Lee County, Florida

POLICY OPTIONS:

AFFORDABLE HOUSING METHODOLOGY

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Submitted by:

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A. INTRODUCTION

As is discussed in the *Affordable Housing Support Study* (hereinafter "Support Study"), real estate prices in Lee County, Florida increased significantly in recent years. In addition, housing prices in the County increased since 2000 to the point a household earning a moderate income today can no longer afford a majority of housing that is available through the private market. Concern about this issue grew to the point that business owners are concerned about the difficulties of recruiting and retaining employees because of the lack of local affordable housing for their workers.

In response to this problem, in March 2005 Lee County initiated an effort to develop an Affordable Housing Methodology to determine the need new residential and non-residential developments create for housing that is affordable to the County's workforce. As part of this effort, the County is also exploring the options available to mitigate the affordable housing need identified. The first phase of this initiative involved the development of an *Affordable Housing Policy Memorandum* that:

- Discussed methods for evaluating the impacts of new development on local affordable housing demand;
- Proposed a policy format and methodology for developing Lee County's Affordable Housing methodology; and
- Surveyed how other local governments throughout the nation are addressing their affordable housing problems.

In October 2005, the Lee County Board of Commissioners and the Board's Affordable Housing Advisory Committee held workshops to review and discuss the *Affordable Housing Policy Memorandum* and provided direction for moving forward with the second phase of the initiative.

Phase Two includes the development of several reports, specifically:

(1) An Affordable Housing *Support Study* (hereinafter "Support Study") to provide background and technical documentation for the Affordable Housing Methodology, and statistical support for any kind of implementation and mitigation program;

(2) A *Policy Memorandum* that outlines options the County might pursue to mitigate affordable housing demand, options for administering a mitigation program, and sources of additional funding that might be considered in addressing the affordable housing needs of the workforce; and

(3) Development of Implementation Legislation, if appropriate, to implement any program directed by the County.

This is the *Policy Memorandum* (hereinafter "Policy Options") that accompanies the Support Study. The Policy Options sections address:

- Optional regulatory or development initiatives that might be included as part of a workforce housing mitigation program (Section II);

- Optional sources of public funding that might be considered for the development of affordable workforce housing (Section III);
- Mandatory mitigation options (Section IV);
- Other Mitigation Options (Section V); and
- Background information about the administration of a workforce housing mitigation program (Section VI).

Each is summarized below and discussed in more detail in the balance of the Policy Options Memo.

B. EXECUTIVE SUMMARY

1. Optional Regulatory or Development Initiatives for Workforce Housing

All effective local government workforce housing programs around the country are multi-dimensional in nature, meaning they include regulatory, funding, and sometimes mandatory initiatives for the production of affordable workforce housing.

The section on optional regulatory initiatives identifies a variety of regulatory incentives that might be considered by Lee County's for its workforce housing strategy. They include:

- Density bonuses for the provision of workforce housing on a site, for residential development;[1]
- The waiver of use, density, and dimensional standards on the sites of commercial and office developments, where workforce housing units are built;
- Regulatory options to allow for the reduction of parking and landscaping requirements for the provision of workforce housing units;
- The development of expedited permit processing and review for workforce housing units;
- The use of an Ombudsman; and
- Regulations that shift the standard of review for the permitting of certain types of workforce housing when they are proposed – to address anti-NIMBY sentiments sometimes seen in the development of affordable workforce housing.

2. Optional Sources of Public Funding for Workforce Housing

No local government workforce housing program has been effective without the use of a substantial dedicated public source of funding for the provision of workforce housing.

[1] It is recognized the county already has some of the optional regulatory initiatives in place, like expedited permitting and density bonuses. It is suggested the county might want to refine these programs to strengthen both of these initiatives.

[2]Consequently, it is important that the county pursue a substantial dedicated source of funding for workforce housing, along with these other policy options. This section highlights several fiscal realities that exist for Lee County and all Florida local governments related to this issue, and then makes some suggestions.

The fiscal realities are that, given the present fiscal environment in the state and the county, there are limited realistic taxation options available for local governments. In addition, there is a great likelihood the funding will require state legislative authorization. The section suggests examples of funding that other communities use that the county might consider are:

- A real estate transfer tax, which is a tax on all real estate transactions, paid at the time of closing. A quarter of a percent tax is estimated to generate $10 million annually in Lee County under current conditions. Additionally, the receipts would grow as fast as the growth in real estate sales and prices.
- The section also suggest other sources of funding may potentially be available. All taxation in Florida is within the exclusive purview of the State Legislature unless local governments are specifically authorized to impose a tax. At this time the only source of tax revenue available to Lee County appears to be general funds. The Legislature could make other sources available as the Legislature sees fit. However, history shows the Legislature is reluctant to expand taxation, even if it is done as a local option.

It also suggests the county lobby the State Legislature for full SHIP funding.

