



Hillsborough County
Florida

***LOCAL HOUSING INCENTIVE STRATEGY
REPORT***

Adopted by The Affordable Housing Advisory Board

December 5, 2011



EQUAL HOUSING
OPPORTUNITY

TABLE OF CONTENTS

Introduction	1
Local Housing Incentive Strategies Status and Recommendations	3
Appendix:	
A. 2008 Local Housing Incentive Strategies Report	8

INTRODUCTION

Hillsborough County adopted the first Local Housing Incentive Strategies (LHIS) Plan in 1994 as required by the State Housing Initiative Partnerships (SHIP) Program. There have been subsequent updates and new strategies adopted, with the most recent LHIS plan adopted by the Hillsborough County Affordable Housing Advisory Board (AHAB) in December 2008. In March 2009, the Board of County Commissioners (BOCC) amended the Fiscal Years 2007-09 Local Housing Assistance Plan (LHAP), incorporating the revised strategies as recommended by the LHIS.

Like so many other jurisdictions in the State of Florida, Hillsborough County has experienced major cuts in funding from the State and Federal Government and significant losses in local revenues. Additionally, the unstable economy has flattened the housing and employment market creating the need for the County to “tighten” up how we do business and streamline processes and functions as much as possible. During this past year the County began implementing a significant re-organization plan to streamline services and reduce staff. This re-organization impacts offices county-wide and will continue into the coming months. The result being staff work load has increased as staff reductions are implemented.

Given all the constraints of our existing environment, Hillsborough County Affordable Housing Services (AHS) chose to break the review of local housing incentive strategies into two parts. The 2008 LHIS outlined extensive recommendations to further affordable housing development. The recommendations within the 2008 report have been evaluated by AHS and Staff has identified three recommendations to pursue during the next year. These recommendations will be presented to the County’s AHAB and if approved, AHS Staff will proceed with working with County’s Development Services and Planning Commission Staff to implement these recommendations.

The second part of the review will be an evaluation of other items included within the 2008 Report during the next three years. This evaluation will identify additional recommendations to pursue. AHS staff will work closely with the Hillsborough County Planning Commission Staff to evaluate the 2008 LHIS and identify goals and policies within the current Comprehensive Plan which can be amended to further affordable housing. AHS and Planning Commission staff will present staff recommendations to the AHAB for their review and approval.

Recommendations approved by the AHAB will be incorporated into Comprehensive Plan Amendments which will be presented to the BOCC for approval. Currently the Planning Commission processes Comprehensive Plan Amendments twice a year, February and September.

AHS Staff will also work with other departments to review recommendations included within the 2008 LHIS report. This will include working with Development Services and/or Building Services Staff to evaluate processes, policies or County Codes identified within the 2008 Report.

The County's AHS staff has completed a review of the required strategies as defined in Florida Statute. The strategies reviewed triennially by the County per State requirements are listed below:

- (a) The processing of approvals of development orders or permits, as defined in Florida Statute 163.3164(7) and (8), for affordable housing projects is expedited to a greater degree than other projects.*
- (b) The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.*
- (c) The allowance of flexibility in densities for affordable housing.*
- (d) The reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons.*
- (e) The allowance of affordable accessory residential units in residential zoning districts.*
- (f) The reduction of parking and setback requirements for affordable housing.*
- (g) The allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.*
- (h) The modification of street requirements for affordable housing.*
- (i) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.*
- (j) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.*
- (k) The support of development near transportation hubs and major employment centers and mixed-use developments.*

1 Expedited Processing of Approvals of Development Orders or Permits

Permits for affordable housing projects are expedited to a greater degree than other projects by policy. Processing time is reduced by 50% for projects that are sponsored or participating in any of the affordable housing programs offered by Hillsborough County. Preliminary review is reduced to 7 days and construction review is reduced to 10 days.

The County established an internal policy in 1994 to expedite the processing of affordable housing projects. This was established per a memorandum of October 14, 1993 from Gene Boles, Director of the Planning and Development Management Department (now known as Development Services).

The Development Review Procedures Manual (Section 4.1.5.1.2.e.2) provides for an expedited process for approvals of development orders or permits for an affordable housing development. Additionally, it provides for the administrator to review and determine a project is qualified as an affordable housing development and thus subject to other development review considerations (density bonuses, zero lot line, etc.)

The County has initiated a process for electronic submission of Building Plans for review which has improved the permit issuance process. The County has initiated an on-line permitting system which allows for electronic submissions, approvals and activation of “simple” permits for several activities but does not allow for permits of projects of this type.

No further recommendation at this time.

2. Modification of Impact Fee Requirements

The County offers impact fee relief from Right-of-Way, Transportation, Parks, Fire, Water and Wastewater Accrued Guaranteed Revenue Fees for affordable single family homes and multi-family rental developments (multi-family projects are subject to an annual cap) in 1996 and as amended under the Hillsborough County Code of Ordinances Section 17½-27(7) Impact Assessment Procedures and Section 17½-35 Affordable Housing Relief Program (Ordinances 96-29 and 00-31).

This relief is available to households which are owner occupied or in the case of multi-family projects, units that will be set-aside, whose total annual anticipated gross income does not exceed 80% of the Median Annual Income adjusted for family size for households within the metropolitan statistical area. Up to 96% of the impact fees are paid for multi-family projects that include amenities such as on site daycare. A seven year restrictive covenant is placed on the property in order to preserve the affordable nature of the property.

Impact fee relief has been funded for the fiscal year 2011/12.

No further recommendation at this time.

3. Allowance of Flexibility in Densities for Affordable Housing

The Land Development Code sets forth density flexibility in Section 6.01.01, and Section 6.01.02 sets forth those specifically for affordable housing. The project may receive density and/or Floor Area Ratio (FAR) bonuses. The increases in density and/or intensity which may be achieved are established in the Comprehensive Plan under Affordable Housing Bonuses. Such site plan controlled projects will establish specific lot sizes, setbacks and dwelling unit types and shall be exempt from meeting the standard district setback requirements.

The Density Bonus incentive is supported by the County's Comprehensive Plan and Land Development Code (Section 6.11.07 and Hillsborough County Ordinance No. 92-05, as amended by Ordinance No. 00-21 and Ordinance No. 02-13).

The LHS of 2008 discussed the Cottage Housing strategy which can be produced on smaller lots thus protecting natural resources of land, water and energy. This type of development also reduces investment in infrastructure making the housing more affordable. HUD had released a report of Cottage Housing in 2008 which documented other jurisdictions which were implementing development standards within their zoning codes and land development regulations. The current Land Development Code does provide for cottage-type housing in Section 6.11.90, Single Family Efficiency.

No further recommendation at this time.

4. Reservation of Infrastructure Capacity

The LHS of 2008 made two recommendations regarding reservation of infrastructure capacity. These should be evaluated as part of the Community Based Plan process. The County has adopted a number of Community Based Plans and has begun the process of updating some of these plans. The following recommendations could be addressed as part of plan updates or the development of new plans.

Recommendation 1: Further evaluate and research the viability of providing affordable housing concurrency waivers for parks and affordable housing concurrency exemption for transportation within urban infill or designated redevelopment areas.

Recommendation 2: Further evaluate and research the viability of providing incentives for workforce housing such as transportation concurrency if located within an urban infill or redevelopment area. This evaluation should also address current regulations to determine if the standards recommended in the 2008 LHS report are still applicable to workforce housing, or if other standards should be recommended.

5. Allowance of Affordable Accessory Residential Units

Hillsborough County has adopted several special use categories that can provide incentives for the development of affordable housing. The Land Development Code establishes standards for

accessory structures in Section 6.11.02 and 6.11.04. Specific types of structures are provided for in other sections of the LDR. Special use categories are as follows:

- Sec. 6.11.02. Accessory Dwelling Standards for living spaces up to 900 square feet, can be attached or detached.
- Sec. 6.11.38. Family Lot designation where the parcel can be used for immediate family members of the owner of the original tract.
- Sec. 6.11.39. Farm Worker Housing in suburban and urban plan categories that allow a density bonus.
- Sec. 6.11.51. Housing for Older Persons will receive special consideration under the Land Development Code especially within the provision of such facilities and is found to be necessary to provide housing opportunities for older persons.
- Sec. 6.11.90. Single Family Efficiency dwellings can come in three forms: bungalow, small atrium house, and two-story cottage. These types of housing can have off street parking, between 640 and 850 square feet, and reduced front setbacks.

No further recommendation at this time.

6. Reduction of Parking and Setback Requirements

Hillsborough County has adopted Affordable Housing Development Standards in the Land Development Code Section 6.11.07 (B) which provides for

- Flexibility of housing development that includes, detached, zero lot line, attached, duplex, quadraplex, townhome, for lots less than 7,000 square feet
- Reduction of setbacks for lots less than 5,000 square feet
- Reduction of building setbacks
- Minimum lot size standards

No further recommendation at this time.

7. Allowance of Flexible Lot Configurations, Including Zero Lot Line

The County offers Zero-lot-line construction as provided in section 6.11.04 of the Land Development Code and as per Hillsborough County Ordinance No. 92-05.

This residential lot type is permitted in environmentally sensitive developments, affordable housing developments, and planned districts. No minimum yards in the conventional sense are required, but the homes are detached housing with a minimum building spacing of ten feet. Developers may use fixed lot patterns such as Z lots to best fit their product to the development. Design Standards dependent on the square footage of the lots note minimum front yard requirements, garage requirements and total building coverage on the lot.

No further recommendation at this time.

8. Modification of Street Requirements for Affordable Housing

The Land Development Code Section 6.02.08 (C)(3) provides for sidewalks on only one side of the road in Affordable Housing Developments. The Transportation Technical Manual provides for sidewalk widths and planting strips. These standards are considered reasonable and within the normal practice for subdivision development standards. Variances or waivers can be submitted to the county engineer who has the authority to approve alternatives to the current standards.

No further recommendation at this time.

9. Establishment of a Process by which a Local Government Considers, before Adoption, Policies, Procedures, Ordinances, Regulations, or Plan Provisions that Increase the Cost of Housing

The County's Comprehensive Plan (CPP & policy B-3.2 and Land Development Code (Sections: 6.01.02 & 6.11.07) of the Land Development Code and as per Hillsborough County Ordinance No. 92-05.

The Board of County Commissioners has approved the creation of a permanent Affordable Housing Advisory Board (AHAB) to advise and make recommendations to the Board of County Commissioners and Affordable Housing Services on issues affecting affordable housing development. The AHAB is to assist the County in developing new programs and policies in order to foster the development and preservation of attainable housing for those County residents who desire to live in safe, decent and affordable housing

Recommendation 3: Develop a written policy establishing a requirement for consultation among the relevant departments or offices during the drafting of policies, procedures, ordinances, regulations or plan provisions that affect affordable housing or could increase the cost of housing development. This should include policies or activities which may impact the protection of current affordable housing or the rehabilitation of the existing housing stock.

10. Preparation of a Printed Inventory of Locally Owned Public Lands

The County complies with requirements of Florida Statute Section 125.379 which requires the preparation of an inventory list of all real property within the jurisdiction to which the County holds fee simple title and is considered appropriate for use as affordable housing. The County held a public hearing and adopted this list by Resolution R10-73 on June 16, 2010.

This list continues to be maintained and updated regularly. Request for Proposals are released to identify any potential developers for any or all of the properties. The applicants must meet specified requirements in order to be considered for the use of the lot(s).

No further recommendation at this time.

11. Support of Development near Transportation Hubs and Major Employment and Mixed Use Centers

The Comprehensive Plan recognizes that affordable housing should be encouraged in mixed-use developments with incentives if necessary (Policy C-26.2). There are a number of policies outlined within the County's Comprehensive Plan that addresses the development near transportation hubs, major employment centers and mixed use centers.

No further recommendation at this time.

12. Other Affordable Housing Incentives

The AHAB identified additional items for consideration which were also evaluated during the development of the 2008 LHS. These items will also be evaluated in cooperation with the Development Services and Planning Commission staff. These items are listed below

- a. Planned Development
- b. Performance Zoning
- c. Adaptive Reuse
- d. Infill Development
- e. Rezoning Vacant Land
- f. Manufactured Housing
- g. Modular, Panelized and Steel Housing
- h. Green Building Design and Techniques

No further recommendation at this time.

HILLSBOROUGH COUNTY, FLORIDA

Local Housing Incentive Strategies

Final Report

**The Planning Authority LLC
The Center for Governmental Services at Rutgers University
Building Technology Inc., Planning/Communications
Daniel Mandelker/Arianne Aughey**

Approved by the Hillsborough County Affordable Housing Advisory Board on
December 1, 2008

Hillsborough County's housing incentive strategies are based on an evaluation of the County's comprehensive plan, land development regulations and development review procedures, and include local regulatory reform and incentive programs to encourage and facilitate affordable housing production

Table of Contents

INTRODUCTION	
SUMMARY OF RECOMMENDATIONS	1
LOCAL HOUSING INCENTIVE STRATEGIES	
(A) Expedited processing of approvals of development orders or permits	11
(B) Modification of impact-fee requirements	20
(C) Allowance of flexibility in densities for affordable housing	22
(D) Reservation of infrastructure capacity	31
(E) Allowance of affordable accessory residential units	33
(F) Reduction of parking and setback requirements	36
(G) Allowance of flexible lot configurations, including zero-lot-line	42
(H) Modification of street requirements for affordable housing	44
(I) Establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing	45
(J) Preparation of a printed inventory of locally owned public lands	47
(K) Support of development near transportation hubs and major employment and mixed-use centers.....	49
(L) Other affordable housing incentives	
(L.1.) Planned Development	55
(L.2.) Performance Zoning	63
(L.3.) Adaptive Reuse.....	71
(L.4.) Infill Development.....	76
(L.5.) Rezoning Vacant Land.....	83
(L.6.) Manufactured Housing	86
(L.7.) Modular, Panelized, and Steel Housing	96
NOTE ABOUT DISCUSSION PAPERS	104

INTRODUCTION

This report addresses local housing incentive strategies and proposes regulatory reforms and incentive programs whose goal is to encourage and facilitate affordable housing production in Hillsborough County. Its recommendations are based on a collaborative evaluation of the County's comprehensive plan, land development regulations, and development review procedures that resulted in a series of discussion papers that were circulated to County staff and to the Hillsborough County's Affordable Housing Advisory Board.

This report is intended to be submitted to the State of Florida in fulfillment of the requirements of Florida Statute 420.9076(4), and is formatted to respond to the provisions of that law. It is preceded by a summary of recommendations to make it easier for busy readers to scan before delving into the details. The body of the report follows and provides more detail about the background and substance of recommendations. The report concludes with a list of the aforementioned discussion papers.

We wish to express our appreciation to the Affordable Housing Advisory Board and its chairman, Tom Scott, for their valuable review, comments, and insights. We also wish to express our appreciation to the many County staff members from the Affordable Housing Office, the Department of Planning and Growth Management, the Planning Commission, and the Building Services Division; and to the many individuals from the housing industry, from non-profit housing developers, and from affordable housing advocates, all of whom generously contributed their experiences and knowledge to help us understand the workings of affordable housing development in Hillsborough County.

SUMMARY OF RECOMMENDATIONS

(A) Expedited processing of approvals of development orders or permits for affordable housing projects.

Fourteen recommendations to expedite processing include:

- (1) Amend the Development Review Procedures Manual to establish a single formal policy for the consideration of applications for affordable housing development.
- (2) Amend the Hillsborough County Comprehensive Plan to clarify appropriate standards for consistency reviews in rezonings and applications for development.
- (3) Revise the methodology by which the need for affordable housing is projected in the Comprehensive Plan to reflect employment growth as well as population growth.
- (4) Establish production goals for affordable housing in the Housing Element of the Comprehensive Plan that are revisited on an annual basis; and assign the responsibility for tracking provision of affordable housing to the Affordable Housing Office.
- (5) Establish a standard template for community plans that would include an analysis of housing affordability, specific goals, objectives, and policies, and the selection of areas where affordable units should be located.
- (6) Initiate advanced zoning of areas to higher residential density to facilitate development of affordable housing.
- (7) Closely monitor the \$800,000 appropriation level for affordable housing impact fee waivers to maximize its effectiveness.
- (8) Commission the preparation of architectural plans for entry-level housing that would be preapproved for building permits and offered to builders/developers free-of-charge.
- (9) Waive performance bond requirements for affordable housing projects in which the County has invested monies.
- (10) Develop a set of uniform affordability controls to conserve affordable housing created through subsidies or density bonuses.
- (11) Revise design standards for affordable housing development.

- (12) Amend the Land Development Code to allow affordable housing projects “as of right” on nonconforming lots.
- (13) Eliminate the second noticed hearing before the Board of County Commissioners on rezonings that involve affordable housing projects only.
- (14) Establish and implement a separate track for construction code enforcement for affordable housing.

(B) Modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.

Recommendations to modify impact-fees include:

- (1) Continue to offer impact-fee relief to eligible low-income households at current levels and with fewer restrictions on location.
- (2) Relate impact fees to the size of dwelling units

(C) Allowance of flexibility in densities for affordable housing.

Sixteen recommendations to allow increased flexibility in densities include:

- (1) Conduct an economic analysis to determine the level of incentive necessary to achieve the county’s affordable housing goals.
- (2) Offer density bonuses in which the number of affordable housing units created is proportional to the economic value of the increased density.
- (3) In developments whose location presents severe practical difficulties to affordable housing (such as a lack of jobs or public transit nearby) offer density bonuses in exchange for “in lieu of” contributions to an affordable housing trust fund or for prior construction of affordable housing at off-site locations.
- (4) Coordinate the comprehensive plan with the land development code.
- (5) In the land development code, communicate density bonuses using simple, direct formulas.
- (6) Offer density bonuses in a diverse range of neighborhoods, including market-rate developments.
- (7) Offer density bonuses in any number that will result in affordable housing production.

- (8) Offer density bonuses in any size development.
- (9) Allow an affordable housing unit as an addition to a single house where the total square footage of both units will be within the size allowable for a single family house and one unit will be owner-occupied.
- (10) As part of the comprehensive planning process, develop quantitative goals for affordable housing production through density bonuses and establish annual benchmarks to measure future effectiveness of density bonuses.
- (11) Develop a set of uniform affordability documents to conserve affordable housing created through density bonuses, and audit them on a regular basis for continued compliance.
- (12) Use development agreements to coordinate density bonuses with other incentives when helpful in achieving affordable housing goals.
- (13) Allow an affordable housing bonus in addition to any other density bonuses available to Traditional Neighborhood Developments.
- (14) Monitor affordable housing production and the use of density bonuses and periodically recommend adjustments to maintain the effectiveness of density bonuses.
- (15) Pre-test the density bonus ordinance with a sample of those who are likely to refer to it for information and guidance during planning and development of affordable housing.
- (16) Implement a cottage housing development program that includes provisions to encourage attractive design, by amendments to the Comprehensive Plan and Land Development Code.

(D) Reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons

Recommendations to reserve infrastructure capacity include:

- (1) Identify urban infill and redevelopment areas and provide them with affordable housing concurrency waivers for parks; and affordable housing concurrency exceptions for transportation
- (2) Identify eligible locations for affordable workforce housing, and exempt such affordable housing from transportation concurrency

(E) Allowance of affordable accessory residential units in residential zoning districts

Hillsborough County allows accessory residential units as a conditional use in nearly all residential zoning districts. Four recommended improvements to this policy include:

- (1) Standardize the definition of accessory dwelling units in the Comprehensive Plan and the Land Development Code.
- (2) Improve language in the land development code relating to accessory units.
- (3) Reconsider the existing minimum lot size of 7,000 square feet.
- (4) Develop a website that provides all the information needed to apply for the required conditional use permit, and a brochure to promote the concept.

(F) Reduction of parking and setback requirements for affordable housing

Recommended subdivision/development standards include reductions in:

- (1) Minimum Lot Size
- (2) Minimum Lot Width
- (3) Yard Setbacks
- (4) Off-Street Parking
- (5) Planting Strips and Sidewalks

(G) Allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing

Five recommendations relating to flexible lot configurations include;

- (1) Include a definition of zero lot line development in the Comprehensive Plan and use the same definition in the Land Development Code.
- (2) Add policies regarding residential zero lot line development to the Comprehensive Plan.
- (3) Clarify the presentation of zero lot line development in the Land Development Code by addressing inconsistencies between the text and diagrams.

