

# LOCAL GOVERNMENT ROLE IN AFFORDABLE HOUSING



Prepared for Manatee County by

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# Topics To Be Covered

## Role of Local Government in Producing and Preserving Affordable Housing

- Statutory Framework
- Government Resources
- Collaboration between government offices that finance affordable housing with the government offices that direct land use planning and permitting
- Partnership between Government and Private Sector



# State Law

Every jurisdiction in Florida has the obligation to provide for housing its entire current and anticipated population, including the most vulnerable, such as those with special needs and farmworkers.

**Chapter 163.3177 (6)(f)**



# The Housing Element of the Comprehensive Plan

- The Housing Element requirement does not mean that local governments have to build all this housing themselves....
- It does mean that local government should use its police powers (*to carry out laws for the health and safety of its residents*), its land use authority, and its compliance with the spirit and intent of fair housing and affordable housing laws **to create an environment in which affordable housing will be provided by the private sector.**



# What is Affordable Housing and Why is it Important?

- Affordable housing is defined in state statute— Ch. 420.004, Florida Statutes.
- Concept: when low income/low wealth families spend more than half their income on housing they are housing “instable”—one missed paycheck away from crisis.
- Over 951,000 very low income households in Florida spend more than half their monthly income on housing costs.
- Florida has the third highest homeless population in the nation.

For more data, see **The Florida Home Matters Report** [www.flhousing.org](http://www.flhousing.org) and the Shimberg Center Data Clearinghouse [www.shimberg.ufl.edu](http://www.shimberg.ufl.edu)



# How is Housing Made Affordable? Government Resources

- **Planning/Permitting**

(Land use planning / distinguished from program planning/consolidated plans/LHAP)



- **Financing/Affordability Assurances**

(deed restrictions/community land trusts)



# Planning/Permitting

- Local Government's role is to create an environment conducive for the private sector to produce affordable housing.
- Local land use planning and zoning codes can **Break** or **Make** affordable housing.



# Kudos for: Ch. 5 of the Manatee County Land Development Code

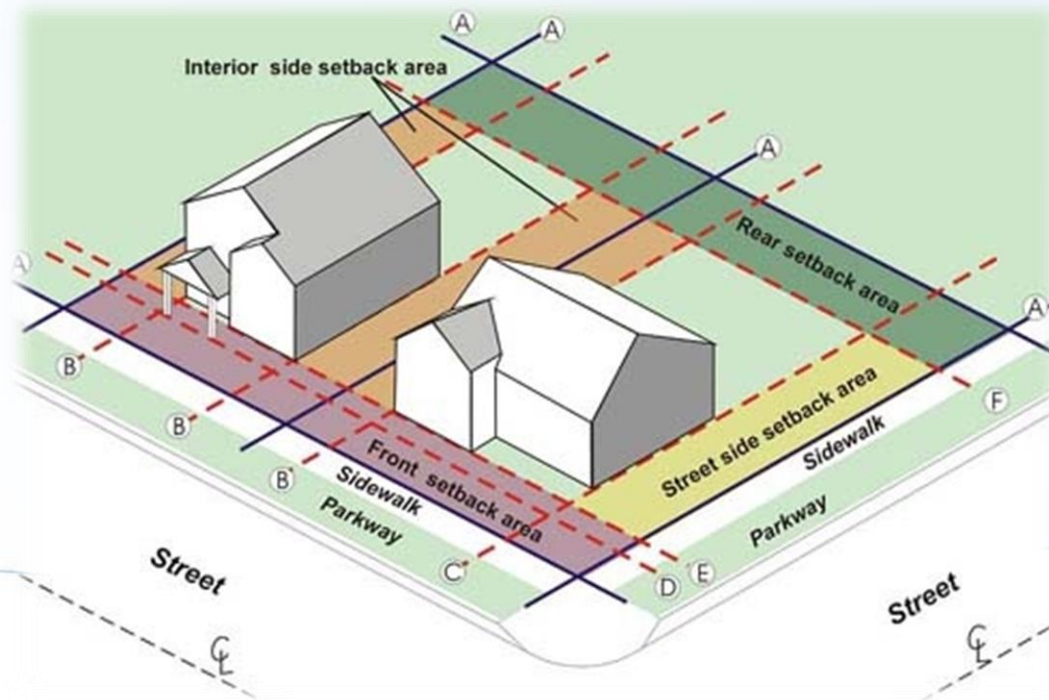
- Offers developer incentives including Housing Rapid Response Team with designation of Coordinator
- Impact Fee Relief program
- TDRs; Density Bonuses; Surplus Lands Program
- Nonconforming Lots for Infill; reduction in set-backs; Replacement Housing/donation for lost units
- Cultivates a culture of partnership between public and private sector





