

REQUESTED COMMISSION ACTION:

Consent     
  Ordinance     
  Resolution     
  Consideration/ Discussion     
  Presentation

SHORT TITLE

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 154 "PLANNING", BY AMENDING SECTION 154.61, "RESERVE AND FLEXIBILITY UNITS," TO MODIFY PROCEDURES AND STANDARDS FOR AWARD OF RESERVE AND FLEXIBILITY UNITS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**Summary of Purpose and Why:**

Staff is recommending text amendments to Chapter 154 regarding Flex Units. In addition to proposing format changes in order to make the regulations easier to read, Staff is recommending substantive changes. The first substantive change is to require applications for Allocation of Flex Units to be reviewed by the City's Development Review Committee (DRC). Staff is recommending review by DRC since, similar to Rezoning applications, an allocation of Flex Units can have a significant impact on the development of the site as well as neighboring properties. The second substantive change is exempting infill properties that are one-acre or less from the requirement to provide affordable housing. While infill development is desirable by the city, as it contributes to safe and attractive pedestrian environments as well as utilizes existing infrastructure, it is often more challenging to develop. Staff believes this proposed change would remove a barrier to developing infill properties. Administrative Memo # 15-411 provides additional back-up as to what is meant by "infill" properties. The text amendments were recommended at the July 22, 2015 Planning and Zoning Board meeting.

Per the Motion at 1<sup>st</sup> Reading, Noticing requirements have been added to the Ordinance

- (1) Origin of request for this action: Development Services Dept.
- (2) Primary staff contact: Robin M. Bird/ Karen Friedman *KBF* Ext. 7792
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	07/06/2015	Approval	Memo #15-366 <i>[Signature]</i>
City Attorney	09/23/2015	Approval	Memo #2015-1583 <i>[Signature]</i>
X Planning and Zoning Board		Approval	Memo #15-054 (09/02/2015)
X City Manager	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

Ordinance	Resolution	Consideration
Workshop		
1 <sup>st</sup> Reading Approved as <u>amended</u> 10/13/15	1 <sup>st</sup> Reading	Results: _____
2 <sup>nd</sup> Reading <u>10/27/15</u>		Results: _____



**City Attorney's Communication #2015-1583**  
September 17, 2015

**TO:** Karen Friedman, AICP, Principal Planner  
**FROM:** Mark E. Berman, City Attorney  
**RE:** Ordinance Amending Section 154.61, "Reserve and Flexibility Units"

As requested in your e-mail of September 17, 2015, the following form of Ordinance, relative to the above-referenced matter, has been prepared and is attached:

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 154, "PLANNING," BY AMENDING SECTION 154.61, "RESERVE AND FLEXIBILITY UNITS," TO MODIFY PROCEDURES AND STANDARDS FOR AWARD OF RESERVE AND FLEXIBILITY UNITS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

Please feel free to contact me if I may be of further assistance.

MARK E. BERMAN

/jrm  
l:cor/dev-srv/2015-1583

Attachment

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 154, “PLANNING,” BY AMENDING SECTION 154.61, “RESERVE AND FLEXIBILITY UNITS,” TO MODIFY PROCEDURES AND STANDARDS FOR AWARD OF RESERVE AND FLEXIBILITY UNITS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, pursuant to law, ten (10) days’ notice has been given by publication in a paper of general circulation in the City, notifying the public of its proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission has been held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had the opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That Section 154.61, “Reserve and Flexibility Units,” of Chapter 154, “Planning,” of the City of Pompano Beach Code of Ordinances is amended to read as follows:

**§ 154.61 RESERVE AND FLEXIBILITY UNITS.**

(A) In conformance with the Comprehensive Plan, flexibility and reserve units as defined in § 154.60 of this chapter, may be allocated to authorize multifamily dwellings for residential projects or mixed use projects on properties with commercial land use designations or additional units on properties with residential land use designations. Approval of a transfer of flexibility and reserve units shall be achieved as outlined ~~in subsection (C)~~ below.

(B) Distribution of flexibility and reserve units.

(1) Available flexibility and reserve units may be utilized by the city to rearrange residential densities consistent with the Broward County Land Use Plan provisions.

...

~~(4) — Distribution of flexibility and reserve units shall be subject to affordable housing requirements, subsection (D) below.~~

(C) Procedure.

~~(1) — A written request from the developer to the Planning Director asking for a determination as the availability of surplus units in a certain flexibility zone.~~

~~(2) — Approval by the City Commission for the requested number of reserve and flexibility units, or such lesser number, upon applicant establishing by competent and substantial evidence, the following:~~

~~(a) — Consistency with applicable goals, objectives and policies of the City's Comprehensive Plan and this chapter.~~

~~(b) — The use of the reserve and flexibility units will produce a reasonable development pattern. The criteria for reasonableness shall include compatibility of adjacent land uses and suitability of the parcel for various development patterns.~~

~~(3) — Provision of a conceptual site plan pursuant to this chapter.~~

~~(4) — Planning and Zoning Board development approval pursuant to this chapter.~~

(1) Step 1: Application Submittal. The applicant shall submit an application to the Development Services Director as follows:

(a) The application is in the form established by the Development Services Director;

(b) The application is accompanied by the application fee as specified in Chapter 154, Appendix A: Fee Schedule; and

(c) The applicant includes information in sufficient detail to evaluate the application in order to determine whether it complies with the review standards listed in subsection (D) below, including a conceptual site plan.

(2) Step 2: Staff Review. Applicable to a recommendation by the Development Service Director, following DRC review and comment based on the Application Review Standards listed in subsection D below.