- (4) Amend the Land Development Code to allow zero lot line houses to be attached on the zero lot line side.
- (5) Amend the Land Development Code to promote compatibility of zero lot line development with conventional or infill residential development.

(H) Modification of street requirements for affordable housing

It is recommended that the Hillsborough County Transportation Technical Manual be amended to:

- (1) Reduce the standard width for *planting strips* to 5 feet
- (2) Reduce the standard width for *sidewalks* to 4 feet

(I) Establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing

It is recommended that a written policy be established relating to revision of affordable housing policies, procedures, ordinances, regulations, and plan provisions to require:

- (1) Consultation among relevant County departments during drafting of policies, procedures, ordinances, regulations, and plan provisions that affect affordable housing or increase the cost of housing.
- (2) Pre-testing amendments to the Land Development Code that may affect affordable housing or increase the cost of housing on a sample of intended users

(J) Preparation of a printed inventory of locally owned public lands suitable for affordable housing

- (1) It is recommended that the County review its definition of locally-owned public lands to identify any public agencies not already included in the adopted inventory.

(K) Support of development near transportation hubs and major employment centers and mixed-use developments

Recommendations supporting development near *transportation hubs* include:

- (1) Offer concurrency exceptions near transportation hubs.
- (2) Rezone vacant land to residential use near transportation hubs when the owner makes a commitment to include affordable housing.

Recommendations supporting development near *employment centers* include:

- (1) Revise the methodology by which the need for affordable housing is projected in the Comprehensive Plan to reflect employment growth as well as population growth.
- (2) Encourage affordable workforce housing by exemption from transportation concurrency requirements.
- (3) Consider implementing a jobs/housing ratio in planned developments.

Recommendations supporting *mixed-use developments* include:

- (1) Facilitate mixed-use development by creating as-of-right mixed-use districts and mapping them at the initiative of the County.

(L) Other affordable housing incentives identified by the advisory committee

(L.1.) Planned Development

Eight recommendations to encourage affordable housing through planned development include:

- (1) Simplify planned development procedures
- (2) Reduce uncertainty in the planned development approval process
- (3) Clarify applicable criteria in the planned development approval process
- (4) Consider an affordable housing requirement in planned developments
- (5) Consider implementing a jobs/housing ratio in planned developments
- (6) Improve accessibility standards in planned developments
- (7) Require more intensive development in planned developments
- (8) Make urban design more inclusive in planned developments

(L.2.) Performance Zoning

- (1) It is recommended flexible performance standards be introduced to recognize that affordable smaller dwellings (measured either by number of

bedrooms or in square feet) can be built at higher density (measured as dwelling units per acre) than larger dwellings and have the same impact.

(L.3.) Adaptive Reuse

Six recommendations are made to encourage affordable housing through adaptive reuse. The first two recommendations relate to land development policies and the last four relate to construction issues.

- (1) Expand on the existing policy encouraging adaptive reuse of historically significant buildings to encourage adaptive reuse for affordable housing, whether historically significant or not.
- (2) Add a section to the Land Development Code to identify incentives, standards, and exceptions for adaptive reuse to affordable housing.
- (3) Join with other Florida local jurisdictions to persuade the Florida Building Commission to amend the Florida Existing Building Code back to the International Existing Building Code's exception regarding change of occupancy (the Florida elimination of which added egress requirements).
- (4) Request the Building Officials Association of Florida (BOAF) to provide more extensive training in Hillsborough County on the Florida Existing Building Code.
- (5) Explore the opportunities offered by the Florida Existing Building Code for adaptive reuse of unoccupied floors above retail stores as affordable housing, and initiate a public information program on this.
- (6) Explore affordable apartment opportunities through conversion of buildings used for assembly, high-hazard occupancy, institutional occupancy, hotels, and assisted living; because the change of use provisions of the Florida Existing Building Code are minimal in these cases, and initiate a public information program on this.

(L.4.) Infill Development

Nine recommendations to encourage affordable housing through infill development include:

- (1) Re-write the definition of *infill* to apply to obsolete buildings as well as vacant sites.
- (2) In the Comprehensive Plan, include an analysis of opportunities for infill development, and address the specific issues that affect an affordable housing infill development implementation strategy.
- (3) Create a new incentive formula for the affordable housing infill bonus that is proportional and calibrated to work well with small projects.
- (4) Make the affordable housing infill bonus available in all residential density categories.
- (5) Make the affordable housing infill bonus available to any project that meets the definition of infill, regardless of size.
- (6) Amend the affordable housing infill bonus to offer relief to small infill sites; including more flexible building setbacks and building bulk, and more flexible parking arrangements.
- (7) Amend the affordable housing infill bonus to offer extra density or transferable development rights to sites that need remediation of environmental contamination.
- (8) Combine the affordable housing infill bonus with use of neighborhood improvement programs whenever possible.
- (9) Combine the affordable housing infill bonus with design guidelines that are compatible with the style and scale of existing dwellings in the immediate area.

(L.5.) Rezoning Vacant Land

Three recommendations to encourage affordable housing through rezoning of vacant commercial, office, and industrial land include:

- (1) Develop a process and methodology for identifying vacant and under-utilized sites and evaluating their suitability for affordable housing; and make this information available to the land's owner.
- (2) Initiate amendments to the Future Land Use Map and Official Zoning Atlas affecting vacant, under-utilized, and surplus lands found to be suitable for affordable housing. If the land is privately owned, amendments will only be initiated by the County after the owner commits

to use the land for residential or mixed-use development including affordable housing.

- (3) Develop guidelines for the use of incentives, including redevelopment powers relating to affordable housing, to encourage development of affordable housing on rezoned sites. Such guidelines may encourage design that serves affordable housing with features such as access to public transit, employment and services.

(L.6.) Manufactured Housing

Nine recommendations to make better use of manufactured housing as a means to affordable housing include:

- (1) Modify the definitions of *manufactured housing* and *mobile homes* in the Comprehensive Plan and the Land Development Code to be consistent with each other; to be consistent with federal definitions; and to eliminate the use of the term “duplex usage” as inconsistent with federal regulations.
- (2) Expand the manufactured housing definition to include differing categories, including a *qualified manufactured home* category that may be permitted as a matter of right in some residential districts.
- (3) Develop compatibility standards for *qualified manufactured homes*, relating to roof pitch, square footage of livable space, type and quality of exterior finishing materials, foundation skirting, and existence and type of attached structures.
- (4) Include requirements in the code for a permanent foundation, removal of transportation hitches and devices, and permanent connections to public utilities.
- (5) Include a requirement in the code to provide hurricane shutters complying with the Florida Building Code.
- (6) Add manufactured homes to the list of housing types included in the code’s Affordable Housing Development Standards.
- (7) Allow zero lot line manufactured homes.
- (8) Eliminate the need for a special hearing and a zoning map change for development of *qualified manufactured homes*.

- (9) Engage the public and the industry, including the Florida Manufactured Housing Association, in implementing these changes.

(L.7.) Modular, Panelized, and Steel Housing

It appears that Hillsborough County's regulatory system presents no barriers to the use of modular, panelized, and steel technologies. However, it is recommended that the County:

- (1) Facilitate the transfer of information about these technologies to local developers and builders; including providing links on its website and establishing liaisons with industry trade associations.

LOCAL HOUSING INCENTIVE STRATEGIES

Proposed local housing incentive strategies are formatted as responses to F.S. 420.9076(4), subsections (A) through (L).

(A) Expedited processing of approvals of development orders or permits for affordable housing projects

Fourteen recommendations are offered, and presented together with background analysis for each one.

Recommendations

(1) *Amend the Development Review Procedures Manual to establish a single formal policy for the consideration of applications for affordable housing development.* The DRPM needs to be amended to clarify the process by which applications are considered by the County. While the policy may exist, it does not exist on paper. At a minimum, the policy needs to identify the roles of the Affordable Housing Office, the Planning Commission, the Planning and Growth Management Staff, time limits, forms by which the approval of an affordable housing development can be affirmed (including the possible use of a stamp denoting that it is an affordable project, as described above), and procedures to obtain design exceptions and other departures from County rules.

It is important that the DRPM encompass the process to obtain design exceptions and shorten it to incorporate bona fide affordable housing projects. Currently, the design exception process works like this, according to Robert Campbell, Director of the Transportation and Land Development Review Division:

All design exceptions for any type development must stand on their merits. Affordable housing projects are treated the same as other projects for design exceptions to transportation and stormwater requirements. These issues involve safety and welfare considerations.

The determination to authorize a design exception comes based on a formal written request from the licensed design professional which includes a description of the specific exception and a professional evaluation of safety and operational factors. The request is thereafter evaluated by the appropriate county licensed design professionals and a formal determination is issued.¹

Thus, under the current procedures, market rate and affordable housing projects are treated identically in terms of time frames for a determination.

(2) *Amend the Hillsborough County Comprehensive Plan to clarify appropriate standards for consistency reviews in rezonings and applications for development.* Florida legislation (Ch. 163.3194) contains language that deals with the relationship of the comprehensive plan to the land development regulations and decisions flowing from it:

[In subsection 2] After a comprehensive plan for the area, or element or portion thereof, is adopted by the governing body, no land development regulation, land development code, or amendment thereto shall be adopted by the governing body until such regulation, code, or amendment has been referred either to the local planning agency or to a separate land development regulation commission created pursuant to local ordinance, or to both, for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan, or element or portion thereof. Said recommendation shall be made within a reasonable time, but no later than within 2 months after the time of reference. If a recommendation is not made within the time provided, then the governing body may act on the adoption.

[Subsection (3) (a)] A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

¹ Robert Campbell, Hillsborough County Department of Planning and Growth Management, email to Stuart Meck, April 17, 2008.

[Subsection (3) (b)] A development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of the development are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

It is not clear from reading the comprehensive plan, particularly the Future Land Use Element, or the Land Development Code itself what the formal system for analysis is and how the Planning Commission staff is to apply mapped policies on location, use, intensity, and density and written goals, objectives, and policies and criteria, and, when discretion is involved in the selection and weighting of certain policies, how that discretion is employed.

A number of persons interviewed by the consultant made it clear that there was a problem with being bargained down over density, which was important to the feasibility of an affordable housing project, even though such density was authorized by the Land Development Code. A clear statement in the Comprehensive Plan of how the plan is to interact with development decisions would enhance certainty predictability and ensure accountability in how recommendations on consistency are made.

(3) *Revise the methodology by which the need for affordable housing is projected in the Comprehensive Plan to reflect employment growth as well as population growth.* As noted, the Comprehensive Plan does not contain any economic projections. However, the Future Land Use Element makes decisions on the allocation of job-related land use, such as commercial, office, and industrial land use. Job growth from such land uses in turn influences the demand for housing in Hillsborough County. Focusing on population growth as the only driver in land use change may understate the need for housing, or may result in housing projections that are aimed at the income groups that are not reflective of the job market in Hillsborough

County. A variety of techniques exist for forecasting economic growth and relating it to land use (see footnote).²

- (4) *Establish production goals for affordable housing in the Housing Element of the Comprehensive Plan that are revisited on an annual basis; and assign the responsibility for tracking provision of affordable housing to the Affordable Housing Office.* Currently, the Housing Element does not contain any express production goals for affordable housing; only recognition of need. Establishing goals would provide Hillsborough County with a mechanism for monitoring how well it is doing with respect to needs identified in the Housing Element. Moreover, no single agency is responsible for tracking and reporting on the production of affordable housing in the county.³ The assignment of this responsibility would eliminate any ambiguity and provide better information on progress.
- (5) *Establish a standard template for community plans that would include an analysis of housing affordability, specific goals, objectives, and policies, and the selection of areas where affordable units should be located.* A review of the community plans by the consultant indicated haphazard, weak, or nonexistent consideration of affordability issues, despite the importance given to them in the Housing Element. It is important that the policies in the Housing Element with respect to housing needs for low-

² See generally Phillip R. Berke, David Godschalk, *et al.*, *Urban Land Use Planning*, 5th edition (Urbana, IL: University of Illinois Press, 2006), esp. ch. 6; Arthur C. Nelson, *Planner's Estimating Guide: Projecting Land Use and Facilities Needs* (Chicago, IL: Planners Press, 2004); Michael R. Greenberg, Donald A. Krueckeberg and Connie O. Michaelson, *Local Population and Employment Projection Techniques* (New Brunswick, NJ: Center for Urban Policy Research, 1978); Econosult Corporation, *New Jersey Council on Affordable Housing, Task 1—Allocating Growth to Municipalities* (Trenton, NJ: Council on Affordable Housing, January 2, 2008), website (accessed April 5, 2008): <http://www.state.nj.us/dca/coah/dec07proposal/task1b.pdf> (discussion of allocation of statewide population and employment projections to municipal levels).

³ The Consolidated Impact Assessment Ordinance does call for a quarterly report by the Administrator on the “number of housing units sold in the county which qualified as affordable housing” but only for the purposes of relief from impact fees. Hillsborough County, Florida, Consolidated Impact Assessment Ordinance, Ordinance No. 96-29, as amended by No. 96-36, as amended, Article 8, Section O, Subsection 7a (Quarterly Review).

and moderate-income persons be reflected in the community plans, and that these plans do not frustrate broader community-wide policies.

- (6) *Initiate advanced zoning of areas to higher residential density to facilitate development of affordable housing.* This action appears to be supported by the following policy in the Land Use Element, discussed above:

Policy 1.2.6: The County shall designate land areas available for housing opportunities on the Future Land Use Map (FLUM) and provide incentives that will encourage the production of housing units for very low, low and moderate income households in unincorporated Hillsborough County.

If areas can be designated for “housing opportunities” on the FLUM, they should be zoned for such opportunities as well, at suitable densities. Advanced zoning would eliminate the need for applicants to petition the county for zoning map changes (and relieve them of the cost) and therefore eliminate the four to six months of time that such requests entail. Moreover, rezoning for affordable housing developments in advance would be added insurance that county production goals for such housing can be satisfied. Consequently, rezoning should take into consideration lands and structures of developers who have expressed a commitment to provide low- and moderate-income housing.⁴

- (7) *Closely monitor the \$800,000 appropriation level for affordable housing impact fee waivers to maximize its effectiveness.* Nonprofit housing providers have indicated that the current appropriation level for fee

⁴ Note: On October 6, 2008 a member of the Affordable Housing Advisory Board commented that County-initiated zoning map changes for affordable housing might result in segregation of affordable housing into those areas. This comment points to the necessity of making such map changes in a way that (1) integrates affordable housing into areas of higher-cost housing and (2) encourages mixture of affordable and higher cost housing within proposed developments. In effect, advanced zoning should be a technique for assisting the developer who may otherwise have to face strong opposition for attempting to integrate affordable housing into higher cost communities.

waivers for low and moderate-income households is insufficient, and that impact fees (as well as off-site improvements) are a major roadblock to affordability. The current version of the Consolidated Impact Assessment Ordinance dates from 1996, and the appropriation figure is \$800,000, apparently unchanged from that date, appears in Article 8, Section 0. Information from the Planning and Growth Management Department indicated that, in FY 2007, the total amount expended for impact fee relief was \$799,069, and, as of April 2008, \$333,046 had been expended.⁵ Monitoring this appropriation will facilitate future adjustments in response to changing needs and resources.⁶

- (8) *Commission the preparation of architectural plans for entry-level housing that would be preapproved for building permits and offered to builders/developers free-of-charge.* A similar program has been underway since 2004 in Portland, Oregon, where permit-ready plans (resulting from a design competition sponsored by the City) are available.⁷ Having such plans available in Hillsborough County would reduce both time and cost for applicants who are building affordable housing.
- (9) *Waive performance bond requirements for affordable housing projects in which the County has invested monies.* This was a recommendation of the nonprofit housing groups as well as the County Affordable Housing Task Force. This would require an amendment to the LDC Sections 10.01.05.C.4 (Subdivision) and 10.01.06.E (Site Development), and possibly other places.

⁵ Shawn Perrine, Impact Fee Manager, Hillsborough County Department of Planning and Growth Management, email to Sam Casella, Howie Carroll, Stuart Meck, and Michael Rowicki, April 10, 2008.

⁶ *Discussion on November 3, 2008 clarified the Affordable Housing Advisory Board's recommendation relating to impact fee waivers.*

⁷ City of Portland Bureau of Planning, *Living Smart: Big Ideas for Smart Lots* (Portland, OR: The Bureau, 2006), website (accessed April 5, 2008): <http://www.portlandonline.com/shared/cfm/image.cfm?id=113416>; City of Portland Bureau of Planning, *Portland Catalog of Narrow House Designs* (Portland, OR: The Bureau, 2004).

(10) *Develop a set of uniform affordability controls to conserve affordable housing created through subsidies or density bonuses.*⁸ The objective of affordability controls is to conserve affordable housing created through subsidies or density bonuses, and when appropriate, to partially recapture value from units that may leave the affordable inventory and use those funds for replacement housing. These controls may include, but are not limited to, deed restrictions and covenants, and, when created, need to be audited on a regular basis for continued compliance. Uniformity can reduce the cost of drafting controls individually for each development and can make auditing more efficient.⁹

(11) *Revise design standards for affordable housing development.*

Subdivision development standards are addressed later in this report in section (F) where specific recommendations are made. A policy in the Housing Element, discussed above, supports this:

Policy 1.2.4: The County shall continue annual review of ordinances, codes, regulations and the permitting process to eliminate excessive requirements, and amend or add others in order to increase appropriate private sector housing production.

(12) *Amend the Land Development Code to allow affordable housing projects “as of right” on nonconforming lots.* This was originally recommended by the Planning Commission staff, and it is a good idea because it would eliminate a barrier to development by removing the requirement for a variance and it would take advantage of the resource presented by

⁸ An example would be New Jersey’s Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. which can be found at <http://www.state.nj.us/dca/coah/580files/580toc.shtml>

⁹ Note: On October 6, 2008 a member of the Affordable Housing Advisory Board commented that there should be no affordability restrictions because they can discourage maintenance and they destroy the financial rewards of home ownership. However, another member pointed out that shared-equity provisions are commonly in use and those provisions make it possible for homeowners to reap a reasonable share of housing equity growth. These comments point to a need for additional discussion in Hillsborough County regarding the term of affordability restriction in years, but whatever term is finally adopted, standard covenants and deeds will make their enforcement less costly and more uniform.

nonconforming lots. This would require an amendment to LDC Sec. 11.03.03. The procedure for doing this could be combined with the procedure for processing affordable housing applications in the Land Development Procedures Manual, described in Recommendation (1) above.

(13) *Eliminate the second noticed hearing before the Board of County Commissioners on rezonings that involve affordable housing projects only.* The LDC, Section 10.03.04, allows the Board of County Commissioners to conduct what amounts to a second noticed hearing to review the record and recommendation created by the Land Use Hearing Officer. Specifically, Section 10.03.04D allows the Board to take additional evidence and hear oral argument. Technically, this is not a public hearing, but nonetheless it requires notice. However, there is little sense in having a hearing officer conduct a hearing, take evidence, and prepare written findings and a recommendation if there is still going to be another hearing, on the theory that it is necessary to correct the record. While the use of a hearing officer is a commendable way of making land use decisions, the presence of these provisions encourages applicants and others to participate in the creation of a record that later needs to be modified or supplemented to correct, in the LDC's terms, "mistakes" and ambiguities," and introduce "additional evidence."¹⁰ Modification of this section to eliminate the second hearing, at least as it applies to affordable housing projects, would eliminate a potential source of delay.

(14) *Establish and implement a separate track for construction code enforcement for affordable housing.* The County should formalize the unwritten administrative policy to expedite the processing of building permit application and code enforcement for affordable housing. Such a

¹⁰ For a discussion of this problem, known as "supplementation of the record," see Daniel R. Mandelker, "Model Legislation for Land Use Decisions," 35 *Urban Lawyer* 635 (Fall 2003), 664 to 666.

separate track could include several independent features that could reduce the costs of code enforcement to the applicants and/or the county.

First, the building permit fee for affordable housing, currently based on occupancy and building area, could be reduced. This may require amendment to Section 104.6, Fees, of the Hillsborough County Construction Code.

