

Board of County Commissioners

**Live Local Act (SB 102)
Implications and Implementation**

Discussion

August 8, 2023



Presentation Outline

- **Purpose**
- **Live Local Act (SB 102) Overview**
- **Live Local Development Permitting Standards and Process**
- **Staff Recommendations/Resolution**
- **Summary**
- **Requested Action**



Purpose

- **Formalize via Resolution a process and specific performance standards that implement new state requirements relating to affordable housing and associated mixed-use development**



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Live Local Act Overview

▪ SB 102 – Housing (Live Local Act)

– Bill focused on streamlining and incentivizing affordable housing related programs, standards and policies. Makes various changes and additions at both the state and local level.

– Filed January 26, 2023

– Passed by the Senate (40-0) on March 8, 2023

– Passed by the House (103-6) on March 24, 2023

– Signed by Governor DeSantis on March 29, 2023

– Legislation effective on July 1, 2023





Live Local Act Overview

2) Provisions relating to funding for affordable housing

- Provides up to \$811 million for affordable housing programs
- State Apartment Incentive Loan (SAIL) program
 - Provides up to \$259M in recurring and non-recurring funds
 - Creates a new tax donation program to allow corporate taxpayers to direct certain tax payments, up to \$100M annually, to fund the SAIL program through FHFC
- State Housing Initiatives Partnership (SHIP) program
 - Provides \$252M in non-recurring funds for the SHIP program



Orange County SHIP Allocation

\$13.2M projected for 2023
21% increase



2) Provisions relating to funding for affordable housing

–Florida Hometown Heroes Program

- Codifies down payment assistance program, increasing the monetary limit per loan and the scope of eligibility
 - Appropriates \$100M in non-recurring funds
 - Provides down payment and closing cost assistance
 - Eligible to over 50 professions
 - » Teachers
 - » Veterans / Active-duty military / Spouses of deceased vets
 - » Sworn law enforcement officers
 - » Paramedics / EMT's / Firefighters
- Eligible first time homebuyers will be able to receive over 5%, or up to \$25,000 off their mortgage amount





2) Provisions relating to funding for affordable housing

– Inflation Response Program

- Provides \$100M in non-recurring funds from the General Revenue Fund to the Construction Inflation Response Viability competitive loan program
- Existing program to help alleviate inflation-related cost increases for FHFC-approved multifamily projects that have not yet commenced construction
 - Intended to fill the gap experienced due to increased construction costs
 - Previous years funding had been exhausted





3) Provisions relating to ad valorem property tax exemptions

–State level

- Exemption for land owned by a nonprofit entity that is leased for a minimum of 99 years for the purpose of providing affordable housing
- Exemption for rent-restricted units within newly constructed or substantially rehabilitated developments setting aside at least 70 units for affordable housing for households earning 120% of area median income (AMI) or less

–Local level

- Authorizes counties to offer, through ordinance, an ad valorem tax exemption to property owners who dedicate units for affordable housing for households earning 60% of AMI or less



Live Local Act Overview

4) Provisions relating to local government property

–County-owned lands

- Requires counties to update and electronically publish the inventory of publicly owned properties, including property owned by a dependent special district, which may be appropriate for affordable housing development
 - Example of Dependent Special District – CRA (I-Drive)
 - October 2023 compliance date
- Authorizes the FHFC, through contract with the Florida Housing Coalition, to provide technical assistance to local governments to facilitate the use or lease of county property for affordable housing purposes



Live Local Act Overview

5) Provisions relating to local government permitting

–Land use entitlements

- Preempts requirements regarding zoning, density, and height to allow for streamlined development of affordable housing in areas zoned for commercial, industrial, and mixed-use under certain circumstances
- Developments that meet the requirements may not be required to obtain a zoning change or comprehensive plan amendment and must be administratively approved
- Removes ability to bypass state and local laws to approve affordable housing on residential parcels – reversing 2019 HB requirement



Live Local Act Overview

▪ Summary of major provisions

1. Statewide preemption of rent control
2. Significant investments in state funding for affordable housing
3. Opportunities for state and local property tax exemption
4. Publicly-owned lands available for affordable housing identified
5. Land use changes allow affordable housing by right in commercial, industrial and mixed use zoned areas and specify allowed density and height



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Live Local Development

Permitting Standards and Process

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▪ Analysis of Live Local parameters