(3) Step 3: Advisory Body Review and Recommendation. Applicable to a recommendation by the Planning and Zoning Board based on the Application Review Standards listed in subsection D below.

(a) The Planning and Zoning Board hearing shall be noticed as follows:

(i) Published Notice. Notice of the P&Z public hearing shall be published at least five calendar days before the hearing date.

(ii) Mailed Notice. Notice of the P&Z public hearing shall be mailed at least five calendar days before the hearing date to the following recipients: Applicant; Owner(s) of land subject to the application; Owners of real property within 500 feet of the parcel(s) subject to the application; and the local planning agency of the county or adjacent municipality, if its jurisdictional boundary lies within 500 feet of the parcel(s) subject to the application.

(4) Step 4: Decision-Making Body Review and Decision. Applicable to a final decision by the City Commission.

(a) The City Commission hearing shall be noticed as follows:

(i) Published Notice. Notice of the City Commission public hearing shall be published at least ten calendar days before the hearing date.

(ii) Mailed Notice. Notice of the first City Commission public hearing shall be mailed at least ten calendar days before the hearing date to the following recipients: Applicant; Owner(s) of land subject to the application; Owners of real property within 500 feet of the parcel(s) subject to the application; and the local planning agency of the county or adjacent municipality, if its jurisdictional boundary lies within 500 feet of the parcel(s) subject to the application.

~~(5) Payment of a fee in the amount as specified in Chapter 154, Appendix A: Fee Schedule, at the time submission of a written request for a determination as to the availability of dwelling units.~~

(6 5) The availability of reserve and flexibility units will become null and void upon the expiration of the time limits provided in the resolution allocating said flexibility and reserve units. Time extensions may be granted for good cause shown if sufficient progress is demonstrated.

(D) Application Review Standards. An application shall only be approved on a finding that there is competent substantial evidence in the record that all of the following standards are met:

(1) Consistency with applicable goals, objectives and policies of the city's Comprehensive Plan and this chapter.

(2) The use of the reserve and flexibility units will produce a reasonable development pattern. The criteria for reasonableness shall include compatibility of adjacent land uses and suitability of the parcel for various development patterns.

(3) An agreement to provide affordable housing units per Section (E) below, except that infill properties which are one-acre or less are exempt from this requirement

(~~D~~ E) Affordable housing requirements.

...

**SECTION 2.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 3.** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**PASSED SECOND READING** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
**LAMAR FISHER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**ASCELETA HAMMOND, CITY CLERK**

MEB/jrm  
10/14/15  
ord/ch154/2015-489

**PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY  
MEMORANDUM #15-054**

**DATE:** September 2, 2015  
**TO:** City Commission  
**FROM:** Planning and Zoning Board/ Local Planning Agency  
**SUBJECT:** Proposed Text Amendments to Chapter 154: Planning  
§154.61 Reserve and Flexibility Units

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At the meeting of the Planning and Zoning Board/ Local Planning Agency held on July 22, 2015, the Board considered proposed text amendments to Chapter 154 regarding Reserve and Flexibility Units as set forth in the Department of Development Services Administrative Report 15-366.

Staff recommends text amendments that clarify that flex units may only authorize multifamily dwellings. The text amendments also separate standards of review from the procedures, require review by the DRC and revise the standards for affordable housing. Staff's recommendation is to exempt properties less than one (1) acre from the affordable housing requirement.

The Board requested that staff provide a map that displays the vacant parcels of one acre or less in the City that are located within the flex receiving zone so they can gain a better understanding of the location of the properties in question.

It is the unanimous recommendation of the Board that the text amendments be approved with the addition of the term "infill" to proposed §154.61.D.3 as follows:

§154.61.D.3

(3) An agreement to provide affordable housing units per Section (E) below, except that infill properties which are one-acre or less are exempt from this requirement



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Jerry Mills

Vice Chairman

Planning and Zoning Board/ Local Planning Agency



# MEMORANDUM

## Development Services

2015 AUG 11 AM 10:23

**ADMINISTRATIVE MEMORANDUM NO. 15-411**

**DATE:** August 6, 2015

**TO:** Planning and Zoning Board

**VIA:** Robin M. Bird, Director of Development Services

**FROM:** Karen Friedman, AICP, Principal Planner

*Handwritten initials: RB, KBF*

**RE:** Text Amendments to Chapter 154: Planning  
§154.61 Reserve And Flexibility Units  
***Additional Information regarding proposed revision to §154.61.D.3***

At the July 22, 2015 Planning and Zoning Board hearing Staff presented text amendments to §154.61 Reserve and Flexibility Units. While the Board approved the text amendments, the Board requested Staff report back to the Board with additional information regarding the revision to §154.61.D.3. This memo, therefore, includes additional information regarding the proposal to exempt properties which are one-acre or less from having to provide affordable housing in conjunction with an allocation of flex units.

### Map of Vacant Parcels

In order to understand the amount and location of properties that would be impacted by the recommendation, the Board requested a map of vacant parcels in the Flex Receiving Area.

The attached map shows the vacant parcels in the Flex Receiving area that are eligible for Residential Flex allocation (i.e. parcels with Residential or Commercial Land Use). Parcels that are one acre or less are shown in blue. Parcels which are larger than one acre are shown in red. The map shows that there are 549 vacant parcels, of which 93% are one acre or less. Additionally the overwhelming majority of the blue parcels are located in either the "Urban Infill Area" (described further below) or within the NW CRA.

### Defining Infill

Administrative Memo §15-366 explained that the justification for exempting properties one-acre or less from the affordable housing requirements is to encourage infill development. The report further explained that while infill development is desirable by the city, as it contributes to safe and attractive pedestrian environments as well as utilizes existing infrastructure, it is often more challenging to develop. Therefore the Board's recommendation was to add the word "infill" into the proposed §154.61.D.3,

However in conjunction with their recommendation, the Board requested Staff report back as to what is meant by infill development.

