

INDIAN RIVER COUNTY, FLORIDA

M E M O R A N D U M

TO: Jason E. Brown; County Administrator

THROUGH: Phillip J. Matson, AICP
Community Development Director

FROM: John Stoll
Chief, Long Range Planning

DATE: September 13, 2022

SUBJECT: Requesting authorization for Community Development Department Director, on behalf of the Indian River Board of County Commissioners, to Execute Single Family and Multi-Family Affordable Housing Impact Fee Waiver/Reduction Agreements.

It is requested that the following information be given formal consideration by the Board of County Commissioners at its regular meeting on October 11, 2022.

DESCRIPTION & CONDITIONS

On February 18, 2020, the Board of County Commissioners (BCC) approved a list of recommendations from the County's Affordable Housing Advisory Committee (AHAC). Included in that list was a recommendation that the BCC provides an impact fee exemption for new single-family housing units and multi-family units of less than 1,500 square feet under air when occupied by households earning no more than 80% of Area Median Income (AMI).

On March 10, 2020, the BCC approved a revised impact fee schedule that included an impact fee exemption for new single-family housing units of less than 1,000 square feet under air when occupied by households earning no more than 80% AMI; and a 50% impact fee reduction for new affordable single-family housing units of between 1,000 and 1,500 square feet under air when occupied by households earning no more than 80% of AMI.

At the June 22, 2022, AHAC meeting, several new housing affordability incentives were discussed. One of the ideas from the meeting was to provide an impact fee exemption for multi-family housing units, less than 1,500 square feet, occupied by households earning no more than 80 % AMI. In addition to the multi-family affordability exemption, Staff and AHAC discussed expanding the existing 100% impact fee exemption for housing units of less than 1,000 square feet. Staff recommends that a total 100% impact fee exemption should be provided for both multi-family and single-family units, less than 1,500 square feet, occupied by households earning no more than 80% AMI

At this time, it is requested that the BCC review and consider a draft ordinance (Attachment 1) that proposes to amend the existing affordable housing impact fee waiver process and direct staff to begin implementing this waiver process utilizing the pending ordinance doctrine. Staff will return to the Board with a formal ordinance amendment once all statutory requirements have been met.

ANALYSIS

Consistent with Florida Statutes Sections 163.31801, the County may provide an exception or waiver for an impact fee for the development or construction of affordable housing, as defined in s. 420.9071. Jurisdictions that choose to do so are not required to use revenues to offset the impact.

The new single-family and multi-family housing unit impact fee waiver/reduction categories, consistent with Florida Statute, are more narrowly defined than the broad allowances allowed by State Statute. With respect to the Single-Family and Multi-Family Affordable Housing Impact Fee Waiver/Reduction Agreement, the agreement includes an establishment of an affordability time period/term, the financial impact fee waiver amount, the impact fee that otherwise would be charged without the waiver, a monetary penalty amount for violating, processes for income verification, and applicability language, and general legal language for breach of the agreement. This analysis will focus on the time period, terms, penalties, and review processes.

The proposed income qualification requirements are based on the requirements used by the County's State Housing Initiative Partnership (SHIP) program. As written, the impact fee agreement requires for a period of 10 years (same as SHIP rehab mortgage time period), income verification at the time of initial occupancy and at the time of change of occupancy. If the single-family home or multi-family unit is sold or rented to a household that has a household income that exceeds 80% of the AMI, 100% of the impact fees that otherwise would have been charged must be paid, plus a 3% annual penalty (same as SHIP program). If the single-family home or multi-family unit is sold or rented anytime between 5 and 10 years since the effective date to a household that has a household income that exceeds 80% of the AMI, then 50% of the impact fees that otherwise would have been charged must be paid plus a 3% annual penalty. After ten years of use by income-qualified households, the impact fee agreement terminates, and no impact fees would be required to be paid (100% forgiveness).

There are a couple of different income verification options established in the agreement depending upon the entity/person developing the housing and the circumstances involved. For developers of affordable housing that have income restrictions and verification requirements established through State or Federal programs or through nonprofit housing providers established processes acceptable to the County, they will have the option of executing a certification of household income form. In these cases, the County will have the right to audit and review applicant files to verify income. For builders and homeowners that are not subject to established State, Federal, or nonprofit housing programs with income verification processes acceptable to the County, County staff will verify income based on established State Housing Initiative Partnership (SHIP) processes. Two separate application packets have been prepared by staff for use.

CONCLUSION

As proposed, the County's Affordable Housing Single-Family and Multi-Family Housing Unit impact fee waiver/reduction agreement sets the parameters and performance criteria for the waivers/reductions. The 10-year period of performance, 3% penalty for non-compliance, and income qualification processes set up in the agreement are modeled after the County's SHIP program, a program that has been operating successfully with similar provisions (with some variations) since the early 1990s. Using the provisions of the County's established affordable housing program allows for consistency, particularly when SHIP home purchase applicants will also likely be applying for the impact fee waiver/reduction program.

RECOMMENDATION

Staff recommends that the Board of County Commissioners:

1. Direct staff to prepare and notice for a formal amendment to Article X, Appendix A Impact Fee Schedules.
2. Authorizing the Community Development Department Director, On Behalf of the Indian River Board of County Commissioners, to Execute Single Family and Multi-Family Affordable Housing Impact Fee Waiver/Reduction Agreements.
3. Direct staff to prepare a Resolution through the Pending Ordinance Doctrine, and permit staff to implement the new impact fee rates during the time the adopting ordinance is amended.

ATTACHMENTS

- 1) Draft Proposed Ordinance
- 2) Draft Amendment to Appendix A – Impact Fee Schedules
- 3) VIP Matrix