– Intended Applicable Uses / Projects

- Multi-family
- Mixed-use residential
 - 65% of space must be residential

– Eligible Zoning Districts

- Commercial
- Industrial
- Mixed-use

– Affordability

- 40% of residential units within 120% AMI
- 30-year affordability commitment



Live Local Development

Permitting Standards and Process

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- **Commercial**
- Industrial
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▪ “Commercial Zoning Districts”

- C-1 (Retail Commercial)
- C-2 (General Commercial)
- C-3 (Wholesale Commercial)





Live Local Development

Permitting Standards and Process

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▪ Analysis of Live Local parameters

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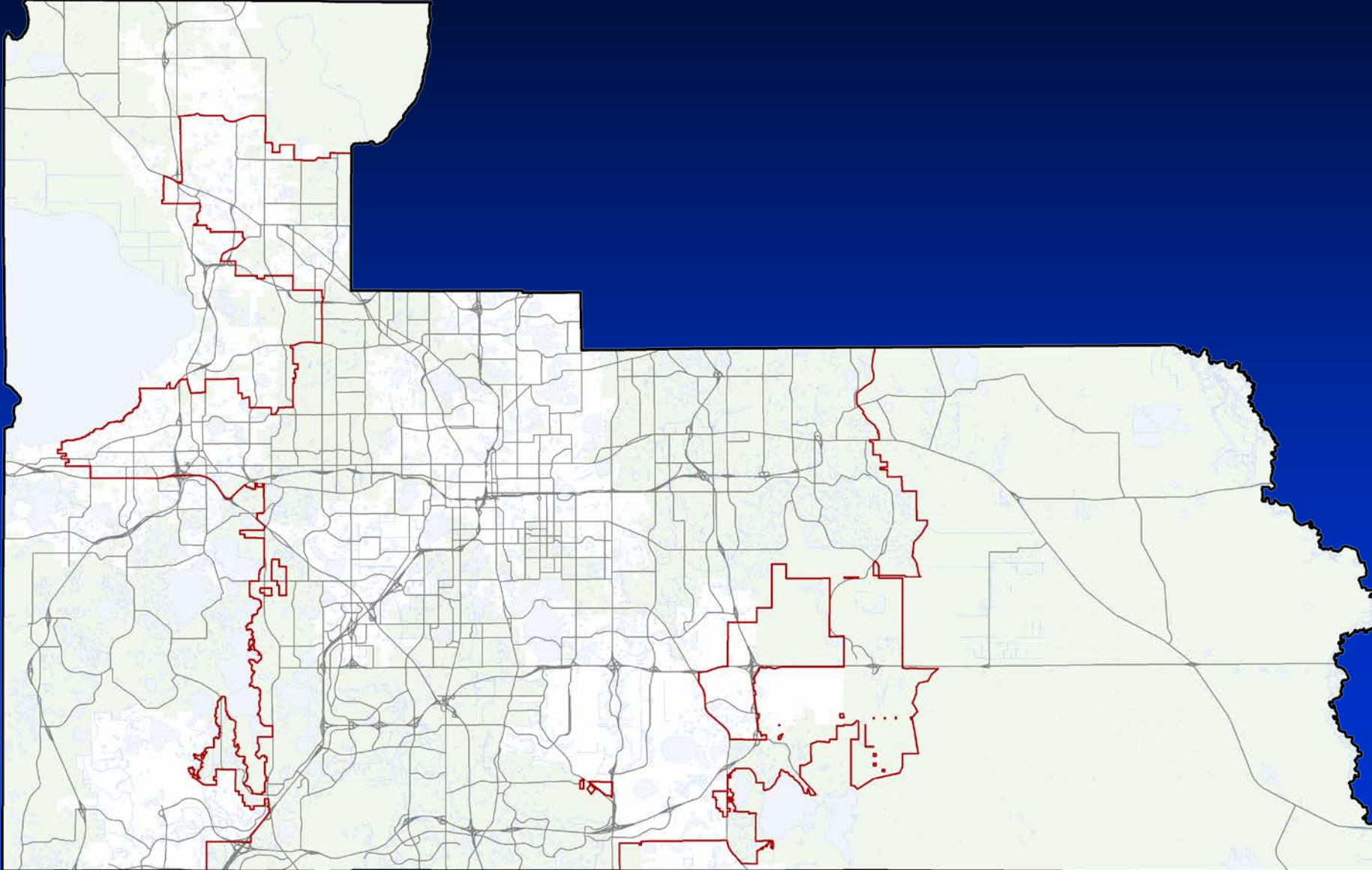
▪ “Mixed Use Zoning Districts”