# MEMORANDUM

## Development Services

In order to better understand what is meant by infill development Staff has attached the following:

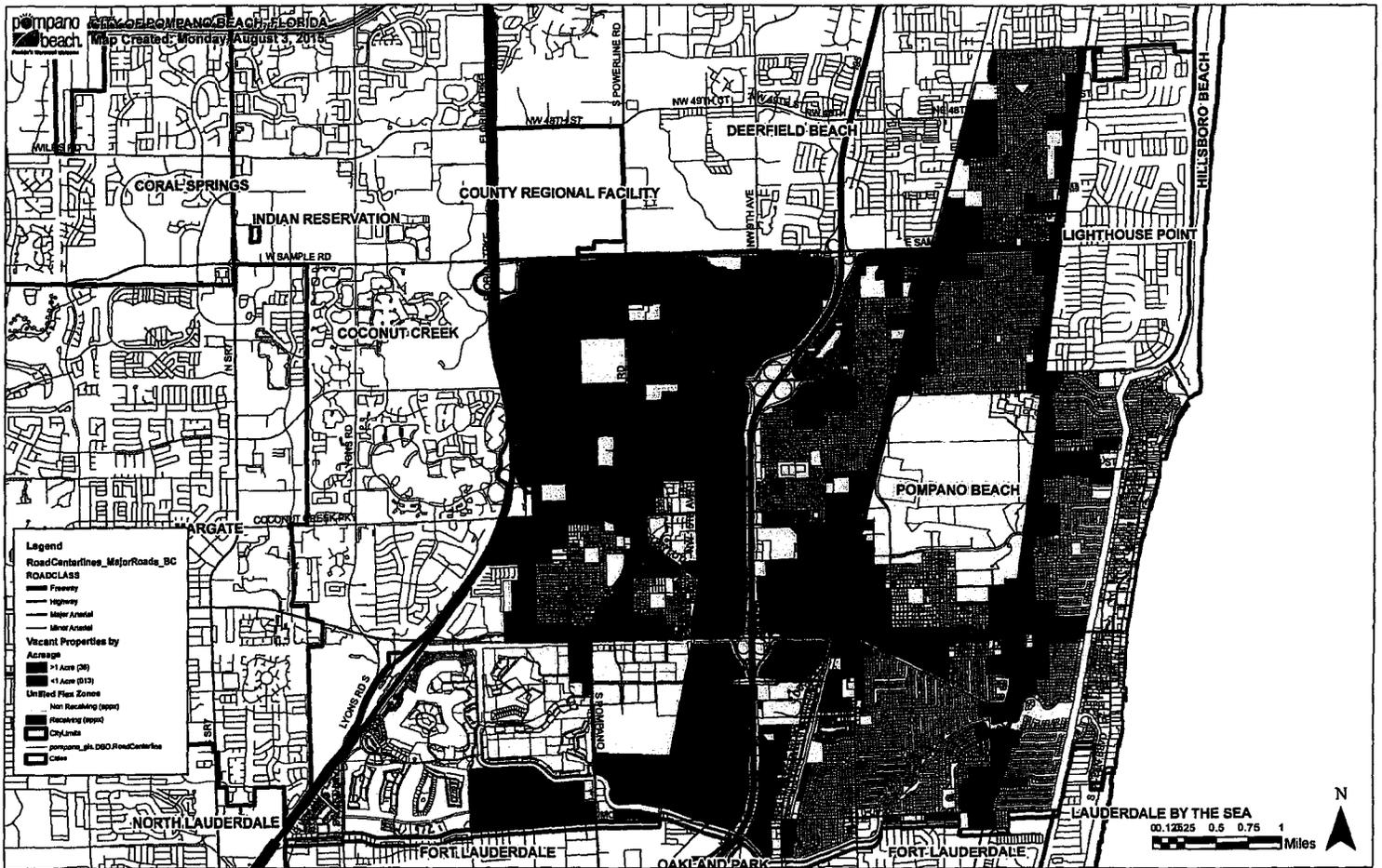
- Broward County Land Use Plan Goal 17.00.00 and Policies related to Urban Infill Areas
- Definition of "Urban Infill" from the City's Comprehensive Plan, Future Land Use Element, Land Use Implementation section
- Objective and Policies related to Urban Infill Areas from the City's Comprehensive Plan, Future Land Use Element
- Map of Urban Infill Areas, Broward County

The City's Land Use Plan's Implementation section defines Urban Infill as the development of vacant parcels in areas that are built up and have existing public facilities/infrastructure. As can be seen in Broward County Land Use Plan Goal 17.00.00, the County has a stated goal which directs growth to identified urban infill areas, as a measure to reduce sprawl, maximize the use of existing public facilities etc... Likewise the City's Future Land Use Element Objective 01.12.00: "Urban Infill Criteria" encourages development of urban infill areas and community redevelopment areas to promote economic development, increase housing opportunities, and maximize the use of existing public facilities and services. Further, Policy 01.12.03 specifically states the City should use flexibility provisions to facilitate mixed use developments in urban infill areas.

Therefore Staff's recommendation to promote development of small infill parcels, by removing the financial burden of requiring the provision of affordable units, is consistent with both County and City adopted Goals, Objectives, and Policies which promote development of infill areas.

As can be seen in the Map of Urban Infill Areas, the entire portion of the City east of I-95 is included in the Urban Infill Area. Therefore vacant parcel of one-acre or less located east of I-95 would automatically qualify as infill parcels.

