



February 21, 2024

Sara Thompson, Esq.  
Dunay, Miskel and Backman, LLP  
14 Southeast 4 Street, Suite 36  
Boca Raton, Florida 33432

*Via Email Only*

Dear Ms. Thompson:

This letter is in response to your correspondence dated January 31, 2024, regarding the Palm Aire Dashed-Line Area in the City of Pompano Beach, and the allocation of flexibility units and bonus density to said area.

The subject Palm Aire Dashed Line-Area is comprised of lands designated Irregular (7) Residential and Commercial Recreation on the BrowardNext – Broward County Land Use Plan (BCLUP) map, with a maximum of 10,631 dwelling units permitted. The City of Pompano Beach has indicated that all of the 10,631 dwelling units have been proposed by plat or granted development permits.

Per the BCLUP, a dashed-line area is defined as an area having a particular maximum overall allowable density of dwelling units for all land and land uses within the area for which the permitted overall density appears inside the dashed line area shown on the land use plan map. That number is multiplied by the total number of acres inside the dashed line, including non-residential areas, to calculate the total number of dwelling units permitted within the same.

Pursuant to Article 3.2(B)(4) of the Administrative Rules Document: BrowardNext (ARD), residential units may not be transferred **from** areas circumscribed by dashed lines nor generate flexibility units. However, there is no prohibition in the BCLUP or ARD regarding allocating flexibility units to areas circumscribed by dashed lines and designated Residential or Commerce or utilizing affordable housing bonus density incentives per BCLUP Policy 2.16.3. See Attachment. Any allocation of flexibility units would be subject to compliance with the provisions of the BCLUP and ARD, as well as any other applicable development regulations.

It is noted that the Future Land Use Element of the City of Pompano Beach Comprehensive Plan is the effective land use plan for the City of Pompano Beach and may be more restrictive than the BCLUP. Further, the allocation of flexibility units and BCLUP Policy 2.16.3 are utilized at the discretion of the local government and based upon the particular facts and circumstances of the application. It is recommended that you contact the City of Pompano Beach regarding the interpretation of its certified Plan.

The contents of this letter are not a judgment as to whether any proposed use is in compliance with any Broward County development regulations or the development review requirements of the BCLUP or a determination of any application for development order or permit.

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If you have any additional questions in this regard, please contact me or Dawn Teetsel at your convenience.

Respectfully,

A handwritten signature in blue ink, appearing to read 'BBB', with a stylized flourish extending from the bottom right.

Barbara Blake Boy  
Executive Director

BBB:DBT  
Attachment

cc/att/email: Andrew Maurodis, Esq., Counsel  
Broward County Planning Council

Gregory P. Harrison, City Manager  
City of Pompano Beach

David Recor, Director, Development Services  
City of Pompano Beach



# BrowardNext → 2017 BROWARD COUNTY LAND USE PLAN

## SECTION 2: POLICIES

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### **AFFORDABLE HOUSING BONUS DENSITY**

#### **POLICY 2.16.3**

- (1) Bonus residential density may be allocated to facilitate the development of affordable housing for persons within the following income categories as defined in the Broward County Land Use Plan:

- Moderate-income persons having a total annual anticipated income for the household that does not exceed 120 percent of the median annual income adjusted for family size for households within the county.\*
- Low-income persons having a total annual anticipated income for the household that does not exceed 80 percent of the median annual income adjusted for family size for households within the county.\*
- Very-Low income persons having 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, annual anticipated gross income may increase to an amount not to exceed 140 percent of the applicable median income adjusted for family size.

- (2) Bonus Formulas

*Moderate-income:* Six (6) bonus units per every one (1) “moderate-income” unit (including areas east of the Intracoastal Waterway).

*Low-income:* Nine (9) bonus units per every one (1) “low-income” unit (including areas east of the Intracoastal Waterway).

*Very-Low-income:* Nineteen (19) bonus units per every one (1) “very-low-income” unit (including areas east of the Intracoastal Waterway).

- (3) Affordable housing density bonuses are conditioned on the developer or purchaser providing, in a manner acceptable to the affected unit of local government, guarantees, as a minimum, through the use of restrictive covenants, that the affordability of the bonus units for the affordable income groups described above will be maintained for a period of at least thirty (30) years for rental housing and at least thirty (30) years for owner occupied housing.

- (4) The total number of units, including affordable and bonus units, on lands designated as “Residential” may not exceed a maximum of 50 dwelling units per acre on the Broward County Land Use Plan. For parcels designated “Commerce” or similar designation on the local land use plan map, these maximum densities shall not be applicable. If the total density, including the affordable and bonus units, exceeds the density permitted by the existing zoning classification, the governing body of the local government shall make a finding of compatibility with existing and future land uses and its local land development regulations at a publicly noticed meeting, consistent with its notification requirements; otherwise, the local planning agency of the local government may make the finding of compatibility at a publicly noticed meeting, consistent with the above.
- (5) At the time of allocation of bonus density, the applicable local government must make a finding that adequate public facilities and services are in place or will be in place with completion of project construction, to accommodate all bonus and affordable units.
- (6) Allocations of bonus residential density do not require an amendment to the Broward County Land Use Plan or local land use plan.
- (7) Units of local government may utilize the Bonus Density provisions regardless of whether such provisions are incorporated within their certified local land use elements. This Policy is discretionary upon the local government and does not create any entitlements to the bonus units. Allocation of the bonus units requires authorization of the local government at a publicly noticed meeting, consistent with its notification requirements, of the governing body or, when the total density, including affordable and bonus units, does not exceed the density permitted by the existing zoning classification, by the local planning agency.
- (8) By January 31 of each year, an official of each local government shall transmit to the Planning Council an annual report providing tables reflecting bonus density units allocated.
- (9) “Affordable” unit and bonus unit construction is subject to the following, as enforced by the applicable local government:
  - a. One hundred percent (100%) of “affordable” units must receive certificates of occupancy before the final fifty percent (50%) of bonus units receive their certificate of occupancy; or
  - b. The local government must require that “affordable” units are available before or concurrently with bonus units.
- (10) This Policy is incentive-based and units of local government may be more restrictive and are not required to adopt, utilize or implement the above referenced bonus formulas.

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