) most recent “Total Development Cost Per Unit Base Limitations,” as updated by the FHFC. The per unit in lieu payment option shall be the Broward County FHFC average of the “garden ESS,” “mid-rise ESS” and “high-rise” total development cost (the average is currently \$300,133), divided by 7.~~
- (7) Units of local government may utilize the additional permitted residential density provisions described in this Policy, at their option, regardless of whether such provisions or conflicting provisions are incorporated within their certified local land use plan elements and utilization of these provisions does not require an amendment to the Broward County Land Use Plan map or local land use plan map.
- (8) Local government utilization of the additional permitted residential density provisions described in this Policy is subject to the following, as enforced by the applicable local government:
- (a) One hundred percent (100%) of the “affordable” units shall be available for occupancy before the final twenty-five percent (25%) of bonus units are available for occupancy.
- (9) In addition to the provisions of this Policy, parcels designated “Commerce” and meeting the location, frontage, and access requirements of this Policy or within an Activity Center, where the residential development will be located within ¼ mile of a State road, County arterial, or other road or portion thereof, as approved by Board of County Commissioners (“Board”), the Board shall consider the following in the 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;
- (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 zoning district(s);
- (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;
 2. Where a building is located within 100 feet of any parcel which prohibits, through the applicable zoning regulations, residential development of ten (10) dwelling units per gross acre or more, the local government may establish a maximum building height limit of not less than five (5) stories; and
 3. The zoning regulations that establish reduced on-site parking to accommodate the mixed uses.
- ~~(d) The Urban Planning Division. In order for a local government's funding application(s) for future public infrastructure and economic development projects to be eligible for consideration by the Broward County Board of County Commissioners under any section of this Policy which provides additional funding to local governments based upon their compliance with Section (9) of this Policy, the Planning and Development Management Division, in consultation with the Office of the County Attorney, must certify that all the foregoing requirements of this Section (9) have been satisfied.~~

(10) Units of local government may be more restrictive and are not required to adopt, utilize or implement the above referenced Policy.

* includes all parcels that front and have direct access to US 1 and, at the option of the applicable municipality as a permitted or special exception use, on parcels east of US 1 and west of the Intracoastal Waterway, provided the municipality makes a finding that the additional dwelling units on said parcels will not negatively impact hurricane evacuation clearance times and/or emergency shelter capacities. A local government is not required to apply this Policy to properties east of US 1 in order to be eligible for funding consideration by the Board of County Commissioners pursuant to Section (9) herein.

**Fifty percent (50%) of in-lieu fees may be paid into an Affordable Housing Trust Fund ~~or to the housing authority~~ of the applicable municipality, provided the municipality ~~or housing authority~~ requires said monies to be used for the construction of new affordable units or home repair. All in-lieu payments shall be made at the time of issuance of building permit.