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REPORT NO. 2021-11

TO: Ken Burke, CPA, Clerk of the Circuit Court and Comptroller

FROM: Melissa Dondero, Inspector General/Chief Audit Executive *MD*
Division of Inspector General

DIST: The Honorable Chairman and Members of the Board of County Commissioners
Barry Burton, County Administrator
Tom Almonte, Assistant County Administrator

SUBJECT: Review of Oasis Acres Affordable Housing Development

DATE: July 21, 2021

Per your request, we performed a review of the Oasis Acres (OA) land acquisition and subsequent development. Please see Appendix A for a list of abbreviations used in this memo.

Our objective was to review the land acquisition transaction and associated concerns raised by County staff and citizens. In addition, we identified any control deficiencies and/or opportunities for improvement. Specific concerns included the following:

1. Pinellas County Code Applied to Project & Granted Density of Property
2. Potential Conflict of Interest Between the Developer and County Staff
3. Funding Application Inconsistencies
4. Purchase Price of Property & Appraisal
5. Developer Profit
6. Tenant Relocation
7. Work Performed Beyond the Scope of Permits
8. Storage of Developer's Property on County Property
9. Project Inconsistency with Lealman Plans

In order to meet our objective, we interviewed staff and reviewed numerous documents associated with the OA project and have prepared a timeline of events. During the site development, citizens filed a circuit civil lawsuit against the County, which petitioned to quash and remand a decision of the Board of Adjustment & Appeals (BOAA), which allowed the development project to progress. We reviewed the case and have included pertinent information.



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During the review, the developer, Contemporary Housing Alternatives of Florida (CHAF), suspended efforts to develop the OA property and the County initiated the process of terminating its relationship with CHAF. This process is ongoing.

Our consultation was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* and the *Principles and Standards for Offices of Inspector General*, and accordingly, included such tests of records and other procedures, as we considered necessary in the circumstances. Our review period was October 19, 2018 through May 31, 2021. However, transactions and processes reviewed were not limited by the review period. The results of our consulting work are included herein.

We appreciate the cooperation shown by the staff of Building & Development Review Services (BDRS), Housing & Community Development (HCD), Real Estate Management (REM), and the Housing Finance Authority (HFA) during the course of this review.

Background

CHAF is an affordable housing developer and the applicant for the OA project. The proposed development site is located at 3901 46th Avenue North, St. Petersburg, Florida 33714, which is in the Lealman neighborhood of the County. CHAF purchased the property on January 11, 2019. CHAF created Oasis Acres, LLC (OA LLC), and conveyed the property to OA LLC, on March 21, 2019. OA LLC sold the property to the County through the HFA on November 13, 2019. The County has an interlocal agreement with the HFA to act as Trustee for the County and administer the Affordable Housing Land Assembly Fund. Since land assembly funds were used in this acquisition, the HFA, as Trustee for the County, purchased the property from CHAF, and then leased it back to CHAF with a ground lease agreement and a land use restriction agreement (LURA). At that time, the County and the HFA also entered into a land trust agreement for the property.

Lealman Area

Between 2001 and 2014, the County conducted several revitalization studies and plans for the Lealman Area. In December 2014, County Administration directed Planning Department (now HCD) staff to explore the creation of a Community Redevelopment Agency for this area. The Board of County Commissioners (BCC) approved the creation of a Community Redevelopment Area (CRA) Plan on June 23, 2015, as part of Resolution 2015-62. The Lealman CRA Plan was formally adopted by Resolution #16-40 on June 7, 2016, and amended by Resolution #17-36 on June 20, 2017. The BCC serves as the Lealman Community Redevelopment Agency and is responsible for administering programs and policies related to the Lealman CRA.

The CRA Plan serves as a framework for long-term development, economic development, and redevelopment strategies to address subpar conditions and improve the quality of life in the Lealman CRA. The CRA Plan lays a foundation for the County, property owners, and developers by setting forth specific expectations, roles, relationships, and participation by the public and private sectors to ensure the successful development of the Lealman CRA.

Per the CRA Plan, Lealman consists of approximately 2,525 acres of unincorporated Pinellas County generally bounded by the City of Pinellas Park to the north, Kenneth City to the west, and the City of St. Petersburg to the south and east (see Figure 1).