Second, the practice of using cross-trained combination inspectors (reportedly used on occasion in the County) could be formalized for application to affordable housing projects. This could result in the reduction of the number of separate inspections from a maximum of 19 (seven building, and three each electrical, plumbing, mechanical, and gas inspections) to as little as 7 to 10, and may require amendment to Section 102.2, Employee qualifications, of the Hillsborough County Construction Code.

Additional background analysis can be found in the discussion paper entitled *Methods to Expedite Processing of Permit, Plans, and Reviews*.

(B) Modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.

Two recommendations are offered, and presented together with background analysis for each one.

Recommendations

(1) *Continue to offer impact-fee relief to eligible low-income households at current levels and with fewer restrictions on location.* Hillsborough County's impact-fee relief is offered only in locations that are eligible for the county's affordable housing bonuses. This locational standard can limit eligible locations to those that are within one mile of areas that already have substandard housing or a substantial population of very low, low and moderate income residents. These restrictions can make many areas of the county off-limits to impact-fee relief. The impact fee ordinance should be amended to free impact-fee relief of its linkage to the housing density bonus criteria.¹¹

(2) *Relate impact fees to the size of dwelling units.* Hillsborough County's water/wastewater fees and transportation impact fees do not vary by housing size. When impact fees are not graduated by dwelling unit size (measured either in bedrooms or square feet), smaller dwelling units may pay the same fee as similarly situated dwelling that are larger and expensive. But a careful study would probably find that smaller dwelling units consume less water and transportation services. There is also almost certainly a correlation between low-income housing and dwelling unit size as smaller size is a big factor in what makes a dwelling unit less expensive.

¹¹ At the October 6, 2008 meeting of the Affordable Housing Advisory Board there was discussion of these recommendations and acknowledgement of the difficulties of funding any additional concurrency relief through the use of alternatives such as bond funding, tax increment funding, or looking to a statewide adoption of new revenue sources. It was also pointed out that any deferral of payments raises issues of continued affordability as those payments must then be added to the monthly costs of ownership. Impact fee relief and practical limitations on increased fee waivers at this time were also discussed that the November 3, 2008 meeting of Advisory Board.

Therefore, if water/wastewater and transportation impact fees were to vary by housing size, we could expect that, on average, low-income households would benefit by paying a smaller fee than under the current system.

For background analysis on the county's existing impact-fees, please see the discussion paper entitled *Resolving Concurrency Issues*.

(C) Allowance of flexibility in densities for affordable housing.

Sixteen recommendations are offered, followed by background analysis.

Recommendations

To achieve the strategy outlined in the previous paragraphs, the following policies are recommended to allow increased flexibility in densities.

- (1) *Conduct an economic analysis to determine the level of incentive necessary to achieve the county's affordable housing goals.*
- (2) *Offer density bonuses in which the number of affordable housing units created is proportional to the economic value of the increased density.*
- (3) *In developments whose location presents severe practical difficulties to affordable housing (such as a lack of jobs or public transit nearby) offer density bonuses in exchange for "in lieu of" contributions to an affordable housing trust fund or for prior construction of affordable housing at off-site locations.*
- (4) *Coordinate the comprehensive plan with the land development code.*
The comprehensive plan is to provide effective strategies and policies, and the land development code is to implement those policies with clarity, completeness, and a minimum of legal barriers.
- (5) *In the land development code, communicate density bonuses using simple, direct formulas.*
- (6) *Offer density bonuses in a diverse range of neighborhoods, including market-rate developments.* Do not limit density bonuses (and affordable housing) to disadvantaged areas or low-income housing developments.
- (7) *Offer density bonuses in any number that will result in affordable housing production.* Do not require a minimum number of affordable

housing units where a minimum would result in none at all. Ten or fifteen percent affordable housing in a development is better than none.

- (8) *Offer density bonuses in any size development. Do not limit density bonuses to large-scale planned developments. Design bonuses can be more attractive to smaller developments if they include reduced lot size and setbacks.*
- (9) *Allow an affordable housing unit as an addition to a single house where the total square footage of both units will be within the size allowable for a single family house and one unit will be owner-occupied.¹²*
- (10) *As part of the comprehensive planning process, develop quantitative goals for affordable housing production through density bonuses and establish annual benchmarks to measure future effectiveness of density bonuses.*
- (11) *Develop a set of uniform affordability documents to conserve affordable housing created through density bonuses, and audit them on a regular basis for continued compliance.*
- (12) *Use development agreements to coordinate density bonuses with other incentives when helpful in achieving affordable housing goals.*
- (13) *Allow an affordable housing bonus in addition to any other density bonuses available to Traditional Neighborhood Developments.*
- (14) *Monitor affordable housing production and the use of density bonuses and periodically recommend adjustments to maintain the effectiveness of density bonuses.*

¹² At its November 3, 2008 meeting, the Affordable Housing Advisory Board discussed the need for owner-occupancy of the principal dwelling when a second unit is allowed.

- (15) *Pre-test the density bonus ordinance with a sample of those who are likely to refer to it for information and guidance during planning and development of affordable housing. Pre-testing will seek to verify:*
- a. Clarity
 - b. Flexibility in varied locations and circumstances
 - c. Proportionality and effectiveness as an inducement to affordable housing
 - d. Freedom from perceived barriers or delays
- (16) *Implement a cottage housing development program that includes provisions to encourage attractive design, by amendments to the Comprehensive Plan and Land Development Code.*

Background Analysis

Recommendations to allow flexibility in densities for affordable housing are based on two strategies: a density bonus strategy, and a small lot/cottage housing development strategy.

Density bonus strategy

In the Comprehensive Plan, the affordable housing density bonus program is described in detail, but the existing bonus strategy has proven to be largely ineffective, judging by the infrequency of its use. In the Land Development Code, the density bonus presentation can be confusing, as it leaves out important information, is lacking in clarity, and in some ways is inconsistent with the Comprehensive Plan. In a future where many low and moderate income households will be looking for the lower cost and wider choices represented by higher-density communities, there is an opportunity for a more robust application of density bonuses. This new density bonus strategy could focus on bonuses that are: (1) financially feasible in a wide variety of circumstances; (2) as barrier-free in concept and execution as is legally

possible; (3) easy to use; and (4) carefully monitored and adjusted for effectiveness.¹³

Small lot/cottage housing development strategy

Through small lot districts, the Hillsborough County comprehensive plan can promote somewhat higher density development that saves resources of land, water, and energy; that reduces investments in infrastructure, and that makes housing more affordable both in terms of initial and operating cost. A small lot development strategy can also encourage attractive design, reduce regulatory barriers, and stimulate more diverse, mixed-income communities that include affordable housing.

Cottage-style homes are a successful example of small lot development.¹⁴ Seattle, Washington's regulations allow cottage housing developments of up to 12 dwelling units without special approvals. Dwelling units are typically less than 1,000 square feet in size. One cottage unit is permitted per every 1,600 square feet, but the lot size must have a minimum of 6,400 square feet (minimum of 4 units). In addition, 400 square feet of open space is required per unit, 200 of which must be private. Only one parking space is required per unit and limits.¹⁵ With these specifications, density could be in the range of 12 to 16 units per acre. Based on experience elsewhere, cottage housing may

¹³ At the October 6, 2008 meeting of the Affordable Housing Advisory Board, member comments indicated agreement that the present system of density bonuses in Hillsborough County is unworkable. Reasons cited by the advisory board included its restrictive rules that serve to 'red-line' the bonus into areas already characterized by low income populations and deficient housing conditions. It was suggested that housing prices are dropping already due to the national financial crisis and as developers adjust to a new reality of lower-priced products the concept of density bonuses might be received more favorably. A question was raised about the potential of a less restrictive density bonus to encourage urban sprawl. The fundamental characteristic of a density bonus, which is higher density, works against urban sprawl. This anti-sprawl characteristic can be reinforced if density bonuses are generally limited to apply only within the Urban Service Area.

¹⁴ For an excellent summary of cottage homes and related regulations, see HUD *Breakthroughs*, January 2008, at <http://www.huduser.org/rbc/newsletter/vol7iss1more.html>

¹⁵ Ibid, <http://www.huduser.org/rbc/newsletter/vol7iss1more.html>

cost only about half of the median house price.¹⁶ A similar approach could make cottage housing development a viable option in Hillsborough County's Land Development Code. Smaller scale of development and absence of special approvals would work to reduce the developers risk and expedite processing.¹⁷

Guidance for Comprehensive Plan Revision

A user-friendly density bonus can benefit enormously from a comprehensive plan that has already addressed the economic value of the bonus, sorted out the options, and articulated policies that can succeed in the marketplace. The following goals, objectives, and policies are suggested as guidance in revising the Comprehensive Plan and incorporate the recommendations listed above.

1 Density bonus goal: An effective system of affordable housing density bonuses. Effectiveness requires density bonuses to be financially feasibility in a wide variety circumstances, barrier-free, and easy to use; and to be monitored against benchmarks and adjusted as necessary.

1.1 Objective: Make affordable housing density bonuses economically feasible in a wide variety of circumstances

1.1.1 Policy: As part of the planning process, conduct an economic analysis to determine the level of incentive necessary to achieve the county's affordable housing goals

¹⁶ Ibid, <http://www.huduser.org/rbc/newsletter/vol7iss1more.html> In Massachusetts communities where the median price of conventional houses is \$310,000 to \$370,000, cottage housing is priced at between \$125,000 and \$147,000

¹⁷ At the September 12, 2008 meeting of the Affordable Housing Advisory Board member comments indicated that smaller lots can work in Hillsborough County. But some concerns were identified including (1) the need for adequate drainage, and (2) the need for compatibility. Cluster housing was suggested as a possible alternative that would use less land than conventional lots. However, cluster housing usually requires a planned development process and a zoning change which would make each development more difficult to achieve. Cottage housing development incorporates many of the same features as cluster development (open space requirements and smaller lots), but in a smaller scale development. Additional input was received from the Affordable Housing Advisory Board on November 3, 2008 relating to the importance of attractive design.

- 1.1.2 *Policy:* Offer density bonuses in which the number of affordable housing units created is proportional to the economic value of the increased density.
- 1.1.3 *Policy:* In developments whose location presents severe practical difficulties to affordable housing (such as a lack of jobs or mass transit nearby) offer density bonuses in exchange for in lieu contributions to an affordable housing trust fund or prior construction of affordable housing at off-site locations.
- 1.2 *Objective:* Make affordable housing density bonuses barrier-free in concept and execution.
- 1.2.1 *Policy:* Coordinate the comprehensive plan with the land development code; so that the comprehensive plan provides effective strategies and policies, and the land development code implements those policies with clarity, completeness, and a minimum of legal barriers.¹⁸
- 1.2.2 *Policy:* In the land development code, communicate density bonuses using simple, direct formulas.¹⁹
- 1.2.3 *Policy:* Do not limit density bonuses (and affordable housing) to disadvantaged areas or low-income housing developments. Encourage affordable housing in a wide range of neighborhoods, including market-rate developments.
- 1.2.4 *Policy:* Do not require a minimum number of affordable housing units where a minimum would result in none at all. Ten or fifteen percent affordable housing in a development is better than none.

¹⁸ Examples of this division of labor between comprehensive plan and land development code:

- A. The comprehensive plan can establish policies for computing a density bonus; and the land development code can include a specific density bonus formula.
- B. The comprehensive plan can include policies for guarantees of affordability, such as whether the guarantee will apply for a number of years or in perpetuity. The land development code implements that strategy by including specific terms and procedures for its implementation and monitoring.
- C. The comprehensive plan can discuss the strategic issues relating to the appropriateness of affordable housing to neighborhood character and set out a general policy. The land development code can implement that policy with specific language governing if, when, and how the county's development procedures may consider the appropriateness of affordable housing to neighborhood character.

¹⁹ An example (and only an example) would be "one market-rate unit for each moderate-income dwelling unit; two market-rate units for each low-income unit; and three market-rate units for each very low-income unit."

- 1.2.5 *Policy:* Do not limit density bonuses to large-scale planned developments. Offer density bonuses in any size development. Design bonuses can be more attractive to smaller developments if they include reduced lot size and setbacks.
- 1.2.6 *Policy:* Allow an affordable housing unit as an addition to a single house where the total square footage of both units will be within the size allowable for a single family house and one unit will be owner-occupied.
- 1.3 *Density bonus objective:* Ensure that affordable housing density bonuses are monitored against benchmarks and adjusted as necessary to achieve affordable housing goals
- 1.3.1 *Policy:* As part of the comprehensive planning process, develop quantitative goals for affordable housing production through density bonuses. Establish yearly benchmarks to measure future effectiveness of density bonuses.
- 1.3.2 *Policy:* Develop a set of uniform affordability documents.²⁰ The objective of affordability controls is to conserve affordable housing created through subsidies or density bonuses, and when appropriate, to partially recapture value from units that may leave the affordable inventory for replacement housing. Uniform documents may include, but are not limited to, deed restrictions and covenants, and, when created, need to be audited on a regular basis for continued compliance. Uniformity can reduce the cost of drafting documents individually for each development and can make auditing more efficient.
- 1.3.3 *Policy:* When helpful in achieving affordable housing goals, use development agreements to coordinate density bonuses with other incentives.²¹
- 1.3.4 *Policy:* Allow an affordable housing bonus in addition to any other density bonuses available to Traditional Neighborhood Developments.

²⁰ An example would be New Jersey's Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. which can be found at <http://www.state.nj.us/dca/coah/580files/580toc.shtml>

²¹ Development agreements are used in Tallahassee's density bonus program for similar purposes.

1.3.5 *Policy:* Monitor affordable housing production and the use of density bonuses and periodically recommend adjustments to maintain the effectiveness of density bonuses. It is critical that the adopted monitoring and adjustment schedule is followed.

Guidance for Land Development Code Revision

Ordinarily, a land development code's role is to regulate development. However, voluntary density bonuses *encourage* rather than mandate affordable housing and therefore must be written in a way that is easier to understand and implement than an ordinary regulation.

For purposes of affordable housing a land development code must strive to communicate a clear, complete process that facilitates implementation by being as barrier-free as it can, and by minimizing administrative delays or costs, whether real or perceived.

For those reasons, in implementing density bonuses it is especially important to follow policies regarding consultation among relevant departments and pre-testing of the ordinance.²² Pre-testing should involve a sample of those who are likely to refer to the density bonus ordinance for information and guidance during planning and development of affordable housing (the sample may include developers, architects, builders, housing economists, housing advocates and others involved in the development of housing). Pre-testing would seek to verify the density bonus's clarity; flexibility; proportionality; and freedom from perceived barriers or delays.

- *Clarity* refers to whether the intended users find the bonus to be free of language or illustrations that are confusing, ambiguous, incomplete, or inconsistent.
- *Flexibility* refers to whether the intended users find the bonus to be useful in varying locations and circumstances.

²² Please see Section I of this report for additional discussion of pre-testing

- *Proportionality* refers to whether the intended users find the bonus's incentives to be pragmatic and calibrated to serve as an effective inducement to development of affordable housing.
- *Perceived barriers and delays* refer to whether the intended users find the bonus to be excessively narrow, restrictive, time-consuming, or onerous.

Additional background analysis can be found in the discussion papers entitled *Density Bonuses* and *Small Lots and Small Lot Districts*.

(D) Reservation of infrastructure capacity for housing for very-low-income persons, low-income persons, and moderate-income persons

Two recommendations are offered, and presented together with background analysis for each one.

Recommendations

- (1) *Identify urban infill and redevelopment areas and provide them with affordable housing concurrency waivers for parks; and affordable housing concurrency exceptions for transportation.* Florida law permits the concurrency requirement, except as it relates to transportation and schools, to be waived for urban infill and redevelopment areas designated in the comprehensive plan. A concurrency exception may be granted for transportation facilities located in urban infill and redevelopment areas.²³ Other sections of the law provide that affordable housing has to be considered in urban infill and redevelopment plans,²⁴ and it can be an element in community redevelopment plans.²⁵ Therefore, there may be an opportunity to encourage the development of affordable housing by employing concurrency waivers and exceptions for urban infill and redevelopment.²⁶

- (2) *Identify eligible locations for affordable workforce housing, and exempt such affordable housing from transportation concurrency.* As permitted by F.S. 163.3180(17), Florida allows exemption of affordable workforce housing units²⁷ from transportation concurrency requirements when the

²³ Chapter 163.3180(4) (c)

²⁴ Chapter 163.2517(3) (f) F.S.: “(The Plan shall also)...Identify how the local government and community-based organizations intend to implement affordable housing programs.”

²⁵ For example, in redevelopment areas created under Ch. 163 Part III, the Community Redevelopment Act.

²⁶ *At the October 6, 2008 meeting of the Affordable Housing Advisory Board there was discussion of these recommendations and acknowledgement of the difficulties of funding any additional concurrency relief through the use of alternatives such as bond funding, tax increment funding, or looking to a statewide adoption of new revenue sources. It was also pointed out that any deferral of payments raises issues of continued affordability as those payments must then be added to the monthly costs of ownership.*

²⁷ Affordable workforce housing is defined in Ch. 380.06(19) (b) 7 to mean “... housing that is affordable to a person who earns less than 120 percent of the area median income, or less

affordable workforce housing is within 5 miles of an employment center that employs at least 25 full-time employees.²⁸ If at least 50% of the workforce housing is occupied by employees of the employment center, then all of the workforce housing units are exempt from transportation concurrency requirements.

For additional background analysis of the county's existing impact-fees, please see the discussion paper entitled *Resolving Concurrency Issues*.

than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home.” (Hillsborough County does not exceed the statewide median)

²⁸ Chapter 163.3180(17) A local government and the developer of affordable workforce housing units developed in accordance with s. 380.06(19) or s. 380.0651(3) may identify an employment center or centers in close proximity to the affordable workforce housing units. If at least 50 percent of the units are occupied by an employee or employees of an identified employment center or centers, all of the affordable workforce housing units are exempt from transportation concurrency requirements and the local government may not reduce any transportation trip-generation entitlements of an approved development-of regional-impact development order. As used in this subsection, the term "close proximity" means 5 miles from the nearest point of the development of regional impact to the nearest point of the employment center and the term "employment center" means a place of employment that employs at least 25 or more full-time employees.

(E) Allowance of affordable accessory residential units in residential zoning districts

Four recommendations are offered, followed by background analysis.

Recommendations

Hillsborough County already allows accessory residential units as a conditional use in nearly all residential zoning districts. Recommended improvements to this policy include:

- (1) *Standardize the definition of accessory dwelling units in the Comprehensive Plan and the Land Development Code.* To avoid confusion and maintain consistency, use the same definition of “accessory dwellings” in the Comprehensive Plan and the *Land Development Code*. The suggested definition is:

“Accessory dwelling unit” means an ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure, or on the same lot, as the primary dwelling unit.²⁹

²⁹ Based on §163.31771(2) (a), F.S. By using the state’s definition, Hillsborough County can achieve the same goals without the confusing and redundant language in its current definition. For example, the current definition specifies that all accessory dwellings be owner occupied. However, this is also one of the standards for awarding the required conditional use permit. There is no need to say it twice. In addition, using the state definition would eliminate the confusing sentences of the current Hillsborough County definition of “accessory dwelling. One confusing sentence is:

“Occupancy of the accessory dwelling and principal dwelling by members of the same family or other related persons shall have no bearing on the applicability of this definition.”

If this language means what it seems to mean — namely that it makes no difference whether or not the tenants in an accessory unit and principal dwelling are related — there is really no need to even make this confusing statement.

Another confusing sentence is:

“Structures, and discrete portions of structures that cannot be accessed internally, which do not meet the facilities requirements for an accessory dwelling unit as described herein may not be utilized for living or sleeping purposes, including guest visits, at any time.”

This sentence is confusing enough to professional planners. If the County wishes to encourage the development of accessory dwellings, it should either revise this sentence to clearly state whatever it is the drafters of the statement intended it to mean — or else remove it from the code.