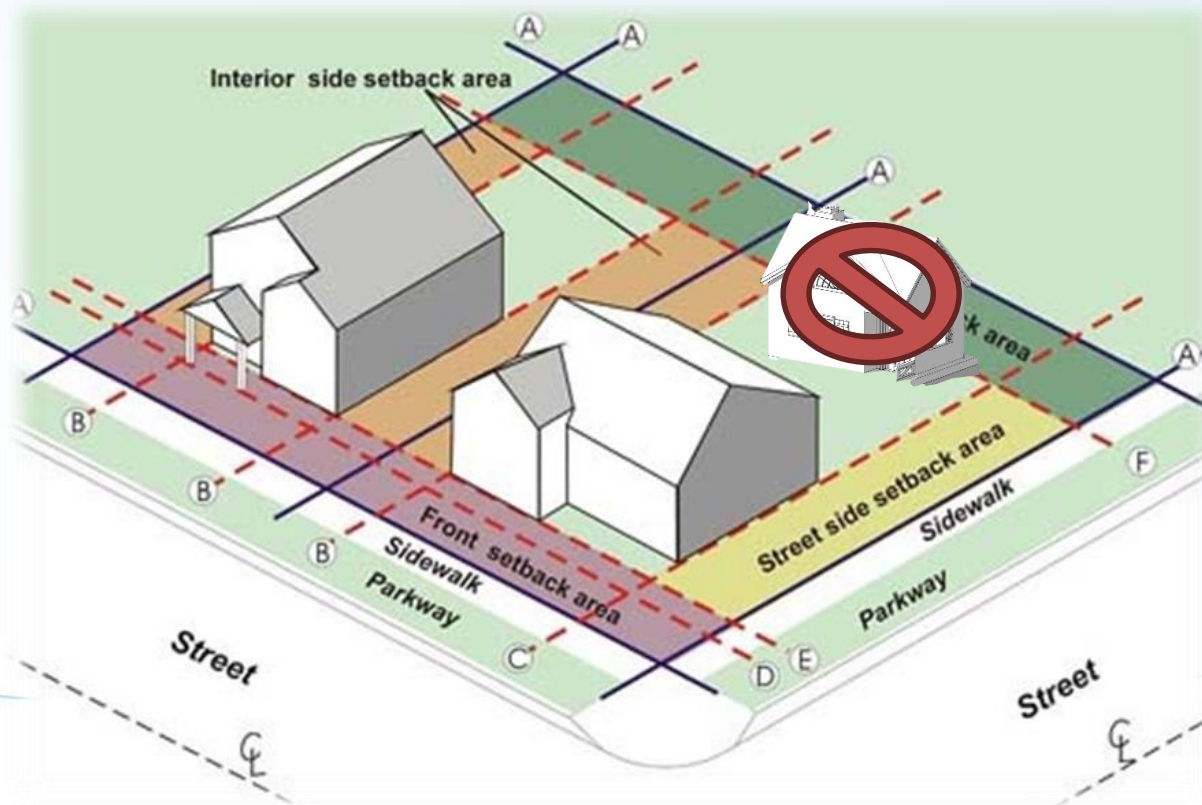
# Examples that Inhibit Affordable Housing

- Large lot and setback requirements that prevent development of smaller homes
- Minimum Square Footage Ordianances



# Examples that Inhibit Affordable Housing

- Not allowing accessory dwelling units



# Examples that Inhibit Affordable Housing

- Strict Euclidian zoning



# Examples that Promote Affordable Housing

- Land Use Plans and Zoning Codes provide **flexibility** to encourage affordable housing
- In effort to change the direction of development elected officials in Davidson N.C. said “no more” Moratorium until new development code adopted to ensure the development of affordable housing and promote the historic architecture of the Town.