- NC (Neighborhood Center)
- NAC (Activity Center)



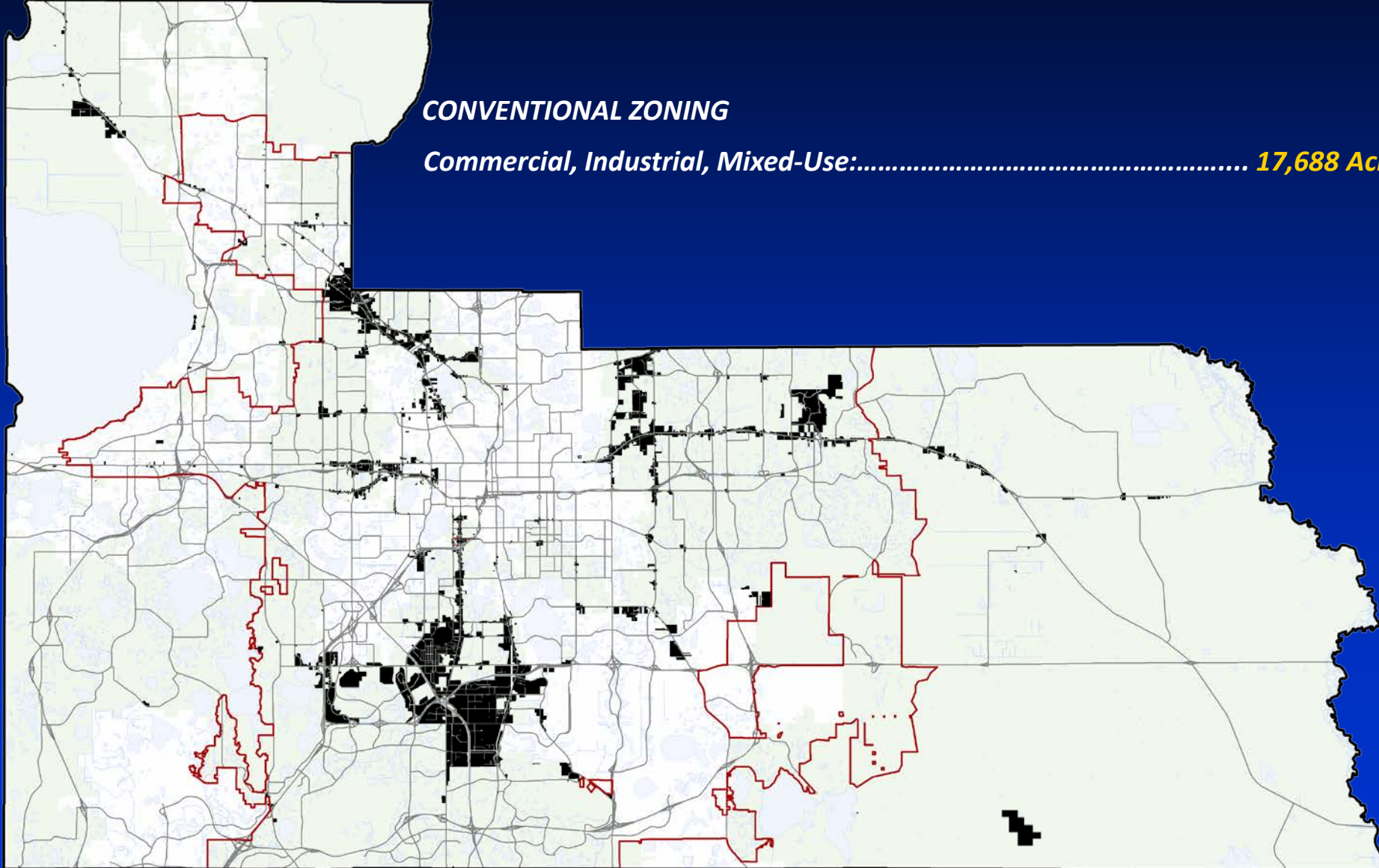


Conventional and PD Zoning





Conventional and PD Zoning

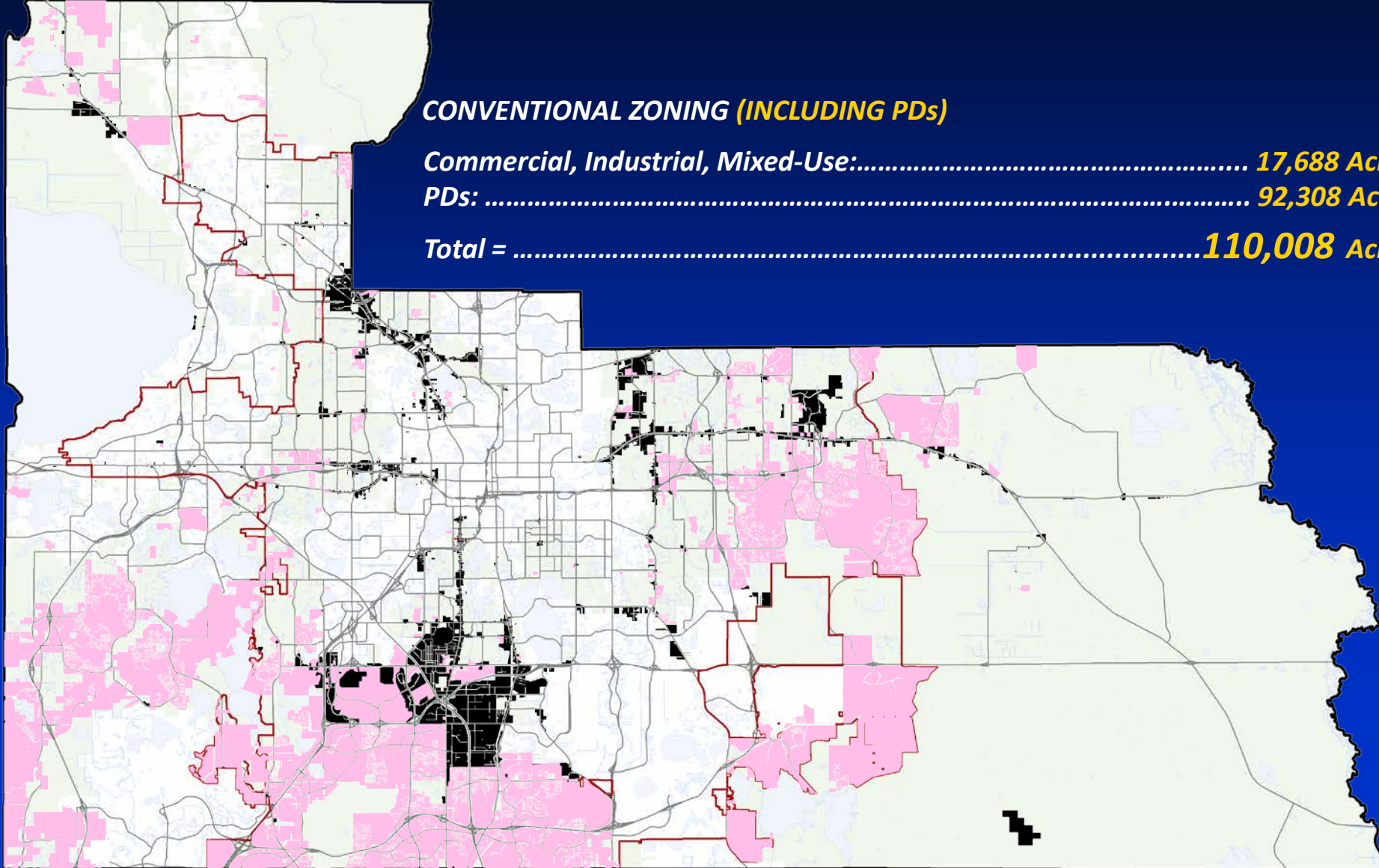


CONVENTIONAL ZONING

Commercial, Industrial, Mixed-Use:..... 17,688 Acres



Conventional and PD Zoning



CONVENTIONAL ZONING (INCLUDING PDs)

Commercial, Industrial, Mixed-Use:.....	17,688 Acres
PDs:	92,308 Acres
Total =	110,008 Acres



Live Local Development

Permitting Standards and Process

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Live Local Development

Permitting Standards and Process

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▪ “Affordability”

– Orange County

- Typical maximum 80% AMI
- Income Limit - \$70,240
- 2-BR Rent - \$1,582

– State of Florida (Live Local Act)

- Max 120% AMI
- (OC) Income Limit - \$105,360
- (OC) 2-BR Rent - \$2,373 (close to MR)