3. Mandatory Workforce Housing Mitigation Options

The section on <u>mandatory workforce housing mitigation requirements</u> includes a discussion of both inclusionary and linkage fee programs. An <u>inclusionary</u> requirement is a land use regulation that requires a certain percentage of new residential development built be affordable housing for the workforce, to offset the need for affordable/workforce housing created by the residential development. <u>Linkage fees</u> are fees imposed on non-residential development in order to offset the need for affordable or workforce housing created by the nonresidential development. The need for the fee is "linked" to the development through a nexus/support study, which quantifies the degree of impact or need for workforce housing created. Once collected, the in-lieu fee is deposited into a fund for affordable workforce housing purposes. The section also points out that some more recent local government mandatory workforce housing mitigation requirements integrate the inclusionary and linkage concepts through a <u>comprehensive mandatory workforce housing mitigation requirement</u> based on the need for workforce housing created by the new development or redevelopment.

Today there are three locally-initiated mandatory workforce housing mitigation programs in Florida– one in Key West, one in Palm Beach County, and a third in Tallahassee. Another program is being seriously considered in Islamorada, and other local governments might be considering similar initiatives. Because California is far out in front of the rest of the nation in addressing workforce housing affordability issues, it is important to note that in California there are a number of mandatory affordable housing mitigation programs. Based on our review, there are at least 120 inclusionary programs in place and 19 linkage fee programs.

[2] The county has begun this effort through the establishment of a Community Land Trust.

As is highlighted earlier in the Policy Options Memo, experience teaches that a mandatory mitigation program for workforce housing (either an inclusionary program, a linkage program, or both), standing alone, is not going to solve the workforce housing problem in a community. It must be implemented in conjunction with incentive-based programs, as well as a substantial source of dedicated funding to be effective.

The analysis conducted in the Support Study provides technical support for the county to move forward and adopt either of the three types of mandatory workforce housing mitigation programs outlined above. However, it is suggested that if the county desires to adopt some form of mandatory mitigation program, it adopt the broad-based comprehensive mandatory workforce housing mitigation requirement that integrates both inclusionary and linkage concepts, by imposing mitigation requirements on both residential and nonresidential development. It is also suggested that the form of the mitigation emphasize the actual construction of units over the payment of in-lieu fees, but allow for the payment of in-lieu fees or the dedication of land for workforce housing, or the conversion of existing market housing to restricted workforce housing, as an option, if it is done in ways that are consistent with the county's goals for the construction of workforce housing.

In order to provide the reader the levels of workforce housing need identified in the Support Study for varying levels of both residential and nonresidential development, the table below outlines both the amount of workforce housing unit need created, as well as the corresponding mitigation fee that would address the affordability gap for the units needed by the workforce. (Of course, the Support Study outlines this in great detail.)

Summary of Workforce Housing Need Created by Residential and Non-Residential Development		
Land Use	Workforce Housing Units Needed	Workforce Housing Assistance Needed
Residential Development (Per Square Feet)		
500	0.0383	$598
1,000	0.0587	$777
2,000	0.1003	$1,110
3,000	0.1450	$1,541
4,000	0.1947	$2,096
5,000	0.2503	$2,799
6,000	0.3160	$3,724
7,000	0.3937	$4,970
8,000	0.4863	$6,587
9,000	0.6010	$8,746
10,000	0.7477	$11,671
12,000	1.1780	$20,928
Non-Residential Development (Per Square Feet)		
Governmental	0.00051	$6. 27
Industrial	0.00072	$18.13
Institutional	0.00064	$7.03
Office	0.00087	$10.85
Retail	0.0013	$28.18
Tourist	0.00097	$36.63

4. Other Mitigation Options

This section outlines that in addition to the use of the methodology established in the Support Study to support a mandatory mitigation requirement, other options are also available to the county for use of the methodology.

Use Methodology in Review of DRIs. One option is to integrate the use of the methodology into DRI review, in place of the existing method used. It should result in more quantifiable results, require less additional analysis by the applicant and county staff, and provide specific mitigation options that are consistently applied.

Require Use of Methodology in DRIs, and Comprehensive Plan Amendments, Rezones, and PDs of a Certain Size. A second option is to integrate use of the methodology into DRI review, but also require it be included in the review of more discretionary land use permits, like Comprehensive Plan amendments, rezones and planned developments that allow a certain threshold of nonresidential development. This option would also require mitigation, based on the findings of the analysis, in the form of the construction of affordable housing or an in-lieu fee payment.

5. Administration of a Workforce Housing Program

Finally, the Policy Option memo notes it is important to recognize that with the initiation of any of these efforts to increase the supply of workforce housing in the county, it will be necessary to provide for the administration of workforce housing units over time. This type of commitment requires a commitment of resources in a number of different forms. The section on the administration of a workforce housing program outlines some of the basic elements such a program entails. They include:

- Renter and For Sale Unit Eligibility. A process to determine the eligibility of the homeowners or tenants of any workforce housing units provided.

- Resale Controls to Ensure Units Remain Affordable. Resale controls through restrictions to ensure that a unit selling before the affordability period expires is resold to another member of the workforce that falls within the appropriate income levels.

- For Sale Units and Equity Sharing. Equity sharing provisions that address how much of the appreciation in a unit a buyer can take out on sale. Many programs allocate equity on a sliding scale: the longer the owner owns the home, the more equity they gain. Some allow for a modest increase in value based on the Consumer Price Index (CPI).