- (2) *Improve language in the land development code relating to accessory units.* As presently written, Hillsborough’s land development code does not appear to impose any major impediments to the use of accessory dwellings. It is more receptive to accessory dwellings than most land use codes in the State of Florida.³⁰ Nevertheless, several changes in the land development code are warranted:
- a. To maintain consistency in terminology, amend Sec. 2.02.01 to change “accessory apartments” to “accessory dwellings.”³¹
 - b. Clean-up Sec. 6.11.02, changing the word used to refer to the primary structure from ‘principle’ to ‘principal’.³²
- (3) *Reconsider the existing minimum lot size of 7,000 square feet.* To increase opportunities to create accessory dwellings affordable to people with modest incomes, reconsider the standard for awarding a conditional use permit for accessory dwellings that imposes a minimum lot size of 7,000 square feet for the principle use.³³
- (4) *Develop a website that provides all the information needed to apply for the required conditional use permit, and a brochure to promote the concept.* The purpose of this recommendation is to inform homeowners that the County allows accessory units and to make it easier for them to apply.

³⁰ The Florida Department of Community Affairs recently surveyed 290 local Florida governments to identify how their land–use codes treat accessory dwellings. The department found that most communities had not adopted provisions for accessory dwellings while 46 had. Only the City of Key West has adopted an ordinance with rental rate limitations to assure that accessory dwellings would “be affordable to extremely–low– to moderate–income persons.” Florida Department of Community Affairs, *Accessory Dwelling Units Report to the Florida Legislature*, July 2007, pp. 8–9.

³¹ Part 2.02.00 Uses Allowed Within Zoning Districts. Sec. 2.02.01. Use Classifications and Definitions. A. Residential Uses

³² See Appendix A for the exact wording of Section 6.11.02 Accessory Dwelling Standards.

³³ At the October 6, 2008 meeting of the Affordable Housing Advisory Board, a member suggested that the recommendation to allow accessory dwellings on lots smaller than 7,000 square feet would result in over-crowding. At its November 3, 2008 meeting, the Affordable Housing Advisory Board added language related to the need for the principal dwelling to be owner-occupied. However, the County’s code already requires that the principal dwelling be owner-occupied.

Background Analysis

Accessory dwellings are allowed *as a conditional use* in nearly every Hillsborough County residential zoning district, including:

- Agricultural zoning districts: AM (agricultural mining), A (agricultural), AR (agricultural rural), AS-0.4 (agricultural, single-family estate), AS-1 (agricultural, single-family), and AS C-1 (agricultural, single-family conventional).
- Residential, single-family conventional districts: RSC-2, 3, 4, and 6.
- Residential, duplex conventional district: RDC-6
- Residential, multi-family conventional districts: RMC-6, RMC-9, RMC-12, RMC-16.
- Special Public Interest-University Community districts: SP1-UC-1 and SP1-UC-3.

In these residential districts, a proposed accessory dwelling must meet several nondiscretionary standards detailed in Section 6.11.02 of the *Land Development Code* in order to receive the required conditional use approval.

The key conditions can be summarized as:

- Principal dwelling must be owner occupied.
- One accessory dwelling unit per lot.
- Attached and detached accessory dwellings are allowed.
- Accessory dwellings on nonconforming lots are prohibited.
- The accessory dwelling is limited to 900 square feet although a variance may increase it to as much as 1,200 square feet.
- An accessory dwelling is allowed above a garage only when the principal [*sic*] home is at least two stories tall.

In addition, accessory dwellings are allowed *as of right* in all subareas of Traditional Neighborhood Development districts.

Additional background analysis may be found in the discussion paper entitled *Accessory Dwellings*.

(F) Reduction of parking and setback requirements for affordable housing.

Five recommendations are offered, followed by background analysis. They include reductions in minimum lot size, minimum lot width, yard setbacks, off-street parking, and planting strips/sidewalks.³⁴ For reasons that are explained in the background analysis, several standards are recommended not to change, including minimum floor-area, open space, and street width.

Recommendations

(1) Minimum Lot Size

Comparison of the HUD benchmarks and Hillsborough County’s Land Development Code indicates that reductions in the size of lots required in residential districts could range from 39% to 57%. Table A below illustrates similarly reduced lot sizes applied to the residential districts in Hillsborough County and the density in units per acre that would result.

Table A. Minimum Lot Size per Dwelling Unit (Current and Suggested)

District	Minimum Lot Size (Square Feet)		D/U per Acre (Suggested)
	Current	Suggested	
RSC-2	21,780	10,000	4
RSC-3	14,520	10,000	4
RSC-4	10,000	7,000	6
RSC-6	7,000	4,300	10
RSC-9	5,000	3,500	12
RDC-6	7,260	4,300	10

³⁴ At the October 6, 2008 meeting of the Affordable Housing Advisory Board several comments indicated approval of recommendations to adjust development standards to be closer to the HUD benchmarks. However, it was suggested that the HUD benchmarks might be too radical a reduction in standards in situations where surrounding development is already built to the older standards or in where drainage issues pose difficulties for very small lots. It should be understood that application of these standards in specific locations would be made only after such issues had been considered.

RDC-12	3,500	2,700	16
RMC-6	7,260	4,300	10
RMC-9	4,840	3,500	12
RMC-12	3,630	2,700	16
RMC-16	2,725	2,100	20
RMC-20	2,180	1,800	24

(2) Minimum Lot Width

In the Land Development Code currently the minimum lot width in the RSC-6 district is 70 feet and in RSC-2 is 100 feet. The HUD benchmarks for similar districts are 39 feet and 54 feet respectively, that is, reductions of 44% and 46%. Table B illustrates similarly reduced lot widths applied to residential districts in Hillsborough County.

Table B. Minimum Lot Width (Current and Suggested)

District	Minimum Lot Width (Feet)		Percent Reduction
	Current	Suggested	
RSC-2	100	60	40%
RSC-3	75	50	33%
RSC-4	75	50	33%
RSC-6	70	40	43%
RSC-9	50	30	40%
RDC-6	60	40	33%
RDC-12	40	30	25%
RMC-6	70	30	57%
RMC-9	70	30	57%
RMC-12	70	30	57%
RMC-16	70	30	57%
RMC-20	70	30	57%

(3) Yard Setbacks

The HUD yard setback benchmarks for ‘more dense’ development are 13 feet front, 5 feet side, and 16 feet rear. Current yard setbacks in the Land Development Code for the corresponding RSC-6 district are 25 feet front, 7.5 feet side, and 25 feet rear. The HUD yard setback benchmarks for ‘less dense’ development are 19 feet front, 8 feet side, and 21 feet rear. Current yard setbacks in Hillsborough County for the corresponding RSC-2 district are 25 feet front, 10 feet side, and 25 feet rear. Table C illustrates similar reductions in yard setbacks for residential districts in Hillsborough County.

Table C. Minimum Yard Setbacks (Current and Suggested)

District	Current Yard Setbacks			Suggested Yard Setbacks		
	Front	Side	Rear	Front	Side	Rear
RSC-2	25	10	25	20	8	20
RSC-3	25	7.5	25	20	5	20
RSC-4	25	7.5	25	15	5	15
RSC-6	25	7.5	25	15	5	15
RSC-9	20	5	20	10	5	10
RDC-6	25	7.5	20	10	5	10
RDC-12	20	5	20	10	5	10
RMC-6	25	10	20	10	5	10
RMC-9	25	10	20	10	5	10
RMC-12	25	10	20	10	5	10
RMC-16	25	10	20	10	5	10
RMC-20	25	10	20	10	5	10

Currently in Hillsborough County affordable housing developments on lots of less than 5,000 square feet have a different set of setback requirements: front yards must be setback 10 feet except that garages must be setback 20 feet; building spacing must be 10 feet (that would be a 5 foot setback on each lot);

and rear yard setback must be 20 feet.³⁵ It is proposed that all housing developments would be subject to the yard setback standards shown in Table C.³⁶

(4) Off-Street Parking

Off-street parking requirements in the Hillsborough County Land Development Code are 2 spaces per dwelling unit, except for one-bedroom multi-family dwellings (1.5 spaces), and efficiency multi-family dwellings (1.25 spaces).³⁷ HUD benchmarks for off-street parking range from 1.56 to 1.6 spaces per dwelling unit. Table D illustrates suggested off-street parking requirements for Hillsborough County.

Table D. Suggested Off-Street Parking Requirements

Required Parking Spaces	
Residential Dwelling Size	Spaces Per Unit
Efficiency and 1 bedroom	1 per dwelling unit
2 bedrooms	1.25 per dwelling unit
3 bedrooms	1.5 per dwelling unit
4 or more bedrooms	2 per dwelling unit

Note: *Cottage Housing Development* (see section c) would require 1 space per dwelling unit

(5) Planting Strips and Sidewalks

Requirements for planting strips and sidewalks in the Hillsborough County Transportation Technical Manual are about a foot wider in the county than in the HUD benchmarks. It is recommended that the County manual be amended to reduce the standard for planting strips to 5 feet wide, and the standard for sidewalks to 4 feet wide.

³⁵ Sec. 6.11.07. B.3

³⁶ Another exception to conventional yard setback requirements is found in zero lot line development, which is addressed in a separate discussion paper.

³⁷ Sec. 6.05.02.E.

Background Analysis

Several development standards are not recommended to change, including minimum floor-area; open space; and width of streets. The reasons these are not recommended for change are as follows.

Minimum Floor-Area

Hillsborough County's Land Development Code does not impose a minimum floor-area for dwelling units. In the HUD sample, 82% of communities did not impose minimum floor-area standards. Not imposing minimum floor-area standards is a sound policy that can remain in effect.

Open Space

HUD open space benchmarks refer to the percentage of total land in a subdivision.³⁸ However 80% of the communities in the HUD sample did not have this type of open space requirement. Like them, Hillsborough County does not have one either.³⁹ Communities that do not have this requirement would gain nothing in terms of housing affordability by instituting one. Therefore, no change is suggested to the county land development code in regard to an open space standard.

Street Width

The HUD benchmarks for width of streets are not appreciably different from Hillsborough County's standards.

Hillsborough County's existing approach to reduction of subdivision standards for affordable housing is found in Sec. 6.01.02 which allows smaller lot sizes for "developments which seek to promote affordable housing."⁴⁰

³⁸ The HUD benchmarks for open space are 12.9% of total subdivision land in the 'more dense' category and 11.5% in the 'less dense' category

³⁹ Hillsborough County, like some communities in the HUD sample, does have a Conservation District that requires open space. Those, however, apply only in special circumstances and do not impose an open space requirement on most development.

⁴⁰ Sec. 6.01.02 - Schedule of Residential Density and Open Space Regulations for Affordable Housing *and* Development. The term "affordable housing *and* developments" found in Sec. 6.01.02 is not a term found elsewhere and probably refers to "affordable housing

Standing alone, 6.01.02 is of minor impact because it doesn't include a density bonus. However, it is potentially useful when teamed with the density bonus in Sec. 6.11.07. For example, an RSC-6 development qualified for both smaller lots and the affordable housing density bonus could reach 9 dwelling units per acre. However, coupling small lots with the affordable housing density bonus means that various conditions of Sec. 6.11.07 must be met. For example, Sec. 6.11.07 places limits on the location of developments.

A 2007 study sponsored by the U.S. Department of Housing and Urban Development (HUD) found that standards required for the subdivision of land have an effect on the cost of housing, with the most significant effect being standards for minimum lot size, followed by minimum lot width, and minimum floor-area.⁴¹ Other standards that were found to affect the cost of housing include yard setbacks, off-street parking, open space, and the width of street rights-of-way, pavement, planting strips, and sidewalks. The focus of the approach presented below is a comparison of local standards with the benchmark standards found in the HUD study.

Additional background analysis can be found in the discussion paper entitled *Subdivision Development Standards*. Other discussion papers that may be relevant to this issue are *Small Lot Districts*; *Zero Lot Line Development*; and *Adaptive Reuse*.

developments” which is defined in Sec. 12.01.00 as “A development where 20 percent or more of the housing is available to these groups, and where documentation of continued availability has been certified by site review groups conducted by the Planning and Growth Management Department.” Sec. 6.11.07 makes clear that “affordable housing developments” relate to households with gross incomes at or below 80 percent of median income adjusted for family size.

⁴¹ *Study of Subdivision Requirements as a Regulatory Barrier*; prepared for: U.S. Department of Housing and Urban Development Office of Policy Development and Research Washington, DC, by the NAHB Research Center, Upper Marlboro, Maryland, April 2007,

(G) Allowance of flexible lot configurations, including zero-lot-line configurations for affordable housing.

Five recommendations are offered and are followed by background analysis.

Recommendations

- (1) *Include a definition of zero lot line development in the Comprehensive Plan and use the same definition in the Land Development Code. The suggested definition is:
Zero lot line development is a technique intended to make more efficient use of land and natural resources by allowing buildings to be built flush with one side of the lot, while requiring a side yard on the other side of the lot.*
- (2) *Add policies regarding residential zero lot line development to the Comprehensive Plan.*
 - Recognize that zero lot line development is useful as a technique for making more economical use of land and natural resources.
 - Encourage zero lot line development as a source of affordable housing, and also as means of integrating housing for low-income and middle income households.
 - Encourage development standards that facilitate using zero lot line development as an infill housing option.
- (3) *Clarify the presentation of zero lot line development in the Land Development Code by addressing inconsistencies between the text and diagrams. Particularly, Sec. 6.01.04 and the diagrams that accompany it with respect to minimum building spacing, courtyards, and garage setbacks.*
- (4) *Amend the Land Development Code to allow zero lot line houses to be attached on the zero lot line side.*
- (5) *Amend the Land Development Code to promote compatibility of zero lot line development with conventional or infill residential development. For*

example, by requiring that the side facing a conventional lot has a setback at least equal to that required in the conventional lot.

Background Analysis

Zero lot line development is technique found in many zoning ordinances, and its purposes may include: (1) providing more usable private open space, (2) promoting efficient use of land, (3) protecting environmentally sensitive areas, and (4) promoting affordable housing.⁴² Zero lot line development usually allows buildings to be built flush with one side of the lot, eliminating one side yard, but not both side yards.⁴³ Zero lot line development is especially useful where lots are relatively small and open space is at a premium. On narrow lots, zero lot line development can allow a more usable side yard or a wider house than conventional zoning. Some ordinances allow zero lot line houses to be attached. However, this is not currently the case in Hillsborough County which requires that zero lot line houses be detached dwellings.

No references were found to zero lot line housing in the Hillsborough County Comprehensive Plan.⁴⁴ Zero lot line development is not defined in the Land Development Code; and as presented in Sec. 6.01.04 of the Land Development Code it is difficult to understand and that difficulty may discourage or restrict its use.

Additional background analysis can be found in the discussion paper entitled *Zero Lot Line Development*.

⁴² For example the City of Redmond, Washington, Land Development Code, mentions the first three (Section 20C.30.100-010). Pinellas County, Florida promotes its zero lot line zoning as an incentive to encourage provision of affordable housing.

⁴³ See *A Planners Dictionary*, PAS Report No. 521/522, American Planning Association, Chicago, 2004

⁴⁴ Policy 9-1.1 of the proposed Community Design Component of the Future Land Use Element of the Comprehensive Plan mentioned zero lot line development, but only in the context of commercial construction

(H) Modification of street requirements for affordable housing.

Recommendations

As described in section (F) above, it is recommended that the Hillsborough County Transportation Technical Manual be amended to:

- (1) Reduce the standard width for *planting strips* to 5 feet
- (2) Reduce the standard width for *sidewalks* to 4 feet

Hillsborough County's *street width* requirements are not appreciably different from benchmarks published by HUD and are not in need of revision.

Additional background analysis can be found in the discussion paper entitled *Subdivision/Development Standards*

(I) Establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.

Two recommendations are offered and followed by background analysis.

Recommendations

It is recommended that a written policy be established relating to revision of affordable housing policies, procedures, ordinances, regulations, and plan provisions to require:

- (1) *Consultation among relevant County departments during drafting of policies, procedures, ordinances, regulations, and plan provisions that affect affordable housing or increase the cost of housing.* Relevant departments may include the Department of Planning and Growth Management, the Planning Commission, the Affordable Housing Office, the legal department, and others.

- (2) *Pre-testing amendments to the Land Development Code that may affect affordable housing or increase the cost of housing on a sample of intended users.* Intended users are those who are likely to refer to the regulation for information and guidance during planning and development of housing; and may include developers, architects, builders, housing economists, housing advocates and others involved in the development of housing. Pre-testing would seek to verify the regulation's clarity, flexibility, proportionality, and freedom from perceived barriers or delays.
 - *Clarity* refers to whether the intended users find the regulation to be free of language or illustrations that are confusing, ambiguous, incomplete, or inconsistent.
 - *Flexibility* refers to whether the intended users find the regulation to be useful in varying locations and circumstances.
 - *Proportionality* refers to whether the intended users find the regulation's incentives to be pragmatic and calibrated to serve as an effective inducement to development of affordable housing.

- *Perceived barriers and delays* refer to whether the intended users find the regulation to be excessively narrow, restrictive, time-consuming, or onerous.

Background Analysis

In the course of our evaluation of the Comprehensive Plan, the Land Development Code (LDC), and the Development Review Procedures Manual (DRPM), these documents sometimes seemed to be disconnected from each other, including:

- Policies in the Comprehensive Plan not fully reflected in the Land Development Code or DRPM.
- Regulations in the Land Development Code not fully reflective of the Comprehensive Plan.
- Technical terms that refer to the same thing defined differently in the Plan and the Code.

These differences can slow down or get in the way of affordable housing development.

In addition, review of the Land Development Code found issues of clarity, flexibility, proportionality, and perceived barriers and delays. Examples include:

- Lack of clarity in the Sec. 6.01.02
- Incomplete information regarding density bonuses in Sec. 6.11.07
- Inconsistent text and diagrams relating in Sec. 6.01.04
- Lack of clarity about who is responsible for tracking continued affordability of density bonus housing
- The inclusion of substantive requirements in the definition of *Planned Development*

These issues can make it difficult for property owners and developers to understand how the land development code permits affordable housing and can make it less likely that intended incentives will encourage development of affordable housing.

(J) Preparation of a printed inventory of locally owned public lands suitable for affordable housing.

One recommendation is offered, and followed by background analysis

Recommendation

It is recommended that the County review its definition of locally-owned public lands to identify any public agencies not already included in the adopted inventory. On June 6, 2007, the Hillsborough County Board of County Commissioners adopted an inventory of real property to which the County holds fee simple title and which is appropriate for use as affordable housing. There are currently 22 properties in the inventory assembled by the County's Real Estate Department and the Affordable Housing Office.⁴⁵

Background Analysis

The Hillsborough County Real Estate Department has a process in place whereby any property that appears to be surplus is first referred to the Affordable Housing office to see if it meets their criteria for use, development, or sale.⁴⁶ In 2008 the County adopted a policy to provide guidance for the disposition of County-owned real estate that has been designated for the development of affordable housing.⁴⁷ That policy provides that the County, through the Affordable Housing Office, shall transfer vacant lots to eligible non-profit organizations, via a loan, for the development of housing.⁴⁸ The housing developed on these lots will either be made available for sale to the general public or for occupation by "special needs" populations under the ownership of the non-profit organization. (Special needs populations include

⁴⁵ E-mail message from Marcia Mask of the Affordable Housing Office, September 18, 2008

⁴⁶ Per e-mail messages from Pedro Parra of The Planning Commission and Henry Ellis of the Real Estate Department, March 31, 2008: If surplus property does not meet affordable housing criteria, it is then circulated to other County departments or agencies for their possible use. If no County department or agency can use the property, a recommendation is made to the BOCC to declare the property surplus for sale via an advertised sealed bid process

⁴⁷ *Affordable Housing Office of Hillsborough County Infill Housing Program Policies and Procedures*, presented to the Board of County Commissioners on July 16, 2008

⁴⁸ Eligible applicants are 501 (c)(3) non-profit organizations interested in housing development

abused children, battered spouses, elderly persons, individuals meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, persons living with AIDS, and migrant farm workers.

Lots made available for sale are provided to non-profits through a 24-month deferred payment loan (DPL) at appraised value. Full repayment to the County is made at the time of sale to the homebuyer. If the non-profit sells the developed property to a low-income household (having income at or below 80% of the median) the County will discount the repayment by 20 percent.