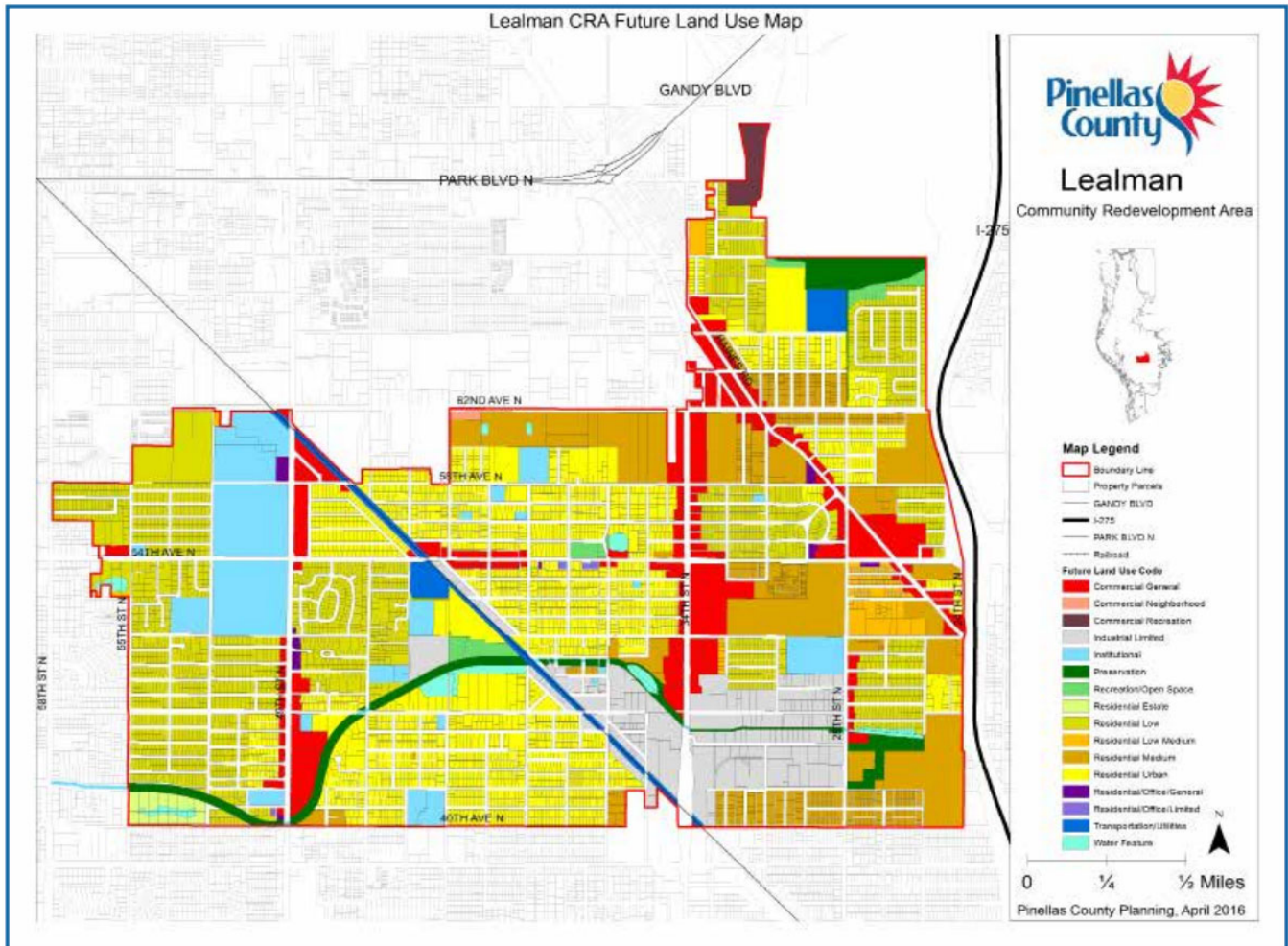


FIGURE 1

The CRA Plan sought to “eliminate conditions of blight found to exist within the Area, as identified in the Finding of Necessity [FON] for the Lealman Community Redevelopment Area.” The FON noted approximately 2/3 of the study area was without sidewalks, in addition to other conditions of blight. Per the FON, a 2014 study identified the following challenges facing the Lealman Area:

- Badly maintained and managed rental properties
- Impact of the recession on local employers
- Continued problems of prostitution, drugs, and physical assault
- Lack of education/awareness of sustainable financial practices among residents
- Lack of access to a grocery store
- Lack of “sense of place” as there are no visual cues to alert someone that they have entered Lealman
- Lack of singular informational resource for support programs and services

- Weak connectivity between the business community in Lealman and the Lealman residential community (business owners are not residents of Lealman, so they do not form connections with residents)
- Potential for Joe's Creek Industrial Park not fully realized
- Safety concerns impacting access (lack of sidewalks, fear of crime, drugs, etc. adversely impact residents' ability to access services)
- Community appearance
- Involvement of residents in planning

Per the CRA Plan, "There are not any distinct, identifiable neighborhoods in the Lealman CRA, but there is a significant residential component. Residents have expressed a desire to improve and diversify the housing stock but have raised concerns that increased redevelopment could have negative impacts on the stable, existing residential areas (e.g., lack of or too much affordable housing, too much change, etc.). The redevelopment objective in the primarily residential areas is to strengthen the identity, stability, character, and quality of life. Investments should be made in the residential areas to support creating self-sustaining, thriving neighborhoods. Such improvements would include infrastructure improvements, streetscape, sidewalks, street resurfacing, bike and pedestrian access, parks and improved access to schools and other community facilities."

As a follow up to the CRA Plan, HCD staff created the Linking Lealman Action Plan (LLAP), to address the need for complete streets and mobility improvements in Lealman. Per the LLAP, its purpose is to, "Build off the current community assets such as Raymond H. Neri Community Park, the designated Lealman Community Redevelopment Area (CRA), and the new Lealman Exchange, to create an interconnected multimodal system, link economic redevelopment, and develop concepts for focus corridors."

The LLAP also notes, "Pinellas County was awarded a Forward Pinellas grant of \$50,000 to develop a complete streets concept plan for the 54th Avenue North Corridor within the Lealman CRA. This concept plan proposes various complete streets concepts to boost safety and considers all modes of transportation. After receiving the 54th Avenue grant, County staff decided to examine the entire Lealman CRA study area."

The LLAP includes several goals:

- Encourage mobility and accessibility for all transportation modes
- Create an actionable plan for complete street improvements
- Provide a link between economic redevelopment opportunities, safety, and mobility objectives
- Develop concepts for focus corridors

Building upon the plan's goals, several themes will be incorporated into proposed complete street concepts, which include:

- Crossing/intersection improvements
- Provide more east to west and north to south connections
- Focus on eliminating sidewalk gaps
- Develop a connected trail network
- Enhanced lighting
- Transportation in the Joe's Creek industrial area

The Lealman CRA will be one of the first areas in the County to utilize a Form Based Code (FBC). The FBC will help to guide development and redevelopment by focusing on the relationships between buildings, sidewalks, and streets, while promoting walkability. Each form based code district has its own unique intent and set of regulatory standards, customized to achieve the overall goals of the community and its neighborhoods, as established in the CRA Plan. The Lealman FBC is currently being drafted by County staff.

Oasis Acres Site

The Lealman Heights subdivision was platted in February 1927. The OA property occupied the majority of block 25, which consisted of 25 lots. Sometime between 1957 and 1967, the site was developed with a mobile home park with 36 units. A site layout drawing on file with Development Review Services (DRS) dated in 1967 depicts a layout of 36 units. The mobile home park continued to operate as such until the demolition of the park in 2019.

In 2017, the County adopted regulatory incentives within the comprehensive plan and the land development code (LDC) for redevelopment of "nonconforming" mobile home parks (properties that do not meet current Pinellas County Code [Code] requirements). Otherwise, developers are not incentivized to redevelop nonconforming properties, since in order to meet current Code, the number of units (density) would likely be reduced, thereby reducing potential rental income. As will be discussed further in this report, the new Code language was not clear in some areas, especially with regard to site plan requirements.