- Involuntary Transfers and Other "Family" Transactions. Provisions to manage involuntary transfers, such as when the affordable units are inherited by a non-qualified person.

- Improper Transfer of Properties. Provisions to assure that properties are not improperly transferred; this is done in many instances through a right of first refusal to the local government against all for sale properties that are restricted for workforce housing.

This assures, in most cases, that the local government is notified when there is an attempt to transfer the property or change the title. The local government may then exercise its option or allow the unit to be sold directly to an income eligible buyer. Most local governments maintain lists of income eligible buyers.

In sum, it is important the county recognize that initiation of an effort to encourage the development of workforce housing units, in a variety of forms, requires the commitment of resources to properly administer the program, if the workforce housing units are going to be preserved over time and be available to those for whom they are targeted – members of the work force and their families.

II. OPTIONAL REGULATORY INITIATIVES

Initially, there are some optional regulatory initiatives the county might consider in an effort to provide the private sector incentives to construct affordable workforce housing. They are used by other local governments, some in Florida and others across the nation. Those identified for consideration include:

- Density bonuses and the recognition that higher density development is needed for the provision of affordable workforce housing on a site, for residential development;
- The waiver of use, density, and dimensional standards on the sites of commercial and office developments, where workforce housing units are built;
- Regulatory options to allow for the reduction of parking and landscaping requirements for the provision of workforce housing units;
- The development of expedited permit processing and review for workforce housing units;
- The use of an Ombudsman to assist landowners who build workforce housing; and
- Regulations that shift the standard of review for the permitting of certain types of workforce housing when they are proposed.

Each is discussed in more detail below.

A. DENSITY BONUSES FOR CONSTRUCTION OF WORKFORCE HOUSING

In review of the county's development permitting practices as well as interviews with members of the local development community, it appears there is reasonable potential for the county to modify its existing density bonus program to offer stronger incentives to encourage private sector development of affordable workforce housing units.

The county currently has a Housing Density Bonus Program for affordable housing in targeted areas, where developers pay an in-lieu fee of $11,429 per unit for affordable housing, and increase densities. The program has been moderately effective. There have been 26 on-site affordable units constructed and an additional 106 affordable units subsidized (through a commitment of $700,000). It is expected the program's effectiveness will increase in the near future since the in-lieu fee amount was recently increased from $4,000 to $11,429.

Additionally, and according to some members of the development community, there is a disincentive today in the county to develop affordable housing because it is very difficult to get residential developments of greater than four units an acre approved, even for multi-family or townhouse developments.[3] Members of the development community indicated they would welcome realistic opportunities to develop workforce housing, but the ability to develop at higher densities than is now the practice in the county is important to creating realistic opportunities.

[3] Even though it does occur on a very limited basis.

Today in Florida, both Tallahassee and Palm Beach County, communities with inclusionary housing provisions, also include density bonus provisions with their inclusionary requirements. Tallahassee allows developers to increase development densities by 25 percent at the site where the actual affordable units are developed. Palm Beach County provides developers of inclusionary units a density bonus of 30 percent in specified zone districts, and more than 30 percent in other districts.

California adopted a density bonus law which is required to be adopted by the state's local governments. The law allows developers to increase the allowable density on a project it includes a certain percentage of affordable housing units upon. The amount of bonus varies (from 5 to 35 percent) depending upon the percentage of units that are restricted as affordable, and whether the proposed units are moderate income, low income, senior housing, or condominiums. For example, a developer who dedicates 20 percent of the units within a development to low-income households is entitled to a 35 percent density bonus. That same developer, however, only needs to dedicate 11 percent of the units to very low-income households to get the same 35 percent density bonus. A developer receiving the density bonus must ensure that the affected units remain affordable for 30 years.

Effective multidimensional affordable workforce housing programs usually always include workable bonus density programs to encourage the private sector to construct affordable housing.

In its recent set of comprehensive plan amendments, the county is including provisions that identify areas in the county where increased residential densities are appropriate. This is a good start. It is our suggestion that the county pursue this plan amendment, and consider developing stronger regulatory and other incentives that allows for significant bonus densities to landowners who build and restrict workforce housing units in targeted and appropriate areas of the community, as a matter of right. If the county wants to aggressively pursue a workforce housing initiative, it might consider making the application of density bonuses more broad-based, like the provisions adopted by local governments in California and Palm Beach County.

If there are concerns about potential aesthetic and compatibility impacts from higher density residential development on surrounding lands, the county could also develop some basic design standards and possibly transition standards to address building form and design issues, as well as compatibility issues where the density bonus is used.

B. Waiver of Use, Density, and Dimensional Standards For Workforce Housing

Other regulatory incentives used by local governments to encourage the development of workforce housing are the waiver of use, density, and specific dimensional standards for workforce housing.

Under California's bonus density law, developers qualifying for the bonus density are entitled to one or more of the following concessions from local government, depending on the percentage of affordable units they construct:

- A reduction in site development standards;

- Modification of setbacks, square footage minimums, parking standards, or design requirements; or

- Mixed use projects if the other uses are compatible and will reduce the cost of housing.