Live Local Development

Permitting Standards and Process

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- **30-year affordability commitment**

▪ “Affordability Commitment”

- DCR or Agreement
- Reporting, monitoring, audits
- Non-Compliance





Live Local Development

Permitting Standards and Process

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- **Analysis of Live Local terms**
 - **Height - 3 stories or max height allowed within 1 mile**
 - Commercial (50ft)
 - Residential (35ft)
 - Referenced code/structure must be within the jurisdiction
 - **Density – Highest density allowable in residential**
 - HDR (up to 50du per acre)
 - **Parking reduction consideration**
 - If within 1 mile of a major transit stop



Live Local Development

Permitting Standards and Process

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- **Analysis of Live Local terms**
 - Height - 3 stories or max height **allowed** within 1 mile
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- **“Allowed height”**
 - Code maximum
 - Approved waiver/variance
 - I-Drive (No specific height standard in code)
 - How to measure



Height Example





Live Local Development

Permitting Standards and Process

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▪ Analysis of Live Local terms

– Height - 3 stories or max height allowed within 1 mile

- Commercial (50ft)
- Residential (35ft)
- Referenced code/structure must be within the jurisdiction

– Density – Highest density allowable in residential

- HDR (up to 50du per acre)

– Parking reduction consideration

- If within 1 mile of a **major transit stop**

▪ “Major transit stop”

- No definition in Comp Plan or Code
- SunRail Station
- LYNX Superstop





Live Local Development

Permitting Standards and Process

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- **Analysis of Live Local terms**
 - **Must meet all other multifamily residential standards in code and be consistent with the Comprehensive Plan, with the exception of density, height, and land use**
 - **Administratively approved**



Live Local Development

Permitting Standards and Process

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▪ Analysis of Live Local terms

- Must meet all other **multifamily residential standards** in code and be consistent with the Comprehensive Plan, with the exception of density, height, and land use
- Administratively approved

▪ “Multifamily Residential Standards”

- R-2
 - Detached SFR
 - Attached MFR (max 4 units per building)
- R-3
 - Attached MFR
 - Most large-scale apartment complexes occur in R-3 or PD
- NC
- NAC



R-2 vs R-3 Product Types



**R-2
4 Units
Per Building**

**R-3
No Limit On Units**



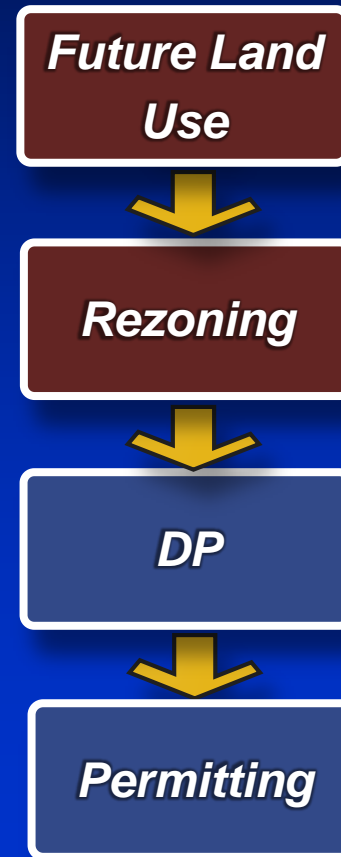


Current Multi-Family Administrative Process

Multi-Family in a PD

- Application reviewed against Comp Plan and LDRs
- Staff review thru TRG/DRC process
- Address compatibility issues through COAs
- Public notice
- Community meetings
- Public hearing(s)

Multi-Family in PD





Current Multi-Family Approval Process

Multi-Family in R2/R3

- Parcel land use and zoning allow for higher density multi-family use
- Codes presumed to address compatibility issues through established performance standards
- Review and permitting addressed at staff level

Multi-Family in PD

Future Land Use



Rezoning



DP



Permitting

Multi-Family in R2/R3

Permitting



Live Local Development

Permitting Standards and Process

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▪ Summary

– Aspects of the Live Local Act are unclear and in need of Board decision

- Applicable zoning districts
- Performance standards
- Administrative process
- Affordability agreements

– Resolution needed to ensure clear direction

- Adopt process
- Identify standards
- Approve forms (future Board action)



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Staff Recommendations/Resolution

▪ Eligible zoning districts

- Commercial: C-1, C-2, C-3
- Industrial: I-1A, I-1/I-5, I-2/I-3, I-4
- Mixed-use: NC, NAC

