



Staff Report

**File #:** LN-328

PLANNING AND ZONING BOARD

Meeting Date: JULY 27<sup>th</sup>, 2022

**TEXT AMENDMENT TO CHAPTER 154 FOR FLEX ALLOCATION POLICY**

|                              |                |
|------------------------------|----------------|
| <b>Request:</b>              | Text Amendment |
| <b>P&amp;Z#</b>              | N/A            |
| <b>Owner:</b>                | N/A            |
| <b>Project Location:</b>     | N/A            |
| <b>Folio Number:</b>         | N/A            |
| <b>Land Use Designation:</b> | N/A            |
| <b>Zoning District:</b>      | N/A            |
| <b>Commission District:</b>  | N/A            |
| <b>Agent:</b>                | N/A            |
| <b>Project Planner:</b>      | Jean Dolan     |

**Introduction**

On July 12, 2022, the City Commission approved the following policy:

*Except for the Dixie Highway Corridor, any property eligible to generate entitlements via policy 2.16.3 or 2.16.4 can be allocated no more than 50 flex/redevelopment units without using policy 2.16.3 or 2.16.4. This policy can be waived at the City Commission’s discretion at a duly noticed public hearing. Any project choosing to use policy 2.16.3 will request flex units through the site plan approval process with approval by the Planning and Zoning Board.*

The backup that was shared with the Commission to justify this policy is included with this agenda item.

**Request**

To implement this new policy, Chapter 154.61 needs to be revised to modify the process for flex/redevelopment unit allocation to allow the Planning and Zoning Board to have final approval authority. The current notice requirements for any flex-related P&Z hearing will continue to apply. The proposed code amendment is attached for review.

**Recommendation**

Staff recommends approval of the code amendment to allow flex/redevelopment units associated with implementing County Policy 2.16.3 be approved by the Planning and Zoning Board in conjunction with site plan approval.

PROPOSED TEXT AMENDMENT

§ 154.61 REDEVELOPMENT AND FLEXIBILITY UNITS.

...

(C) Procedure for Residential and Nonresidential (Per 5% Rule: Residential to Commercial) Flexibility Allocation.

When applying for flex/redevelopment units, projects can achieve their desired density in one of two ways. They can propose to use 100% flex/redevelopment units for their projects or, under certain conditions, they can utilize Broward County Policy 2.16.3 and use a combination of flex/redevelopment units and density bonuses. Projects that use Policy 2.16.3 for a portion of their density will be granted flex/redevelopment units through an expedited process as noted below in Step 3.

(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 155, Appendix C: 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. Planning and Zoning Board will be the decision-making body when the flex/redevelopment unit request is for the purpose of applying the density bonus formula in Broward County Policy 2.16.3. The advertising requirements for the Planning and Zoning Board hearing as noted below will still apply.

- (a) The Planning and Zoning Board hearing shall be noticed as follows:
  - 1. Published notice. Notice of the P&Z public hearing shall be published at least five calendar days before the hearing date.
  - 2. Mailed notice. Notice of the P&Z public hearing shall be mailed at least six business 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:
  - 1. Published notice. Notice of the City Commission public hearing shall be published at least ten calendar days before the hearing date.
  - 2. 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) The availability of redevelopment and flexibility units will become null and void upon the expiration of the time limits provided in the resolution allocating said flexibility and redevelopment units. Time extensions may be granted for good cause shown if sufficient progress is demonstrated. **After the exhaustion of administrative time extensions per Chapter 155.2308.B.2, time extension requests will go directly to the body that originally approved the flex allocation (City Commission or, for those projects using Broward County Policy 2.16.3, the Planning and Zoning Board.**

(D) Application review standards. Flex units and commercial flexibility shall be issued at the discretion of the City Commission as a legislative action. An application shall only be presented to the City Commission upon a finding 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 redevelopment and flexibility units and/or the establishment of nonresidential development within a residential land use designation 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) Applications for the use of residential flexibility or redevelopment units requires an agreement to provide affordable housing units per subsection (F) below or an in lieu of fee in accordance with § [154.80](#)

[https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanobeach\\_fl/0-0-0-87481](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanobeach_fl/0-0-0-87481), except that infill properties which are one-acre or less are exempt from this requirement.

(E) **EXCEPTIONS:** Single Family and Duplex Homes. Flex units for single-family and duplex homes may be administratively allocated by the Development Services Director, following a review of the corresponding application requesting such allocation. The Development Services Director may approve the Application for flexibility units, approve the Application subject to conditions or deny the Application based on the review standards set forth in [Chapter 154](#)

[https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanobeach\\_fl/0-0-0-87150](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanobeach_fl/0-0-0-87150), City Code. This subsection shall not apply to single-family and duplex projects having more than four contiguous lots on any block face.

(F) Deconcentration of poverty requirements.

(1) Definitions. The definitions in § [154.60](#) [https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanobeach\\_fl/0-0-0-87312](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanobeach_fl/0-0-0-87312) apply to this section.

(2) Purpose and intent. The purpose of this section is to promote the deconcentration of poverty and to allow the payment of funds in-lieu of constructing affordable housing into the Local Affordable Housing Trust Fund through the allocation of flexibility and redevelopment units.

(3) To be eligible for the allocation of flexibility or redevelopment units the following provisions shall be applicable:

(a) All new residential and mixed use development projects with a residential component along Dixie Highway and North Powerline Road (between Atlantic Boulevard and NW 15th Street) must include a minimum of 80% non-income restricted units.

(b) All new residential and mixed use development projects with a residential component within one-half mile radius of an income restricted housing development must include a minimum of 50% non-income restricted units.

(c) Comply with additional residential and mixed-use standards of § [155.4202.A.1](#) [https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl\\_zone/0-0-0-43714](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-43714).

(d) Projects that use the 50% zoning density incentive shall be required to provide a mix of commercial and residential uses, per § [155.4202.A.1.a.vii.\(A\)](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-43714) [<https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl\\_zone/0-0-0-43714>](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-43714).

(e) Those projects that are required to provide non-income restricted units are not required to pay into the Local Affordable Housing Trust Fund.

(f) All other areas: All projects must include a minimum of 15% affordable housing or pay into the Local Affordable Housing Trust Fund for every unit that is not classified as affordable.

(g) The City Commission must reevaluate and make a new determination on any flex/redevelopment unit allocation they approved if there are changes to any information, terms or conditions contained in the resolution granting the flex units. Such changes go directly back to City Commission. Any changes to the information, terms or conditions related to site plan approval for flex/redevelopment unit allocations associated with the application of Broward County Policy 2.16.3 that were approved by the Planning and Zoning Board through site plan approval must be approved by the Planning and Zoning Board.

...