This is an example from Jackson Hole of a commercial building that incorporates workforce units.

In Key West, Islamorada, Aspen/Pitkin County, and Teton County (Jackson Hole), the local governments have waived the density, use, and dimensional standards when commercial and retail developers integrate workforce housing units on the second and third levels of their developments.

In Tallahassee, developers are given more design options for developing affordable units. For example, affordable units can be developed as various types of housing within several residential zone districts that typically do not allow all these housing types, provided that certain standards are met. The code also includes a provision that allows modification of setback, lot size, buffering, and screening requirements under certain conditions. Other development standards may be waived if the applicant applies and is deemed eligible for deviation from the standards.

The county is presently considering a comprehensive plan amendment that allows for higher densities in mixed use projects in specified areas. It is our suggestion that the county pursue this plan amendment, and consider adding density bonus incentives in these mixed use projects for the development of workforce housing units – and then implement it through regulatory reforms. We also suggest the county consider additional waivers for dimensional standards in this context to encourage the development of affordable workforce housing.

C. Reduction of Parking and Landscaping Requirements for Developers That Build a Certain Percentage of Workforce Housing

Another possible incentive that might be offered to landowners/developers that provide affordable workforce housing is to reduce off-street parking and landscaping requirements for the development. As is discussed above, the California density bonus legislation allows for a reduction in parking standards and landscaping. The Tallahassee inclusionary regulations also allow for the developer of affordable units to request such reductions, which are then considered by the review board.

Reductions in parking standards in particular can potentially result in significant economic benefits to developers, so it is suggested that these types of incentives also be considered by the county in a package of incentives to encourage private sector development of affordable workforce housing units.

D. Expedited Permit Processing

Expedited permit processing is an incentive used to provide relief from mandatory affordable housing mitigation programs in many communities. Decreasing the amount of time that a developer spends in the permit processing stage of a project can help to offset the financial burdens of required workforce housing mitigation.

For example, Palm Beach County, Florida provides expedited review incentives to developers by streamlining the design review and platting processes for projects that incorporate affordable housing units required by the inclusionary program. Specifically, the County allows review of multifamily or townhouse structures by the Building Division and Fire and Rescue to be concurrent with the final DRO review, prior to permit application.

E. OMBUDSMAN

Another option is for the County to consider the appointment of an Ombudsman who educates members of the development community about options and incentives they might pursue to build workforce housing units, and then works and assists applicants with the development permitting processes for developments that include workforce housing.

This person is generally a planning/zoning professional hired by the County. As part of the assistance provided in the development permit process, the Ombudsman might be made available to work with landowners/developers to assist in the preparation of applications, and then monitor and assist as the application is processed.

Manatee County is presently using an Ombudsman for workforce housing purposes. The State of New Jersey has a "housing advocate" within the Office of the Attorney General. This office has been most effective in bringing affordability issues to the forefront in discussions involving planning and development. Ombudsmen are successfully employed by several local governments to support programs to protect rural character, and the position seems to work well while also creating good will between the local government and developers. It is our suggestion such a concept should work well in the workforce housing context.

F. SHIFTING THE BURDEN OF REVIEW FOR WORKFORCE HOUSING DEVELOPMENT

Two final options the county might consider employing is to shift the burden of review in the development permitting process or to create a special review Board to consolidate and review development applications for workforce housing projects of a certain size (for example, 10 units or more).

The State of Massachusetts' "Comprehensive Permit Law" (Chapter 40B) simplifies the local development process, both procedurally and substantively, for proposed affordable housing developments of a certain size. It requires local governments establish a special review procedure for affordable housing projects, and should a project be denied, the law provides the developer with a process to appeal the decision. The appeals process allows the affordable housing developer to have the development application for the project reviewed by the local Zoning Board of Appeals (ZBA) as a comprehensive permit, which bypasses the normal development approval process. This process allows the local ZBA to override local development standards and other zoning regulations that make it uneconomical or significantly difficult to develop affordable units. In conducting this review, the ZBA is challenged with balancing the need for affordable housing units against other public interests and must adopt rules that are consistent with 40B to serve as standards for this review process.

If such an initiative is embraced, the county might establish a special review procedure for development projects that have more than a certain number of workforce housing units (for example, 10), and then require the approval of such units if the project is determined to be consistent with the Comprehensive Plan, unless the county can demonstrate by competent substantial evidence, one of the following:

- The county is not in need of workforce housing;
- The project would have a specific adverse impact on the public health, safety or welfare that could not be mitigated without rendering the project unaffordable;
- The action is required under federal or state law;
- The approval would increase the concentration of low-income households within the community; or
- The project is on land zoned for agriculture or resource preservation.

III. A DEDICATED FUNDING SOURCE FOR WORKFORCE HOUSING

No local government workforce housing program has been effective without the use of a substantial dedicated public source of funding for the provision of workforce housing units. Consequently, it is important the county pursue a substantial dedicated source of funding for workforce housing, along with these other policy options. Unfortunately, given the present fiscal environment in the state and the county, there are limited realistic taxation options available for local governments to fund workforce housing initiatives.

