

AFFORDABLE HOUSING OVERLAY

Proposal:

Creation of an Affordable Housing Overlay.

Purpose and Intent

The Affordable Housing Overlay will provide the developer incentives described in this document to promote a full range of housing choices, and encourage the construction and continued existence of housing for low-and moderate-income households.

The incentives will apply to projects that propose to provide 20% of residential units as affordable housing based on the following criteria:

Affordable rental dwelling units

- Affordable rental dwelling units shall be made available for rent by households with gross household incomes at or below 60% of Area Median Income (AMI), as established annually by the US Department of Housing and Urban Development.
- Maximum rents for affordable rental dwelling housing shall be determined by multiplying the current AMI by the following factors according to the number of bedrooms in the affordable rental units.

AFFORDABLE RENT FACTORS	
Unit Size	Factor
Efficiency	0.009479
1 bedroom	0.010833
2 bedroom	0.013542
3 bedroom	0.016927
4 bedroom	0.018958
5 bedroom	0.021802
6 bedroom	0.024646

Affordable for-sale dwelling units

- Affordable for-sale dwelling units shall be made available for purchase by households with gross household incomes at or below 80% AMI, as established annually by the US Department of Housing and Urban Development.
- Maximum sales prices for affordable for-sale dwelling units shall be no greater than 65% of the federal HOME Investment Partnership program's 1-Unit Purchase Price for Existing Housing for Albemarle County.

Areas of Applicability

The Affordable Housing Overlay will apply to the County's designated Development Areas only.

Incentives:

The following incentives will apply to the Affordable Housing Overlay:

Density Bonus:

Amount of density bonus shall be equal to 45% of the maximum allowable gross residential density allowed under the zoning ordinance and the land use element of the Comprehensive Plan. If there is a discrepancy between the density allowed under the zoning ordinance and the density allowed under the Comprehensive Plan, the Comprehensive Plan density shall be used.

The number of affordable units to be provided will be determined by multiplying the maximum allowable gross residential density for the project site by .20. The density bonus will be applied after the number of affordable units to be provided has been determined.

Fee waivers/reductions:

In addition to the bonus in project density, projects providing affordable housing will be eligible for a waiver or reduction of local development fees. Fees will be waived or reduced based on the following schedules:

- Fee reductions for projects providing up to 20% affordable housing at 60% AMI (rental housing) and 80% AMI (for-sale housing)

AMI Served	% Fee Reimbursed
60% AMI (rental housing)	50%
80% AMI (for-sale housing)	25%

- Fee waivers or reductions for projects providing greater than 20% affordable housing at 60% AMI (rental housing) and 80% AMI (for-sale housing), OR that provide units at lower affordability levels:

AMI Served	% Fee reduced or reimbursed
All Residential Projects	
Greater than 20% affordable units	100%
Rental Housing	
50% AMI and below (rental)	100%
51% AMI – 59% AMI (rental)	75%
For-Sale Housing	
60% AMI (for sale)	100%

70% AMI (for sale)	50%
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Any developer fees that are waived or reduced will be issued as a reimbursement to the developer once the County has received documentation that the affordable units have been rented or purchased by income qualifying households.

Waiver/Reduction of development standards

Developers may be eligible for a reduction or waiver of development standards. The developer must demonstrate the development standards for which they are seeking a waiver or reduction either:

1. Physically preclude construction of the project at the density permitted by the bonus; OR
2. Impact the financial feasibility of the project.

The request to waive or reduce development standards can be denied if the County determines in writing that the waiver/reduction will have a specific, adverse impact on the health, safety, or physical environment of residents. The County may recommend modifications to the request to satisfy local concerns.

In cases where the land use designation restricts dwelling unit types, the developer may request, and the County may approve, the construction of single-family, duplex, semi-detached, attached, and multi-family dwellings. In cases where the land use designation identifies residential development as a secondary use, the developer may request, and the County may approve, the construction of residential dwellings without a special use permit application. In both cases, the requests can be denied if the County determines in writing that the waiver/reduction will have a specific, adverse impact on the health, safety, or physical environment of residents. The County may recommend modifications to the request to satisfy local concerns.

Waiver/Reduction of parking requirements

Developers may be eligible for a reduction or waiver of parking requirements. To be eligible for this waiver or reduction developers must demonstrate the County's parking requirements either:

1. Physically preclude construction of the project at the density permitted by the bonus; OR
2. Impact the financial feasibility of the project.

