

DATE CRITICAL

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 20050556

1. ACTION REQUESTED/PURPOSE: Adopt an amendment to Administrative Code 13-12, the Housing Density Bonus Program, that will increase the cash contribution fee from the current \$4,000.00 per bonus unit to \$8,000.00 per bonus unit. Adopt a Resolution to amend AC-13-12. POC

2. WHAT ACTION ACCOMPLISHES: Updates the Administrative Code to adjust the fee for inflation and to better reflect the current costs of providing affordable housing.

3. MANAGEMENT RECOMMENDATION: Approve the change to the Administrative Code.

4. Departmental Category: 04

A4B

5. Meeting Date: 05-03-2005

6. Agenda:
 Consent
 Administrative
 Appeals
 Public
 Walk-On

7. Requirement/Purpose: (specify)
 Statute
 Ordinance
 Admin. Code AC 13-12
 Other

8. Request Initiated:
Commissioner
Department Community Development
Division Planning
By: Paul O'Connor, Director
POC 4/21/05

9. Background:

In part, Administrative Code 13-12, the Housing Density Bonus Program, allows developers to "purchase" market rate bonus density dwelling units by making a cash contribution to the Affordable Housing Trust Fund. The cash contribution fee was initially established in 1990 at \$4,000.00 per bonus unit. Almost 15 years have now passed and the fee has remained the same.

At the Management & Planning Meeting of April 4, 2005 staff requested Board direction about updating the Administrative Code to adjust the fee for inflation and to better reflect the current costs of providing affordable housing. The Board directed staff to bring an update to them as soon as possible.

Planning Staff recommends that the Board increase the current \$4,000.00 per bonus unit to \$8,000.00 per bonus unit as shown in strikethrough and underlining below:

Administrative Code 13-12, page 2 of 23, second paragraph:

The cash contribution will ~~initially~~ be set at ~~\$4,000~~ 8,000 per density bonus unit to be obtained by the developer subject to the agreement being approved by the Board of County Commissioners. The cash contribution shall be by cash, cashier's check, or money order made payable to: The Lee County Board of County Commissioners. The funds must be deposited into the county's Affordable Housing Trust Fund.

Attachment: Staff Analysis

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services - Risk	Grants	Mgr.	County Manager/P.W. Director
<i>M. [Signature]</i>	NA	NA	NA	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

Rec. by CoAtty
Date: 4/21/05
Time: 1:20
Forwarded To:
ADP
4/21/05 3:15

RECEIVED BY COUNTY ADMIN: [Signature]
4-21-05
3:20
COUNTY ADMIN FORWARDED TO: [Signature]
4/21/05
4:30

STAFF ANALYSIS
AFFORDABLE HOUSING CASH CONTRIBUTION FEE

The Board of County Commissioners adopted Administrative Code 13-12, the Housing Density Bonus Program, on February 14, 1990. In part, the code allows developers to “purchase” market rate bonus density dwelling units by making a contribution to the Affordable Housing Trust Fund. The money deposited in the Affordable Housing Trust Fund is then used to facilitate the construction of affordable housing units. The cash contribution fee was initially established at \$4,000 per bonus unit. More than 14 years have now passed and the fee has remained the same.

At the April 4, 2005 Management & Planning Meeting the Board directed staff to update this fee. Updating this fee will increase the cash contribution necessary to “purchase” market rate bonus density units, providing the County with additional resources to facilitate the construction of affordable housing units.

Staff could not find a specific methodology that was used to establish the original fee of \$4,000. Apparently the fee was established at what staff believed the market would pay at that time for a market rate dwelling unit. The cash contribution program had a slow start with only a few developments participating in the program in the past. There is, however, a recent upswing in participation in the program. Staff believes that with the ever increasing demand for residential property in Lee County that this upswing will also continue.

There is no real nexus between a cash contribution fee to build a market rate dwelling unit and the cost of an affordable dwelling unit. It can be argued, however, that the cash contribution fee is directly linked to the value of a single Transfer of Development Rights (TDR) credit. In Lee County a TDR and the cash contribution fee have the ability to purchase one bonus density unit. Therefore, these two bonus density “tools” have the same market value. In fact the current cash contribution fee may be artificially lowering the value of a TDR here in Lee County.

Staff researched several other jurisdictions for guidance in updating the fee. Palm Beach County has a TDR program in which the County acts as the broker for the TDRs. The County has recently increased their TDR value from \$18,000 to \$25,000.

Collier County has established a TDR program as part of their Rural Fringe Mixed Use District. Their Land Development Code (LDC) states, “the value of any such remuneration is at least \$25,000 per TDR Credit.” This sets the minimum price for a TDR in Collier County.

The City of Bonita Springs adopted the Lee County bonus density program into their LDC. They have recently amended their Administrative Code to increase the cash contribution fee to the aggregate of all enacted impact fees. That sets the fee today at \$6,692.