CHAF submitted three separate funding applications for the OA project between October 19, 2018, and May 12, 2019. The final application was for Penny for Pinellas Penny III funding (land assembly funds). The following is a general timeline of events:

Date	Activity
October 19, 2018	CHAF submitted its first application for funding assistance to the County.
October 27, 2018	Appraisal report prepared for OA property by McCormick, Seaman & Terrana.
January 3, 2019	CHAF submitted its second application for funding assistance to the County.
January 11, 2019	CHAF closed on the purchase of the OA property with a sales price of \$300,000, plus closing costs of \$132,628, for a total cost of \$432,628.
April 30, 2019	BDRS provided a zoning certification letter to CHAF, certifying the zoning and land use and indicating the property has been in existence since 1967 and has a legally established nonconforming density of 36 units and could be redeveloped with 36 units.
May 12, 2019	CHAF submitted its third application for funding assistance to the County.
June 11, 2019	In an attempt to expedite the affordable housing project, the County decided a full site plan would not be required, given the anticipated one-for-one unit replacement, and the on-site work would be addressed through the Utilities Department through a construction permit.
July 16, 2019	CHAF began preparing the site for demolition; however, CHAF needed to obtain demolition and habitat permits to perform any work.
July 19, 2019	Environmental site inspectors noted demolition had begun. (From this point through July 2020, CHAF performed work without a permit and beyond the scope of the permits obtained. As the County became aware of the extent of the work performed, they informed CHAF the project would need to be reviewed by the Board of Adjustment & Appeals (BOAA) (as noted below on August 4, 2020).
July 22, 2019	CHAF obtained demolition permits. The demolition permits stated that foundations, driveways, and patios were to remain intact.
August 22, 2019	Planning provided an affordable housing development (AHD) certification. The AHD certification stated that the property has an established, approved site plan on file with DRS that authorizes its continued operation as a mobile home park with 36 units in accordance with section 138.375.3(d) of the LDC. Note: There was not an official site plan on file, but rather a drawing of the site layout.
September 16, 2019	The County as Beneficiary and the HFA as Trustee entered into a land trust agreement.

Date	Activity
October 8, 2019	At the direction of the County, the HFA requested the County release funds for payment of the subject property. However, the Clerk of the Circuit Court and Comptroller (Clerk) raised several concerns about the transaction, as discussed in this report. Ultimately the County was able to meet the minimum requirements necessary for the Clerk to issue funds to purchase the property.
November 13, 2019	The County closed on the purchase of the property in the amount of \$740,525, which includes the purchase price of \$720,000 and \$20,525 in closing costs.
November 13, 2019	At the direction of the County, the HFA entered into a ground lease agreement and a LURA with OA LLC.
July 20, 2020	CHAF sent a letter to County Administration after not receiving promised permits expressing frustration and asking either for necessary permits or reimbursement of approximately \$500,000 in net expenses already invested in the project. If the County reimbursed the expenses, CHAF would suspend development. (In early 2020, the County prohibited CHAF from performing additional work on the site until a path to move forward was established.)
August 4, 2020	Due to CHAF clearing the site of all trees, internal roadways, and existing utilities without permits, and the substantial changes to the property that this work caused, the County formally notified CHAF that the BOAA must review the project per Code sections 38-100 and 138-3211.
October 12, 2020	The Development Review Committee (DRC) heard OA's request for a Type 2 use and recommended approval with conditions.
November 4, 2020	The BOAA heard OA's request for a Type 2 use and various incentives, and conditionally approved the request, which included a full site plan review.
December 3, 2020	In response to the BOAA decision, Lealman citizens filed a civil suit against the County to "quash and remand a decision of the Pinellas County Board of Adjustment after a hearing held...that approved an illegal increase in the nonconforming number of mobile homes for redevelopment of affordable housing, and decreased existing setbacks to zero (0') when the Code requires a minimum of 5' and 10' setbacks, and decreased required parking from 2 spaces per single family unit to 1 space per single family unit."
February 19, 2021	In response to the requirement to submit a site plan in conformance with current Code, CHAF indicated its intention to suspend efforts to develop the OA property.
March 31, 2021	The County directed the HFA to dissolve the development project by mutual written agreement between the HFA and OA LLC. This included terminating the ground lease, the memorandum of lease, and the LURA. The County also directed the HFA to transfer the property to the

Date	Activity
	County by special warranty deed. All three agreements were terminated effective April 20, 2021.
June 2, 2021	The BOAA approved the revocation request of OA's previous request and the BOAA's subsequent conditional approval of the Type 2 use, approved on November 4, 2020.

As of the report date, the utilities that CHAF installed underground are being removed. Once this process is completed, the County will install a fence around the perimeter of the property. It will then initiate the request for proposal process, with public involvement, in order to identify a developer for the property. The nonconforming density would not be allowed going forward. Current zoning and land use requirements allow for 12 units, or up to 18 units if a density bonus is granted.

Due to the Clerk's concerns during the funding request period, and subsequent complaints received from citizens, the IG began to review the land acquisition transaction and subsequent development activity.

Methodology

During the consultation, we performed the following:

1. Interviewed staff that had knowledge of the project and reviewed documents related to the project.
2. Analyzed the land acquisition transaction, including the closing settlement statement, appraisal, and the developer's profit.
3. Reviewed the site plan and permit history of the project.
4. Reviewed AHD and funding documentation.
5. Reviewed code enforcement history on the property.
6. Reviewed employment information for prior employees that potentially had a conflict of interest with the project.
7. Reviewed tenant relocation information related to prior tenants on the property.
8. Reviewed the County's LDC, the Affordable Housing Incentives Manual, the CRA Plan, and the LLAP.
9. Reviewed court documents related to a civil case filed by citizens against the County.
10. Reviewed agreements between the HFA and the County and the HFA and the developer.