# The Bungalows Davidson, NC



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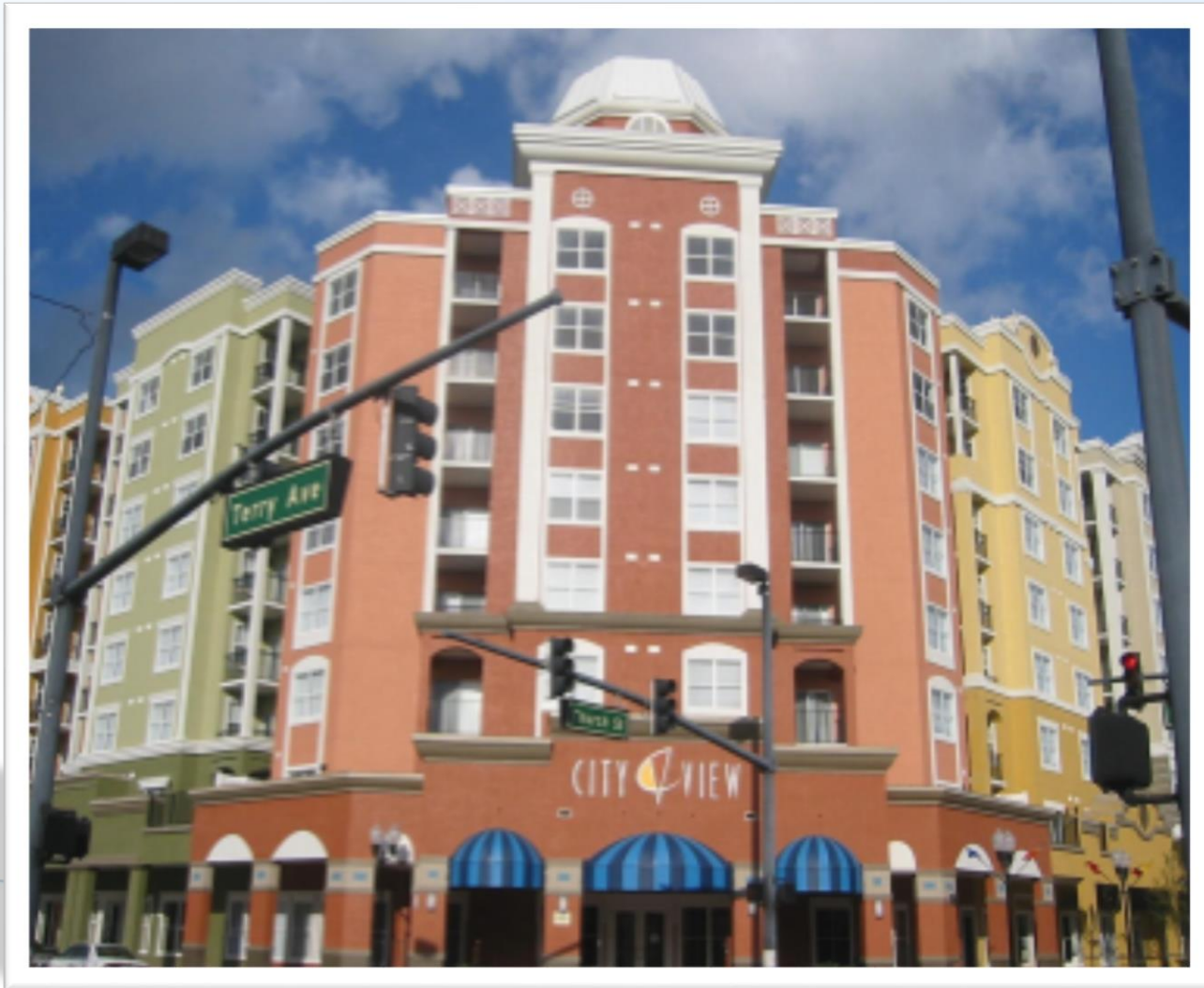


# We don't have to leave Florida for examples of flexibility and promotion of affordable housing

- Mixed income and mixed use housing
- Attached housing
- Accessory dwelling units



# Mixed Use and Mixed Income





# Attached Housing



# Triplex architecturally similar to single-family homes on the street



# Accessory Dwelling Units

- **Florida State Statute 163.31771-**

(1) The Legislature finds that the median price of homes in this state has increased steadily over the last decade and at a greater rate of increase than the median income in many urban areas. The Legislature finds that the cost of rental housing has also increased steadily and the cost often exceeds an amount that is affordable to extremely-low-income, very-low-income, low-income, or moderate-income persons and has resulted in a critical shortage of affordable rentals in many urban areas in the state. This shortage of affordable rentals constitutes a threat to the health, safety, and welfare of the residents of the state.