While the NW CRA is not within the "urban infill area", the City's Future Land Use Element Objective 01.12.00: "Urban Infill Criteria" gives the same infill consideration to both urban infill areas and community redevelopment areas. This Objective and its supporting policies encourages redevelopment of community redevelopment areas as urban infill areas. Therefore vacant parcels of one-acre or less located in the NW CRA would also automatically qualify as infill parcels.



"Time-Share Unit" means an accommodation of a time-share plan which is divided into time-share periods.

"Tourist Unit" means a house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as a separate living quarter which is licensed, or intended for license as a "hotel" or "motel" by the State Department of Business Regulation, Division of Hotels and Restaurants.

"Urban Character" means an area used intensively for residential, urban recreational, commercial, industrial, institutional, or governmental purposes or an area undergoing development for any of these purposes.

"Urban Infill" means the development of vacant parcels in otherwise built-up areas where public facilities such as sewer systems, roads, schools, and recreation areas are already in place and the average residential density is at least five (5) dwelling units per acre, the average nonresidential intensity is at least a floor area ratio of 1.0 and vacant, developable land does not constitute more than 10 percent of the area.

"Urban Purposes" means that land is used intensively for residential, commercial, industrial, institutional, and governmental purposes, including any parcels of land retained in their natural state or kept free of development as dedicated greenbelt areas.

"Urban Redevelopment" means the demolition and reconstruction or substantial renovation of existing buildings or infrastructure within urban infill or existing urban service areas.

"Urban Services" means services offered by a municipality, either directly or by contract, to any of its present residents.

"Vegetative Communities" means ecological communities, such as coastal strands, oak hammocks, and cypress swamps, which are classified based on the presence of certain soils, vegetation and animals.

"Very Low-Income Person" means one or more natural persons or a family, not including students, that has a total annual anticipated income for the household that does not exceed 50 percent of the median annual income adjusted for family size for households within the county. While occupying a rental unit, a Very Low-Income Person's annual anticipated gross income may increase to an amount not to exceed 140 percent of 50 percent of the applicable median income adjusted for family size.

"Vested Rights" means rights which have so completely and definitely accrued to or settled in a person, to the extent that it is right and equitable that government should recognize and protect, as being lawful in themselves, and settled according to then current law.

"Water Conservation Area" means designated Conservation areas on the Future Broward County Land Use Plan Map (Series) including reserve water supply areas such as the 790 square miles of Broward County west of Levees 33, 35A, 36, L-37 and L-35 and includes the natural reservations.

01.09.19 Coordinate with Broward County in the preparation of a post disaster redevelopment plan

**Objective Utility Facilities**

01.10.00 Ensure the availability of suitable land for utility facilities required to serve the existing and future development of the City.

**Policies**

01.10.01 Continue to re-evaluate the need for additional property adjacent to existing utility plants or utility facilities in order to meet future development needs.

01.10.02 Continue to require the dedication of sites, easements, and rights-of-way for utilities which are needed to serve the proposed projects and surrounding land uses, as a condition of the approval of development plans.

01.10.03 Continue to require site plan review and screening at proposed sites for electric substations and switching stations, wastewater pumping stations, water storage facilities, and other utility land uses in all land use categories and zoning districts.

01.10.04 The city shall require existing development on septic tanks and private wells to hook up to centralized sewer and water facilities as they become available and will make extension of and connection to centralized sewer facilities in proximity to surface waters a priority.

**Objective Urban Infill**

01.11.00 Identify Urban Infill Areas and Community Redevelopment Areas, adopted pursuant to Chapter 163, Part III, Florida Statutes within the existing urban service area of the City of Pompano Beach.

**Policies**

- 01.11.01 All Urban Infill Areas and Community Redevelopment Areas adopted pursuant to Chapter 163, Part III, Florida Statutes shall be mapped on the Urban Infill, Urban Redevelopment and Downtown Revitalization Area Map contained in the Broward County Land Use Plan Map Series.
  
- 01.11.02 All Urban Infill Areas shall meet the definition of an urban infill area as provided for F.S. 163.3164 (27).
  
- 01.11.03 Redevelopment activities in the Community Redevelopment Areas shall be guided by their respective Community Redevelopment Plans, adopted pursuant to Chapter 163, Part III, Florida Statutes.

**Objective Urban Infill Criteria**

- ~~01.12.00~~ Establish criteria which encourage development of urban infill and community redevelopment areas to promote economic development, increase housing opportunities and maximize the use of existing public facilities and services.

**Policies**

- 01.12.01 Designated Urban Infill Areas and Community Redevelopment Areas, adopted pursuant to Chapter 163, Part III, Florida Statutes shall be excepted from any applicable transportation roadway concurrency requirements.
  
- ~~01.12.02~~ Continue to support the allowance of mixed use land at strategic locations within Urban Infill, Urban Redevelopment and Downtown Revitalization Areas.
  
- ~~01.12.03~~ Utilize the existing flexibility provisions to facilitate proposed mixed use developments in urban infill areas provided that the proposed developments are compatible with the community character.

01.15.10 The City shall adopt local design guidelines that require mass transit shelters. Local Activity Center to provide safe and comfortable service and to encourage mass transit usage.

01.15.11 The City shall promote development of key intersections or major transit stops to create nodes of development should be promoted with a Local Activity Center.

01.15.12 The City shall review existing zoning and land development regulations and adopt changes necessary to implement the Local Activity Center land use designation.

#### **Objective Smart Growth Initiative**

01.16.00 The City will promote “Smart Growth” type initiatives providing for energy efficient development and land use patterns which also account for existing and future electrical power generation and transmission systems in an effort to discourage urban sprawl and reduce greenhouse gasses.