Lots developed and maintained by the non-profit organization for special needs populations must be utilized for the same purpose for a period of ten years. If such properties are sold prior to the end of the 10 year period the Affordable Housing Office will determine an equitable repayment. If sold after the ten year period, the deferred payment loan will be forgiven.

The Affordable Housing Office shall make the property inventory list available:

- a. By maintaining a list of interested parties
- b. When parcels are available for disposition, by notifying interested parties, advertising on the AHO website, and publishing a notice in a newspaper
- c. By providing interested parties with three calendar weeks to submit proposals.

(K) Support of development near transportation hubs and major employment centers and mixed-use developments

Six recommendations are offered: two applying to transportation hubs, three applying to employment centers, and one applying to mixed-use development. These six recommendations are followed by background analysis.

Recommendations supporting development near transportation hubs

- (1) *Offer concurrency exceptions near transportation hubs.* Concurrency exceptions are often a necessary condition to additional development near transportation hubs due to constraints on roadway capacity. Creating urban infill and redevelopment areas around transportation hubs would open a door to affordable housing concurrency exceptions for transportation.⁴⁹
- (2) *Rezone vacant land to residential use near transportation hubs when the owner makes a commitment to include affordable housing.* Such rezoning would seek appropriately high density and designs that improve access of affordable housing to transportation hubs.

Recommendations supporting development near employment centers

- (1) *Revise the methodology by which the need for affordable housing is projected in the Comprehensive Plan to reflect employment growth as well as population growth.* This would make housing projections more closely reflect the job market in Hillsborough County's employment centers, and would support appropriate residential land use designations in the Future Land Use Element.
- (2) *Encourage affordable workforce housing by exemption from transportation concurrency requirements.* Florida legislation allows exemption of affordable workforce housing units⁵⁰ from transportation

⁴⁹ Chapter 163.3180(4) (c) allows concurrency exceptions for transportation facilities located in urban infill and redevelopment areas

⁵⁰ Affordable workforce housing is defined in Ch. 380.06(19) (b) 7 to mean "... housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price

concurrency requirements when the affordable workforce housing is within 5 miles of an employment center that employs at least 25 full-time employees.⁵¹ If at least 50% of the workforce housing is occupied by employees of the employment center, then all of the workforce housing units are exempt from transportation concurrency requirements. The Comprehensive Plan should identify potential locations for application of this exemption, and the Land Development Code should apply the exemption when permitting affordable housing.

(3) Consider implementing a jobs/housing ratio in planned developments.

The concept of a jobs/housing balance is a planning tool to achieve a rough parity of jobs and housing units in terms of both number and quality. In other words, ideally the jobs available in a community should match the labor force skills and housing should be available at prices, sizes and locations suited to the workers who wish to live in the area.⁵² Applied to planned developments, a jobs-housing ratio would encourage development of affordable housing in conjunction with major employment centers.

Recommendation supporting mixed-use developments

(1) Facilitate mixed-use development by creating as-of-right mixed-use districts and mapping them at the initiative of the County. These new mixed-use districts could be available in both redevelopment and new development

of a single-family existing home.” (Hillsborough County does not exceed the statewide median)

⁵¹ Chapter 163.3180(17) A local government and the developer of affordable workforce housing units developed in accordance with s. 380.06(19) or s. 380.0651(3) may identify an employment center or centers in close proximity to the affordable workforce housing units. If at least 50 percent of the units are occupied by an employee or employees of an identified employment center or centers, all of the affordable workforce housing units are exempt from transportation concurrency requirements and the local government may not reduce any transportation trip-generation entitlements of an approved development-of regional-impact development order. As used in this subsection, the term "close proximity" means 5 miles from the nearest point of the development of regional impact to the nearest point of the employment center and the term "employment center" means a place of employment that employs at least 25 or more full-time employees.

⁵² Wietz, Jerry. *Jobs-Housing Balance*, PAS Report Number 516, American Planning Association, Chicago, November 2003

situations, and could include specific design and use criteria that improve the prospects for affordable housing and a suitable environment for families, including low-income families. Such criteria may include:

- Design features to improve the environment for families, such as parkland and traffic-calming roadway designs
- Commercial activities that are targeted to appeal to low and moderate income families, such as a supermarket and other low-price retail stores
- Dwelling units, including rental units, affordable to low and moderate income families

Background Analysis

The ability of mixed-use development to facilitate development of affordable housing is closely connected to its association with compact, higher-density development. A list of the potential efficiencies of mixed-use would include:

- *Infrastructure efficiencies.* Infrastructure costs are shared among residential and non-residential uses. Mixed use's more compact urban form reduces of distance that infrastructure must traverse.
- *Transportation efficiencies.* Fuel costs fall as more trips are made on foot, by bicycle, or using public transportation.
- *Parking efficiencies.* As car ownership or usage can be reduced, the land and resources devoted to parking can be reduced.
- *Land efficiencies.* Higher densities and smaller lots require fewer acres for a given number of dwelling units.
- *Energy efficiencies.* Transportation, heating and cooling become more efficient in a mixed-use development pattern. (Energy efficiencies are related to reductions in greenhouse gases, another plus)

While higher-density and compactness may facilitate more affordable housing for all the reasons listed above, it should also be pointed that mixed-use development is likely to be more complex and costly to design, finance, manage, and market. Some elements can be more costly to construct, as when parking structures, firewalls, elevators and other such features become

necessary. Also adding to the time and cost of mixed-use development is increased governmental involvement. In Hillsborough County we can see this at work in a heightened level of review for mixed-use projects that is implicit in a rezoning. Finally, the need to coordinate mixed-use development with governmental expenditures on financing, planning, and construction of mass transit can complicate the development process.

Within Hillsborough County's Comprehensive Plan, the Future Land Use Element contains detailed descriptions of 5 mixed-use categories (Neighborhood Mixed-Use, Suburban Mixed-Use, Community Mixed-Use, Urban Mixed-Use, And Regional Mixed-Use). Maximum residential densities range from 4 to 35 dwelling units per gross acre, in other words, starting at typical suburban densities and becoming progressively more urban.⁵³ On the Future Land Use Map, these mixed-use categories are often adjacent to the I-75 transportation corridor, although they may also be found elsewhere.

The Comprehensive Plan recognizes that affordable housing should be encouraged in mixed-use developments with incentives if necessary:

“Encourage provision of affordable housing within mixed use developments through public and private sector incentives.”⁵⁴

The Comprehensive Plan also recognizes an opportunity to locate affordable housing in mixed-use developments:

“Encourage the provision and integration of low and moderate income housing dispersed throughout the mixed use categories.”⁵⁵

Traditional Neighborhood Development (TND) is defined in the Comprehensive Plan as “walkable, compact, mixed-use developments

⁵³ See especially pages 320, 323, 326, 330, and 331 for detailed descriptions of the mixed-use categories in the comprehensive plan.

⁵⁴ Policy C-26.2 in the Comprehensive Plan

⁵⁵ Policy C-28.2 in the Comprehensive Plan

characterized by a highly connected street pattern, often based on a grid”. TNDs are offered in the Land Development Code as a development option requiring a rezoning and site development approval. TND offers mixed-use and a variety of incentives including a density bonus, reduced transportation impact calculation, building variances, and an offset for on-street parking.⁵⁶ The Land Development Code establishes the Interstate-75 Planned Development (IPD) zoning districts to correspond to the CMU-12, UMU-20, and RMU-35 categories of the comprehensive plan.⁵⁷ The Land Development Code’s definitions section prescribes minimum and maximum land use percentages in mixed-use along I-75.

*“Mixed Use: In the I-75 Corridor, a development that contains two or more of the following major use types: residential, office, research park, retail, or industrial. If there are only two types of uses, the dominant use shall occupy no more than 60 percent of the total floor area in the development. If there are three different types of uses, at least 20 percent of the total floor area shall be residential, and no use shall occupy less than ten percent of the total floor area in the development.”*⁵⁸

Mixed-use development is also permitted through the Planned Development (PD) process, a development option found in Part 5.03. The Land Development Code does not contain a mixed-used district that can be applied *as of right* without going through the process of rezoning to PD or IPD. Consistent with the Affordable Housing Task Force Report this analysis is intended to explore the ability of mixed-use development to support affordable housing, through changes to the County’s development regulations if necessary.

⁵⁶ Sec 5.08 of the Land Development Code

⁵⁷ Sec. 3.02 of the Land Development Code

⁵⁸ Part 12.01 of the Land Development Code

Affordable Housing Advisory Board Comments

At the September 12, 2008 meeting of the Affordable Housing Advisory Board, the Mixed-Use paper was discussed. Comments and suggestions from board members included:

1. Hillsborough County has already zoned an area for mixed-use communities. Issues have included parking, drainage, and Floor-Area Ratios.
2. It is easier to develop mixed-use in a new development, but mixed-use is often needed in redevelopment situations.
3. In regulating mixed-use, it's important to avoid the public hearing process where opposition can emerge.
4. A mixed-use of owner-occupied housing and retail stores has not gone well...i.e., homeowners may find objectionable aspects to retail activities. Rental housing works better when mixed with retail.
5. Affordable housing needs retail that is affordable to the residents. Studies need to be undertaken to obtain a mix of retail stores including popular supermarkets and other stores that can serve low-income families.
6. Mixed use densities are not always attractive to families with children. We need projects that are attractive to families with children.

Additional background analysis can be found in the discussion paper entitled *Mixed-Use Development*

(L) Other affordable housing incentives identified by the advisory committee.

In addition to the local housing incentives discussed above, Hillsborough County has recommendations to offer relating to planned development; performance zoning; adaptive reuse; infill development; rezoning vacant land; manufactured housing; and modular housing. Comments and recommendations relating to these issues are presented in this section.

(L.1.) Planned Development

Eight recommendations are made to encourage affordable housing through planned developments. They are presented below with background analysis for each one.

Planned Developments play an important role in Hillsborough County and by some estimates account for up to half of all housing developments in the county. However, the attention given to affordable housing in the County's Planned Development policies and regulations is limited. Recommendations to improve the output of affordable housing through Planned Development fall into two categories: (1) process reforms and (2) affordable housing policies. The first category: process reforms, are broad in nature and would reduce the time and cost for all development. The second category, affordable housing policies, are more focused and would have a more direct effect on housing for low and moderate income households. The first three recommendations below are process reforms and the remainder concern affordable housing policies.

Recommendations

- (1) *Simplify planned development procedures.* Hillsborough County requires a rezoning to approve planned developments. A typical approval process for planned developments that is in use throughout the country where there is a rezoning includes the following steps:
 - The governing body adopts a zoning amendment rezoning the site to a planned development district. It may also adopt a general concept

plan for the development. If it does not do this, it will move immediately to the adoption of a detailed development plan. If it approves a concept plan, the approval of a detailed development plan for the planned development is delegated to the planning commission.

- There is a pre-hearing application meeting on the development plan.
- An application including a detailed development plan showing uses, densities and other major features is prepared and approved either by the governing body or the planning commission. There is a preliminary and then a final development plan. This plan may include information necessary for a subdivision plat, or the subdivision plat can be prepared later.
- More detailed site plans may be prepared, that are consistent with the development plan and that are approved by the planning commission.
- Building permits issue.

The procedures for the approval of planned developments in Hillsborough County are divided between the Land Development Code (LDC) and the Development Review Procedures Manual (DRPM), with the major part of the procedures contained in the DRPM. These procedures are simply not clear, primarily because major elements of necessary procedures are missing, and because the DRPM applies zoning amendment and site plan review procedures to planned developments that also apply to other quite dissimilar zoning amendments.

The principal section in the DRPM that applies to planned developments, Sec. 6.2.1, contains requirements for the general development plan. It does not require information about affordable housing; important elements are missing, such as information about pedestrian walkway systems; and other elements are incomplete, such as the informational requirements for common open space. The Board of County Commissioners is responsible for approving the general development plan.

The DRPM also contains sections on site development plans and site development construction plans in Sec. 4.1.5. These plans are required for all developments, including planned developments, and are reviewed and approved internally. Both plans are apparently required. A subdivision plat is required if the site will be subdivided. However, the information required for these plans is not detailed enough to guide development and construction of a planned development. The general development plan apparently serves this function. These requirements are confusing. There is no reason why three sets of plans should be required. Moreover, the relationship between the three plans in their control of development in a planned development is not clear. Most communities have a two-step planning stage, with the second plan containing the detail necessary to control and guide the development.

Lengthy and costly procedures increase the cost of housing and make the provision of affordable housing more difficult. Hillsborough County needs to review and revise its procedures for the approval of planned developments and provide an integrated and simple hearing process.

(2) Reduce uncertainty in the planned development approval process.

Conditional, or contract, zoning is a procedure in which the governing body attaches conditions to a rezoning that apply to a development. The legality of this process is suspect as bargaining for a zoning contract, especially in Florida,⁵⁹ and there is no authority for zoning conditions in the LDC or DRPM, only references to the approval or designation of “conditions” in the LDC Sec. 5.03.06.C.5&6.

Uncertainty is introduced in the planned development approval process if the Board of County Commissioners can randomly impose conditions on the approval of these developments that impairs the development and

⁵⁹ Hartnett v. Austin, 93 So.2d 86 (Fla.1956)

marketability of a project. In particular, the use of conditions can be quite destructive to affordable housing projects.

(3) *Clarify applicable criteria in the planned development approval process.*

There are no criteria for the approval of planned developments in the LDC, except to the extent that the LDC requires zoning decisions to be consistent with the comprehensive plan. From interviews⁶⁰ we understand that the approval of planned developments, including criteria for their approval, is negotiated. The one exception is the Interstate-75 Planned Development District, LDC Sec. 3.02, which provides pages of highly specific criteria for planned developments in these districts.

However, substantive criteria for planned developments appear in the LDC's statement of purpose, in the Comprehensive Plan's definition of Planned Development, and in this definition in the LDC:

Planned Development: Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations or phases. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans which include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used, and related to each other, and plans for other uses and improvements on the land as related to the buildings. A planned development includes a program for the provisions, operations, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.⁶¹

⁶⁰ Telephone interview with Peter Aluotto and Ben Grady, November 2, 2007

⁶¹ §12.01.00

The Future Land Use Element of the comprehensive plan contains a somewhat different definition:

Development, governed by the requirements of Hillsborough County's Planned Development districts or revisions thereof, that is designed as a unit, and which may include only one or a mixture of land uses, and which generally avoids a gridiron pattern of streets, and usually provides common open space, recreation areas or other amenities. Requirements include submission and review of site plans.⁶²

These definitions mistakenly include substantive criteria whose role in the approval of planned developments is not clear.⁶³ They also contain unnecessarily rigid substantive requirements for planned developments. They inhibit flexibility and good design and unnecessarily restrict the type of planned developments that can be built.

The absence of approval criteria for planned developments, except for the I-75 Planned Development District, threatens the legality of the entire planned development process. It is essential that approval criteria be provided, or courts will hold the ordinance invalid as an unconstitutional delegation of power. Careful attention must also be paid to comprehensive plan policies that affect the approval of planned developments and provision of affordable housing. Some of these are site-specific policies that more appropriately belong in the LDC. In any event, a disciplined decision needs to be made on the type of affordable housing policies that belong in each document.

- (4) *Consider an affordable housing requirement in planned developments.* A planned development ordinance can contain an inclusionary zoning requirement that a certain percentage of the housing in a development must be provided as affordable housing. If the county decides to adopt an

⁶² At 302

⁶³ See *DuPont Circle Citizens Ass'n v. District of Columbia Zoning Commission*, 426 A.2d 327 (D.C. App. 1981) (purpose clause treated as approval requirements).

inclusionary zoning requirement for all development, that requirement can be applied to planned developments. These developments present special requirements, however, especially when they are developed in stages. It may be necessary to include a requirement that affordable housing be provided concurrently with all stages in the project to avoid an incentive to defer it to the final stage or omit it altogether. It is however, unlikely that Hillsborough County will adopt inclusionary zoning at this time. Based on public input, a density bonus is more acceptable and efforts should be made to design one that is more effective than the current one. Density bonus recommendations are presented in section C of this report.

(5) *Consider implementing a jobs/housing ratio in planned developments.*

The concept of a jobs/housing balance is a planning tool to achieve a rough parity of jobs and housing units in terms of both number and quality. In other words, ideally the jobs available in a community should match the labor force skills and housing should be available at prices, sizes and locations suited to the workers who wish to live in the area.⁶⁴ A jobs-housing ratio would be intended to encourage developers to add residential units that match nearby jobs, and that could encourage development of affordable housing to match lower-paid jobs. Proximity of jobs and housing reduces commuting costs and in this way can contribute to making housing more affordable. One regulatory technique for achieving jobs-housing balance is to require or encourage a percentage of a developed land in a planned development to be devoted to space for office, commercial, or service employment. Discussion of jobs-housing balance in Hillsborough County has revealed fears that it might be impractical in developments conceived as entirely residential or cause developers to bypass the county. These considerations suggest that initial planning should focus on careful analysis and policy-making in the comprehensive plan with emphasis on understanding the need for both housing and jobs. A carefully crafted housing-jobs policy should aim to be appreciated as a

⁶⁴ Wietz, Jerry. *Jobs-Housing Balance*, PAS Report Number 516, American Planning Association, Chicago, November 2003

tool for promoting affordable housing while creating economically attractive sites for related employment centers.

- (6) *Improve accessibility standards in planned developments.* Enhanced accessibility is a feature of a planned development that will help achieve housing affordability. Improved accessibility in planned developments that include retail and employment centers can improve affordability by reducing dependence on the automobile. This can be achieved in a variety of ways: pedestrian walkway systems, street connectivity systems, and design standards that bring retail and other nonresidential uses closer to residential areas.

- (7) *Require more intensive development in planned developments.* A planned development ordinance can include requirements that projects will be approved only if they meet requirements such as minimum densities, mixed-use requirements, minimum requirements for apartment development, and requirements for zero lot and other types of lower-cost development. These requirements may open new opportunities for lower cost housing, even if they do not include an explicit requirement for affordable housing.

- (8) *Make urban design more inclusive in planned developments.* A planned development ordinance should give careful attention to urban design issues. Local discussions have indicated that frequently there is an assumption that affordable housing design will make higher-priced housing units unmarketable, and therefore affordable housing should be located off-site or avoided entirely. However, planned developments often employ skilled urban designers who could, if challenged, incorporate design elements that make affordable housing workable, such as designs that integrate affordable with other housing, and avoid the segregation of affordable housing in separate parts of a development.

Affordable Housing Advisory Board Comments

At the October 6, 2008 meeting of the Affordable Housing Advisory Board, members expressed various views on the Planned Development discussion paper. Among the views expressed were these:

1. A recommendation to require affordable housing in Planned Development amounts to inclusionary zoning and the County's Affordable Housing Task Force has previously rejected the concept of inclusionary zoning.
2. It may discourage Planned Development if affordable housing is required because such housing may be viewed as incompatible with the community's marketing strategy. In lieu of requiring affordable housing in planned development communities, it was suggested that the need for affordable housing could be satisfied at off-site locations.
3. A density bonus would be an alternative to inclusionary zoning, but it's important that any density bonus not be limited to Planned Development.
4. Affordable housing requirements might be impractical in smaller planned developments, and that a threshold number might be identified to mark the size, above which, affordable housing would be required.
5. A jobs/housing ratio might be impractical since many Planned Developments are conceived and marketed as entirely or predominantly residential. A jobs/housing requirement might encourage development to bypass Hillsborough County and go to other jurisdictions.

Additional background analysis can be found in the discussion paper entitled *Planned Development*.

(L.2.) Performance Zoning

A single recommendation relative to performance zoning is offered with background analysis.

Recommendation

It is recommended flexible performance standards be introduced to recognize that affordable smaller dwellings (measured either by number of bedrooms or in square feet) can be built at higher density (measured as dwelling units per acre) than larger dwellings and have the same impact.

Background Analysis

Performance zoning (or impact zoning) is a flexible type of regulation that bases permitted uses on set of standards that measure the impact of a proposed land use, rather than specifying the permitted uses in the regulation. This means that zoning may be on project-by-project basis that involves an analysis of existing conditions and estimates of the impact of development on community facilities, the environment, and economic conditions, before any land use is permitted. In some jurisdictions, points may be assigned for each standard and those points determine whether a development is approved or not.⁶⁵

For example, in performance zoning a residential district might not exclude any type of housing but attempt to measure the impact of a proposed development (single-family, townhouse, apartment, etc.) before deciding whether to approve or disapprove it. Performance criteria that specify the intensity of development and the impact of development on its surrounding area would determine which type of housing is approved.