▪ Excluded from consideration

- PDs (incl. commercial, industrial, and mixed-use parcels within PDs)
 - PD districts not specifically included in the LLA
 - PDs are “negotiated” districts with specific conditions and agreements
 - Our code requires “substantial changes,” including, specifically, the addition of MF, to go through a public hearing, removing ability for administrative approval
- P-O
 - Not intended as commercial or industrial



Staff Recommendations/Resolution

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▪ Performance standards

– Projects proposed within Commercial or Industrial zoned districts

- R-2 MFR standards apply if within 100 feet of single-family zoning district, or PD designated district, or any SF home
- Otherwise, R-3 MFR standards apply

– Projects proposed within NC or NAC zoned districts

- NC or NAC MFR standards apply

– Height standards used for reference above 3 story minimum

- Highest code allowed height within a mile - as the crow flies
- I-Drive standard is based on existing structures

– No variances

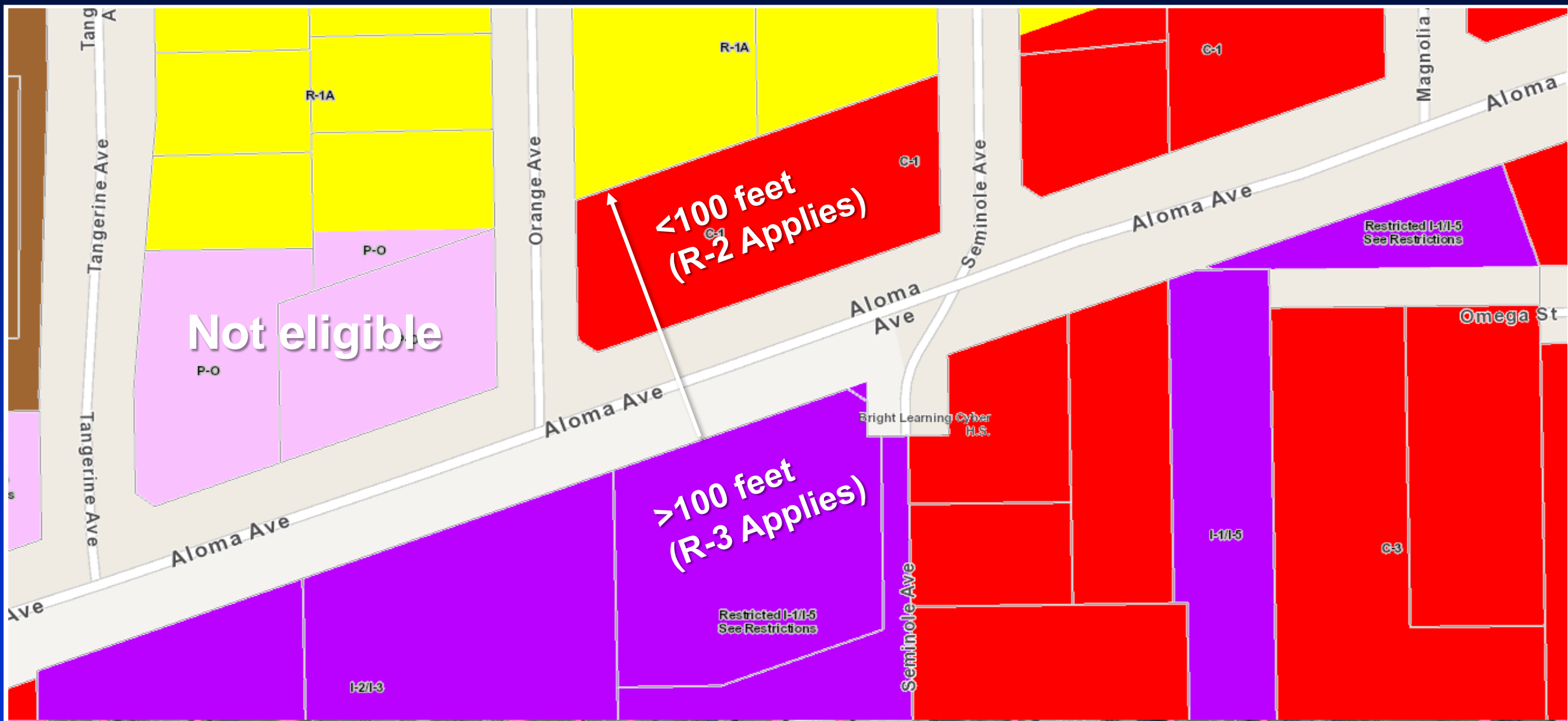


Application of R-2 vs R-3 Standards





Application of R-2 vs R-3 Standards





Application of R-2 vs R-3 Standards





R-3

Key Largo Dr

R-1A

Waunaqua Dr

I-1/I-3

100+ Feet

C-1

C-1

C-1

100+ Feet

C-1

University Blvd

N Goldenrod Rd

551

Univers

PD/Retail

C-1

Calvary Bend



Staff Recommendations / Resolution

Multi-Family process under Live Local Act

- Land use and zoning allowed by statute as high density multi-family use
- Legislation provides for administrative approval
- Staff reviews against applicable codes and for affordability commitment
- Approval via DRC consent agenda

Multi-Family in PD

Future Land Use



Rezoning



DP



Permitting

Multi-Family in R2/R3

Permitting

Multi-Family under Live Local Act

Future Land Use



Rezoning



Live Local DP



Permitting

Pre-Application Meeting



TRG/DRC Review



Housing Affordability Agreement





Staff Recommendations/Resolution

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▪ Affordability Agreements

– Declaration of Covenants and Restrictions and Land Use Restriction Agreement

- Document the project's affordability, in a form acceptable to the County
 - What we require to show affordability
 - How they ensure affordable units go to eligible renters
- Execute and record prior to submitting for vertical permitting

– Form authorizations

- Form agreement parameters
- Signature authority

▪ Form agreement and delegation of authority will come back for Board consideration at a later date



Staff Recommendations/Resolution

- **Summary of areas needing clarity or decision**
 - **Commercial/Industrial/Mixed-use Zoning Districts**
 - Are PD districts included —
 - Are P-O districts included —
 - **Residential/Commercial height reference within 1 mile**
 - Height allowed by code standard ✓