#### **Policies**

~~01.16.01~~ The City shall emphasize re-development and infill, which concentrates the growth and intensifies the land uses consistent with the availability of existing urban services and infrastructure in order to conserve natural and man-made resources.

01.16.02 The City will encourage and implement the use of compact building design principles which preserve more open space, contain mixed use, support multi-modal transportation options, make public transportation viable, reduce infrastructure costs and take advantage of recycled building materials.

01.16.03 The City will encourage and implement energy conservation and the reduction of greenhouse gasses by encouraging land developers and builders to implement the

**URBAN INFILL AREAS, URBAN REDEVELOPMENT AREAS AND DOWNTOWN REVITALIZATION AREAS**

**GOAL 17.00.00**

**DIRECT GROWTH TO IDENTIFIED URBAN INFILL, URBAN REDEVELOPMENT AND DOWNTOWN REVITALIZATION AREAS WITHIN BROWARD COUNTY IN ORDER TO DISCOURAGE URBAN SPRAWL, REDUCE DEVELOPMENT PRESSURES ON RURAL LANDS, MAXIMIZE THE USE OF EXISTING PUBLIC FACILITIES AND CENTRALIZE COMMERCIAL, GOVERNMENTAL, RETAIL, RESIDENTIAL AND CULTURAL ACTIVITIES.**

**OBJECTIVE 17.01.00 IDENTIFICATION OF URBAN INFILL, URBAN REDEVELOPMENT AND DOWNTOWN REVITALIZATION AREA(S)**

Identify urban infill, urban redevelopment, and downtown revitalization area(s) within Broward County containing residential and non-residential uses, such as office, retail and community facility uses where public services and facilities are in place.

**POLICY 17.01.01** Criteria and definitions for identifying urban infill, urban redevelopment, and downtown revitalization area(s) in Broward County shall be established within the Plan Implementation Requirements Section of the Broward County Land Use Plan.

**POLICY 17.01.02** Urban infill, urban redevelopment, and downtown revitalization areas shall be mapped within the Future Broward County Land Use Plan Map (Series).

**OBJECTIVE 17.02.00 LAND USE, PUBLIC FACILITIES AND SERVICES AND EMPLOYMENT INTENSITIES**

Establish criteria which encourage development of urban infill, urban redevelopment and downtown revitalization area(s) to promote economic development, increase housing opportunities, and maximize use of existing public facilities and services.

**POLICY 17.02.01** Local land use plans should include policies which identify standards to increase economic development and employment opportunities within urban infill, urban redevelopment and downtown revitalization area(s).

**POLICY 17.02.02** Local land use plans should include policies to provide for adequate housing opportunities necessary to accommodate all segments of present and future residents of identified urban infill, urban redevelopment and downtown revitalization area(s).

**POLICY 17.02.03**

The Broward County Land Use Plan and local land use plans shall encourage mixed use developments within urban infill, urban redevelopment and downtown revitalization area(s).

**POLICY 17.02.04**

A local government in Broward County may grant an exception from the concurrency requirement for transportation facilities pursuant to the provisions of Section 163.3180(5)(d), Florida Statutes, if the proposed development is otherwise consistent with the adopted local government comprehensive plan, and is a project that promotes public transportation and is located within a "Regional Activity Center" as described in and defined by the Broward County Land Use Plan (as of August 19, 2002), and is within an area that contains major public and private postsecondary institutions of higher learning. The local government must also have considered the proposed development's impacts on the Florida Intrastate Highway System, as defined in Section 338.001, Florida Statutes.

**POLICY 17.02.05**

Integrated transportation systems, mass transit facilities, bikeways and pedestrian corridors should be encouraged to serve urban infill, urban redevelopment and downtown revitalization area(s) to reduce reliance upon automobile travel and increase physical activity opportunities consistent with the Broward Complete Streets Guidelines, or equivalent principles.

**POLICY 17.02.06**

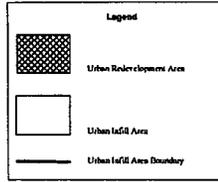
The Broward County Comprehensive Plan and local comprehensive plans shall establish standards and monitoring procedures for the expansion of mass transit, pedestrian travel and other forms of non-automobile travel within urban infill, urban redevelopment and downtown revitalization area(s).