Therefore, the Legislature finds that it serves an important public purpose to encourage the permitting of accessory dwelling units in single-family residential areas in order to increase the availability of affordable rentals for extremely-low-income, very-low-income, low-income, or moderate-income persons.





# Accessory Dwelling Units



# Accessory Dwelling Units





# Accessory Dwelling Units



# Examples That Promote Affordable Housing

- Mixed Use and Mixed Income Housing close to employment and services (encouraged by state statute **163.3177(6)** (f))
- Allowing accessory dwelling units in all residential zones (encouraged by state statute **163.31771**)
- Progressive impact fees (based on square foot rather than on unit)
- Inclusionary housing policies (specifically permitted by Florida Statute- next slide )



# Supported in State Statute – Inclusionary Zoning

- **Section 125.01055 Affordable Housing.**–  
Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.





# Inclusionary Housing

- A local land use regulation (planning tool) that requires the market rate housing developer to include a percentage of affordable housing within the market rate development
- Typically, to get units into the very low income range, public subsidy is also needed- good example of where planning department and housing department can work together

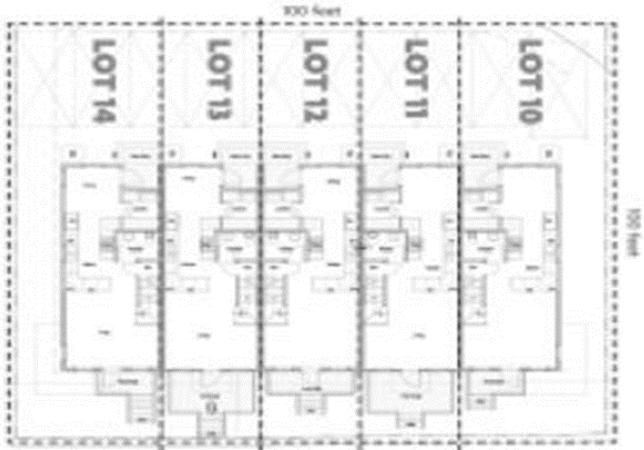
# Inclusionary Housing

INCLUSIONARY HOUSING

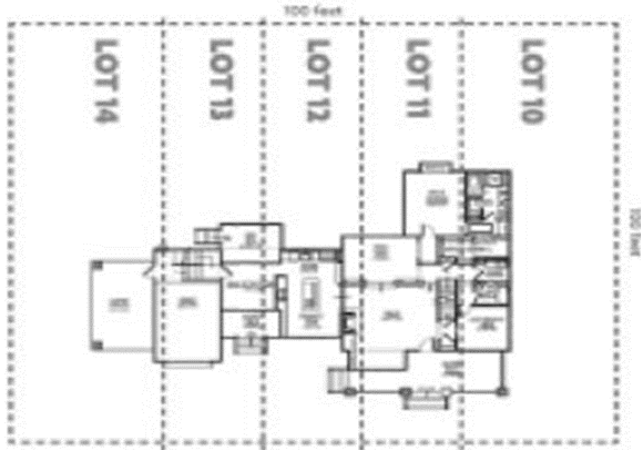


K2 - INCLUSIONARY HOUSING  
TALLAHASSEE, FLORIDA

ESTATE HOME



5 inclusionary lots on 1/4 acre



1 estate lot on 1/4 acre

# Sadowski State & Local Housing Trust Funds

- Housing Element Requirement was viewed as “unfunded mandate”
- Florida adopted the William E. Sadowski Affordable Housing Act in 1992.
- Increased the documentary stamp tax and dedicated to state and local housing trust funds.
- Approximately 70% goes to LGTF: SHIP- distributed on population based formula.
- Approximately 30% goes to SHTF: SAIL (State Apartment Incentive Loan program) and other programs.
- Approximately \$175 million appropriated to housing in FY 2015-16.



