

# CITY OF ORMOND BEACH

FLORIDA

PLANNING

MEMORANDUM

**TO:** Chairman Thomas, and members of the Planning Board

**FROM:** Ric Goss, Planning Director

**DATE:** 3.3.09

**SUBJECT:** Affordable Housing – Payment in lieu of

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Introduction: At the last Planning Board meeting in February, there was a concensus by the Planning Board to examine a provision for payment in-lieu when the nature of the development (for example, a development of exclusively half-million dollar homes) makes it infeasible to include affordable units. As such four options are provided regarding the treatment of this issue along with six options used by other local governments in valuating an affordable housing unit.

Since the February meeting, a concern has been expressed that current conditions do not support the imposition of a payment in lieu of and that due to the economy, homes which have not been affordable in the past are affordable today provided there is easy access to capital. This concern has been taken under advisement and while current conditions may not appear to support such a fee imposition, these amendments take a longer term view than the present day circumstances. However, the payment in-lieu option has been revised from the 120% of areawide median income to 80% of areawide median income for a family of four. Based on the 2008 Deltona-Daytona Beach-Ormond Beach Florida Metropolitan Statistical Area, the areawide median income for a family of four at 80% is \$41,850. This revision takes into consideration that families between 80%-120% of AMI are in a much better position to afford a home today than this time 3 years ago.

Background: The Affordable Housing Task Force recognized that affordable housing is a basic necessity for a healthy society, and it served smart growth movements well to incorporate an inclusionary provision as a guiding principle. Socioeconomically integrated communities set the stage for a jobs-housing balance and integrated schools. They also provide a meaningful move forward for low-income families that might otherwise be lost in the concentration of poverty that result from exclusionary zoning and land use practices. As such, the Task Force recognized the wisdom in providing incentives to assist the private sector in providing the affordable units, such as density bonuses to offset the costs of an inclusionary provision. It is important to point out that the City's Comprehensive Plan included the inclusionary provision, but not a density bonus provision. Consequently, staff proposed in the Evaluation Appraisal Report to maintain the current inclusionary provision and incorporate a density bonus provision as recommended by the Affordable Housing Task Force.

Inclusionary Zoning: For those members not familiar with this zoning term, I have excerpted from the Housing Plan Update the discussion of this technique. Typically, inclusionary zoning is used to increase affordable housing and is usually applied to new housing developments in which a certain portion of the units being constructed are set aside to be affordable to low- and moderate-income home buyers. This technique is applied to both rental and owned units, and single- or multi-family housing projects. Inclusionary zoning ordinances can be either mandatory, requiring developers to build a specified number of affordable units, or incentivized through density bonuses which allow a developer to build more units (at a higher density) on the same site in exchange for the inclusion of a number of affordable units. Inclusionary zoning ordinances generally contain provisions defining income eligibility requirements, criteria used for determining the pricing of affordable units, and restrictions on the resale of affordable units to ensure that new owners do not turn around and resell the units at market rates (Reason for monitoring and management plan provided to Planning Board last month). Ormond Beach has within its housing policies of the Comprehensive Plan (Policy 1.5.4) which support inclusionary zoning but no such implementing ordinance provision has been made to the Land Development Code. However, in Florida the Comprehensive Plan takes precedence over land development codes when conflicts arise in reviewing development.

The benefits that the Task Force considered concerning inclusionary zoning programs were many. The Task Force found that inclusionary zoning programs do not generally require the expenditure of local tax dollars to fund the construction of affordable housing units. Ordinances based on developer incentives, such as density bonus programs, offer a positive alternative to mandatory programs that may be resisted by local developers. Incentivized programs allow developers to determine for themselves whether participation will be cost effective. Inclusionary programs that do not provide for density bonuses can preserve zoning restrictions on higher density development and may be more acceptable in communities opposed to general up-zoning as a solution to affordable housing shortages. Inclusionary programs avoid the problems of over concentration, isolation, and stigmatization of affordable housing units, by integrating them into housing developments located throughout the community. Inclusionary zoning can be flexible, since the provision for affordable housing can either be regulated or encouraged by developer incentives.

Key policy issues considered by the Task Force were these. Set aside requirements should be relatively modest (10 to 15% percent of total units) if there are no compensating developer incentives. Inclusionary programs under Florida law permit a developer to opt for payment into a housing trust fund if the project is too small. For example, the Ormond Beach Comprehensive Plan states that any Planned Residential Development greater than 20 units would need to provide 5% (citywide) but 10% set aside applies to four areas only and is not citywide.