Concern #1: Pinellas County Code Applied to Project & Granted Density of Property

County Code

As noted in the Background section, in 2017, the County adopted regulatory incentives within the comprehensive plan and the LDC for redevelopment of nonconforming mobile home parks. Relevant sections of the Code, which includes the LDC are summarized as follows:

Section 138-3211. – Affordable housing development (AHD)

Section 138-3211 identifies development standards and incentives that may be sought for affordable housing developments. Incentives include density bonuses, lot size reductions, reduced setbacks, reduced parking requirements, expedited plans review, fee waivers, zero lot line configuration, street layout and design modifications, among others. Nonconforming mobile homes may also be redeveloped as affordable housing via a Type 2 use request, which is subject to a Type 2 review, in accordance with section 38-100. A Type 2 review requires that instead of County staff reviewing the request (for Type 1 uses), the request for a Type 2 use will be reviewed by the DRC, and the BOAA, as discussed further below.

Section 138.375. – RMH, Residential Mobile/Manufactured Home (RMH) District

Section 138-375 dictates minimum lot sizes and setbacks for mobile home parks and subdivisions within RMH districts, as well as additional requirements for these parks and subdivisions. In addition, it allows mobile home parks with legally established nonconforming density to be redeveloped as affordable housing (in accordance with Section 38-100).

Section 38-100 Redevelopment of nonconforming mobile home parks

Section 38-100 allows legally established nonconforming mobile home parks located in a CRA and in existence prior to January 30, 1990, to be redeveloped as a special exception use (currently what is a Type 2 use that is subject to a Type 2 review). An affordable housing density bonus may be granted up to the existing legally established density as verified by existing site plans on file. In addition, the application of this section requires approval of a site plan in accordance with this section and Chapter 154 of the LDC. Chapter 154 of the LDC includes site development, right-of-way improvements, subdivisions, and platting.

Section 38-100 was created in 2017 to incent the redevelopment of nonconforming mobile homes. The need for this Code resulted from developers' lack of motivation to redevelop properties since by doing so, they could lose density (potential income) as they bring the property in compliance with current Code. Allowing developers to retain historical density and also requiring site plan submission that meets current Code could be an inherent conflict.

Oasis Acres Project

On April 30, 2019, during CHAF's application process, BDRS provided a zoning certification letter to CHAF, certifying the property is zoned residential mobile/manufactured home (RMH) and is designated on the Land Use Map for Residential Urban. The letter also states the mobile home park has been in existence since 1967 and had a legally established nonconforming density of 36 units. Per LDC section 138-375.3(d), the letter advised the site could be redeveloped with a one-for-one replacement of the existing 36 units.

On August 22, 2019, Planning (now HCD) approved OA's replacement plan and provided an AHD certification. The AHD certification stated that the property has an established, approved site plan on file with DRS that authorizes its continued operation as a mobile home park with 36 units in accordance with section 138.375.3(d) of the LDC. Section 138.375.3(d) states the following:

*“Any real property zoned RMH (previously R-6) after January 1, 2019, shall comply with all of the provisions set forth in this division. Any legally established mobile home park in existence on or prior to January 30, 1990 may continue to operate in accordance with approved plans and the regulations in effect at the time of the park's site plan approval. **Mobile home parks with legally established non-conforming density may be redeveloped as affordable housing in accordance with section 38-100 of this Code.**”*

The sentence in red font above was left out of the certification. Section 38-100 reiterates that a legally established nonconforming mobile home park located within a CRA and in existence prior to January 30, 1990, may be redeveloped as a Type 2 use and an affordable housing density bonus may be granted up to the existing legally established density as verified by existing site plans on file. In addition, it states, “Application of this section shall require approval of a site plan in accordance with this section and Chapter 154 Site Development and Platting.” As noted above, this means that a site plan must be reviewed and approved against current Code requirements, which could negate the density bonus granted since meeting current Code may not allow as many units on the property.

Furthermore, the AHD certification included the following statements:

- *“In accordance with the RMH zoning district, an affordable housing development is a permitted use by right (Type 1 use). The existing density is allowed to remain in accordance with Sec. 138-375.3 (d) without further authorization or action.”*
- *“CHAF may proceed with replacement of utilities and units in accordance with the attached mobile home park plan...without further site plan approval with the following conditions:
 1. No additional impervious surface may be created
 2. Appropriate tree removal / habitat permits are obtained
 3. Units must meet/maintain minimum fire code separation distances”*

After receiving the AHD certification, CHAF believed a new site plan would not be required and continued plans to develop the property. While CHAF obtained demolition permits and continued work on the site, the County moved forward with the purchase of the property. However, Section 38-100 required a site plan to be submitted, which was not addressed until later in the process.

As noted in the Background section, there was a period of several months (July 2019 through July 2020) where the County and CHAF attempted to work through issues caused by the work CHAF performed on the property. Public Works (PW) noted during this time a proper drainage system would need to be in place. CHAF indicated they could not regrade the property for proper drainage because they had removed the underground water and sewer lines, and added new infrastructure, including five manholes. Since this work was performed without proper permits, the County's position was that CHAF should be responsible for correcting any issues. CHAF's position was that per the AHD certification, it could replace utilities and units without further site plan approval. In August 2020, the County formally notified CHAF that a Type 2 use and review process would be required.

As noted above, a Type 2 use request must be reviewed by the DRC and if recommended by the DRC, reviewed and approved by the BOAA. The DRC is made up of County staff representing various County departments and divisions who are considered subject matter experts. The purpose of the DRC is to allow interested members of the public and/or the project applicant the opportunity to review the project related materials and the County's technical review comments, and/or to ask questions of the DRC to assist in the County's deliberation of the project in its determination of whether the project is consistent with the LDC. The BOAA is made of volunteers from the community appointed by the BCC. The DRC hears the Type 2 use request and makes a recommendation with a staff report for the BOAA. The BOAA makes the final determination.

