



ECIDA POLICY COMMITTEE

Adaptive Reuse Policy

Adopted November 26, 2008

Recent local real estate market surveys have indicated that the region's real estate market continues to be dually challenged by old outdated structures which are considered functionally obsolete and a flat relatively low cost market for real estate. This is particularly problematic with the existing building inventory in the urban core office market and regionally in the industrial building inventory. Some estimates place the obsolescence level of the existing industrial building inventory at as much as 50%.

These structures present unique challenges to development and adversely impact the economic viability of the neighborhoods and districts surrounding them by contributing to:

- Slum and blight
- Public safety concerns
- Environmental concerns
- Depression of local real estate values
- Economic viability issues for infill development\

In an effort to advance a regional strategy for development consistent with the Framework for Regional Growth, that outlines a growth, development and investment plan for the region, the ECIDA shall pursue an **Adaptive Reuse Strategy** that encourages the redevelopment of old structures or sites for new purposes consistent with this plan.

This represents a shift in development focus of the ECIDA to assuming an active role in building and site development in targeted areas and for specific purposes in the county.

Adaptive Reuse is the process of adapting old structures or sites for new purposes.

Adaptive Reuse Projects present unique challenges to development by private market activity, among these are:

- Higher costs associated with development of sites and structures
 - Environmental Remediation Issues
 - Building Code Issues
 - Physical Development Costs
- Local real estate values that do not support increased upfront development costs

These structures also present many governmental and regional growth issues for the county.

- Public safety concerns from abandoned and deteriorating structures
- Significant costs to local governments for demolition or remediation of sites and buildings that end up in public ownership through abandonment or tax delinquency
- Increased public infrastructure costs associated with new site and building development

Current ECIDA and the Countywide IDA Policy make the use of IDA benefits problematic and difficult to use in Adaptive reuse projects.

- Present policy and state law focus on end use(s) of projects which may not be fully known in adaptive reuse scenarios
- Many adaptive reuse projects are large floor plate structures which typically have a mix of uses making project eligibility determinations difficult
- Market rate housing has been a component of many of the adaptive reuse projects in the urban core

The adoption of a proactive Adaptive Reuse Policy and strategy will create many benefits to the region, including:

- Redevelopment of blighted sites and or structures
- Promoting infill development that utilizes existing public infrastructure, controlling costs for local government support of infrastructure
- Supporting the Framework for Regional Growth Plan
- Creating new economic activity at difficult sites and buildings, helping to eliminate neighborhood slum and blight
- Promoting a green redevelopment strategy, recycling existing buildings and sites
- Helping maintain neighborhood fabric and historic nature of area structures

In implementing an Adaptive Reuse Policy the ECIDA will create a scoring system to evaluate projects for adaptive reuse utilizing evaluation criteria that will include:

Required Criteria:

1. Age of structure, structure must be at least 20 years old and present functional challenges to redevelopment
2. Structure has been vacant or underutilized for a minimum of 3 years
 - a. Underutilized being defined as a minimum of 50% of the rentable square footage of the structure being vacant, or structure being utilized for a use for which the structure was not designed or intended for.
3. Structure is not generating significant rental income
 - a. Significant rental income defined as 50% or less than the market rate income average for that property class.
4. Project is in compliance with the investment and growth criteria of the Framework for Regional Growth plan

5. Demonstrated evidence of financial obstacle to development without ECIDA or other public assistance
 - a. Submission of cash flow projections documenting costs, expenses and revenues indicating a below average return on investment rate as compared to regional industry averages.
6. Demonstrated support of local government entities

Other Factors to be considered:

7. Structure or site presents significant public safety hazard and or environmental remediation costs
8. Site or structure is located in a distressed census tract
9. Structure presents significant costs associated with building code issues associated with new development making the project financially unfeasible per item#5 above
10. Site or structure is presently delinquent in property tax payments

A report will be prepared and presented to the ECIDA board which will evaluate each project on the above cited criteria, for review and determination of project eligibility and assistance by the ECIDA Board of Directors.

***All adaptive reuse projects must comply with existing state law and Countywide IDA eligibility requirements.**

Pursuant to this policy, adaptive reuse projects with the exception of the present Hotel restrictions may include eligibility uses that are presently not considered for ECIDA assistance under non-adaptive reuse project scenarios, i.e. certain retail uses and market rate housing.