Affordable Housing Provision Options: All four options provided below would further the Affordable Housing Plan Update recommendations of which only two (3 and 4) would be consistent with and further both the Planning Board's direction and the Task Force recommendations.

1. An inclusionary provision for subdivisions over 20 units and require that they be placed within the subdivision (*Current Comprehensive Plan language*);

2. An inclusionary provision for all residential developments over 10 units and provide a density bonus to offset inclusionary cost. Units must be placed into development (*proposed EAR based amendments*);
3. An inclusionary provision for all residential development over 10 or 20 units (bonus is optional) and permit the developer the option to either place affordable units within the development or make a payment in lieu of providing affordable unit within development (*option is with developer*);
4. An inclusionary provision for all residential development over 10 or 20 units (bonus is optional) and require the developer to make a payment in lieu of providing affordable unit within development (*no option for developer*).

Option 1 and 2 are unacceptable to the Planning Board. Option 3 provides the flexibility to the developer to decide whether affordable units would be a positive or negative aspect to the development. Some developers may want to make a payment in-lieu of but will not want to front load the cash for all the units but this can be accomplished through development phasing (discussed below). Other developers may decide to incorporate the units into the overall development. Option 4 does not provide the option to the developer. The developer would be required to make a payment in-lieu.

Overall, given the Planning Board’s direction and a need to move forward the Affordable Housing Plan Update recommendations which the City Commission approved, Option 3 seems the most reasonable.

Affordable Unit Valuation Options:

Research was conducted on inclusionary zoning initiatives in Florida as well as outside of the state to come up with the following options.

1. New residential developments where the median housing price units are as depicted below in the table would pay a fee in-lieu of providing a unit within the development. The fee is based upon Table 3 of the Housing Study Update. Payments would be made over the number of phases planned for the development or at the end of the next to last phase.

Tenure Type	Up to 110% (\$162,250)	111% to 175% (\$258,125)	175% 225%+ (\$331,875)
	MASP	MASP	MASP
Owner Unit <sup>1</sup>	\$15,000	\$25,000	\$30,000
<sup>1</sup> Maximum Affordable Sales Price (MASP): \$147,500 (2008)			

2. In-lieu of fees per parcel for a subdivision shall be calculated to be the average value of the parcels in the subdivision where the average value equals the value of all parcels divided by the number of parcels in the subdivision.

**Example:**      Lot 1: \$ 50,000  
                          Lot 2: \$ 45,000  
                          Lot 3: \$ 42,500

Lot 4: \$ 40,000  
Lot 5: \$ 48,000  
\$225,500/5 lots = \$45,100

In multiple construction phases, the in-lieu of fees could be paid in the proportion that the phase bears to the overall project or prior to or concurrently with final phase of a subdivision plat approval.

3. Residential lots in-lieu of providing inclusionary units: As an alternative to providing inclusionary owner-occupied housing units on-site, the owner/developer could provide to the City of Ormond Beach, or a designated agent, one residential lot per required set aside unit not otherwise provided. Lots so provided may be located off-site within the City of Ormond Beach and each lot shall have sufficient area devoid of environmental constraints to allow construction of a unit. The City, or Volusia County or a non-profit housing corporation acting on the City's behalf could assume responsibility for development of the lots for low and moderate income residents so provided from the inclusionary units.
4. The amount of the fee in-lieu per unit shall be determined annually and shall be related to the cost of providing an affordable unit. For Fiscal Year 2007-2008, the fee shall be based upon 100% of the downpayment required for a unit that is considered affordable (\$147,500) for each required unit. Payment shall be made in proportion that the phase bears to the overall project.

**Example:** Payment for each affordable unit regardless of price required =  
\$15,000

5. The amount of the fee in-lieu per unit shall be determined annually and shall be related to the cost of providing an affordable unit. For Fiscal Year 2007-2008, the fee shall be 50% of \$147,500 for each required unit. This fee represents the lot and a portion of the construction. Payment shall be made in proportion that the phase bears to the overall project or at the end of but before the final plat is approved.

**Example:** Each affordable unit required = a payment of \$147,500 x .50 = \$72,500.

6. Applicant pays the fee in-lieu of the construction or provision of each affordable unit based upon a factor of times 80% of the median income for a household of four as reported by the most recent information from the United States Department of Housing and Urban Development (HUD) and/or the Florida Housing Data Clearinghouse in the Standard Metropolitan Statistical Area in which Ormond Beach is located. Current 2008 Income Limits for a family of four at 80% of Areawide Median Income is \$41,850.