The request to waive or reduce parking requirements can be denied if the County determines in writing the waiver/reduction will have a specific, adverse impact on the health, safety, or physical environment of residents. The County may recommend modifications to the request to satisfy local concerns.

Stacy Pethia

From: Charlie Armstrong <CharlesA@southern-development.com>
Sent: Friday, December 17, 2021 1:19 PM
To: Stacy Pethia
Subject: RE: Incentives

CAUTION: This message originated outside the County of Albemarle email system. DO NOT CLICK on links or open attachments unless you are sure the content is safe.

Stacy,
Somehow part of one of my paragraphs got deleted before I sent that last email. See below for the partial sentence added in red.
Charlie

From: Stacy Pethia <spethia@albemarle.org>
Sent: Friday, December 17, 2021 11:44 AM
To: Charlie Armstrong <CharlesA@southern-development.com>
Subject: RE: Incentives

Thank you!

From: Charlie Armstrong <CharlesA@southern-development.com>
Sent: Thursday, December 16, 2021 4:35 PM
To: Stacy Pethia <spethia@albemarle.org>
Subject: RE: Incentives

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Stacy,

Thanks for the advance email. I think this is headed in a great direction. Generally I like the concept. The only thing that concerns me is that the required number of affordable units would be based on a theoretical maximum rather than the actual developed number of units. Many parcels have constraints that make a theoretical maximum wildly impractical. Topography or environmental features is probably the most common density limiter. There are lots of physical limitations that would have the same effect; power lines or other utility easements, SWM areas, sight distance easements, stream buffers, etc.

I think it would be time well spent to do some case studies. Here's an example: Say you have a 5 acre site designated for urban density residential. Per your example below that means that the required affordable units if the overlay is utilized would be 20 (20dua*5 acres*20%). But suppose only 1 acre of that parcel is developable because it is mostly flood plain. In that scenario, 20 affordable units on 1 acre of land might need to have ~80 units of market rate units to financially support it. 100 units on 1 acre would require a 10 story building, so it won't happen in this market. In that case the developer would never take advantage of the overlay. There are lots of physical prohibitions that would **cause similar limitations, such as utility easements or stream buffers.**

I'd suggest that basing the required affordable units on actual proposed number of units would create a more robust level of participation.

With a small tweak I think you would find broad support for this!

Thanks,
Charlie

From: Stacy Pethia <spethia@albemarle.org>
Sent: Thursday, December 16, 2021 1:35 PM
To: Charlie Armstrong <CharlesA@southern-development.com>
Subject: Incentives

Hi Charlie,

Since you will not be able to join the meeting next week, I wanted to share a summary of what we will be discussing next week. Whatever we agree on now, will act as a temporary measure to get us all started toward meeting the new housing policy goals, and I will be working with the planners as they work on the Comp Plan and zoning code updates to develop a permanent incentive package based on those updates. That said, here is where the incentives package is today.

Proposing to create an Affordable Housing Overlay Zone, that would apply to the County's Development Areas. The overlay would be voluntary, and would provide additional density without the need to rezone a project site. The amount of density bonus would be equal to 45% of the maximum allowable gross residential density allowed under the zoning ordinance and the Comprehensive Plan, OR If a range of density is permitted, the average of the minimum and maximum allowable density for the specific zoning range and land use element of the comp plan. If the density allowed under the zoning ordinance is inconsistent with the density allowed under the Comp Plan, the Comp Plan density will be used.

The 20% affordable housing component will be based on the maximum number of units per acre as determined above. For instance, if a project site is zoned R15 (and is designated as R15 in the Comp Plan), the number of affordable units would be $(15 \times .2)$ times the number of acres in the project site. The 45% increase in density would be based on 15 DUA. If a project site is zoned R2, but is designated Urban Density Residential in the Comp Plan, then the number of affordable units would be calculated by taking 20% of 20 DUA (the average of the 6.01 – 34 DUA density range) times the project site acreage. The 45% density bonus would be based on the 20 DUA.