**POLICY 17.02.07**

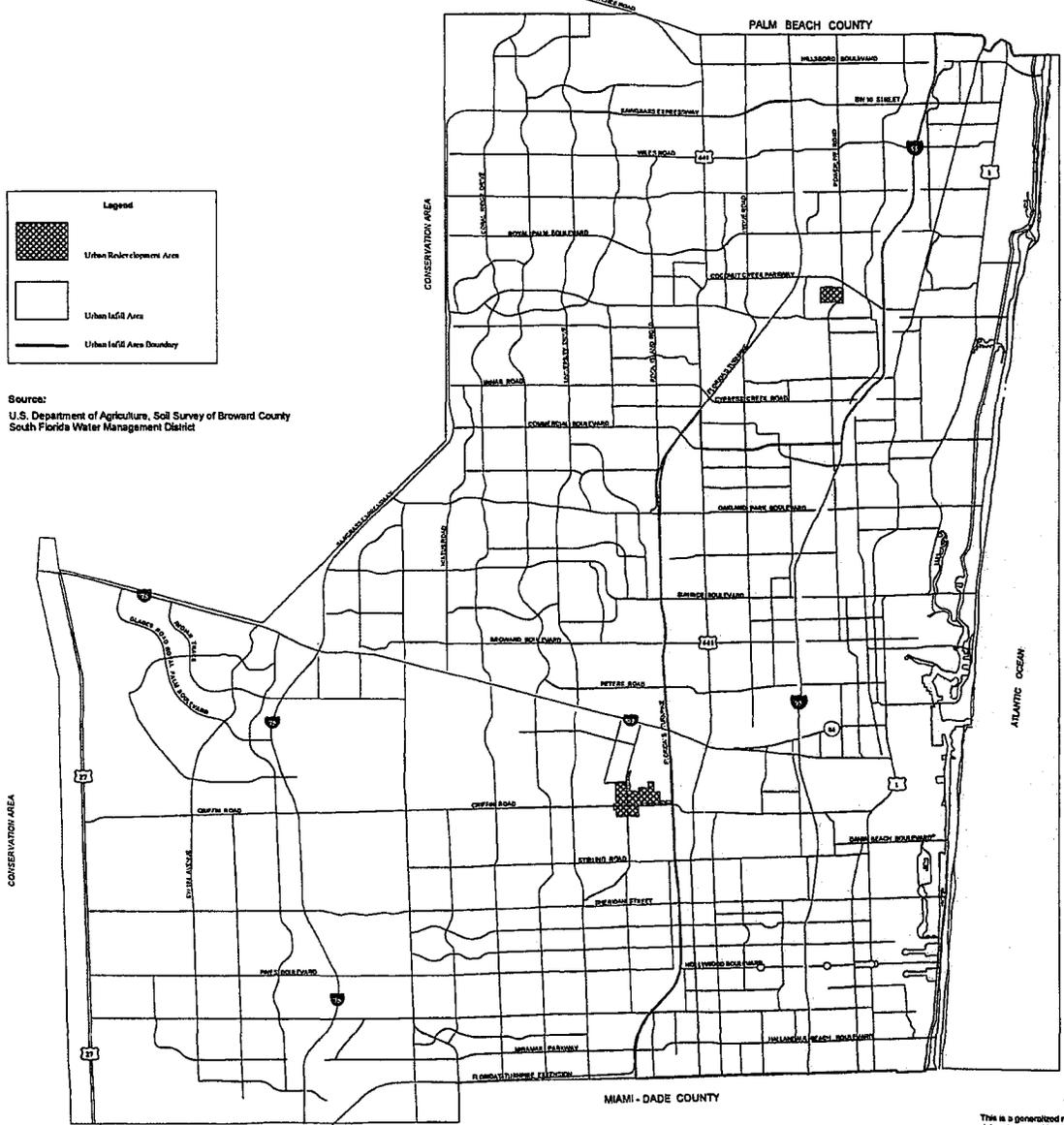
Broward County shall consider the potential transportation impacts of proposed Broward County Land Use Plan "Urban Infill, Urban Redevelopment and Downtown Revitalization Areas" on adjacent municipalities.

# BROWARD COUNTY

## URBAN INFILL AREAS, URBAN REDEVELOPMENT AREAS AND DOWNTOWN REVITALIZATION AREAS



Sources:  
 U.S. Department of Agriculture, Soil Survey of Broward County  
 South Florida Water Management District



NOT TO SCALE

This is a generalized map. This map should not be used to determine parcel boundaries or areas of depicted items. Please contact the Broward County Planning Council office regarding questions pertaining to parcel boundaries or lines.



# MEMORANDUM

## Development Services

**ADMINISTRATIVE MEMORANDUM NO. 15-366**

**DATE:** July 6, 2015  
**TO:** Planning and Zoning Board  
**VIA:** Robin M. Bird, Director of Development Services *RB*  
**FROM:** Karen Friedman, AICP, Principal Planner *KBF*  
**RE:** Text Amendments to Chapter 154: Planning  
§154.61 Reserve And Flexibility Units

Staff is recommending text amendments to the Chapter 154: Planning regarding Flex Units. **An explanation of the text amendments is below:**

### §154.61(A)

- Clarify that flex units may only authorize multifamily dwellings.
  - The requirement that flex units may only be used for multifamily dwellings is derived from Land Use Element, Land Use Implementation §3.02.B.8 which clarifies that in a Commercial Land Use, Flex Units can accommodate residential uses in the same structure as a commercial use (mixed-use) or as a free standing multi-family if the parcel is less than five acres (or 10 acres if urban infill or a Community Redevelopment Area).

### §154.61(B)(4)

- The requirement to provide affordable housing is struck and restated in the new Application Review Standards section

### §154.61(C)

- Revise section to separate standards of review from the procedures.
- Revise layout of section to make more user-friendly
  - Clarify application is submitted to the Development Services Department
  - Clarify application fee is submitted at time of application submittal
  - Require submittal of a conceptual plan
  - Clarify that the Development Services Director will provide a recommendation.
  - Clarify that the Planning and Zoning Board only provides a recommendation.
- Revise procedure to require review by DRC.
  - Staff is recommending review by DRC, as similar to a Rezoning application, allocation of Flex Units have a significant impact on the development of the site as well as conditions of neighboring properties.

### §154.61(D)

- Create new section addressing review standards.
- Standards #1 and #2 are current review standards just being moved to the new section

# MEMORANDUM

## Development Services

- Standard #3 revises the existing requirement for affordable housing. A detailed explanation for this change is provided below:

The existing affordable housing requirement requires all applications for allocation of Flex Units (except properties within the AOD, which are excluded per the Zoning Code) to provide affordable housing, either onsite or offsite. The proposed revision, however, would only require the provision of affordable housing for properties larger than one-acre. The justification for exempting properties less than one-acre is to encourage infill development.