Example: \$41,840 x 1.25 = \$52,300

The first option takes into consideration all owner occupied units to include condominiums and varies the fee based upon the market price of a unit. Option 2 considers only future single family detached developments by assessing the fee on the lot only. Both options 1 & 2 exclude multi-family rental and manufactured housing since all of these types of units are considered affordable housing. Option 3 which permits lots to be purchased offsite is a

viable option but it should be part of a broader package rather than the only option. The fourth option assumes a full payment for a unit that is considered affordable in the local MSA. During the research, there are a number of non-Florida communities that assess a payment in lieu of against the developer for the entire cost of an affordable unit which includes land and unit. Option 5 provides the approach but staff used an arbitrary 50% reduction factor. If this approach was not used, the amount would be \$147,500 for Ormond Beach. This full assessment option was not considered since this type of assessment would, in staff's opinion, indirectly drive up the costs of the market rate units increasing the affordability gap. In the final option, the median income for a family of 4 at 80% of AMI was multiplied by a factor. This factor could be higher or lower than 1. The 1.25 factor was chosen because it could provide cash for an affordable lot and some construction. However, in all scenarios provided, the density bonus provides for the offsetting of the increase cash cost to the developer and should ensure that the developer will not assess the cost against market rate units. The density bonus does not offset the increased cost of the timing of the cash payment if the payment is made upfront rather than phased over the development or paid at the end. Staff would recommend that payment be phased over the development or prior to the last phase being platted.

#### Recommendation:

Staff is recommending on balance to positively address the Affordable Housing Task Force recommendations while also addressing the Planning Board's concerns about the appropriateness of mixing affordable units with higher end style development, that the Planning Board support the following:

- 1) Keep the inclusionary zoning program for developments but lower the threshold to 10 units (Much of the large land acreages have been developed and only smaller parcels and opportunities for infill/redevelopment in the downtown and higher density zoning districts are left);
- 2) Provide a payment in-lieu of option for the developer that permits the owner/developer to decide whether the inclusionary units will be built on-site or in-lieu fees are paid or lots are provided to the City on a 1:1 ratio or a combination thereof. This recommendation meets Option 3 under the Affordable Housing Provision Options and Option 1 & 3 under the Affordable Housing Valuation Options. The basis of the fee is related to the number of required inclusionary units. The 5 and 10% set aside in the Comprehensive Plan was considered to be a modest by the Affordable Housing Task Force if no incentive was provided. So the number of inclusionary units is extremely modest considering that the density bonus recommended in the Housing Plan Update and crafted by staff equals the number of inclusionary units required.
- 3) If the owner/developer elects to make the payment in lieu of setting aside the affordable units in the development, these funds would be paid over the various phases of the development as they are platted and deposited into a City Housing Fund to assist low income residents elsewhere in the City.

# FY 2008 Income Limits Documentation System

## FY 2008 Income Limits Summary

Deltona-Daytona Beach-Ormond Beach, FL MSA										
FY 2008 Income Limit Area	Median Income	FY 2008 Income Limit Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
Deltona-Daytona Beach-Ormond Beach, FL MSA	\$52,300	Very Low (50%) Income Limits	\$18,300	\$20,900	\$23,550	<b>\$26,150</b>	\$28,250	\$30,350	\$32,450	\$34,500
		Extremely Low (30%) Income Limits	\$11,000	\$12,550	\$14,150	<b>\$15,700</b>	\$16,950	\$18,200	\$19,450	\$20,700
		Low (80%) Income Limits	\$29,300	\$33,500	\$37,650	<b>\$41,850</b>	\$45,200	\$48,550	\$51,900	\$55,250

NOTE: Deltona-Daytona Beach-Ormond Beach, FL MSA contains Volusia County, FL.

Income Limit areas are based on FY 2008 Fair Market Rent (FMR) areas. For a detailed account of how this area is derived please see our associated FY 2008 [Fair Market Rent documentation system](#).

Data file last updated Tue., Feb 19, 2008.

### Change Your Geographic Selections

Select a State first to select a specific county or New England town:

Alabama

Select State

or

Select a FY 2008 HUD Metropolitan Fair Market Rent Area's Income Limits:

Deltona-Daytona Beach-Ormond Beach, FL MSA

Select HMFA Income Limits Area

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