- An optional sales tax has been used by some local governments outside Florida to fund workforce housing. This would require legislative amendments to sales tax laws in order to gain authorization to use a local option sales tax to construct workforce housing.

- General funds may be used for any legal purpose (and the provision of workforce housing is certainly legitimate). The county has established a Community Land Trust to subsidize construction of affordable housing, and committed a limited amount of general revenue funds for this purpose. However, if the county committed a substantial amount of general funds for workforce housing it would entail an increase in local taxation. This is an issue the Board might want to consider putting to the voters.

- Under current conditions the State Housing Initiative Partnership (SHIP) funding for affordable housing, which could be fairly substantial, is limited in amount by action of the Legislature. This is due to the state capped SHIP funding allocations to all local governments three years ago. Today, Lee County receives $2.4 million annually, with no chance of increased funding unless the cap is lifted. If the cap is lifted the county would receive approximately $10.7 million annually in funding for affordable housing from SHIP.

- All of this points out that there are limited funding options available to the county for workforce housing. In addition, there is a reasonable likelihood the funding will require state legislative authorization. Examples of funding that other communities use that the county might consider are:

    - A real estate transfer tax, which is a tax on all real estate transactions, paid at the time of closing. A quarter of a percent tax is estimated to generate $10 million annually in Lee County under current conditions. Additionally, the receipts would grow as fast as the growth in real estate sales and prices.

    - Other sources of funding may potentially be available. All taxation in Florida is within the exclusive purview of the State Legislature unless local governments are specifically authorized to impose a tax. At this time the only source of tax revenue available to Lee County appears to be general funds. The Legislature could make other sources available as the Legislature sees fit. However, history shows the Legislature is reluctant to expand taxation, even if it is done as a local option.

In conclusion, even with these existing fiscal realities, the importance of finding a dedicated funding source for workforce housing cannot be overemphasized. What this most likely means is that it is important for the county to work with other like-minded local governments and members of the business community to find a source of public funding for the construction of workforce housing.

IV. A MANDATORY WORKFORCE HOUSING MITIGATION REQUIREMENT

Another policy the county may consider to increase the supply of affordable workforce housing is some form of mandatory workforce housing mitigation requirement. Such a program requires new development to mitigate for the need for workforce housing it creates. These programs generally take one of three forms:

- Inclusionary housing regulations;
- Linkage fee regulations; or
- Mandatory mitigation regulations that integrate both inclusionary and linkage fee concepts (a comprehensive mandatory workforce housing mitigation requirement).

A. INCLUSIONARY HOUSING MITIGATION PROGRAMS

The concept behind an inclusionary housing regulation is fairly straightforward. Generally, an inclusionary housing regulation requires a specific percentage of units in all new residential projects be developed in such a way that they are made affordable to moderate and low- income households. The actual percentage applied varies from community to community, but the range is usually between 10 and 30 percent. It is important the inclusionary requirement is reasonably related to the general need for affordable housing created by this new development. Today in Florida three local governments have adopted inclusionary regulations: Palm Beach County, Key West, and Tallahassee.

The City of Key West implemented an inclusionary program in the late 1990s. The inclusionary regulations require all new residential development to provide a minimum of 30 percent of the new units as workforce housing for households earning a combination of moderate and low-incomes. If approved by the City Commission, the developer may opt out of constructing the affordable units and instead contribute an in-lieu fee of $40,000 per unit to a housing trust fund. The fund monies are used for the construction of affordable housing. Other alternatives are also available to developers, including constructing units off-site. In addition, the development code includes provisions that encourage the development of accessory infill units for the area's workforce and elderly.[4]

Tallahassee adopted an inclusionary ordinance in April 2005 that requires developments of 50 or more units and all DRIs provide a minimum of 10 percent owner-occupied and 15 percent rental units to households earning 70-100 percent of the area median income. Alternatively, developers can choose to donate a parcel of land for every unit required, or pay an in-lieu fee based on the median sales price of housing for the development. Density bonuses and other incentives are provided to developers that construct units.

[4] Even though not used by any local government in Florida today, another mitigation option might be the use of an affordable housing mitigation bank, where developers of affordable workforce housing units can construct units, which can then be purchased and used by developers who have affordable workforce housing mitigation obligations.

Palm Beach County's inclusionary ordinance, which was adopted in late 2006, applies to all new residential developments of 10 units or more, and the expansion of existing residential developments that add 10 or more units. The ordinance requires that 25 percent of a residential development be affordable to households earning between 60 and 150 percent of the area median income. The regulation provides several alternatives to construction, including an in-lieu payment option of $81,500 per required unit to be deposited into a trust fund account.

In California, a state which has had a housing affordability problem for much longer than Florida, more than one in five local governments have adopted an inclusionary housing ordinance -- over 120 programs have produced more than 34,000 inclusionary units.

In adopting an inclusionary regulation, a local government must consider and include several key components. They are:

- The percentage of affordable units that will be required to be included in the residential development;
- The target income levels of households that are eligible for the program;
- What mitigation alternatives to on-site construction of affordable units are allowed (like off-site construction, in-lieu fees, and land dedication for affordable housing); and
- The duration of the affordability restrictions that will be placed on the units.

