



1 Environmental Protection, Department of State, Department of Transportation, Fish and  
2 Wildlife Conservation Commission, Department of Agriculture and Consumer Services,  
3 and Department of Education, as applicable, were considered; and

4 WHEREAS, the Board of County Commissioners, after due consideration of all  
5 matters, hereby finds that the following amendment to the Plan is consistent with the  
6 State Plan, Regional Plan, and the Plan; complies with the requirements of the  
7 Community Planning Act; and is in the best interests of the health, safety, and welfare of  
8 the residents of Broward County,

9 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
10 BROWARD COUNTY, FLORIDA:

11 Section 1. The Plan is hereby amended by Amendment PCT 20-4, which is an  
12 amendment to the Broward County Land Use Plan text to add Policy 2.16.4 to permit  
13 additional residential density, as set forth in Exhibit "A," attached hereto and  
14 incorporated herein.

15 Section 2. Severability.

16 If any portion of this Ordinance is determined by any court to be invalid, the  
17 invalid portion will be stricken, and such striking will not affect the validity of the  
18 remainder of this Ordinance. If any court determines that this Ordinance, in whole or in  
19 part, cannot be legally applied to any individual, group, entity, property, or circumstance,  
20 such determination will not affect the applicability of this Ordinance to any other  
21 individual, group, entity, property, or circumstance.

22 Section 3. Effective Date.

23 (a) The effective date of the plan amendment set forth in this Ordinance will  
24 be the latter of:

- 1 (1) Thirty-one (31) days after the Department of Economic Opportunity  
2 notifies Broward County that the plan amendment package is complete;
- 3 (2) If the plan amendment is timely challenged, the date a final order is issued  
4 by the Administration Commission or the Department of Economic  
5 Opportunity finding the amendment to be in compliance;
- 6 (3) If the Department of Economic Opportunity or the Administration  
7 Commission finds the amendment to be in noncompliance, pursuant to  
8 Section 163.3184(8)(b), Florida Statutes, the date the Board of County  
9 Commissioners, nonetheless, elects to make the plan amendment  
10 effective notwithstanding potential statutory sanctions; or
- 11 (b) This Ordinance is effective as of the date provided by law.

12  
13 ENACTED

14 FILED WITH THE DEPARTMENT OF STATE

15 EFFECTIVE

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

18 By /s/ Maite Azcoitia 01/27/2021  
19 Maite Azcoitia (date)  
20 Deputy County Attorney

21  
22  
23 MA/gmb  
PCT20-4 add Policy 2.16.4 to permit additional residential density Ord  
24 01/27/2021  
#80041

# EXHIBIT A

**SECTION I**  
**AMENDMENT REPORT**  
**BROWARD COUNTY LAND USE PLAN TEXT**  
**PROPOSED AMENDMENT PCT 20-4**

***“Residential Density in Areas Designated as Commerce or Activity Center”***

**RECOMMENDATIONS/ACTIONS**

**DATE**

*I. Planning Council Staff Transmittal Recommendation*

*June 16, 2020*

It is recommended that the proposed amendment to the BrowardNext - Broward County Land Use Plan be approved to expand the bonus density opportunity to all lands within an Activity Center, as well as eliminate the “market rate” reference as to not unintentionally penalize affordable housing developments. Further, Planning Council staff recommends that the Commerce land use designation permitted uses be amended to eliminate the reference to affordable housing to avoid a potential conflict with proposed Policy 2.16.4.

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**

**June 25, 2020**

Planning Council recommended approval of the proposed amendment per Planning Council staff recommendation, subject to a second Planning Council public hearing, including expanding the Policy to all lands within Activity Center boundaries, deleting the reference to market rate, and updating the permitted uses section. Further, the Planning Council made the following additional recommendations: 1) clarification in the text that the Policy is optional for local governments, 2) continue dialogue with local governments regarding whether funds will remain exclusively in the County trust fund or could be shared with a municipal trust fund or housing authority, and 3) clarification of the gross floor area definition. (Vote of the board; Unanimous; 17-0: Blackwelder, Blattner, Breslau, Brunson, DiGiorgio, Fernandez, Gomez, Good, Graham, Grosso, Hardin, Parness Railey, Rich, Ryan, Williams and Stermer)

**III. County Commission Transmittal Recommendation**

**September 10, 2020**

Approval per Planning Council transmittal recommendation. In addition, the County Commission recommended the following: 1) local governments may permit residential development on roads other than State roads or County arterials, as approved by the County Commission, 2) removed minimum parking requirements and 3) allows 50% of in lieu fees to be paid into a municipal Affordable Housing Trust Fund or Housing Authority provided that said monies must be used for the construction of new affordable units or home repair.