CHAF submitted its application for a Type 2 use and requested variances for 32 units (modified from originally indicated 36) to the DRC to be heard on October 12, 2020. The DRC recommended the conditional approval of CHAF's submittal, as it met the criteria for granting Type 2 uses found in section 138-241 of the LDC, or the criteria would be met during site plan review, which was a condition of approval. The DRC recommended conditional approval of the Type 2 use, with the following conditions:

- The applicant shall obtain all required permits and pay all applicable fees.
- Full site plan review.
- Sidewalks shall be required, unless in lieu construction is within proximity of the subject property and a crosswalk is provided to connect to the sidewalk on the south side of 46th Avenue North.
- There shall be at least five visitor parking spaces provided on the subject property.
- Bike racks shall be provided on the subject property.
- Parking surfaces shall be stabilized.
- At a minimum, the trees removed by the developer shall be replaced and there should be landscaping provided along the perimeter of subject property for screening purposes.

The BOAA approved the submittal with the conditions listed above, which included full site plan review. This resulted in the site plan being subject to current Code, and ultimately led the developer to withdraw its intent to develop the OA property.

Staff indicated later that a proper site plan was not filed with DRS. A site layout drawing was relied upon for decision-making. Staff indicated the use of the drawing may be appropriate, but since section 38-100 cites the use of a site plan, the Code language may need to be modified.

Conclusion:

As noted above, section 38-100 requires approval of a site plan in accordance with Chapter 154 of the Code. Chapter 154 of the Code includes site development, right-of-way improvements, subdivisions, and platting. This information was not communicated to CHAF at the time it received its affordable housing certification. Further, the County communicated to CHAF that there was no need for a site plan or additional action, and that utilities could be replaced. After CHAF performed utilities work and PW determined a site plan should be submitted to properly review the site, the County required CHAF to submit a request for a Type 2 use. This ultimately led to CHAF withdrawing its intent to develop the property.

Since the Code was not sufficiently clear, County staff interpreted its intent differently and the result was miscommunication to CHAF. The potential conflict of interest (discussed in Concern #2) with Jacob F. Stowers III (Mr. Stowers), prior Assistant County Administrator (ACA), may have further complicated the situation because staff could not obtain management assistance in decision-making.

During discussions with staff regarding the multiple Code sections applicable to affordable housing and/or mobile home parks, staff indicated that this property was challenging to process due to the fact that it was both a mobile home park with nonconforming density and seeking redevelopment as affordable housing. Staff anticipate similar future projects. Therefore, the Code needs to be simplified and clarified for future use. In addition, the County has an Affordable Housing Manual to assist applicants through the process. While there may be legal requirements to keep some information in the Code, it would be beneficial for the user to have one source of information, such as the Affordable Housing Manual, that includes all relevant Code sections, along with additional information needed to process affordable housing projects within the County.

Suggestions:

1. Review all relevant Code sections and modify where needed so the desired incentives can be obtained without creating additional barriers to obtaining the incentives. Section 38-100 should be modified to include the proper terminology for the type of drawing/plan required to be on file.
2. Determine what is legally required to remain in the Code and minimize the Code language to only what is required.

3. Modify the Affordable Housing Manual to include all relevant affordable housing information, including all Code language.

Concern #2: Potential Conflict of Interest Between Developer and County Staff

Jacob F. Stowers III, Prior Assistant County Administrator

Mr. Stowers was hired by the County on October 28, 1974, and served as the ACA from April 21, 1985, through April 28, 2006, when he retired. He then returned to work for the County as a Director of Strategic Planning & Initiatives (in the role of ACA) on April 7, 2014, and remained in this role until his resignation on December 27, 2019. The son of Mr. Stowers, Jacob Thompson Stowers, is the Vice President of Development at CHAF. During CHAF's application period (from October 19, 2018 through Mr. Stowers' resignation on December 27, 2019), Mr. Stowers directed staff in both the HCD and BDRS Departments. Staff from each of these departments coordinated funding, affordable housing incentives, and permitting for the OA property.

According to CHAF's annual reports filed with the State of Florida, Mr. Stowers served as the Chairman/Director from 2008 to 2014 (two years after he retired until he returned to work for the County). Although staff indicated that Mr. Stowers recused himself from conversations about OA, an appearance of a conflict of interest existed. The appearance of the conflict is illustrated by a Tampa Bay Times article published on November 23, 2019, which stated, "One of the lead people on the newest projects is Jacob Stowers, 36. His father was the company's chairman from 2008 — two years after he retired as assistant county administrator — to 2014, when he returned to the \$185,000-a-year job overseeing community planning and development for unincorporated areas of Pinellas."

Frank Marquis, Prior County Administrator

Fred Marquis (Mr. Marquis) was hired on March 15, 1970, and served in the capacity of ACA from December 7, 1976 through September 25, 1979, when he became the County Administrator through his retirement on September 29, 2000. He also served as the County Administrator from October 1, 2007 to November 14, 2008, in a temporary assignment. Mr. Marquis held various positions with CHAF, such as President, Director, Chairman, and Vice Chairman, from 1992 – 2018. During the time period of 1992 – 2000, Mr. Marquis held a position with CHAF while serving as the County Administrator, which was a potential conflict of interest.

Conclusion:

At minimum, there existed an appearance of a conflict of interest with Mr. Stowers and Mr. Marquis. In their roles as ACA and County Administrator, these employees directed staff responsible for County funding, affordable housing incentives, and permitting. During the time periods when Mr. Marquis held positions for CHAF, he could have directed staff to make decisions that benefitted him personally. During the time period when Mr. Stowers directed

County staff on affordable housing developments, his son was actively working on affordable housing developments with the County.

During the funding requisition process for this property, the Clerk became aware of the potential conflict of interest with Mr. Stowers and questioned the County about it. As a result, in order to address future potential conflicts of interest, the HCD Department amended its funding application so the applicant must attest to any potential conflicts. However, the affordable housing incentives application has not been amended to include the attestation. Although most applicants seek funding in addition to affordable housing incentives, an applicant has and may in the future seek incentives without funding. Therefore, the application for incentives should also be amended.

Suggestions:

1. HCD should amend the incentives application to include an attestation for the applicant regarding potential conflicts of interest.
2. HCD should develop a procedure for County staff to also attest to any potential conflicts of interest when developers submit applications.