It is also important to recognize that some local governments couple incentives with inclusionary regulations such as density bonuses, fast track processing, subsidies, design flexibility, fee waivers, fee reductions, and fee deferrals to make the inclusionary policies more palatable to developers. Each of these key components is discussed in more detail below.

Inclusionary Percentage. Probably the question to ask in considering what percentage should be established as part of an inclusionary regulation is "what is the need for affordable workforce housing created by new development?" This is because the inclusionary requirement should be reasonably related to the general need for affordable housing created by new development. The Support Study conducts the necessary technical analysis to demonstrate this need. What it shows is there is an exponential relationship between the size of a residential unit and the need it creates for affordable workforce housing. This relationship, set out in the Support Study (in greater detail) in the form of units needed (or a percent thereof), is outlined in the table below.

WORKFORCE HOUSING NEED CREATED BY RESIDENTIAL DEVELOPMENT[5]				
Unit Size (FT^2)	Workforce Housing Units Needed for Employee Households			
	Units for Construction Employee Households	Units for Operation and Maintenance Employee Households	Units for Critical Employee Households	Total Units for All Employee Households
500	0.010	0.022	0.0063	0.0383
1,000	0.019	0.027	0.0127	0.0587
2,000	0.039	0.036	0.0253	0.1003
3,000	0.058	0.049	0.0380	0.1450
4,000	0.077	0.067	0.0507	0.1947
5,000	0.096	0.091	0.0633	0.2503
6,000	0.116	0.124	0.0760	0.3160
7,000	0.135	0.170	0.0887	0.3937
8,000	0.154	0.231	0.1013	0.4863
9,000	0.173	0.314	0.1140	0.6010
10,000	0.193	0.428	0.1267	0.7477
12,000	0.232	0.794	0.1520	1.1780

This need is also expressed in a formula in the Support Study. Local governments have substantial discretion when adopting inclusionary housing percentages; however, it is suggested that if the county decides to adopt an inclusionary requirement, it be no greater than the needs established in the Support Study.

Target Income Range. All inclusionary housing programs establish the target income range to which inclusionary units are sold or rented. The Support Study identifies the need for affordable workforce housing created by residential development is generated by the number of construction, operation and maintenance, and critical employees that provide services to these units. Consequently, the incomes of these employees should be the target income range for any inclusionary program. The Support Study indicates that income range is up to 140 percent ($78,000) of area median income ($56,000).

Alternatives to On Site-Construction. Most inclusionary programs offer developers alternatives to the actual construction of affordable units. The most typical alternatives are:

- Off-site construction (i.e., constructing an equal or greater number of affordable housing units at another location);
- The payment of in-lieu fees (paying an in-lieu fee to offset the gap between what the employees needing affordable workforce housing can afford and the actual cost of the housing in the community);
- Land dedications for affordable workforce housing (i.e., dedication of another site to be used for affordable workforce housing); and
- The conversion of fee market units to affordable units.

[5] Note that the data shown in the table are illustrative only. The precise formulae within the Support Study should be used to calculate the need generated by individual dwellings.

It is suggested that if the county decides to develop an inclusionary regulation it should consider inclusion of all of the additional mitigation options to provide some flexibility to the program. It is also suggested, however, that any regulation place an emphasis on the use of one of these mitigation options over the others. In order of priority, they are: (1) on-site construction; (2) off-site construction; (3) in-lieu fees; (4) land dedication; and (5) the conversion of free market to restricted affordable units.

Duration of Affordability Requirement. In order for an inclusionary regulation or in fact any affordable housing program to be effective over time, it is important that the program have a means to ensure that once an affordable workforce housing unit is included in the pool of affordable units, it remain affordable over time. To accomplish this objective most inclusionary regulations require that the units be deed restricted for an extended period of time – usually 25 to 30 years. This restriction places limits on the prices at which the unit can be purchased, sold, or rented, to ensure it remains affordable for the duration of the requirement.

B. LINKAGE FEE PROGRAMS

A linkage fee regulation is a program that imposes a linkage fee on new non-residential development to mitigate the need for affordable workforce housing that the development generates. There are no linkage fee programs adopted in Florida to date, even though some are being considered in several south Florida communities. Linkage programs are adopted in at least 19 California cities, and in other communities in the west. Most jurisdictions conduct a nexus/support study to establish the link, in terms of connection and amount, between new non-residential development and the increase in the demand for local affordable workforce housing created by the new nonresidential development.

When adopting a linkage program, a local government typically balances a number of factors, including the need for the affordable housing subsidy and the economic consequences of imposing a linkage fee or required number of units to be developed. Of course, the amount of the fee or units to be developed will be the initial consideration. However, several other factors also determine the extent to which the objectives of the ordinances are achieved. These include determining whether the program should focus mitigation in the form of a fee or actual development of units, timing of implementation, timing of payment, and management of affordable housing programs.

Lee County has a choice between requiring non-residential developments to provide a linkage fee that mitigates the demand it creates for workforce housing, or to construct actual workforce units. The Support Study conducts the necessary technical analysis to demonstrate the need both in terms of the linkage fee and number of housing units demanded by each non-residential land use type, per square foot. What it shows is there is a relationship between the different types of non-residential development and the need they create for affordable workforce housing. These relationships, explained in much greater detail in the Support Study, are outlined for each of the non-residential land use types, per square foot, in the table below.