 - I-Drive Overlay - highest approved for project ✓
 - Height approved by variance/waiver above code standard —
 - **Performance/Compatibility Standards**
 - R-2 – 100 ft setback or less to residential/SF ✓
 - R-3 – greater than 100 ft setback to residential/SF ✓



▪ Resolution

–Section 1, Authority

- This Resolution is adopted pursuant to the provisions of the Constitution of the State of Florida, Chapter 125, Florida Statutes, the Charter of Orange County, and other applicable provisions of law.

–Section 2. Live Local Standard Operating Procedures

- The Board hereby adopts the Live Local Act Standard Operating Procedures (the “SOPs”) as set forth on Appendix “A,” attached hereto and incorporated herein by reference, to accomplish the goals of the Act. The Board hereby directs that any project applications submitted pursuant to the Act shall be handled in substantial compliance with the SOPs attached hereto.
 - LIVE LOCAL ACT STANDARD OPERATING PROCEDURES
 - ZONING GUIDELINES



▪ Resolution

–Section 3. Termination

- By its terms, the Act expires on October 1, 2033. This Resolution, and the SOPs, shall likewise expire on October 1, 2033. In the event the Florida Legislature modifies the expiration date of the Act, this Resolution shall expire on such modified expiration date.

–Section 4. Effective Date

- This Resolution shall take effect on August 9, 2023.



Local Option Affordable Housing Exemption

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▪ Considerations for Local Ad Valorem Tax Exemption

– Projects for very low income already receive significant incentives

- Impact Fee exemptions
- Deferred Loans offered by State
- Multi-Family Bond program with tax credit equity

– County provides low interest loans

– These projects already have reduced property taxes due to their required restricted rent levels

Recommendation: Best to assess need for Local Option Exemption program by monitoring new state level program for projects qualifying for up to 120%AMI



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Summary

- **Additional funding is available for affordable housing programs**
- **Local Ad Valorem Exemption Option may need future Board discussion**
- **New legislation allows affordable multifamily and mixed-use development into areas where it was not contemplated by current Comp Plan**
- **Increased availability of land will likely spur affordable housing development**
- **Strict compliance with local multi-family standards ensures some level of compatibility under new law**
- **County is implementing a process to manage eligible applications**



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Requested Action

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- **Approval and execution of Resolution of the Orange County Board of County Commissioners Regarding Adoption of Standard Operating Procedures to Implement the Requirements of the Live Local Act**