In addition to the density bonus, a percentage of development fees would be reimbursed as follow:

60% AMI Units	50% of fees
80% AMI Units	25% of fees

For projects that provide more than the recommended 20% affordable housing, or that provide units at lower affordability levels, the following would apply:

AMI Served	% Fee reimbursed
Greater than 20% affordable units	100%
50% AMI and below (rental)	100%
51% AMI – 59% AMI (rental)	75%
60% AMI (for sale)	100%
70% AMI (for sale)	50%

Stacy Pethia

From: Nedostup, Megan <mnedostup@williamsmullen.com>
Sent: Wednesday, December 29, 2021 4:20 PM
To: Stacy Pethia
Cc: Valerie Long; Schweller, Lori; Jodie Filardo
Subject: RE: Incentives program

Follow Up Flag: Follow up
Flag Status: Completed

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Good afternoon Stacy,

I wanted to follow up the meeting last week with a couple of comments and questions, some that I mentioned at the meeting, and a few that I thought of after. Let me know if you want to discuss further. Also, thank you for including us in the conversation and I think what you have put together is a great framework for incentives, particularly not requiring a rezoning. Valerie is out this week, but I am sure she might have some follow up questions and comments, and Lori may as well.

1. As I and others mentioned, I think the maximum of the range should be used rather than an average. This is particularly important for places like Crozet, where the majority of the master plan is designated as 3-6 units/acre.
2. I realized after our meeting that certain by right zoning designations do not allow all residential unit types, which could be a barrier. Could this include/ allow for all residential types?
3. If residential is listed as a secondary use within the Comp Plan designation for a property or a portion of the property, how will the incentives work in that case? Will a development not be eligible if it's not a primary use? There are a number of areas that have a "center" designation that is over multiple parcels and residential is listed as secondary, and other designations that list residential as a secondary use such as Office/R&D/Flex/LI. Some secondary designations also do not have a range for density, so if they are eligible, how will the density be calculated? I am happy to provide a couple example of this if you are interested.
4. As was discussed in the meeting, building heights and parking requirements could be a barrier to providing the units and is a concern. In some designations within the Comp Plan a maximum building height is listed, while additional height may still be needed above the Comp Plan designation, perhaps this could be a starting point/incentive as well. That a development could propose buildings up to the max listed in the Comp Plan and then anything over that might include a request. Another thought/idea to allow additional height if podium or structured parking is provided. As for parking, I am of the opinion that the market should determine how much parking is needed, however as I mentioned in the meeting, there is an [ITE Parking Generation manual](#) for parking needs that is often cited for a parking reduction from the County currently, that could be used to determine the parking requirements for providing affordable units.
5. As was discussed in the meeting, I wanted to note the current conflicting language in the Comp Plan when it comes to net and gross density. I was encouraged to hear that the proposed incentives will be gross density, and that the Comp Plan update will hopefully not include net density but want to acknowledge the potential political aspect with the current language.

Thank you for your time and work on this important initiative!

Best,

Megan Nedostup, AICP

pronounced "nuh-DAHST-up"

(she/her/hers)

Williams Mullen

434-951-5723

-----Original Appointment-----

From: Stacy Pethia <spethia@albemarle.org>

Sent: Tuesday, December 7, 2021 6:32 AM

To: Stacy Pethia; Chris Henry; William Park; Schweller, Lori; Long, Valerie; Ashley Davies; Jodie Filardo; Fred Missel; Charlie Armstrong; Neil Williamson; alan@riverbenddev.com

Cc: Megan Nedostup

Subject: REMINDER - Incentives program

When: Tuesday, December 21, 2021 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).

Where: Microsoft Teams Meeting

Just a reminder that we will be meeting at 10AM tomorrow via Teams. I am preparing the latest draft of the proposed incentives for your review. The program is loosely based on Section 15.2-2305.1 of the Virginia Code; a copy of that section is also attached.

Looking forward to our conversation tomorrow,
Stacy



18 January 2022

Ms. Jodie Filardo
Community Development Director
Albemarle County Office Building
401 McIntire Road
Charlottesville, VA 22902

Dear Jodie,

Thank you for your communication and transparency regarding the current backlog in Community Development Department permitting process. While timely issuance of permitting is not the subject of this letter, we both know these backlogs impact housing affordability and appreciate your continued efforts to fix this challenging issue.

As you are aware, members of the development community have been meeting with you and Dr. Stacy Pethia to discuss incentives to make Albemarle County's Affordable Housing policy viable. Based on our most recent meeting, an incentive policy seems to be headed toward utilizing performance standards and density bonuses (up to comprehensive plan density) instead of rezoning, provided the mandated 20% affordability is included as part of a plan.

Since our meeting, I have received several comments/questions about the proposal:

- The maximum of the Comprehensive Plan range should be used rather than an average.
- All residential unit types should be allowed (within Comprehensive Plan Density)
- How will mixed use areas of the Comprehensive Plan density be calculated?
- How will building heights be addressed?