EXHIBIT A

ADDENDUM NO. 1

[Attached]

ADAPTIVE REUSE POLICY

Addendum #1

Applicability of the Adaptive Reuse Policy to an Adaptive Reuse Project consisting of or containing an element of, for rent residential housing

Objective

Adaptive Reuse Projects consisting entirely of, or containing an element of, for-rent residential housing (hereinafter, collectively, an “Adaptive Reuse Housing Project”) continue to seek financial assistance from the Erie County Industrial Development Agency (the “Agency”). These project have successfully enabled the Agency to encourage the adaptive reuse of old and often abandoned and blighted structures, being one of the primary purposes of the Agency’s Adaptive Reuse Policy. To help address the growing housing affordability and accessibility challenges faced by many Erie County residents, the Agency will now require Adaptive Reuse Housing Projects to include a certain number of, and potentially a mix of configurations of, workforce/affordable housing units that must be leased to a tenant(s) meeting certain income eligibility limits, subject to the criteria described herein.

Key Definitions/Concepts

Adaptive Reuse Housing Project. An Adaptive Reuse Project consisting entirely of, or containing an element of, for-rent residential housing.

Area Median Income (“AMI”). AMI is the median household income for a particular geographic area. The New York State Affordable Housing Corporation (“AHC”) publishes annually the Statewide and regional AMI figures. AMI serves as the benchmark for setting income thresholds that govern eligibility for housing assistance programs in New York. These programs often define their income limits as specific percentages of AMI, such as 50% or 80%, to determine if an individual or household qualifies for aid in covering housing expenses.

Workforce/Affordable Housing Rental Rate. For the purposes of this Addendum #1, the Agency defines a housing unit as “affordable” if the total housing costs do not exceed 30% of a household’s gross monthly income. The Workforce/Affordable Housing Rental Rate for a Workforce/Affordable Unit shall equal the product of (i) 30% and (ii) the 80% AMI figure for the year of initial occupancy for each such lease agreement lessee based on the number of occupants of a unit, where it is assumed a studio unit houses one person, a 1BR unit houses one person, a 2BR unit houses two people, and a 3 BR unit houses three people, and then dividing the product by 12.

Workforce/Affordable Unit. A residential unit within an Adaptive Reuse Housing Project that is subject to the terms and conditions of this Addendum #1.

Adaptive Reuse Housing Project Requirements

To qualify for Agency financial assistance, in addition to meeting the existing Adaptive Reuse Policy criteria, an Adaptive Reuse Housing Project must:

- (i) contain a certain number of Workforce/Affordable Unit(s) having rental rates affordable to individuals and families at the Workforce/Affordable Housing Rental Rate; and
- (ii) contain, if possible, a mix of configurations (studio, 1BR, 2BR, 3BR) of Workforce/Affordable Unit(s) to meet housing needs for households of varying size based on a building's internal infrastructure and related financing considerations; and
- (iii) require and restrict, via income verification, the occupancy of the Workforce/Affordable Unit(s) to the leasehold agreement lessee whose annual income is at or below the 80% AMI figure as identified in the AHC table for the initial year of occupancy of each such lease agreement lessee of a Workforce/Affordable Unit.

The required number of Workforce/Affordable Unit(s) for a project to qualify as an Adaptive Reuse Housing Project is as follows:

Total Number of Units	Number/Percentage of required Workforce/Affordable Units
1-10	At least one workforce/affordable unit
11 - 50	10%, with the required number to be determined by multiplying 10% by the total number of units and rounding the product up if the product contains a decimal of 0.5 or higher, and rounding the product down if the product contains a decimal of 0.4 or lower
51-100	15%, with the required number to be determined by multiplying 15% by the total number of units and rounding the product up if the product contains a decimal of 0.5 or higher, and rounding the product down if the product contains a decimal of 0.4 or lower
101 or more	20%, with the required number to be determined by multiplying 20% by the total number of units and rounding the product up if the product contains a decimal of 0.5 or higher, and rounding the product down if the product contains a decimal of 0.4 of lower

Applicants will be required to certify and confirm, at the time of application and on an annual basis during the term of the Agency's monitoring and compliance period (not to exceed the applicable time period being two years following project completion (certificate of occupancy issuance) or the term of the PILOT Agreement benefit period, or such other term as required by the Agency) that the project will meet and continues to meet the Addendum #1 Adaptive Reuse Housing Project Requirements.

The goal of the Agency's Adaptive Reuse Policy is, ultimately, to encourage the adaptive reuse of existing but abandoned/blighted buildings. Notwithstanding anything contained within this Addendum #1 to the contrary, the Agency reserves the right to waive any or all the terms and conditions of this addendum on a case-by-case basis. This waiver can be granted if the Agency determines that strict adherence to Addendum #1 requirements would jeopardize the adaptive reuse of a building in alignment with the Agency's Adaptive Reuse Policy goals.

Effective Date

This Addendum #1 shall be effective and made applicable to all Adaptive Reuse Housing Project applications for Financial Assistance submitted to the Agency on or after August 1, 2024.