Staff also reviewed at several data sources to assist in this task. According to the U. S. Department of Labor’s Consumer Price Index, inflation from 1990 to 2004 in the South Urban areas equals 53.9%. Using a simple formula, not compounding the interest year by year, this would increase the original \$4,000 to \$6156.

The National Association of Realtors maintains data on the Median Sales Price of Existing Single Family Homes, for Metropolitan Areas showed that, from 1990 to 2004 the median sales price for the Fort Myers/Cape Coral metropolitan area has increased by 185.71%. Again utilizing a simple calculation, this would increasing the original \$4,000 to \$11,429.

Incorporating this information, staff recommends that the Bonus Density Cash Contribution Option Fee, contained in Administrative Code 13-12, be increased to \$8,000.

LEE COUNTY RESOLUTION NO. _____

A RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS RELATING TO AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE AS ADOPTED BY LEE COUNTY ORDINANCE NO. 97-23; PROVIDING FOR APPROVAL OF CERTAIN AMENDMENTS TO THE LEE COUNTY ADMINISTRATIVE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners is the governing body in and for Lee County, a political subdivision of the State of Florida; and,

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 96-01, creating a charter form of government for Lee County pursuant to Section 125.80 and ff., Florida Statutes, and which was approved and ratified by the Electorate of Lee County on November 5, 1996; and,

WHEREAS, the Board of County Commissioners has previously enacted Lee County Ordinance No. 97-23, which adopted the Lee County Administrative Code pursuant to Section 2.2.E. of Ordinance No. 96-01, the Lee County Charter; and,

WHEREAS, Lee County Ordinance No. 97-23 at Section III allows and provides for amendments to the Lee County Administrative Code to be made by Resolution of the Board of County Commissioners at a regularly scheduled Board of County Commissioners' meeting; and,

WHEREAS, certain amendments to the Lee County Administrative Code are now being proposed, and the Board of County Commissioners finds that such proposed amendments are acceptable, serve a public purpose and are consistent with the terms and conditions of Lee County Ordinance No. 96-01, the Lee County Charter.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS THAT:

1. The above preamble is hereby accepted and approved as being true and accurate, and is adopted and incorporated herein as if set out further at length.
2. The proposed amendment to the Lee County Administrative Code 13-12 (attached hereto as Exhibit A), is approved, and are hereby directed to be incorporated into the Lee County Administrative Code as indicated in the amendment(s).
3. The provisions of this Resolution are severable, and it is the intention to confer to the whole or any part of this Resolution, the powers herein provided for. If any of the provisions of this Resolution shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the other remaining provisions of this Resolution. It is hereby declared to be the Board's legislative intent that this Resolution would have been adopted had such an unconstitutional provision not been included herein.
4. This Resolution shall become effective immediately upon its adoption by the Board of County Commissioners.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and, being put to a vote, the vote was as follows:

ROBERT P. JANES _____
DOUGLAS ST. CERNY _____
RAY JUDAH _____
TAMMY HALL _____
JOHN E. ALBION _____

DULY PASSED AND ADOPTED this _____ day of _____, 20__.

ATTEST:
CHARLIE GREEN, CLERK

**BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA**

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

The Planning Division will review the application for consistency with the Lee Plan and the Local Housing Assistance Plan. If it is consistent, it will be signed by the Division Director. The application will then be forwarded to the Development Review Division where the density bonus and total number of units will be assigned. The application will then be signed by the Development Review Division Director and returned to the Planning Division.

Once the developer agrees to participate in the program with the assigned density bonus he/she will sign the applicable agreement, either for the cash contribution or the site specific option. The developer will either deliver to the Planning Division the bond required by the site specific option or the cash contribution for the cash contribution option. The bond requirement may be waived by the Board of County Commissioners for non-profit sponsors of very low, low or moderate income housing.

The cash contribution will initially be set at ~~\$4,000~~ \$8,000 per density bonus unit to be obtained by the developer subject to the agreement being approved by the Board of County Commissioners. The cash contribution shall be by cash, cashier's check, or money order made payable to: The Lee County Board of County Commissioners. The funds must be deposited into the county's Affordable Housing Trust Fund.

The agreement will then be sent to the Board of County Commissioners for approval after review by the County Attorney's Office. Once the agreement is approved, the developer shall provide a copy of the agreement to the Division of Development Review in order to obtain a final development order in cases where required. Once the developer receives a final development order, he/she may apply for a building permit. If the Board of County Commissioners fails to approve the density bonus agreement the developer will receive a refund of his/her bond or cash contribution.

The program's public records shall be maintained by the Planning Division. The developer or subsequent owners shall be responsible for annual verification of the housing quality standards and the income of the housing occupants in rental units obtained through the density bonus program. Verification forms will be provided by the Planning Division. In the case of owner-occupied units, there shall be provided at the time of sale a deed restriction requiring that the unit shall be in compliance with the terms of the ordinance and developer contract for a ten year period. All subsequent owners during the ten year period will be bound by the deed restriction.

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