Concern #3: Funding Application Inconsistencies

CHAF submitted three funding applications for OA, as detailed below. Specific information on the applications changed while some information was left blank. The table below highlights some of the changes, as well as information about the appraisal and purchase of the property by CHAF.

Funding Application	Date Submitted	# of Units	Land Acquisition Cost	Developer's Fee	County Funds Requested	Outside Financing/CHAF Funding	Total Project Cost
Application 1	10/19/2018	36-54	\$ 350,000	Blank	TBD	TBD	TBD
10/27/2018: Appraisal report prepared for CHAF on OA property; appraised value of \$720,000							
Application 2	1/3/2019	36	\$ 385,000	\$ 360,398	\$ 750,000	\$ 4,316,012	\$ 5,066,012
1/11/2019: CHAF closed on OA property; total cost \$432,628 (sales price \$300,000 + closing costs \$132,628)							
Application 3	5/12/2019	36	\$ 407,628	\$ -	\$ 720,000	\$ 1,522,402	\$ 2,242,402

The change in land acquisition costs, County funds requested, and the timing of the appraisal and CHAF’s purchase of the property elicits several questions about the decision-making process CHAF used when submitting its applications. The following information was obtained from the applications and/or staff interviews.

Funding Application 1 – Submitted October 19, 2018

The application indicated County funding was being sought for acquisition and construction costs. Project schedule, costs, and various other items were to be determined. HCD staff

determined the project was eligible for Neighborhood Stabilization Program (NSP) funding and began federal grant compliance reviews. However, in December 2018, the federal government shutdown delayed the Department of Housing and Urban Development (HUD) approval. HCD staff advised CHAF that proceeding with the acquisition prior to HUD approval would disqualify the project for NSP funding assistance. On January 3, 2019, CHAF submitted its second application for funding assistance for affordable housing development financing.

Funding Application 2 – Submitted January 3, 2019

The application indicated County funds would be used to purchase the land, raze the existing structures, and assist with construction costs. Outside financing and CHAF funds would be used for remaining construction costs. The proposed project schedule included the purchase contract date of December 2017 and the property acquisition completed date of January 2018. The land acquisition costs were listed as \$385,000 and the developer's fee was listed as \$360,398. Various other items including funding sources were to be determined.

Funding Application 3 – Submitted May 12, 2019

The application indicated County funds would be used to purchase the land and outside financing and CHAF funds would be used for construction costs. The proposed project schedule included the purchase contract date of November 2018, the property acquisition completed date of January 2019, zoning approvals obtained April 2019, and environmental reviews completed May 2019. The purchase date was estimated for December 2017 in the second funding application, November 2018 in this funding application, and actually occurred in January 2019. The land acquisition costs on this application increased to \$407,628 and the developer's fee was reduced to \$0. The actual land acquisition costs were \$740,525. Various other items including funding sources were to be determined.

All three applications were submitted by Jacob Stowers, Vice President, Development, CHAF.

Conclusion:

CHAF's application changed substantially two times. While staff indicated that it is common for applicants to sometimes miss information on an application, CHAF's initial application was minimally complete. In addition, the appraised value was known prior to submitting the second application, and although the County funds requested amount was enough to cover the appraised value, the land acquisition costs did not agree to the appraised value or CHAF's purchase price. The second application did not specify who would pay the land acquisition costs. On the third application, CHAF specified that land acquisition costs would be paid by the County at the appraised value; however, an amount less than the appraised value was listed as the land acquisition cost.

Suggestions:

1. Ensure applications are complete when received.

Concern #4: Purchase Price of Property & Appraisal

The County purchased the land from CHAF on November 13, 2019, for \$720,000, plus \$20,525 in closing costs, for a total of \$740,525. The price of \$720,000 was based on an appraisal of the land value dated October 27, 2018. When the County directed the HFA to request the Clerk release the funds for payment in October 2019, questions arose about the appraisal. We analyzed the issues raised to determine if there are any opportunities for improvement to the process.

The appraiser, McCormick, Seaman, & Terrana (MS&T), prepared the appraisal for CHAF on October 27, 2018. CHAF submitted the appraisal with the funding application in May 2019; the appraisal was approximately six months old at that time. Additional time elapsed and when the County purchased the property in November 2019, the appraisal was over a year old.

MS&T concluded that the market value of the property was \$720,000, which was based on hypothetical conditions that the subject site could be developed with 36 units, each valued at \$20,000. MS&T obtained the value of \$20,000 based on four comparable properties used in the appraisal. “The adjusted values of the four comparable land sales range from a low of \$16,985 per unit to a high of \$23,806 per unit. Based on the above analysis, it is our opinion that the market value of the subject on a per unit basis via the Sales Comparison Approach is \$20,000 per unit.”

The Clerk questioned the comparable properties used in the appraisal as being in more prime locations as compared to the Lealman CRA, as well as the intended future uses of the comparable properties, such as being developed as townhomes and villas, as compared to park model homes. See a comparison of the OA property and the comparable properties:

#	Property	Sale Price	Sale Date	Area	Property Type
1	Oasis Acres (subject property) 3901 46 th Avenue North, St. Petersburg, FL 33714	\$720,000	November 2019	Lealman	36 park model homes
2	6 th Avenue South & Dr. Martin Luther King, Jr. Street South, St. Petersburg, FL 33705	\$3.6 M	July 2016	Downtown St. Petersburg	132 apartment units
3	Golden Pasture Circle & Belleair Road, Largo, FL 33764	\$2.2 M	December 2017	Clearwater/Largo border near US 19	136 townhomes
4	Pine Crest Street & 82nd Avenue, Seminole, FL 33777	\$475,000	November 2016	Lake Seminole	24 villas

5	70 th Avenue North & 104 th Lane North, Seminole, FL 33772	\$7M	February 2017	Lake Seminole	247 apartment units
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The County indicated the appraisal was for underlying land value only and comparable properties in the appraisal were other vacant land sales. In addition, the appraisal did not consider the end use of the property. However, the appraisal did consider hypothetical conditions that the subject property could be developed with 36 units. It is unclear why the appraiser relied on the end use for the subject property but not for the comparable properties.