# State Housing Trust Fund

- Primarily used for **SAIL**- gap financing for construction of apartments
- Administered by FHFC
- FHFC administers SAIL, PLP, and the largest and most important funding resource of construction or preservation of affordable apartments- LIHTC- referred to as Tax Credits in Florida (program of Treasury, not HUD)



# Low Income Housing Tax Credit

- Competitive; Requires small monetary contribution from local government (and zoning)
- Apartments are built and managed by private sector
- Apartments are monitored for compliance with Land Use Restriction Agreement (property condition, amenities, resident eligibility)



# Overview of Financing & Affordability Assurances

- Providing subsidy to the developer to be used in the construction or rehabilitation of housing which will then be sold at an affordable price or rented at an affordable rent
- Government administers housing subsidy programs- state FHFC allocates tax credits
- Local Housing Finance Authorities issue bonds
- Local Governments administer SHIP program and federal programs such as CDBG, HOME, HOPWA, ESG
- The private sector builds and manages affordable housing
- Subsidy agreements require long term affordability and compliance monitoring for rental
- For affordable homeownership, typically recapture agreements, but can also use community land trusts





# Potential of SHIP for Manatee County in Fiscal Year 2016-17

- \$3.9 million
- In FY 2015-16 Manatee received \$1.6 million
- If Legislature had not swept SHIP funds, Manatee would have received \$2.6 million
- In other words, \$1 million of local housing funds did not make it back to the county last session.





## What Can YOU Do With SHIP?

- Highly flexible and accountable program
- 75% for construction related activities
- 65% for homeownership related activities
- 10% cap on administration
- Set aside of 60% for low income and at least 30% of that must serve very low income
- Remainder (40%) can serve moderate income







# SHIP

Funding comes with planning requirements:

1. Expedited review of ALL permits (that includes every land use approval that may be needed—much more than expediting the building permit)
2. Ongoing process of review to consider the impact on affordable housing of new regulations, comp plan amendments etc.





# SHIP

The Affordable Housing Advisory Committee (AHAC) should also consider and make recommendations for implementation of other local actions that would promote affordable housing- for example, permitting ADUs in all residential zones or additional regulatory reform such as height or density in exchange for affordability assurances.



# Sadowski Coalition

Includes the Florida Association of Counties among 30 statewide organizations that work together every year to urge the Florida Legislature to use all the housing trust fund monies for housing.



# Fair Housing Laws

- Housing choice is key concept.
- Connection between Fair Housing and Affordable Housing.
- Low wealth families disproportionately people of color- race and ethnicity are protected classes in Fair Housing Act, as is familial status (children in the family) and disability.
- Exclusionary land use practices may create disparate impact liability.



# Florida Fair Housing Act

## Section 760.26 Florida Statutes

- Additional protection for affordable housing development.
- Unlawful to discriminate in land use decisions based on the financing of the development.
- In plain English: Local government is not permitted to deny development approval of an apartment complex that is affordable (tax credit development, for example) if it would have approved a market rate complex.



# Bert Harris Property Rights Act

## Section 70.001 Florida Statutes

- Cause of action when government action inordinately burdens the use of real property.
- Special Master process to expeditiously resolve issues- can be effective tool to overcome opposition to affordable housing and protect private property rights to produce affordable housing. Public benefit.



# “Takeaways”

- ✓ Local government has a robust role in producing and preserving affordable housing in Florida. The two main functions are:  
(1) **Planning** and (2) **Financing**
- ✓ When the local government offices that handle the financing of affordable housing and the local planning department **coordinate/collaborate** with each other better results are achieved.
- ✓ Local Government is not in the business of building affordable housing, but it does have an obligation to ensure that it does whatever it can **to help the private sector to meet the need.**

# WRAP UP For First Work Session

- Overview of the why and how of affordable housing
- Local Government's Role
- Housing Finance Authority's Role
- Public Housing Authority's Role
- Community Redevelopment Agency's Role
- Future Sessions- Housing Need Data; Federal Role; Special Needs Housing/Homeless