**IV. Summary of State of Florida Review Agency Comments**

**October 21, 2020**

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

**V. Planning Council Staff Final Recommendation**

**January 19, 2021**

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

**VI. Planning Council Final Recommendation**

**January 28, 2021**

Approval per Planning Council staff final recommendation, further recommending an annual review of the implementation of Policy 2.16.4. (Vote of the board; Unanimous: 17-0; Blackwelder, Breslau, Brunson, Castillo, Fernandez, Gomez, Good, Graham, Grosso, Hardin, Maxey, Railey, Rich, Rosenof, Ryan, Williams and DiGiorgio)

# ATTACHMENT

## Broward County Land Use Plan Proposed Text Amendment PCT 20-4

### Alternative Text

#### **AFFORDABLE HOUSING – ADDITIONAL PERMITTED RESIDENTIAL DENSITY**

##### **POLICY 2.16.4**

Within parcels located west of and including US 1\*, and designated “Commerce” or “Activity Center” on the Broward County Land Use Plan and fronting with direct access to a roadway classified as a State road, ~~or~~ County arterial, per the Broward Highway Functional Classification map, or other road or portion thereof, as approved by the Board of County Commissioners, or within a parcel designated “Activity Center” ~~where residential development will be located within ¼ mile of a State road or County arterial,~~ 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 “~~market rate~~” “bonus” units to “affordable” unit formula(s) described below:
  - (a) Moderate income: six (6) ~~market rate~~ bonus units for every (1) one moderate income unit.
  - (b) Low income: nine (9) ~~market rate~~ bonus units for every (1) one low income unit.
  - (c) Very-low income: nineteen (19) ~~market rate~~ bonus units for every (1) one very-low income unit.
- (2) Each required affordable housing unit must be no smaller than ten percent (10%) less than the average gross floor area of all ~~market rate~~ bonus units in the development project.
- (3) Single-family dwelling units are not permitted. As per Policy 2.2.6 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.

Note: Underlined words are additions, ~~struck through~~ words are deletions as proposed by Planning Council staff as part of its June 16, 2020, recommendation. Double underlined words are deletions and additions made by Senator Geller in response to the recommendations of the Planning Council at its meeting of June 25, 2020, and highlighted words are changes made by Senator Geller in response to the workshop on August 19, 2020. Italicized and underlined and ~~double struck through~~ words are changes to address the Planning Council’s June 25, 2020 recommendation.

- (5) Within a development containing residential units, ~~A~~ a minimum of ten percent (10%) of the gross floor area, excluding parking garages, ~~within a development containing residential units~~ must be reserved or utilized for office 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\*\* 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 “~~market rate~~” 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, ~~or County arterial~~, or other road or portion thereof, as approved by Board of County Commissioners (“Board”), 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;
- (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;

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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 ~~designated for residential~~ to accommodate the mixed uses, ~~a minimum parking requirement of one (1) space per dwelling unit.~~

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.

## **PERMITTED USES SECTION**

...

COMMERCE USE The areas designated for commerce use on the Future Broward County Land Use Plan Map (Series), provide land area for commercial, employment center, industrial and office park enterprises which support the resident and tourist populations of Broward County. Accordingly, municipal land use designations that are under the umbrella of commerce include Commercial, Employment Center, Industrial and Office Park. The permitted uses in areas designated commerce are as follows, as deemed appropriate by the local jurisdiction:

...

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11. Residential uses, up to 10 acres (~~up to 20 acres for projects that include a minimum of 15% affordable housing restricted to such use for a minimum of 15 years~~), are permitted via local government allocation of “flexibility units” and/or “redevelopment units,” provided that total residential uses do not exceed 20% of the land area designated “Commerce” or equivalent land use designation within the municipality. Areas east of the Intracoastal Waterway are limited to a maximum of 25 dwelling units per acre and are not permitted to utilize “redevelopment units.”

Note: Underlined words are additions, ~~struck through~~ words are deletions as proposed by Planning Council staff as part of its June 16, 2020, recommendation. Double underlined words are deletions and additions made by Senator Geller in response to the recommendations of the Planning Council at its meeting of June 25, 2020, and highlighted words are changes made by Senator Geller in response to the workshop on August 19, 2020. Italicized and underlined and ~~double struck through~~ words are changes to address the Planning Council’s June 25, 2020 recommendation.