Advocates of performance zoning say that it can reduce costs by eliminating the need for expensive and time-consuming zoning changes, and that it can help to correct the tendency of conventional zoning to encourage ever larger

⁶⁵ In practice, definitions of performance zoning vary. A sampling of definitions can be found in *A Planners Dictionary*, *ibid.*

houses that force lower cost housing out of the market place.⁶⁶

Environmentalists may be attracted by the expectation that performance zoning will pay greater attention to environmental impact.⁶⁷

In practice, experience with performance zoning has been mixed. A study of nine local governments that had implemented performance zoning – Ft. Collins and Breckinridge; Colorado, Hardin County, Kentucky; Largo and Tallahassee/Leon County, Florida; Flagstaff, Arizona; Lake County, Illinois; Pocatello, Idaho; and Queen Anne’s County, Maryland – found only two had retained their performance-based standards. The authors suggested that those seven communities had abandoned performance zoning because they found it to be too complex to administer and because they found they still preferred the certainty and assurance of prescriptive standards.⁶⁸

Similar evidence that performance zoning can fail due to excessive uncertainty comes from Canada. There a study of performance-based planning for the Canadian Mortgage and Housing Corporation found that there were no examples of where it was working well, and that it was too unpredictable.⁶⁹

More evidence that performance zoning can fail because of uncertainty and complexity comes from a study done for the Town of Breckinridge, Colorado. It found that many jurisdictions that had tried performance standards had gone back to conventional zoning; and two primary reasons were community

⁶⁶ For a discussion these expectations, see Lane Kendig, *Performance Zoning*, American Planning Association, Chicago, 1980, especially page 62.

⁶⁷ Baker, D.C, Sipe, N., and Gleeson, B.J.; *Performance Based Planning: Perspectives from the United States, Australia, and New Zealand*. Planning Institute of Australia, Queensland Division State Conference, July 2004, page 2.

⁶⁸ Ibid, page 7. Also see Porter, D.R. Flexible Zoning: A Status Report on Performance Standards, *Zoning News*, January 1998, American Planning Association

⁶⁹ Baker et al, op. cit. page 8. Also see Exner, M. and Sawchuck, R. *The Performance-Based Planning Model*, report prepared for the Canadian Mortgage and Housing Corporation, 1996

uncertainty, and difficulty in explaining and applying complex performance-based standards.⁷⁰

Tallahassee's abandonment of its relatively brief experience with performance zoning in 1997 came about for similar reasons: property owners upset that they could no longer predict what their land, or the land around them, could be used for. This unpredictability led to demand for a return of the old system, in which each parcel of land had a known use.

With respect to legal issues, Duerksen (1996)⁷¹ described four ways that performance zoning could be problematic, including:

- Difficulty in setting standards that are clear and precise
- Economic impact on landowners when the cumulative impact of performance standards deprives an owner of economic use
- Margin of error and non-conforming use issues related to inexact standards and changes to standards
- Implementation issues related to the extra resources needed for administration and enforcement

Despite the evidence that pure performance zoning *systems* have failed to gain long-term acceptance, specific performance *standards* have sometimes been added successfully to conventional zoning. For example, several of the performance standards identified by Kendig (1980)⁷² – impervious surface ratio, density, and floor-area ratio – are commonly found in otherwise conventional zoning ordinances. This suggests that practitioners should be open to adding performance standards to conventional zoning systems when those standards are useful for a specific purpose; even as they may be wary of a complete conversion to a performance zoning system.

⁷⁰ Baker et al, op. cit. page 9. See also Humphreys, J.A. *The Code of Development "Twenty-Five Years After": An Evaluation of Traditional Zoning and Performance Based Zoning Systems*, Breckenridge, CO, 2002

⁷¹ Duerksen, C., Key Legal Issues in Performance Standards and Zoning, in *Performance Standards for Growth Management*, Porter, D., editor. American Planning Association, Chicago, 1996

⁷² Kendig, L., *Performance Zoning*, American Planning Association, Chicago, 1980

A Performance zoning model for affordable housing

Kendig (1980) devised a model performance zoning ordinance that included a low and moderate-income housing bonus.⁷³ Each district is assigned a density factor (dwelling units per acre) without and with a bonus. For example, a conventional subdivision in the model's Development District would have a density factor of 1.2 without bonus and 1.9 with bonus. In the model, each low-income subsidized unit would earn a bonus of 1 additional unit, and each moderate income unit would earn a bonus of 2 additional dwelling units. Except in the case of very small subdivisions, bonus units would not be permitted to constitute more than 20 percent of a development. Bonus dwelling units would have to be scattered throughout the development and their design and exterior materials would not be allowed to differ from other units, although they could be smaller. It would be required that bonus units maintain continued availability to low and moderate income households.

Besides a density bonus, Kendig's model ordinance included detailed recommendations for reductions in lot size related to the type of dwelling, the number of bedrooms, and the parking arrangements.⁷⁴

- For example, a 3 bedroom single-family house of would require a 7,400 square foot lot.
- A 3 bedroom *village-house* with a 2-car garage would require a 5,000 square foot lot. If the 3 bedroom village house had a 1-car garage it would require only a 4,600 square foot lot.⁷⁵
- With respect to 2 bedroom dwellings, a single-family house would require a 6,600 square foot lot and a village house would require a 4,200 square foot lot.

⁷³ Kendig, L., *Performance Zoning*, American Planning Association, Chicago, 1980. pp. 123, and 263-264

⁷⁴ *Ibid*, pp 223-228

⁷⁵ A village house is defined by Kendig to be "a single-family residence which is fully detached from neighboring structures. The village house is distinguished by very small front and side yards."

Performance/impact zoning in the Comprehensive Plan

There have been a couple of references to *performance zoning standards* in the Hillsborough County Comprehensive Plan.⁷⁶ One is a policy in the Future Land Use Element that “mixed land use designations will be implemented through performance zoning standards as adopted in the Hillsborough County Land Development Code.” This policy has, however, been recommended for deletion in the revisions proposed in 2007 by the Planning Commission staff. The other is a reference in the Future Land Use Element to “I-75 performance zoning standards.”⁷⁷ But that reference, too, has been recommended for deletion by the Planning Commission staff in its 2007 proposed revisions.

The Future Land Use Element’s descriptions of mixed use development categories (NMU-4, SMU-6, CMU-12, UMU-20, and RMU-35) make reference to *performance standards* (not performance zoning). The specific language is:

Rezoning shall be approved through a planned unit development rezoning process which requires, at a minimum, integrated site plans controlled through performance standards to achieve developments which are compatible with surrounding land use patterns and the Goals, Objectives and Policies of the Future of Hillsborough Comprehensive Plan.

Elsewhere in the Comprehensive Plan, performance zoning standards are implied in the definitions of land use plan categories, as these definitions are in terms of density, not in terms of distinctions between single-family and multi-family districts. For example, the *Residential-9* land use classification is defined “to designate those areas that are best suited for low medium density residential development up to 9 dwelling units per gross acre”⁷⁸ There

⁷⁶ Policy C-26.3, Page 72

⁷⁷ Policy C-27.4, Page 73: “Require more open space through site design techniques such as clustering of structures in order to promote a park-like quality in public and private development consistent with adopted I-75 performance zoning standards of the Hillsborough County Land Development Code.”

⁷⁸ Future Land Use Element page 307.

is no distinction in that sentence between single-family and multi-family in the term ‘low medium density residential.’ Framing land use categories this way provides a possible basis greater flexibility in the land development code to establish districts that allow different housing types as long as they meet the density standard.

Performance/impact zoning in Land Development Code

There are no explicit references to performance zoning or impact zoning in Hillsborough County’s Land Development Code or its Development Review Procedures Manual. Sec. 6.01.01 *Schedule of Area, Height, Bulk, and Placement Regulations* establishes dimensional standards for zoning districts. In single-family and duplex residential districts, those standards include minimum lot size, required yards, maximum height, and building coverage.⁷⁹ All of those standards are associated with conventional zoning, not performance zoning. *Multi-family districts* add impervious surface to the preceding list of dimensional standards. Impervious surface is defined in the code to mean:

A surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.⁸⁰

The maximum percent of impervious surface in the Hillsborough land development code varies (60% in RMC-6; 70% in RMC-9 and RMC-12; 75% in RMC-16 and RMC-20). Impervious surface ratio is a performance standard commonly associated with performance zoning.⁸¹ However, inclusion of an

⁷⁹ Oddly, there is no definition of *building coverage* in the code. However, a footnote to building coverage refers to *lot coverage* and with that hint we found that lot coverage is defined in Sec. 12.01.00 as:

That portion of the area of a lot, expressed as a percentage, occupied by all buildings or structures which include but are not limited to arcades, stairways, elevator shafts, and balconies that are roofed and that extend more than three feet above ground level. Terraces, patios, atriums, balconies, breezeways, covered patios, entryways, and any accessory structure are not included in the lot coverage.

It appears that the terms *building coverage* and *lot coverage* are used interchangeably in the code. This would be confusing to anyone who is not extremely familiar with this particular code, and should be corrected by amending the code to use one term or the other consistently.

⁸⁰ Sec. 12.01.00

⁸¹ See for example, Kendig, op. cit.

impervious surface ratio can only be taken as an indication that the code intends maintain green space in all multi-family developments, and has no implications for affordable housing.

Unlike the Comprehensive Plan, the Land Development Code makes a clear distinction between *single-family* (RSC) districts, *duplex* (RDC) districts and *multi-family* (RMC) districts.⁸² Only detached single-family dwellings are allowed in the RSC districts. The RDC districts permit 2 dwellings to be attached and also permits detached single-family dwellings. The RMC districts allow both attached and detached dwellings.⁸³

Performance Zoning Options for Affordable Housing

Performance/impact zoning is a regulatory system that has aroused great interest over a period of more than 50 years, but only modest success in practice. Its promise has always been that performance standards would lead to land development patterns that are more rational and fluid – balancing nature and development; offering a wider variety of development choice – than traditional zoning. As a system, performance zoning in practice has been dogged by excessive complexity and unpredictability. Consequently, zoning systems based purely on performance standards have usually not withstood the test of time, and their potential to replace conventional zoning in Hillsborough County is not promising.

On the other hand, performance *standards* (as opposed to *systems*) are a possibility that can be considered to augment or strengthen conventional zoning's ability to stimulate the development of affordable housing. One way to introduce flexible performance standards would be to recognize that smaller dwellings have a smaller impact and can be built at higher density (with density measured as dwelling units per acre).

There are two approaches that could be taken in the regulations to adjust for the smaller impact of smaller dwellings: measure impact by the number of bedrooms, and alternatively, measure impact by the floor-area in square feet.

⁸² Land Development Code, Sec. 2.01.02

⁸³ Land Development Code, Sec. 2.02.02 and Sec. 2.02.03

What they have in common is that allowable density would be more proportional to impact, as is shown in the following examples.

Examples:

- a. *Impact measured by the number of bedrooms.* For example, an R-6 category (6 dwellings per acre) would permit a maximum density of 6 units per acre or a maximum density of 18 bedrooms whichever is greater.

That would allow:

- 6 dwelling units per acre if each has 3 or more bedrooms
- 9 dwelling units per acre if each has two bedrooms
- 18 dwelling units per acre if each has one bedroom

- b. *Impact measured in square feet.* For example, R-6 would permit a maximum density of 6 dwelling units per acre or a maximum floor-area of 12,000 square feet per acre. That would allow:

- 6 dwelling units per acre if each is 2,000 square feet or more
- 8 dwellings per acre if each is 1,500 square feet
- 12 dwellings per acre if each is 1,000 square feet

Either of these examples could operate in a single-family district such as RSC-6, or in a district that allows mixture of housing types. However, as noted above their may be objections to a higher number of dwelling units, even if the impact is the same when measured by bedrooms or floor-area.

Affordable Housing Advisory Board Comments

At the September 12, 2008 meeting of the Affordable Housing Advisory Board members indicated that (1) duplexes and triplexes are difficult to mix with single-family houses in Hillsborough County, and that (2) even relatively attractive duplexes and quadplexes, that work when mixed in with single family houses in the Washington, DC area, will not be accepted in Hillsborough County. At its November 3, 2008 meeting, the Affordable Housing Advisory Board deleted a recommendation relating to mixing single-family and multi-family dwellings.

Additional background analysis can be found in the discussion paper entitled *Performance/Impact Zoning*

(L.3.) Adaptive Reuse

Six recommendations are offered to encourage affordable housing through adaptive reuse, followed by background analysis on adaptive reuse in Hillsborough County. The first two recommendations relate to land development policies and the rest relate to construction issues.

Recommendations

- (1) *Expand on the existing policy encouraging adaptive reuse of historically significant buildings to encourage adaptive reuse for affordable housing, whether historically significant or not.* The comprehensive plan already has a policy to encourage reuse of historically significant and structurally sound buildings through incentives. This policy can be augmented by a policy that encourages adaptive reuse of buildings for affordable housing (whether historically significant or not) by enactment of an adaptive reuse ordinance that includes incentives.

- (2) *Add a section to the Land Development Code to identify incentives, standards, and exceptions for adaptive reuse to affordable housing.* The land development code could be improved by adding a section that provides incentives, standards, and exceptions to the encourage conversion to affordable housing. As an example, the City of Los Angeles provides incentives, standards, and exceptions to encourage adaptive reuse that include density and parking incentives; exemption from site plan review, and exceptions from floor-area, height, and yard standards.⁸⁴

- (3) *Join with other Florida local jurisdictions to persuade the Florida Building Commission to amend the Florida Existing Building Code back to the International Existing Building Code's exception regarding change of occupancy (the Florida elimination of which added egress requirements).*

⁸⁴ City of Los Angeles, Planning and Zoning Code, Sec. 12.22.A.26(h)

- (4) *Request the Building Officials Association of Florida (BOAF) to provide more extensive training in Hillsborough County on the Florida Existing Building Code.*
- (5) *Explore the opportunities offered by the Florida Existing Building Code for adaptive reuse of unoccupied floors above retail stores as affordable housing, and initiate a public information program on this.*
- (6) *Explore affordable apartment opportunities through conversion of buildings used for assembly, high-hazard occupancy, institutional occupancy, hotels, and assisted living, because the change of use provisions of the Florida Existing Building Code are minimal in these cases, and initiate a public information program on this.*

Background Analysis

Adaptive reuse is usually defined to mean conversion of old buildings to a new use. Adaptive reuse usually involves buildings that are considered worthy of preservation, but that are no longer economically viable in their former use. Examples include conversion of schools, church buildings, loft buildings, office buildings, and hospitals to residential use.

Adaptive reuse can be impeded by two distinct sets of issues, one is land development issues and the other is construction issues. Land development issues result when the current zoning district prohibits the new use or places restrictions on it that cannot be met. For example, a hospital proposed for conversion to apartments may be located in a zoning district that does not permit residential use. Or an office building in a town center may not have the number of parking spaces required by the zoning ordinance for conversion to residential use. Construction issues can occur when a building must be brought into compliance with all of the construction code requirements for the new use and that proves to be prohibitively expensive. This section on adaptive reuse is divided into 2 parts: Part I addresses land development issues and Part II addresses construction issues

Background to construction issues

Section 101.4.2 of the Hillsborough County Construction Code includes the following requirement for existing buildings:

“Additions, alterations, repairs and changes of use or occupancy group in all buildings and structures shall comply with the provisions provided in the Florida Existing Building Code.”⁸⁵

The Florida Existing Building Code, which is thus applicable to adaptive reuse of buildings in Hillsborough County, is based on the International Existing Building Code. The Guide to the *Florida Existing Building Code (FEBC)* published by the Florida Department of Community Affairs explains this code as follows:

“The purpose of the *Florida Existing Building Code* (abbreviated *FEBC*) is to provide some leniency in applying regular building code requirements to existing buildings. Thus an existing building may not need to meet all the requirements of the building code or the residential code. The intent is to encourage work on existing buildings without costs being so burdensome that rehabilitation work is prohibitive. The concept of the code is quite different than any code with which we are familiar. The code applies to essentially all work on existing buildings including repairs. Use of the *FEBC* is not optional because [it is mandated in the Florida Building Code, Building and Florida Building Code, Residential].”⁸⁶

Hillsborough County does not have the authority to amend the Florida Existing Building Code to make it more lenient by reducing or eliminating some of the requirements applicable to adaptive reuse for affordable housing.

However, the following construction recommendations should be considered:

⁸⁵ Hillsborough County Construction Code, pages 1-2.

⁸⁶ Guide to the *Florida Existing Building Code (FEBC)*, page 1.

- (1) Join with other Florida local jurisdictions to persuade the Florida Building Commission to amend the Existing Building Code to the original International Existing Building Code. Specifically, bring back the exception regarding change of occupancy, the Florida elimination of which added egress requirements. (Note that there may not be support for this recommendation within the building department)
- (2) Based on the assumption that more training is always an improvement, and will lead to even better enforcement of the Florida Existing Building Code, request the Building Officials Association of Florida (BOAF) to provide more extensive training in Hillsborough County on the Florida Existing Building Code, and ensure that the added schedule can be accommodated by the staff.
- (3) Fully explore the opportunities offered by the Florida Existing Building Code for adaptive reuse of unoccupied floors above retail stores as affordable housing, and initiate a public information program on this.
- (4) Fully explore affordable apartment opportunities through conversion of building used for assembly, high-hazard occupancy, institutional occupancy, hotels, and assisted living, because the change of use provisions of the Florida Existing Building Code are minimal in these cases, and initiate a public information program on this.⁸⁷

Affordable Housing Advisory Board Comments

At the September 12, 2008 meeting of the Affordable Housing Advisory Board, the Mixed-Use paper was discussed. Comments and suggestions from board members included:

1. Agreement with adaptive reuse for affordable housing, but with the observation that in Hillsborough County most adaptive reuse has been

⁸⁷ *Assembly* refers a building for the gathering of persons for purposes such as civic, social or religious functions, recreation, food or drink consumption or awaiting transportation. *High-hazard occupancy* involves manufacturing, processing, generation or storage of materials that constitute a physical or health hazard. *Institutional occupancy* refers a building in which people are cared for or live in a supervised environment.

in connection with historic areas in the form of lofts and other high-end units that are not priced at affordable levels.

2. A member suggested that transferable development rights be explored as a technique for making such conversions more affordable.
3. A suggestion that flexible development standards to encourage adaptive reuse are often contentious. The example cited was, waiver of parking requirements, with the added point that such waivers are more acceptable for senior housing or in locations where conditions clearly justify the waiver.
4. Support was voiced for the recommendation to explore and publicize affordable housing opportunities offered by the Florida Existing Building Code for adaptive reuse of unoccupied floors above retail stores.
5. The conversion of Centro Asturiano Hospital was mentioned as a successful example of adaptive reuse that resulted in affordable housing.

Additional background analysis can be found in the discussion paper entitled *Adaptive Reuse*.

(L.4.) Infill Development

Nine recommendations are offered to encourage affordable housing through infill development, followed by background analysis on infill development in Hillsborough County. In the comprehensive plan recommendations would take the form of strategies, policies, and guidelines.⁸⁸ In the land development code they would take the form of specific, detailed provisions necessary to implement the comprehensive plan.⁸⁹

Recommendations

(1) *Re-write the definition of infill to apply to obsolete buildings as well as vacant sites. This clarification will offer more opportunities for all infill development including affordable housing development. The suggested definition is:*

Infill Development: Development or reuse of a parcel or building which is vacant, abandoned, passed over, underutilized, or obsolete, and is located in a predominantly developed area served by public water and public sewer.

(2) *In the Comprehensive Plan, include an analysis of opportunities for infill development, and address the specific issues that affect an affordable housing infill development implementation strategy.*

(3) *Create a new incentive formula for the affordable housing infill bonus that is proportional and calibrated to work well with small projects. A new incentive formula can replace the one currently found in the Table of Allowable Density and Intensity Increases for the Provision of Affordable Housing.*

⁸⁸ See Florida Statutes Ch. 163.3177(1) “The Comprehensive Plan shall consist of materials in such descriptive form, written or graphic, as may be appropriate to the prescription of principles, guidelines, and standards for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area.”