While infill development is desirable by the city, as it contributes to safe and attractive pedestrian environments as well as utilizes existing infrastructure, it is often more challenging to develop. Cost of land, neighboring property owners' concerns, and other uncertain outcomes often discourage developers' economic interest in undertaking infill projects. Although there is no accepted definition for what size of property constitutes infill, there is a general accepted principle that infill will typically be of compact scale. Potential for infill development exist throughout the City. However it is properties of one acre or less that include some of the greatest challenges for infill redevelopment. Therefore Staff is recommending that properties of less than one-acre, therefore compact sites, be exempt from the affordable housing requirement.

Allocating flex units in order to encourage development within the city's urban infill area, mixed-use infill development citywide, and infill development along the City's major corridors are priorities of the city as demonstrated by the following FLU Policies:

01.12.03 Utilize the existing flexibility provisions to facilitate proposed mixed use developments in urban infill areas provided that the proposed developments are compatible with the community character.

01.04.01 The Planning Department shall support and promote the intermix of residential and commercial uses along major traffic corridors, where mass transit is available, through the allocation of flex and reserve units and approval of land use plan map amendments allowing for residential developments.

01.12.04 The City shall utilize flexibility units and reserve units to increase residential densities within the flex and reserve receiving areas when consistent with the community character; adjacent land uses; and public school capacity both within Pompano and affected contiguous municipalities; and has undergone a compatibility review relative to potential impacts on Environmentally Sensitive Lands and County or regional parks in accordance with Policy 13.01.10 of the Broward County Land Use Plan.

## RESERVE AND FLEXIBILITY UNITS

### § 154.61 RESERVE AND FLEXIBILITY UNITS.

(A) In conformance with the Comprehensive Plan, flexibility and reserve units as defined in § 154.60 of this chapter, may be allocated to authorize multifamily dwellings for residential projects or mixed use projects on properties with commercial land use designations or additional units on properties with residential land use designations. Approval of a transfer of flexibility and reserve units shall be achieved as outlined in subsection (C) below.

#### (B) Distribution of flexibility and reserve units.

...

~~(4) Distribution of flexibility and reserve units shall be subject to affordable housing requirements; subsection (D) below.~~

#### (C) Procedure.

~~(1) A written request from the developer to the Planning Director asking for a determination as to the availability of surplus units in a certain flexibility zone.~~

~~(2) Approval by the City Commission for the requested number of reserve and flexibility units, or such lesser number, upon applicant establishing by competent and substantial evidence, the following:~~

~~(a) Consistency with applicable goals, objectives and policies of the City's Comprehensive Plan and this chapter.~~

~~(b) The use of the reserve and flexibility units will produce a reasonable development pattern. The criteria for reasonableness shall include compatibility of adjacent land uses and suitability of the parcel for various development patterns.~~

~~(3) Provision of a conceptual site plan pursuant to this chapter.~~

~~(4) Planning and Zoning Board development approval pursuant to this chapter.~~

(1) Step 1: Application Submittal. The applicant shall submit an application to the Development Services Director as follows:

(a) The application is in the form established by the Development Services Director;

(b) The application is accompanied by the application fee as specified in Chapter 154, Appendix A: Fee Schedule; and

(c) The applicant includes information in sufficient detail to evaluate the application in order to determine whether it complies with the review standards listed in subsection (D) below, including a conceptual site plan.

(2) Step 2: Staff Review. Applicable to a recommendation by the Development Service Director, following DRC review and comment.

(3) Step 3: Advisory Body Review and Recommendation. Applicable to a recommendation by the Planning and Zoning Board

(4) Step 4: Decision-Making Body Review and Decision. Applicable to a final decision by the City Commission.

~~(5) Payment of a fee in the amount as specified in Chapter 154, Appendix A: Fee Schedule, at the time submission of a written request for a determination as to the availability of dwelling units.~~

~~(6) The availability of reserve and flexibility units will become null and void upon the expiration of the time limits provided in the resolution allocating said flexibility and reserve units. Time extensions may be granted for good cause shown if sufficient progress is demonstrated.~~

(D) Application Review Standards. An application shall be approved only on a finding that there is competent substantial evidence in the record that all of the following standards are met:

(1) Consistency with applicable goals, objectives and policies of the City's Comprehensive Plan and this chapter.

(2) The use of the reserve and flexibility units will produce a reasonable development pattern. The criteria

for reasonableness shall include compatibility of adjacent land uses and suitability of the parcel for various development patterns.

(3) For properties whose net acreage is greater than one acre, an agreement to provide affordable housing units per Section (E) below.

**(D E) Affordable housing requirements**

...



# MEMORANDUM

## Development Services

**MEMORANDUM NO.** 15-544

**DATE:** October 6, 2015

**TO:** Dennis W. Beach, City Manager

**VIA:** Robin M. Bird, Development Services Director *RL*

**FROM:** Karen Friedman, AICP, Principal Planner *KBF*

**SUBJECT:** October 13, 2015 City Commission hearing  
Attachment for Ordinance regarding Text Amendments §154.61, Flex Units

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In conjunction with the proposed ordinance amending §154.61, Flex Units, and more specifically proposing to exempt properties that are less than one acre from the requirement to provide affordable housing in conjunction with the allocation of flex units, staff has prepared the attached primer on Flex Units. The primer provides basic information as to what are flex units, where they are allowed, what are the existing requirements for allocation, and an overview of the proposed text amendments. A presentation with this information will be available at the October 13, 2015 City Commission hearing, if requested.