Need for Workforce Housing Created by Non-Residential Development									
Land Use	Construction		Post-Construction		Critical Workers		Total Workforce Housing Units Needed	Total Workforce Housing Assistance Needed
	Workforce Housing Units Needed	Workforce Housing Assistance Needed	Workforce Housing Units Needed	Workforce Housing Assistance Needed	Workforce Housing Units Needed	Workforce Housing Assistance Needed		
Per Square Foot								
Governmental	0.000019	$0	0.000494	$6.26	0.0000011	$0.01	0.000514	$6.27
Industrial	0.000019	$0	0.000706	$18.12	0.0000011	$0.01	0.000726	$18.13
Institutional	0.000019	$0	0.000624	$7.02	0.0000011	$0.01	0.000644	$7.04
Office	0.000019	$0	0.000856	$10.85	0.0000011	$0.01	0.000876	$10.86
Retail	0.000019	$0	0.001296	$28.17	0.0000011	$0.01	0.001316	$28.18
Tourist	0.000019	$0	0.000956	$36.62	0.0000011	$0.01	0.000976	$36.63

The need generated by each land use type is also expressed in a formula in the Support Study. Local governments have substantial discretion when adopting linkage fees; however, it is suggested that if the county decides to adopt a linkage fee requirement, it should be no greater than the needs established in the Support Study.

Some linkage fee programs provide alternatives to paying the fee, such as on- or off-site construction of workforce housing units, land dedications, and conversion of free-market units to affordable units. It is suggested that if the county decides to develop a linkage fee regulation it consider inclusion of all of the additional mitigation options to provide some flexibility to the program. It is also suggested, however, that any regulation place an emphasis on the use of one of these mitigation options over the others. In order of priority, they are: (1) in-lieu fees; (2) on-site construction; (3) off-site construction; (4) land dedication; and (5) the conversion of free market to restricted affordable units.

C. Comprehensive Workforce Housing Mitigation requirement

In recent years, communities have begun consolidating linkage and inclusionary concepts in the development of a more comprehensive workforce housing mitigation program. A good example of a community that takes this approach is Aspen/Pitkin County, Colorado. A joint affordable housing mitigation program adopted by the City of Aspen and Pitkin County, Colorado imposes mitigation conditions on both residential and non-residential development, based on the number of employees that service the residential unit (both construction and operations and maintenance employees) and the number of employees at the non-residential development. To support this effort, the community developed a support study that determines the need created for workforce housing units generated by both residential and non-residential development both in terms of unit needs and assistance/in-lieu fees needed to ensure units are affordable to the workforce targeted for support by the community.

The first priority of the Aspen/Pitkin County regulation requires mitigation through on-site construction for both residential and non-residential development, but allows off-site construction or mitigation through a payment of an in-lieu fee or land dedication for affordable housing in limited circumstances. The mitigation amounts for a residential development depend on the size of a home, increasing as the size of the home increases.

This is an example of a retail development that integrates workforce housing units.

Nonresidential mitigation is based on the number of employees that work at different types of land uses.

Because they require that non-residential developments mitigate workforce housing through the construction of units, the development codes in Aspen/Pitkin County were revised to allow for mixed use retail/residential developments so workforce housing can be co-located with places of employment.

If the county would like to develop a comprehensive workforce housing mitigation requirement, the *Support Study* provides the analysis and technical support needed. This is so because it determines the need for workforce housing units created by both residential and nonresidential development, as well as the appropriate in-lieu fee/assistance needed if the county wants to request payment of a fee to address the affordability gap between workforce housing units needed and the workforce's ability to pay.

This results of this consolidated analysis for the county, explained in much greater detail in the Support Study, is outlined in the table below for both residential and nonresidential development. It identifies workforce housing unit needs and the in-lieu fee amounts by land use and square feet.

Summary of Workforce Housing Need Created by Residential and Non-Residential Development		
Land Use	Workforce Housing Units Needed	Workforce Housing Assistance Needed
Residential Development (Per Square Feet)		
500	0.0383	$598
1,000	0.0587	$777
2,000	0.1003	$1,110
3,000	0.1450	$1,541
4,000	0.1947	$2,096
5,000	0.2503	$2,799
6,000	0.3160	$3,724
7,000	0.3937	$4,970
8,000	0.4863	$6,587
9,000	0.6010	$8,746
10,000	0.7477	$11,671
12,000	1.1780	$20,928
Non-Residential Development (Per Square Feet)		
Governmental	0.00051	$6. 27
Industrial	0.00072	$18.13
Institutional	0.00064	$7.03
Office	0.00087	$10.85
Retail	0.0013	$28.18
Tourist	0.00097	$36.63

If the county decides to pursue a comprehensive mandatory mitigation requirement, it is suggested that the mitigation amounts not exceed those identified in the Support Study.