⁸⁹ Florida Statutes, Ch. 163.3202(2) “Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan...”

- (4) *Make the affordable housing infill bonus available in all residential density categories. It currently is only available in categories of 6 dwelling units per acre or more.*
- (5) *Make the affordable housing infill bonus available to any project that meets the definition of infill, regardless of size. The affordable housing infill bonus is currently is limited to one acre sites, (and would still be limited to five acre sites according to amendments proposed by the planning commission staff).*
- (6) *Amend the affordable housing infill bonus to offer relief to small infill sites; including more flexible building setbacks and building bulk, and more flexible parking arrangements.*
- (7) *Amend the affordable housing infill bonus to offer extra density or transferable development rights to sites that need remediation of environmental contamination.*
- (8) *Combine the affordable housing infill bonus with use of neighborhood improvement programs whenever possible. For example, county policy can provide that applications for affordable infill housing would trigger consideration of heightened neighborhood remediation or improvement efforts in the immediate area.*
- (9) *Combine the affordable housing infill bonus with design guidelines that are compatible with the style and scale of existing dwellings in the immediate area.*

Background Analysis

Infill development is development or redevelopment of vacant or underutilized land where surrounding sites have already been developed. Infill sites may have been bypassed by previous development or may have been developed with buildings that have subsequently become economically

obsolete. Infill sites are common in cities and suburbs, and may range from a single lot to surface parking lots to empty shopping malls.⁹⁰

Infill sites can provide development opportunities that put people closer to jobs, schools, and public transit than sites in newly developing areas. Infill sites can usually connect into existing infrastructure and save on energy by being closer to existing work sites, shopping, and schools. Infill development can help to upgrade declining areas by stimulating re-investment and by replacing obsolete or incompatible land uses.⁹¹

Some common difficulties for infill development are:

- *Site constraints.* Infill sites are generally smaller than sites on farmland and open areas where there has been no previous development. Smaller sites can limit what can be built, provide less space for parking and recreation, and limit opportunities for future expansion.
- *Costs.* Infill sites typically cost more per square foot than sites in undeveloped areas. Construction costs may be higher too, due to fewer economies of scale.
- *Age and condition of infrastructure.* Existing water, sewer and road infrastructure may be questionable because of age, deterioration, nonconformance with the latest design and materials standards, or capacity constraints.
- *Image.* Obsolescent structures or incompatible land uses nearby may create a poor image for new residential development.
- *Environmental issues.* Infill sites that were previously used for commercial and industrial activities may be contaminated by hazardous substances.

⁹⁰ A useful discussion of infill development can be found in *Strategies for Successful Infill Development*, Northeast-Midwest Institute and the Congress for New Urbanism, 2001.

⁹¹ Another useful discussion of infill development issues can be found in *Models and Guidelines for Infill Development*, Maryland Department of Planning, October 2001

- *NIMBY concerns.* *Not in My Backyard* sums up attitudes that sometimes emerge to oppose affordable housing. NIMBY concerns may include overcrowding, noise, crime, inadequate parking, higher building density, and lower property values. Although these concerns are often unjustified, they often lead to calls for regulatory barriers that exclude affordable infill housing.

As a result of these various constraints developers may hesitate to build, and lenders may be reluctant to finance, affordable housing on an infill site.

Infill Development in the Comprehensive Plan

Hillsborough County's 1999 Comprehensive Plan defined infill development as:

“Development on scattered vacant sites within the urbanized/suburbanized area of a community.”⁹²

More recently, the proposed Community Design Component of the Future Land Use Element (2007) defined infill development somewhat differently:

“The construction of a building on a vacant parcel located in a predominately developed area. The local land development regulations determine whether the new building fits harmoniously into the neighborhood.”⁹³

Both the 1999 and the 2007 definitions refer only to *vacant sites* or *parcels*, which is ambiguous regarding whether redevelopment of obsolete buildings can qualify as infill development.⁹⁴

The comprehensive plan includes two separate and distinct density bonuses for infill development. One is called the *Affordable Housing Infill Density*

⁹² Future Land Use Element (1999), p. 352

⁹³ FLUE (2007) Community Design Component, p. 184

⁹⁴ The 2007 definition differs in that it says that ‘land development regulations determine whether the new building fits harmoniously into the neighborhood.’ That sentence would seem to be more appropriately placed in the comprehensive plan as a policy, rather than in the definition.

*Bonus*⁹⁵ and the other is the *Residential Density Bonus for Infill Development*.⁹⁶ The *Affordable Housing Infill Density Bonus* offers a density increase which generally is equal to the next highest land use category. (For example, six dwelling units per acre would go to nine).⁹⁷ It is available only in land use categories allowing 6 or more dwelling units to the acre; and only to sites that are one acre or less in size. (In 2007's proposed amendments to the Comprehensive Plan, the *Affordable Housing Infill Density Bonus* allows a maximum site of 5 acres)⁹⁸

The other density bonus, the *Residential Density Bonus for Infill Development*, is more specifically directed toward replacing or retarding the spread of commercial strip development by encouraging residential development within 660 feet of arterial and collector roads.⁹⁹ The incentive under this bonus is similar in size to the affordable housing infill bonus (residential density can be increased to the next highest density category, for example, Res-4 could be increased to Res-6). However, this bonus does not require affordable housing, and also differs from the affordable housing infill bonus in having fewer limitations on site size and applicability in lower density land use categories.

The new Community Design Component of the Future Land Use Element (2007) contains several policies that are conducive to infill development.

Policy 1-2.4: Promote infill and rehabilitation activity. Reduce on-site parking requirements for small-lot infill projects, allowing parking demand to be satisfied by on-street, shared or remote parking or transit.¹⁰⁰

⁹⁵ FLUE (1999), p 235-236

⁹⁶ This bonus is found in the 1999 FLUE at pages 227-229. In the proposed FLUE (2007), it is found at page 74-75, where it is slightly modified to require application only in the Urban Service Area, and only along transit emphasis corridors as designated in the Transportation Element of the Comprehensive Plan.

⁹⁷ *Table of Allowable Density & Intensity Increases for the Provision of Affordable Housing*, FLUE (1999), p. 234

⁹⁸ Housing Element (2007), p. 25

⁹⁹ In the proposed 2007 FLUE it is found at page 74-75, and is slightly modified from 1999 to require a location in the Urban Service Area and along a transit emphasis corridor designated in the Transportation Element.

¹⁰⁰ FLUE (2007), Community Design Component p. 12

Policy 3-1.3: Promote development within environmentally appropriate areas such as previously developed land, infill lots, and/or remediated brownfields.¹⁰¹

Goal 13: Within urban and/or suburban areas of the County, encourage new developments or infill developments to incorporate a mix of uses.¹⁰²

Infill Development in Land Development Code

There is no explicit mention in the land development code of either the two infill bonuses identified in the comprehensive plan, the *Affordable Housing Infill Density Bonus* or the *Residential Development Bonus for Infill Development*. The code does, however, implicitly recognize the affordable housing infill density bonus in Sec. 6.11.07.C.1:

“...increases in density and/or intensity which may be achieved are established in the Comprehensive Plan under Affordable Housing Bonuses.”¹⁰³

Presumably this reference includes the affordable housing infill density bonus because that bonus is identified as one of affordable housing bonuses within the comprehensive plan.¹⁰⁴ However, the absence of any explicit mention of the affordable housing infill density bonus in the land development code increases the likelihood that it will be overlooked or badly served in

¹⁰¹ FLUE (2007), Community Design Component p. 15

¹⁰² FLUE (2007), Community Design Component p. 28

¹⁰³ The full text of Sec. 6.11.07.C.1 is:

C. Density Bonus

1. If an affordable housing project is proposed as a site planned controlled zoning and meets the affordable housing qualifying criteria listed above and as established in the Comprehensive Plan, and as further qualified below (project plan), the project may receive affordable housing density and/or FAR bonuses. The increases in density and/or intensity which may be achieved are established in the Comprehensive Plan under Affordable Housing Bonuses. Such site planned controlled projects shall establish specific lot sizes, setbacks and dwelling unit types and shall be exempt from meeting the standard district setback requirements. However, the minimum setback standards established above for development on less than 5,000 square foot lots shall apply.

¹⁰⁴ The other infill density bonus, the *Residential Density Bonus for Infill Development* could not be found in the land development code at all, even indirectly.

practice.¹⁰⁵ The land development code should clearly identify the affordable housing infill bonus and describe the applicable regulations for its use.

The land development code contains a definition of commercial infill development, but not one for residential infill development.¹⁰⁶

Infill Development, Commercial: The development of a commercial use in an area of similar commercial uses, usually along the same street and between two parcels of similar commercial uses.

The land development code's adequate facilities section allows infill development some relief from road impact determinations. This addresses a concurrency issue that otherwise could be a barrier to affordable infill development.¹⁰⁷ The land development code's Traditional Neighborhood Development Code (Part 5.08.00) allows a density bonus for Infill TND. This might encourage affordable housing in some circumstances, but is not explicitly an affordable housing density bonus.¹⁰⁸

Affordable Housing Advisory Board Comments

At the October 6, 2008 meeting of the Affordable Housing Advisory Board it was suggested that a recommendation to allow 2-family houses in infill development would work only if at least one unit is owner-occupied, based on experience with poor maintenance of duplexes that are not owner-occupied.

Additional background analysis can be found in the discussion paper entitled *Infill Development*

¹⁰⁵ As an example, Sec 6.11.07.C.1 says that "if an affordable housing project is proposed as a site planned controlled zoning" it may receive an affordable housing density bonus. Many small infill developments would be badly served by having to go through the additional barrier of rezoning to *Planned Development*.

¹⁰⁶ FLUE (1999), p. XII-43

¹⁰⁷ See Sec. 4.02.03.C.3

¹⁰⁸ Sec. 5.08.03.C

(L.5.) Rezoning Vacant Land

Three recommendations are offered to facilitate development of affordable housing through rezoning of vacant, under-utilized, or surplus land. These are followed by background analysis.

Recommendations

Add the following policies to the Comprehensive Plan, and use them to guide actions of the Planning Commission and Department of Planning and Growth Management.

- (1) Develop a process and methodology for identifying vacant and under-utilized sites and evaluating their suitability for affordable housing; and make this information available to the land's owner.*
- (2) Initiate amendments to the Future Land Use Map and Official Zoning Atlas affecting vacant, under-utilized, and surplus lands found to be suitable for affordable housing. If the land is privately owned, amendments will only be initiated by the County after the owner commits to use the land for residential or mixed-use development including affordable housing.*
- (3) Develop guidelines for the use of incentives, including redevelopment powers relating to affordable housing, to encourage development of affordable housing on rezoned sites. Such guidelines may encourage design that serves affordable housing with features such as access to public transit, employment and services.*

Background Analysis

Rezoning vacant land is a method for increasing the amount of land available for affordable housing by converting vacant, under-utilized, or surplus land to residential use. Its advantages are that it:

- Allows for additional housing without changing or disturbing existing residential areas

- Creates new housing opportunities near existing job centers and shopping, reducing dependence on automobiles for transportation
- Generates less traffic than commercial, office or industrial uses
- Makes job recruitment easier in housing-scarce areas
- Improves community image and encourages investment through development of vacant and under-utilized land
- Improves public safety through development of vacant and under-utilized land that may be avoided by pedestrians and bicyclists due to perceptions of being unsafe.

Future Directions

Based on experience in other communities, some rules to follow when evaluating land for rezoning to residential use are:

- Designate sufficient land to create a new neighborhood
- Build community character by including shops and other amenities
- Promote transit-oriented development using existing or future transit routes.
- Build to the highest appropriate building density that will optimize transit service, walkable communities, and lower land cost per dwelling unit; and still be attractive and achieve market acceptance.
- Allow mixed-use including residential when appropriate to both the new community and surrounding area.
- Use incentives when necessary such as those identified in the Housing Element, Policy 1.3.5, and other elements of the comprehensive plan.
- Anticipate soils contamination problems which may affect industrial and commercial land, and be prepared to use brownfields programs to mitigate impacts.
- Consider use of redevelopment powers under Florida law to overcome a variety of problems related to the site or public infrastructure.

Affordable Housing Advisory Board Comments

At the November 3, 2008 meeting of the Affordable Housing Advisory Board, language was added to clarify that rezoning of vacant commercial, office, and industrial land would involve information to owners of such land and an

expression of their intent that the land be used for residential development including affordable housing.

Additional background analysis can be found in the discussion paper entitled *Rezoning Vacant Land*.

(L.6.) Manufactured Housing

Nine recommendations are offered to make better use of manufactured housing as a means to affordable housing. They are followed by background analysis.

Recommendations

- (1) Modify the definitions of manufactured housing and mobile homes in the Comprehensive Plan and the Land Development Code to be consistent with each other; to be consistent with federal definitions; and to eliminate the use of the term “duplex usage” as inconsistent with federal regulations.*
- (2) Expand the manufactured housing definition to include differing categories, including a qualified manufactured home category that may be permitted as a matter of right in some residential districts.*
- (3) Develop compatibility standards for qualified manufactured homes, relating to roof pitch, square footage of livable space, type and quality of exterior finishing materials, foundation skirting, and existence and type of attached structures.*
- (4) Include appropriate installation standards for manufactured homes that include requirements for a permanent foundation, removal of transportation hitches and devices, and permanent connections to public utilities (and these terms should be defined in the code).*
- (5) Include a requirement in the code to provide hurricane shutters complying with the Florida Building Code.*
- (6) Add manufactured homes to the list of housing types included in the code’s Affordable Housing Development Standards (currently Section 6.11.07.B.6)*

- (7) *Allow zero lot line manufactured homes in conjunction with changes to the zero lot line provisions of the Land Development Code recommended elsewhere in this report.*
- (8) *Eliminate the need for a special hearing and a zoning map change for development of qualified manufactured homes.*
- (9) *Engage the public and the industry, including the Florida Manufactured Housing Association, in implementing these changes.*

Background Analysis

Manufactured housing (or mobile homes according to Florida terminology) refers to housing permitted and constructed according to regulations of the U.S. Department of Housing and Urban Development.¹⁰⁹ Manufactured housing (mobile homes) is not to be confused with modular housing (or manufactured buildings in Florida terminology). Modular housing (manufactured buildings) refers to housing that has been permitted and constructed according to the regulations of the Florida Department of Community Affairs¹¹⁰. As will be discussed later, there may be some confusion regarding the use of the terms mobile home and manufactured housing in Hillsborough County.

Despite any ambivalence about manufactured homes, they are justifiably included in the scope of this study. Their affordability is mainly attributable to the efficiencies of the factory process. The controlled environment and assembly line techniques remove many of the problems of the site-built sector, such as poor weather, theft, vandalism and damage to building products and materials stored on site. Also, factory employees are trained, scheduled and

¹⁰⁹ National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §§5401-5426 (2002) and the regulations adopted pursuant to 24 C.F.R. 3280-3282 (2002) and 24 C.F.R. 3285 (2007).

¹¹⁰ Florida Statutes, Chapter 553 and Florida Administrative Code Chapter 9B-1

managed by one employer, as opposed to the system of contracted labor in the site-built sector.

Manufactured home producers also benefit from the economies of scale which result from being able to purchase large quantities of building materials and products. As a result they are able to negotiate the lowest possible price for items that are invariably more expensive in a site-built house.

In the United States during the 1990s, manufactured housing placements accounted for one-quarter of all new housing starts and, from 1997 to 1999, 72 percent of new units affordable to low-income homebuyers.¹¹¹ In Hillsborough County, the Housing Element of the Comprehensive Plan indicates that in 1990 mobile homes constituted 12.4% of dwelling units and over 89% of these (or nearly 40,000 units) were in the unincorporated area. Of these, nearly 13,000 units were located in 265 licensed mobile home parks in the unincorporated area.

Manufactured Housing and Mobile Homes in Existing County Regulations

The Housing Element of the Hillsborough County Comprehensive Plan includes definitions of “manufactured housing” and “mobile homes” as follows:

“*Manufactured Housing* – A factory built structure that is manufactured under the authority of 42 United States Code Sec. 5401 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. Manufactured housing must bear a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards.”¹¹²

¹¹¹ *Meeting Our Nation's Housing Challenges*, Report of the Bipartisan Millennial Housing Commission Appointed by the Congress of the United States, Washington, D.C. 2002, p. 81

¹¹² Comprehensive Plan, Housing Element, page 92

“Mobile Home – A manufactured structure, transportable in one or more sections, which is at least eight feet in width and thirty-two feet in length, which is built on an integral chassis, and is designed to be used as a dwelling unit, with or without a foundation when connected to the required utilities.”¹¹³

These definitions are confusing. The former is consistent with general industry usage and corresponds to the state’s definition of ‘mobile home’ while the latter, by not referring to the Federal regulation is ambiguous. A search of the Housing Element for the term “manufactured housing” yields only five entries, three of which are within the definition quoted above, and two are used in combination with mobile homes (“...mobile homes and manufactured housing.”) By contrast, a search for the term “mobile homes” yields 51 entries.

The Comprehensive Plan notes that “mobile home zoning districts are allowed throughout all residential land use categories of the Comprehensive Plan”¹¹⁴ and “the Hillsborough County Land Development Code does not discriminate against the provision of sites for mobile homes.”¹¹⁵ However, these quotes may not be fully consistent with the treatment of mobile homes in the Land Development Code.

The Hillsborough County Land Development Code includes the following definition:¹¹⁶

“Manufactured Home/Mobile Home: A structure, excluding Park Model/Park Trailer as defined by this Code, designed for and limited to single family and duplex usage meeting the Federal Mobile Home Construction and Safety Standards, promulgated by the Department of Housing and Urban Development. Such a structure is complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on piers or a foundations (sic),

¹¹³ Comprehensive Plan, Housing Element, page 92

¹¹⁴ Comprehensive Plan, Housing Element, page 40

¹¹⁵ Comprehensive Plan, Housing Element, page 60

¹¹⁶ Part 12.01.00

connections to utilities and the like. Alteration of a manufactured home in any way that changes its intended original usage shall negate its approval for any use. Manufactured homes/mobile homes shall not be allowed to be connected/married unless specifically designed and approved for that purpose as a part of the manufacturing process.”¹¹⁷

It is evident that this definition combines the two definitions in the Comprehensive Plan discussed earlier, but may not be consistent with them. For example, it excludes the dimensional portions of the Comprehensive Plan’s definition of mobile home.

Furthermore, the reference to “duplex usage” is confusing. The Hillsborough Land Development code defines “*Dwelling/Two-Family (Duplex)*” as follows:

“A structure containing two single-family dwelling units attached to each other by walls, garages, carports, utility rooms, breezeways, etc., whether or not separated by firewalls, but not attached to any other dwelling units. Two-family dwellings may be located on one deeded lot or on two separately deeded lots, but no other non-temporary dwelling unit may occupy the same deeded lot or lots. Occupancy of the two dwellings by members of the same family or other related persons shall have no bearing on the applicability of this definition.”

The Federal Manufactured Home Construction and Safety Standards appear to specifically exclude duplex usage of manufactured homes:

“Mobile homes designed and manufactured with more than one separate living unit are not covered by the standards and these regulations.”¹¹⁸

Despite this definition, HUD has approved attached manufactured homes as alternative construction under 24 C.F.R. 3282.14. These alternative construction approvals have been given to what the manufactured housing industry calls “zero lot line models” in the state of Washington. These

¹¹⁷ A *Park Model/Park Trailer* is defined elsewhere in Sec. 12.01.00 to be a transportable unit designed for seasonal or temporary living quarters

¹¹⁸ 24 C.F.R. 3282.8(1)

manufactured homes must be separated by a firewall, and must be capable of separation and use as a single manufactured home in the future. The Federal Manufactured Home Construction and Safety Standards do not address the placement of manufactured homes on lots, which is left up to local zoning regulations. Presumably, “zero lot line manufactured homes” can be placed on a single lot or on two separate lots (with the separation fire wall on the lot line).