# **Flex Units: A Primer**

City Commission Hearing, October 13, 2015

Karen Friedman, AICP, Principal Planner

# Contents

- ▶ What are Flex Units?
- ▶ Where all Flex Units Allowed?
- ▶ What are the Requirements for Allocating Flex Units?
- ▶ What is the Proposed Text Amendment

## What are Flex Units?

- ▶ Official term is “Flexible Units” or “Reserve Units”. But commonly referred to as Flex Units.
- ▶ Are a function of Broward County Land Use Plan.
- ▶ Currently the County’s Land Use Plan Map has 1,203 more residential density units than the City’s Land Use Plan Map.
- ▶ Flex units are the difference in residential density between the County’s Land Use Plan Map and the City’s Land Use Plan Map.
- ▶ Therefore the city currently has 1,203 flex units. The city has the authority to grant these units without permission from the County.

# Where are Flex Units Allowed?

- ▶ Must be within Receiving Area of the Unified Flex Zone (green area of map)

AND

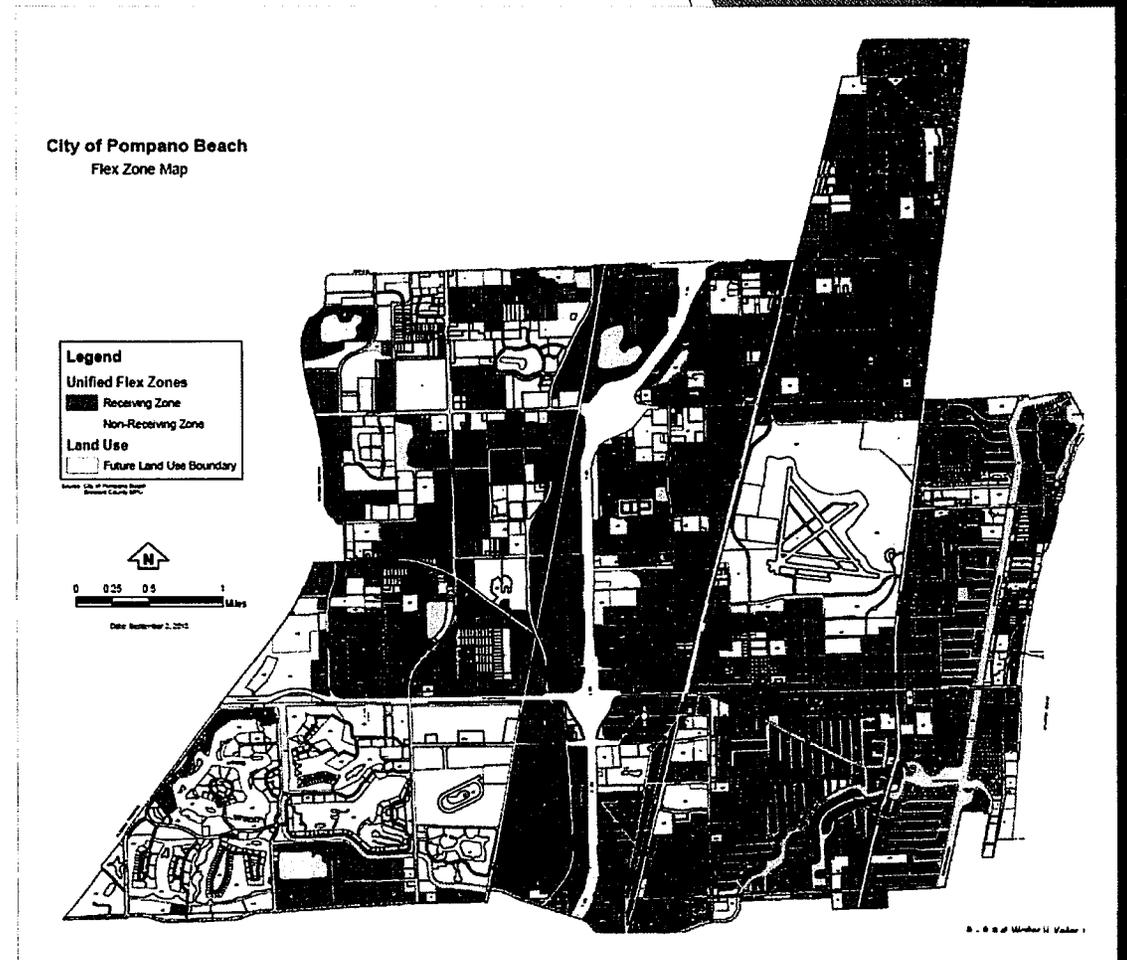
- ▶ On Land with Residential Land Use or Commercial Land Use

BUT

- ▶ Can not be used for single-family dwelling units

? FAQ: Why is Industrial Land included in the receiving area?

- Answer: Industrial Land is allowed commercial flex. Commercial Flex is used for retail uses or hotels in Industrial areas.



# What are the Requirements for Allocating Flex Units?

- ▶ Standards are found in Chapter 154 - Planning
- ▶ Recommendation by the Planning and Zoning Board
- ▶ Approval, via Resolution, by the City Commission
- ▶ Required to provide affordable housing units, unless in AOD
- ▶ Comply with the Comprehensive Plan
- ▶ Will produce a reasonable development pattern. The criteria for reasonableness shall include compatibility of adjacent land uses and suitability of the parcel for various development patterns.

# What is the Proposed Text Amendment?

- ▶ Clarify that flex units can not be used for single family
  - ▶ per County rules
- ▶ Require review by the City's Development Review Committee
  - ▶ DRC review is required for rezoning and other similar applications
- ▶ Exempt infill properties of one-acre or less from the requirement to provide affordable housing
  - ▶ To remove this burden from redeveloping infill parcels
  - ▶ All properties in AOD are already exempt, in order to spur redevelopment