It is also suggested that the county include the four basic mitigation alternatives outlined in the discussion of the inclusionary and linkage programs in this type of regulation. They are:

- On-site construction of workforce housing units;
- Off-site construction (i.e., constructing an equal or greater number of affordable housing units at another location);
- The payment of in-lieu fees (paying an in-lieu fee to offset the gap between what the employees needing affordable workforce housing can afford and the actual cost of the housing in the community);
- Land dedications for affordable workforce housing (i.e., dedication of another site to be used for affordable workforce housing);
- The conversion of fee market units to affordable units.

It is also suggested, as was suggested earlier, that if the county decides to develop such a program, that any regulation place an emphasis on the use of certain of these mitigation options over the others. In order of priority, they are: (1) on-site construction; (2) off-site construction; (3) in-lieu fees; (4) land dedication; and (5) the conversion of free market to restricted affordable units.

Finally, and with respect to the other relevant key components for a mitigation program, the regulation should follow the suggestions made in the discussion of an inclusionary regulation.

V. OTHER MITIGATION OPTIONS

In addition to the use of the methodology established in the Support Study to support a mandatory mitigation requirement, other options are also available to the county for use of the methodology.

Use Methodology in Review of DRIs. One option is to integrate the use of the methodology into DRI review, in place of the existing method used. It should result in more quantifiable results, require less additional analysis by the applicant and county staff, and provide specific mitigation options that can be consistently applied.

Require Use of Methodology in DRIs, and Comprehensive Plan Amendments, Rezones, and PDs of a Certain Size. A second option is to integrate use of the methodology into DRI review, but also require it to be included in the review of more discretionary land use permits, like comprehensive plan amendments, rezones and planned developments that allow a certain threshold of nonresidential development. This option would also require mitigation, based on the findings of the analysis, in the form of the construction of affordable housing or an in-lieu fee payment

VI. ADMINISTERING A LOCAL WORKFORCE HOUSING PROGRAM

Finally, it is also important to recognize that often lost in the policy dialogue over how to design a comprehensive, multi-dimensional program to provide affordable workforce housing in a community is the ongoing commitment of resources and cost local governments incur in providing oversight to the active workforce housing properties in the program. While the collection of mitigation fees goes smoothly and is relatively easy to administer, programs that create affordable work force housing units for sale or rent (which ultimately happen in all programs) often require significant staff time and resources. From a policy perspective, it is helpful to consider these issues and factor them into any decision making at the outset. It is also important to recognize that the workforce housing program will not be effective without such safeguards and provisions.

Examples of programmatic actions the county will need to take to address the proper management of workforce housing units include the following. There might be others.

Renter and For Sale Unit Eligibility. A process will need to be put in place to determine the eligibility of the homeowners or tenants of any workforce housing units provided. Many local governments with workforce housing programs establish eligibility requirements in a set of Guidelines for workforce housing. In most metropolitan areas in California, tenant eligibility is often contracted with a regional housing authority that oversees several affordable housing programs. Other communities use their own local housing agencies. In all instances staff time is allocated to assure the program operates smoothly.

Resale Controls to Ensure Units Remain Affordable. The county will need to plan for the situation where a unit sells before the affordability period expires. Typically, communities with a workforce housing program in place record a resale restriction and option to purchase agreement when the workforce housing unit is sold in order to assure that the property is not sold at market rates. The resale restrictions assure the property is sold for an affordable rate while the restriction is in effect. The option to purchase allows the local government the opportunity to step in and purchase the property if that is the most effective way to retain the affordable workforce housing unit at the time of sale.

For Sale Units and Equity Sharing. Equity sharing has proved to be one of the more sensitive issues among homebuyers. People are excited when they can buy a unit at below market costs, but they are sometimes disappointed when they learn they do not get all the appreciated equity in the home when they go to sell it before the affordability period expires. Many programs allocate equity on a sliding scale: the longer the owner owns the home, the more equity they gain. Some do not, but allow for a modest increase in value based on the Consumer Price Index (CPI). Other considerations are also important. For example, credits are usually given to owners who maintain the property or make permanent additions to the property that increase its value.

Involuntary Transfers and Other "Family" Transactions. Local governments must also manage involuntary transfers, such as when the affordable units are inherited by a non-qualified person. Another common scenario is that an income-qualified home owner, or renter, marries someone wealthier. In these circumstances, the local government must balance its interests in maximizing the availability of affordable workforce units with the risk of appearing insensitive to the families occupying the units. For example, Monterey County, California allows people who inherit an income restricted unit but are not income qualified themselves to hold on to the unit for a period of one year before they must sell it to another income qualified buyer.

Improper Transfer of Properties. To assure that properties are not improperly transferred, the local program must also ensure the local government records a right of first refusal against all for sale properties that are restricted for workforce housing. This assures, in most cases, that the local government will be notified when there is an attempt to transfer the property or change the title. The local government may then exercise its option or allow the unit be sold directly to an income eligible buyer. Most local governments maintain lists of income eligible buyers.

In sum, it is important the county recognize that initiation of an effort to encourage the development of workforce housing units, in a variety of forms, requires the commitment of staff resources to properly administer the program, if the work force housing units are going to be preserved over time, and be available to those for whom they are targeted – members of the work force and their families.