The Division of Motor Vehicles of the Florida Department of Highway Safety & Motor Vehicles, which regulates and approves mobile homes for installation in Florida, reported that they were unaware of the use of “zero lot line mobile homes.” It should be noted that were HUD to approve attached manufactured homes in Florida, they could qualify as duplexes in Hillsborough County.

It should be noted that the term “zero lot line” as used in the HUD alternative construction approvals is different from use of that term in the Zero Lot Line Residential provisions in Section 6.01.04 of the Hillsborough County Land Development Code. The latter allows the elimination of one side yard while maintaining the separation between individual detached homes. A single manufactured home can be located in this manner since the Federal Manufactured Home Construction and Safety Standards do not address placement. In summary, individual manufactured homes can be placed in accordance with Hillsborough County’s Zero Lot Line Residential provisions, and “zero lot line manufactured homes”, if granted approval by HUD, can be placed as duplexes.

Section 2.02.03 of the Hillsborough County Land Development Code contains a table, reproduced below, that indicates the housing types allowed in each zoning district within Hillsborough County. It should be noted that the term “mobile home” is used as a housing type, instead of the defined term “Manufactured Home/Mobile Home”, pointing to further potential ambiguity in the terminology. In the table, “P” indicates that the use is allowable by right,

subject to the standards of the Land Development Code. A blank space indicates that the use is prohibited.

As this table makes clear, mobile homes are allowed as a matter of right only in the agricultural districts. Mobile homes are allowed in other districts only when the MH (mobile home) overlay has been applied. This appears to contradict some of the statements quoted above from the Housing Element of the Comprehensive Plan or their implications.

The MH designation (mobile home overlay) may be applied for in RSC-2, RSC-3, RSC-4, RSC-6, RSC-9, RDC-6, and RDC-12.¹¹⁹ The overlay has to be obtained through a rezoning process, approved by the Board of County Commissioners after a public hearing as an amendment to the zoning atlas. The conditions for approval are not published, but staff reports that it is unlikely to be approved in an area where there is no existing mobile home permissibility. Thus its use for infill housing in existing residential neighborhoods may be limited. Furthermore, it is unclear whether duplex usage of mobile homes, as envisaged in the Manufactured Home/Mobile Home definition, would be permitted in MH which is defined as *Single-Family Mobile Home Overlay*.

¹¹⁹ Communication from Hillsborough County Planning and Growth Management staff

Sec. 2.02.03. Housing Types

(Note: MH is Mobile Home Overlay, SB is Show Business Overlay)

HOUSING TYPE				
ZONING DISTRICTS	Single-Family	Duplex	Multi-Family	Mobile Home
AM	P		P ¹	P
A	P		P ¹	P
AR	P		P ¹	P
AS-0.4	P		P ¹	P
AS-1	P		P ¹	P
ASC-1	P		P ¹	
RSC-2	P			
RSC-3	P			
RSC-4	P			
RSC-6	P			
RSC-9	P			
MH	P			P
RDC-6	P	P		
RDC-12	P	P		
RMC-6	P	P	P	
RMC-9	P	P	P	
RMC-12	P	P	P	
RMC-16	P	P	P	
RMC-20	P	P	P	
SB	P			P
OR	P	P	P	
SPI-UC-1	P	P	P	
SPI-UC-2				
SPI-UC-3	P	P	P	

1 Community Residential Homes and Professional Residential Facilities only

It appears that the mobile home overlay has been used primarily for placing mobile homes on individual sites in residential districts. No mobile home subdivisions, or mixed subdivisions of site built and mobile homes, have been identified in mobile home overlay districts.

In addition to their installation on individual lots mobile homes may be located in mobile home parks. The Land Development Code defines a *mobile home park* as “a single zoning lot occupied by five or more mobile homes for which a Health Department permit has been issued for a mobile home park.”¹²⁰ Design standards for mobile home parks are defined in Section 6.11.110 of the Land Development Code. They include criteria for internal roadways, storm shelters, and development standards (minimum unit area occupied as a mobile home space, minimum setbacks, maximum building height of 35 feet, a 50-foot setback along major streets, and minimum setback of 25 feet between mobile homes and park boundaries). These all seem reasonable from the perspective of affordability. There are no other landscaping or public facility requirements.

Expanding Manufactured Housing Entitlement

An ongoing study for the U.S. Department of Housing and Urban Development¹²¹ addresses regulatory barriers to manufactured housing and their removal. The study examines examples of local successes in using manufactured housing in both infill and development contexts. Common to all these successes is (1) the ownership of the units in fee simple, and (2) a regulatory system that allows their placement as a matter of right. These are the necessary, but not sufficient conditions for the expansion of use of manufactured homes as affordable housing. Other conditions that must exist, but that are beyond the scope of these recommendations, are a mortgage finance system that accepts manufactured homes as real property collateral, and a delivery system that can supply and install the units.

As part of a zoning ordinance that allows manufactured homes as a matter of right in some or all residential zones one usually finds some additional conditions or applicable standards. These often include items such as (depending on local conditions):

¹²⁰ Land Development Code, Part 12.01.00 Definitions

¹²¹ Virginia Center for Housing Research, Virginia Polytechnic Institute and State University, together with Institute for Building Technology and Safety and Building Technology Incorporated

- The unit must be new.
- It must have a permanent foundation.
- There must be skirting between the ground and the floor level.
- There must be a garage.
- There must be a porch.
- Roof slopes must meet a minimum that harmonizes with local conditions.
- Roof and exterior wall materials must harmonize with local conditions.

Affordable Housing Advisory Board Comments

The following is a summary of comments received at the September 12, 2008 meeting of the Affordable Housing Advisory Board on the subject of manufactured housing, mobile homes, and modular housing

1. To be successful, mobile homes need design standards that make them look exactly like stick-built houses, but such standards would have to apply to all housing, and builders do not want design standards.
2. There are fewer mobile home communities today, due to the perception that mobile homes are not good housing. Perception needs to change.
3. Putting mobile homes on a slab or brick foundation helps to change their appearance and perceptions of them.
4. Distinguishing mobile homes and modular homes is another perception changer.
5. Resistance in the development community is tied to the fact that nobody wants to take the risk of being first to market a community of 200 or 300 modular or manufactured units; for fear that the market will reject them.

Additional background analysis can be found in the discussion paper entitled *Manufactured Housing (Mobile Homes)*

(L.7.) Modular, Panelized and Steel Housing

Recommendation

It appears that Hillsborough County's regulatory system presents no barriers to the use of modular, panelized, and steel technologies. However, there is one policy recommendation. It is recommended that the County:

- (1) Facilitate the transfer of information about these technologies to local developers and builders; including providing links on its website and establishing liaisons with industry trade associations.*

Background Analysis

The three categories of housing—modular, panelized, and steel—refer to categories of technology for the production, delivery, and erection of housing.

The term *modular housing*, as used in the construction industry, generally means housing that consists of one or more three-dimensional assemblies of walls, floors, the spaces that they define, and service subsystems (electrical, plumbing, mechanical) enclosed within them, which are fabricated in a factory and delivered to the site for final erection. Modular housing is usually framed in wood, but can also be steel-framed.

The term *panelized housing*, as used in the construction industry, generally refers to housing that consists of wall, floor, and roof panels that may contain service subsystems (electrical, plumbing, mechanical), which are fabricated in a factory and delivered to the site for final assembly and erection. Panelized housing is usually framed in wood, but can also be steel-framed. With regard to panelized construction, one category warrants special comment. This is the category of *structural insulated panels, or SIPs*. Rather than being framed with traditional wood studs, these panels consist of expanded polystyrene or similar cores with wood, oriented strand board, steel or similar facing materials.

The term *steel housing* refers to housing whose structural framing members are steel rather than the traditional wood. Steel housing can be modular, panelized, or site-built.

The affordability attributable to modular and panelized housing is mainly attributable to the efficiencies of the factory process. The controlled environment and assembly line techniques remove many of the problems of the site-built sector, such as poor weather, theft, vandalism and damage to building products and materials stored on site. Also, factory employees are trained, scheduled and managed by one employer, as opposed to the system of contracted labor in the site-built sector.

The manufacturers of modular and panelized housing also benefit from the economies of scale that result from being able to purchase large quantities of building materials and products. As a result they are able to negotiate the lowest possible price for items that are invariably more expensive in a site-built house.

A manufacturer of SIPs¹²² reported that the material costs of structural insulated panels are higher than conventional construction, but their thermal performance is superior, and significant energy savings are realized over the life of the building. Others report savings in the cost of insulation, and reduction in time of construction.¹²³

The affordability, if any, attributable to site built steel housing is a function of the relative costs of materials and availability of construction expertise.

State Regulation of Modular, Panelized, and Steel Housing

In Florida, *modular housing* is included in the category “manufactured building”, which is defined in the Florida Manufactured Buildings Act of 1979 as follows:

“(15) *Manufactured Building* – A closed structure, building assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured for installation or erection, with or without other specified components,

¹²² FischerSIPS

¹²³ Habitat for Humanity Macon County (Georgia), which is currently building affordable housing with SIPs reports first cost saving over conventional construction. Specifically, lower cost of insulation than in conventional construction and significant reduction in time of construction. In Louisville, KY the developer/owner of an affordable housing project using SIPs reported cost savings attributable to faster construction compared to conventional and significant energy savings.

as a finished building or as part of a finished building, which shall include but not be limited to residential, commercial, institutional, storage, and industrial structure.”¹²⁴

An information sheet published by the Florida Department of Community Affairs defines “modular homes” (to be distinguished from “mobile homes”) as follows:

“*Modular homes*—are designed, built, permitted and inspected to the Florida Building Code (FBC), and must be installed on permanent foundations (e.g., poured footers, stem walls & poured piers or engineered slabs, just like site built homes) that are designed and built specifically for that home by a contractor licensed by the Department of Business & Professional Regulation (DBPR). It is a violation of Florida Statutes for a mobile home installer to install a modular home. To be acceptable in Florida, a modular home must bear the insignia of the Florida Department of Community Affairs (DCA) on the inside of the cover of the home’s electrical panel. They are considered real property when installed on a permanent foundation, and insured as such.

NOTE: A few modular manufacturers continue to produce their homes on a mobile home type chassis (called “on-frame” construction, which is allowed in the FBC) and transport them on wheels and axles just like mobile homes; as opposed to most who construct [without the chassis] on typical floor joist type construction and transport the modules on a flat bed trailer, lifting them into place onsite with a crane. No matter the method of construction, the modular home must be installed by a licensed contractor on a permanent foundation, as specified, in chapter 428.4 FBC.”¹²⁵

The key characteristic of modular housing in Florida is that the *Florida Department of Community Affairs, Division of Housing and Community Development, Building Codes and Standards* makes the determination of compliance with the Florida Building Code and attests that determination by the attached insignia.

¹²⁴ Rule Chapter 9B-1, Florida Administrative Code, Florida Manufactured Buildings Act of 1979, 12th Edition, page 3

¹²⁵ Mobile vs. Modular Homes: What are the Differences?, page 1

The same information sheet discusses *panelized housing* as follows:

“*Panelized homes*—are constructed with whole wall panels built at the factory and installed on site. A panelized home must be designed, permitted, built, and inspected in accordance with the Florida Building Code.”¹²⁶

The key characteristic of panelized housing is that the *local jurisdiction* makes the determination of compliance with the Florida Building Code, as it does in the case of conventional residential and commercial construction.¹²⁷ This determination is usually supported by a certification that the panels have been determined by a third party product approval system to be in compliance.

The state of Florida has established a voluntary State Product Approval System under Rule 9B-72 that can be relied on by local jurisdictions.¹²⁸ Local jurisdictions in Florida may base their acceptance on the state product approval system, or on another system of third party certification. One such certification is provided the International Code Council (the organization that develops and maintains the International Building Code, which is the basis of the Florida Building Code), through the ICC Evaluation Service. The ICC Evaluation Service reviews products submitted to it for determination of compliance with the International Building Code, and issues Evaluation

¹²⁶ Ibid

¹²⁷ Note: The Florida Building Code is adopted by the state and is the mandatory minimum requirement for local jurisdictions. Local jurisdiction cannot adopt a different code. Enforcement of the code is by the local jurisdiction, with the exception of the case of modular construction where the Florida Department of Community Affairs does the plan reviews

¹²⁸ 9B-72.005 *Scope*

- (1) Products in the following categories as defined by subcategories of subsection 9B72.010(31), F.A.C., shall be available for approval by the Commission pursuant to Rule 9B-72.090, F.A.C., for use in the state:
 - (a) Panel Walls;
 - (b) Exterior Doors;
 - (c) Roofing Products;
 - (d) Skylights;
 - (e) Windows;
 - (f) Shutters; and
 - (g) Structural components.
- (2) This rule applies to approval of products and systems, which comprise the building envelope and structural frame, for compliance with the structural requirements of the Florida Building Code.

Reports on their determinations. Miami/Dade County maintains its own product approval system.

Modular, Panelized and Steel Construction in the Hillsborough County

The Housing Element of the Hillsborough County Comprehensive Plan (1999) does not specifically mention modular, panelized, or steel construction.

However, Objective 1.2 may have implications related to housing technology:

OBJECTIVE 1.2: Work with the private sector to supply the new and replacement housing units to meet the projected 2005-2015 population, including the special needs population, very low, low and moderate income households for unincorporated Hillsborough County.¹²⁹

Under this objective, Policy 1.2.5 states:

The County shall continue annual review of building codes and regulations to consider new building materials, innovative housing designs, energy-efficient construction and operation, and the use of construction techniques which significantly reduce the cost of housing construction while maintaining safety standards. Coordinate findings with local builders associations, planning entities, civic groups and other interested parties.¹³⁰

The discussion of this issue has been amplified in the proposed 2007 amendments to the Housing Element to include an Affordable Housing Task Force recommendation:

“Retain a consultant to analyze and propose alternative construction techniques for attainable housing projects to include, but not be limited to modular, panelized, and steel housing.”¹³¹

The Land Development Code in Part 12.01.00 includes the following definition:

“Manufactured/Modular Building: A structure manufactured in manufacturing facilities for installation or erection as a finished building or as part of a finished building on the building site. This shall

¹²⁹ Comprehensive Plan, Housing Element, page 65

¹³⁰ Ibid, page 66

¹³¹ Summary of changes to Hillsborough County Housing Element Goals, Objectives and Policies, page 7

include, but not be limited to residential, commercial, institutional, storage and industrial structures. The building must bear an insignia of approval from the Florida Department of Community Affairs.”

A search of the Land Development Code showed that this term is used nowhere but in the definition. Panelized construction and steel construction are not terms used in the Land Development Code. It is presumed that homes built with these technologies are considered as no different from conventional homes.

Modular, panelized and steel construction techniques are not specifically addressed in the Hillsborough County Construction Code. The Florida Building Code, as it addresses these technologies, applies in Hillsborough County. As stated in the introduction, the Florida Department of Community Affairs enforces the modular construction requirements, and Hillsborough County enforces the requirements applicable to panelized and steel construction, with the ability to rely on the Florida State Product Approval System, or other product approval systems such as the ICC Evaluation Service.

Code Enforcement

The Florida Manufactured Buildings Act and the Florida Product Approval System have provided a mechanism for the acceptance by local jurisdictions in the state, respectively, of modular and panelized construction that complies with the Florida Building Code.

Modular construction—Modular homes bearing the insignia of the Florida Department of Community Affairs must be accepted by local jurisdictions including Hillsborough County. There is little if any potential barrier to their use that can be imposed by the County. Hillsborough County code enforcement personnel estimate that that 2-5% of housing in the County is modular, which is about the same as the national average. They attribute the limited use of modular housing to unfamiliarity of the builders with the product, as well as to complaints from citizens, who may confuse modular housing with mobile homes. Modular homes have not been used for affordable housing in Hillsborough County, but a project of 84 townhouses was in process when the downturn in the housing market put an end to it.

Panelized construction—The Florida Product Approval System, however, is voluntary, and there is more opportunity of local intervention in the case of panelized and steel construction. In order to assess the acceptance of these systems by the enforcement authorities, manufacturers holding ICC Evaluation Service reports were contacted by phone. Six panelized construction manufacturers and four steel construction manufacturers, not all of which serve the residential market, were contacted. Most of them stated that the Florida Product Approval System also listed their products, and none reported experiencing any problems with their acceptance in Hillsborough County. Hillsborough County code enforcement personnel report that for panelized construction, and other products, they only accept products approved by the Florida Product Approval System or by Miami/Dade. They do not accept products with other system approvals and they have specifically decided not implement a product approval system of their own. However, they will accept products, including panels, for individual construction projects when provided with an engineering analysis, even if they do not carry a Florida Product Approval certification. There has been very limited use of SIPs for housing in Hillsborough County, and none for affordable housing.

Steel construction—as stated earlier, residential lightweight steel construction can be conventionally framed, as well as modular or panelized. Conventionally framed lightweight steel construction is specifically addressed in the Florida Building and Residential Codes, and as such is not subject to any special product approval. It is routinely accepted in Hillsborough County, though County code enforcement personnel report that while it is extensively used in commercial construction, its use in residential is limited.

Steel modular and panelized construction, while used much less than wood modular and panelized construction, is regulated in an identical manner, as discussed above. One modular steel construction company, NUCONSTEEL Corporation, reported that three years ago they participated in an affordable housing program in Tampa (Ybor City) but the houses were never built and there was no follow-up. However, they reported no regulatory resistance to their system.

It appears that the regulatory system presents no barriers to the use of these technologies. Limitations on their use in Hillsborough County, if any, may be due to economic factors (relative cost disadvantage), to unfamiliarity with construction techniques, and to the risk inherent in marketing a new product.

There is not much that Hillsborough County can do about economic factors that affect the costs of building materials. However, it could facilitate the transfer of information about these technologies to local developers and builders, and if the opportunity arises in the future, incentives could be offered to stimulate introduction of new affordable housing technologies.

The first venue for information on innovative housing technologies is the HUD-established website www.toolbase.org which provides information under the Partnership for Advancing Technology in Housing (PATH) program. The website is maintained by the NAHB (National Association of Homebuilders) Research Center which maintains a related website, www.pathnet.org. In addition to information on panelized and steel construction, information is provided on a variety of other innovative technologies that might be applicable to affordable housing and improve its performance.

Hillsborough County could provide direct links to these websites on its website, making them more accessible to local developers and builders. Hillsborough could also establish liaisons with the respective trade associations: National Modular Housing Council (www.modularcouncil.org), Modular Building Systems Association (www.modularhousing.com), Structural Insulated Panel Association (www.sips.org), APA Engineered Wood Association (www.apawood.org), and the American Iron and Steel Institute (www.steel.org). Each of these associations has an interest in promoting the use of its members' products, including applications to affordable housing.¹³²

¹³² For additional information on modular construction and its applicability contact Fred Hallahan & Associates, consultants to the modular housing industry, at 410-296-1199. For additional information on panelized construction with SIPs contact the following:

- Rick Westerman, Habitat for Humanity Macon County, 828-369-3716
- Damian Pataluna, FischerSIPS, LLC, Louisville KY, 800-792-SIPS
- George Breathitt, American Housing, Louisville KY, 502-749-4740

NOTE ABOUT DISCUSSION PAPERS

This report was preceded by 15 discussion papers whose purpose was to evaluate local policies and recommend actions to remove barriers to affordable housing. Documents that have been evaluated include the County's Comprehensive Plan, Land Development Code, Development Review Procedures Manual, Construction Code, and Impact Fee Ordinance. That discussion papers provided an opportunity for review and comment by the County's Affordable Housing Advisory Board which met in September, October, November, and December 2008 to review and comment on the discussion papers; and by staff of County agencies including the Affordable Housing Office, the City County Planning Commission, and the Department of Planning and Growth Management. The topics covered by the discussion papers included:

1. Mixed-Use Development
 2. Zero Lot Line Development
 3. Manufactured Housing (Mobile Homes)
 4. Small Lots and Small Lot Districts
 5. Adaptive Reuse
 6. Performance/Impact Zoning
 7. Modular, Panelized and Steel Housing
 8. Subdivision/Development Standards
 9. Planned Developments
 10. Rezoning Vacant Land
 11. Accessory Dwellings
 12. Methods to Expedite Processing of Permits
 13. Density Bonuses
 14. Infill Development
 15. Resolving Concurrency Issues
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