In addition to the current proposal, the Free Enterprise Forum believes an examination of the failures of the current policy is warranted. While it may "feel good" to increase the mandated affordable housing requirement from 15% to 20%, we suggest it will take significantly more than that requirement to increase the supply of new affordable units.

The current affordable housing policy failed based, in part, on a lack of county supplied "qualified buyers" clustered at or about the 80% Annual Median Income (AMI) threshold. Such buyers had to

make enough money to qualify for the mortgage, but not too much to eliminate them from the targeted cohort. While one experienced Albemarle County teacher could qualify for the program, another teacher who is married to a police officer would not. The Free Enterprise Forum believes increased applicant qualification flexibility including down payment assistance, revival of the Home Buyers Club and other programs could help increase the buyer pool. In addition, a sliding scale of required affordable units tied to the level of affordability being achieved would help broaden the pool of eligible buyers.

In our conversations, we discussed affordable housing as a broad-based community issue and that the solutions should also be equally broad-based. Identifying who are we attempting to serve is one of the key elements that was touched on in our meetings. While the current focus is at 80% AMI or less, there is clear evidence that there is also high demand and low supply of housing for those in the 80-120% AMI range (workforce housing), for which there is currently no local or state support.

Anecdotal data indicates Albemarle County Single Family Detached (SFD) site and infrastructure development costs already well exceed \$70,000 per lot, if not more based on topography, before land, entitlement and carrying costs. New home construction, including multi-family, is economically challenged to serve any population cohort below 80% of AMI without significant subsidy. Expected increases in interest rates will make this challenge even more difficult.

We are appreciative that 'Housing Albemarle' recognizes the import of affordable rental units as an important player in our regional housing market. Multi-family rental projects, which can sometimes leverage several different subsidy programs and tax credits, are often much better suited to address the needs of those earning 60-80% of AMI than other housing types.

We believe the current incentive proposal is a beginning, not the end. Last summer, we shared several ideas that could impact local housing affordability. We agree there is not one "Silver Bullet", rather it will take "Silver Buckshot" or a multitude of small efforts to significantly impact housing affordability.

The Free Enterprise Forum always prefers incentives over mandates and a program that is designed to be descriptive rather than prescriptive. In our experience, most of the successful new affordable housing leverages several Federal, State, and Local programs to achieve affordability (usually with long term performance standards).

While readily acknowledging there will be others that surface during continued review and deliberations, here are our current suggested strategies that would impact housing affordability in a positive manner:

1. Reduce parking and utilize alternative design standards that can help reduce infrastructure costs.
2. Real Estate Tax abatement or Synthetic Tax Increment Financing by the County as part of a performance agreement ensuring long term affordability.
3. Lower the 20% affordability requirement in exchange for fewer, more deeply affordable units.

4. Albemarle County Service Authority Tap Fee Relief – Albemarle County can pay ACSA fees on Affordable Housing as a part of their Affordable Housing investment.
5. Expedite permits and applications (beyond the current improvements underway)
6. Fee waivers on all affordable units.
7. Albemarle County direct acquisition of land for development of affordable housing (a land bank of sorts). The County could then solicit proposals from for profit and non-profit developers.
8. Use of existing County land for affordable housing with non and for-profit affordable developers.
9. Allow developers of proffered Affordable Housing to build such housing in other locations.
10. Allow for special use permits that would enable affordable housing to be constructed outside the established growth area if suitable utilities and transportation infrastructure are available.
11. Reduce bonding requirements.

In addition, currently Albemarle County has designated less than 5% of its land mass for development (residential & commercial). The Free Enterprise Forum has called on Albemarle County to start discussions regarding expansion of the development areas. It will be a long discussion but when the development area is significantly expanded the supply of developable land will increase. And, it is anticipated, reduced land costs will positively impact housing affordability.

Finally, we believe it is imperative to establish the metrics for success early on in program development. Results should be measured on a quarterly basis and shared with the community. We believe the success of Albemarle's Affordable Housing Policy is dependent on market conditions, program design and implementation, staff competency and knowledge, program flexibility and, perhaps, most importantly, cooperation of the Development Community.

By proactively providing these concepts, the Free Enterprise Forum hopes to continue to work together to develop an Albemarle County Affordable Housing policy that will succeed.

Respectfully Submitted,



Neil Williamson, President