

STAFF REPORT

To: Planning and Economic Development Committee Date: April 21, 2015
Housing and Community Development Committee

From: Jeff Staudinger, Assistant Community & Economic Development Director
Sam Powers, Community & Economic Development Director

Subject: Potential Revisions to LUIG Policy

Summary Statement: Consideration of process and timetable to revise the Land Use Incentive Grant program.

Review: The Land Use Incentive Grant (LUIG) program was initiated in 2011 to provide performance-based grants to developers of affordable and workforce housing in designated corridors served by public transit; and which also met minimum third-party green building certification standards and to which the developer was contributing minimum 20% equity. Council has been guided (although not necessarily constrained) by a scoring system that awarded points for higher percentages of the desired housing and levels of green building; and that also awarded points to projects meeting other social and land use goals. Ultimately, it has been up to Council to determine the amount of the grant, which has been tied to the City of Asheville property taxes on the developed property, and a percentage of rebate of City permit fees.

The LUIG program has been amended twice since its inception. It was amended in 2012 to make the area around Biltmore Park eligible for grant consideration; and in 2014 to eliminate a requirement that any awardee had to agree to defend the grant program if it was legally challenged, and to add statutory language that provided a firm legal foundation for the program.

Three LUIG grants have been approved. The development agreement offered for the Weirbridge Village development was never accepted by the developer; and the Glen Bridge Road development did not proceed. A grant has also been approved for RAD Lofts; changes to that project will require Council to act again on that agreement, likely in May. Each grant offer entailed some waiver of the program guidelines. The most recent application under review also requests a waiver of an eligibility requirement (distance from a designated corridor) and requests more funding than envisioned in the current guidelines.

While it does now appear that the development community is responding positively to the Land Use Incentive Grant concept and purpose, it is also apparent that the policy itself may not be structured sufficiently to achieve its desired results. City Legal staff has raised concerns about waiving eligibility requirements, and Council's discretionary ability in the program, even if those requests for waiver could be seen as reasonable in light of the program goals. Developers have raised concerns about the guidelines and whether they are totally relevant in today's economic and regulatory environment. Program staff would appreciate the ability to be clearer with prospective applicants about program guidelines and scoring.

Therefore, staff proposes a process and timeline to bring to Council a revised LUIG that would build on the experience of all interested parties with the program; would bring clarity to the program goals; would make the decision-making process more responsive to prospective developments; and reduce the chance of legal challenge to Council funding decisions.

Some of the specific elements under consideration would be:

- More flexibility on locational, equity and other eligibility requirements;
- Potential to focus more clearly on affordable housing goals;
- Responsiveness to Council strategic goals;
- Clarity regarding relationship to other City incentive programs.

The likely timeline for updating the policy is to bring a staff proposal to HCD and PED Committee's in May for Council action in June. Staff proposes to seek Council members' ideas and critique of current policy and

garner external input as part of the redraft process; but to use the existing program and input already received from Council and the development community as primary reference points.

April:

- policy draft developed by staff
- Polling of HCD/PED members

May

- Input from developers
- Draft policy reviewed by HCD/PED (3rd Tuesday)

June

- Council review and adoption

The proposed changes to the policy meet the City Council Strategic Operating Plan in the areas of (1) *Economic Growth and Financial Sustainability*. LUIG leverages investment in community infrastructure; and creates economic development and community investment opportunities through partnerships, planning and incentives. (2) *Affordability and Economic Mobility*. LUIG is designed to expand Asheville's supply of quality, affordable homes for current and future residents.

Pros:

- City will have consistent and transparent requirements for applicants and staff

Cons:

- Applicants already in the process may need to determine whether seeking action under the current policy is preferred to waiting until a new policy is approved.

Fiscal Impact: Unestablished. No approved applicant has yet utilized the LUIG grant. The wording changes may make it more transparent for applicants, thus creating additional applications, but overall, the taxable investment by the private development community will have a net positive fiscal impact over the life of any project.

Recommendation: Staff asks that PED and HCD Committees endorse staff action to bring a revised Land Use Incentive Grant for committee consideration for Council action, on the timetable suggested in this staff report.