The previous sale of the property, from Waldorf Inc., AKA Wood Acres Mobile Home Park, Inc. to CHAF, in January 2019, was for \$432,628, which included a sales price of \$300,000 and additional costs of \$132,628, as follows:

Settlement Charge	Amount
Commission Paid at Settlement	\$ 18,750
Settlement or Closing Fee to Pinellas Park Title Company	\$ 850
Owner's Title Insurance to Pinellas Park Title Company	\$ 3,825
Search Fee to Old Republic National Title Insurance Company	\$ 75
Deed Mortgage Release	\$ 19
State Tax/Stamps Deed \$2,100.00	\$ 2,100
Record Release of Contract to Clerk of the Circuit Court	\$ 19
Record Certificate of New Corp Name to Clerk of the Circuit Court	\$ 36
2016 Taxes to Charles Thomas	\$ 6,844
2017 Taxes to Charles Thomas	\$ 7,469
2018 Taxes to Charles Thomas	\$ 6,944
Assessment Search to Gator Lien Search	\$ 222
Mortgage Payoff to Bruno Rosch	\$ 72,040
Wire Fee to Pinellas Park Title Company	\$ 25
Attorney's Fees to Sanders Law Group	\$ 1,182
Payoff Code Enforcement Lien to Pinellas County Code Enforcement	\$ 12,230
Total	\$ 132,630⁽¹⁾

(1) The total of the figures in the chart (\$132,630) varies from the total on the settlement statement (\$132,628) due to rounding.

The PCPA reflected a market value for the OA property of \$270,000. When the Clerk requested the basis for the difference in the PCPA's value and MS&T's appraised value, the County indicated that CHAF incurred expenses subsequent to its initial purchase of the property, to

address the prior state of the property, including mobile homes on site being in extremely poor condition. Subsequent expenses can be found on page 19.

Code Enforcement Liens

Per the County, the OA property had accumulated \$1,203,100 in outstanding code enforcement liens prior to OA purchasing the property. On October 16, 2019, the County's Code Enforcement Special Magistrate adjudicated an order granting a joint motion for a reduction in fines. The outstanding balance was reduced to \$12,230, and was required to be paid in full within 30 days of the order. On October 18, 2019, CHAF submitted payment for \$12,230. Per Code Enforcement, this is a standard process.

Conclusion:

The appraisal was provided for CHAF and subsequently provided to the County by CHAF. Customary real estate practices include the buyer obtaining an independent appraisal. Although a time frame is not specified in REM's Real Estate Procedures, REM management indicated that six months is an industry standard for how long an appraisal is considered valid. The appraisal used for OA was over one year old.

The appraiser provided the appraised value of \$720,000 based on 36 anticipated units, each valued at \$20,000. However, as noted above, the most recent project documentation from the developer included developing 32 units. Furthermore, the developer terminated the project when it anticipated it could not likely develop as many units based on current Code requirements. The appraiser may have valued the property differently if the number of units was established before the appraisal was completed.

Customary real estate practices do not include expenses that a buyer may incur after purchasing a property when valuing a property.

Suggestions:

1. The County should obtain an independent appraisal when considering the purchase of a property and ensure the methodology for valuing the property is consistent with industry standards.

Concern #5: Developer Profit

Due to CHAF's purchase price of \$300,000, and the subsequent sale to the County for \$720,000, the assumed developer profit was \$420,000. The County provided the following explanations for the purchase price:

- A certified appraiser completed the appraisal consistent with governmental appraisal practices including Pinellas County government.

- The condition of the property likely had a significant negative impact on the sales price to CHAF. Mobile homes on the site were in extremely poor condition. Neither the HFA nor the County were parties to negotiations between CHAF and the property owner; however, in reviewing materials provided in the application, the outstanding code enforcement liens in the amount of \$1,203,100, likely had a significant negative impact on the sales price as well as increased developer risk.
- CHAF paid other costs at closing, including three years of outstanding taxes, an outstanding mortgage balance, and other standard closing costs, totaling \$132,628.
- Although not applicable to this transaction and not requested for reimbursement, any assumed seller profit calculation should be reduced by the costs associated with tenant relocation assistance, site clearance, site preparation, legal fees and other associated expenses. Any net profit, if available, may be used for reducing the amount of debt required for site development and construction of the planned affordable housing project.

The PCPA provided the following about the developer’s profit after the developer provided the costs associated with this property to the PCPA (Note: We verified the costs from documentation the developer provided the County. Some of the costs were not verified, as noted in the table below.)

Expense	Provided to PCPA	Verified
Recorded Price	\$ 300,000	\$ 300,000
Closing Costs	\$ 132,628	\$ 132,628
Charitable Contribution	\$ (25,000)	\$ (25,000)
Resident Move Out	\$ 28,250	\$ 17,699 ⁽¹⁾
Asbestos Remediation	\$ 69,650	\$ 69,650
Demolition	\$ 60,968	\$ 60,968
Liens	\$ 12,300	\$ 12,230 ⁽²⁾
Total Estimated Costs	\$ 578,796	\$ 568,175

- (1) We reviewed accounting records that CHAF provided the County. Based on the descriptions in the accounting records, it was not always clear which amounts were for resident moving expenses. Based on the descriptions that were clear, we were able to verify \$17,699 in resident moving expenses.
- (2) The variance appears to be due to rounding.

The PCPA opined that based on these costs, the entrepreneurial profit would be approximately \$141,204, or 24.4% [(\$720,000 - \$578,796) / \$578,796], and this was not considered atypical based on the associated development risks, oversight, and coordination to ready this site for redevelopment.

Conclusion:

The developer’s profit was \$420,000. As noted in Concern #4, the appraisal process was not independent and may have resulted in a higher profit for the developer.

Suggestions:

1. Ensure that the County utilizes an independent appraisal process.

Concern #6: Tenant Relocation

Per County staff, CHAF was not required to submit a tenant relocation plan after the funding source was changed from NSP to land assembly funds. CHAF indicated via email on October 21, 2019, that they paid resident moving expenses of \$28,250. We reviewed accounting records that CHAF provided the County. Based on the descriptions in the accounting records, it was not always clear which amounts were for resident moving expenses. Based on the descriptions that were clear, we were able to verify \$17,699 in resident moving expenses.

We reviewed Code section 38-100(g), and noted it states, "An acceptable mobile home tenant relocation plan must be demonstrated." County staff indicated this was not formally addressed by CHAF initially, and when County staff subsequently asked about the plan, CHAF indicated the tenants had already moved out, and therefore, a relocation plan was not needed.

Conclusion:

Per Code, CHAF should have submitted a tenant relocation plan. Since CHAF did not submit one initially, and arranged for tenants to move out during the delayed development process, by the time the County asked for documentation, there were no tenants remaining on site.

Suggestions:

1. Ensure applicants adhere to Code requirements when submitting documentation for review.

Concern #7: Work Performed Beyond the Scope of Permits

On July 19, 2019, environmental site inspectors were performing pre-inspections in advance of issuing habitat permits for tree removal. The scope was for trees on site only. Inspectors noted that CHAF had started removing trees in the right-of-way and started demolishing some of the mobile homes. CHAF had not yet obtained a right-of-way permit nor a demolition permit. Inspectors also noted that most of the trees were not barricaded on site and should have been since the structures were going to be demolished.

On July 22, 2019, two demolition permits were issued to demolish the entire mobile home park, leaving all foundations, driveways, and patios. The habitat permit was issued August 16, 2019, after passing environmental inspections.

County staff indicated that in the coming months CHAF performed work beyond the scope of the demolition permits. Specifically, CHAF dug into the ground to remove all utilities and installed new piping and five manholes. CHAF indicated that contractors driving their equipment over the

property deteriorated the roadways. County staff indicated when this occurs, it is standard practice to amend the scope of the permit to include the additional work. In early 2020, the County prohibited CHAF from performing further work on the site.

Since CHAF suspended efforts to develop the property, and the utilities work performed underground was not permitted, the County plans to remove all utilities at an estimated cost of \$19,000.

Conclusion:

CHAF performed work without a permit and performed work beyond the scope of permits obtained. As a result, the County may be required to pay approximately \$19,000 to clear the land for the next potential development of the property.

Suggestions:

1. Consider developing procedures to ensure applicants are not performing work without a permit and if they do, appropriate consequences are imposed.

Concern #8: Storage of Developer's Property on County Property

During the development phase, CHAF pre-ordered eight park model units that it was paying to store on the manufacturer's property. After the project was delayed, CHAF expressed to the County that these costs were accruing daily and asked if it could store the units on another County property it was planning to develop. Since that site was residentially zoned and did not have the appropriate zoning for outdoor storage, the County offered to store the units on another site with the proper zoning.

The County entered into a licensing agreement with CHAF to store park model homes on the County's vacant property located on 46th Avenue North (parcel ID 03-31-16-00000-140-1300). The temporary licensing agreement was effective September 18, 2020, for a one-year term. The licensee (CHAF) was required to obtain specific insurance policies and mow the property during the term of the lease. Per REM, CHAF complied with insurance requirements and mowed the licensed area during the agreement. REM indicated this type of agreement is not customary for developers. BDRS management specified that the use of licensing agreements is common to accommodate requests that may arise during development projects; however, storing a developer's property on the County's vacant property has not otherwise been requested or provided historically.

Conclusion:

CHAF was provided a benefit that was not typically given to other applicants, in part because of project delays it did not anticipate.

Suggestions:

1. Apply standard practices to all developments within the affordable housing program.

Concern #9: Project Inconsistency with Lealman Plans

Based on numerous studies of the Lealman area, it became a priority for the County to improve conditions in the area. As a result, the County developed the CRA Plan and subsequently the LLAP. The CRA Plan noted safety concerns such as a lack of sidewalks and a lack of involvement of residents in planning for the area. The LLAP included a concept plan which proposed “various complete streets concepts to boost safety.” The LLAP noted that two-thirds of the study area did not include sidewalks, which “creates an unsafe and disconnected environment for pedestrians.”

Community outreach events included surveying residents that responded with enhancing sidewalks as a top concern. The LLAP also noted that the existing transportation infrastructure in Lealman is not built to current standards, encourages high speed motor vehicle travel, and creates an unsafe environment for all users, particularly pedestrians.

As expressed by County staff and citizens, the OA project included a request to waive sidewalk requirements, which conflicted with the CRA Plan and the LLAP. The property does not currently have sidewalks on the perimeter of any of its property lines. The BOAA approval of the Type 2 use included a condition that sidewalks be required, unless in lieu construction was within proximity of the subject property and a crosswalk was provided to connect to a sidewalk near the property on 46th Avenue North. There is no specific requirement for how close the “in lieu construction” is placed; however, it would have to be close enough to connect to 46th Avenue North. In the civil lawsuit against the County that followed the BOAA decision, the petitioners claimed that the failure to include the Code required sidewalk as part of the project on any of the adjacent streets causing neighbors to walk in the roadway to cross the street and re-cross the street would adversely affect the citizens.

Conclusion:

The OA project was being developed with an emphasis on profitability, which relied on conditions that may have resulted in a development that was inconsistent with Lealman area plans.

Suggestions:

1. When soliciting future development plans, ensure the result will be consistent with Lealman needs and desires of the community members.

Appendix A – Abbreviations

ACA	Assistant County Administrator
AHD	Affordable Housing Development
BCC	Board of County Commissioners
BDRS	Building & Development Review Services
BOAA	Board of Adjustment & Appeals
CHAF	Contemporary Housing Alternatives of Florida
CRA	Community Redevelopment Area
DRC	Development Review Committee
DRS	Development Review Services
FBC	Form Based Code
HCD	Housing & Community Development
HFA	Housing Finance Authority
HUD	Department of Housing & Urban Development
LDC	Land Development Code
LLAP	Linking Lealman Action Plan
LURA	Land Use Restriction Agreement
MS&T	McCormick, Seaman, & Terrana
NSP	Neighborhood Stabilization Program
OA	Oasis Acres
OA LLC	Oasis Acres, LLC
PCPA	Pinellas County Property Appraiser
PW	Public Works
REM	Real Estate Management
RMH	Residential Mobile/Manufactured Home