



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Development and Environmental Services Group

I.1.

10/24/2023

Subject:

Board Approval, BCC-100, "Evaluation Procedures for Development Proposals Pursuant to the Live Local Act Which Are Not Otherwise Permissible."

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

Board Approval of Attached Policy, BCC-100, "Evaluation Procedures for Development Proposals Pursuant to the Live Local Act Which Are Not Otherwise Permissible."

Summary Explanation and Background:

On March 29, 2023, the "Live Local Act" (CS/SB 102) was signed into law by Governor DeSantis. This Act is designed to facilitate and encourage the development of affordable housing. Included in this Act are several requirements regarding land use as it relates to affordable housing developments. The attached proposed Board Policy, BCC-100, is designed to implement those land use requirements contained in the Act.

Of particular importance, the Act requires that the County administratively approve developments that meet certain criteria, even if not consistent with certain zoning, land use, and height requirements (subject to limitations).

It should be noted that, while this policy would be an additional avenue for developers pursuant to the Act, current Land Development Regulations relating to affordable housing will remain in effect (see especially Chapter 62, Article XVIII, "Affordable and Workforce Housing Incentives," Brevard County Code of Ordinances).

Staff expects this area of the law to continue to develop and be clarified in the foreseeable future. As such, it is proposing to implement the mandated land use regulations through Board Policy, rather than a Code Amendment, at this time. This will allow for a more nimble response to any developments necessitating changes. As this Policy effectively administers a Statutory mandate that allows developers to act outside of the parameters of the County's Land Use Regulations, it was drafted in such a manner to do no more or less than what the Live Local Act requires.

The Planning and Zoning/Local Planning Agency reviewed this item on Sept. 18, 2023, and took no action on

the item.

Clerk to the Board Instructions:



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

October 25, 2023

M E M O R A N D U M

TO: Frank Abbate, County Manager

RE: Item I.1., Approval of BCC-100, "Evaluation Procedures for Development Proposals Pursuant to the Live local Act Which are Not Otherwise Permissible"

The Board of County Commissioners, in regular session on October 24, 2023, approved BCC-100, "Evaluation Procedures for Development Proposals Pursuant to the Live local Act Which are Not Otherwise Permissible." Enclosed is a fully-executed Board Policy, BCC-100.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK


Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Planning and Development



BOARD OF COUNTY COMMISSIONERS

POLICY

Number: BCC-100
Cancels: N/A
Approved: October 24, 2023
Originator: Planning and Development
Review: October 24, 2025

TITLE: Evaluation Procedures for Development Proposals Pursuant to the Live Local Act Which Are Not Otherwise Permissible

I. Objective

To institute the requirements of the "Live Local Act," Chapter 2023-17, Laws of Florida.

II. Definitions and References

- A. "Affordable" shall have the same definition as that found in Fla. Stat. § 420.0004, or its successor.
- B. "Affordability Period" shall be a minimum of 30 years.
- C. "Live Local Act," Chapter 2023-17, Laws of Florida.
- D. "Major Transit Stop" shall have the same definition as that found in Section 62-2, "rules of construction and definitions," Brevard County Code of Ordinances.

III. Proposal Procedures

- A. A developer seeking Live Local Act allowances that would not otherwise be permitted under Chapter 62, Brevard County Code of Ordinances, or the Brevard County Comprehensive Plan, shall submit a narrative of the proposed development. Such narrative shall, at minimum, include the following:
 - 1. Property location
 - 2. Property size, in acres
 - 3. Type of residential development (i.e., single-family residential, attached or detached; multi-family residential; mixed residential types, etc.)
 - 4. Number of residential units proposed
 - 5. Whether the proposed units are to be owner-occupied units or rental units

6. Household income levels proposed for each unit of the development (i.e., moderate, low, or very low)
 7. A statement of how the income restrictions will be enforced
 8. Provide a copy of the marketing brochure of similar development, if applicable
 9. Provide a sample lease agreement (terms of the lease shall be a minimum 91 days within single-family residential zoning classifications)
 10. Building style of the proposed development (i.e., single-story or multi-story; number of building floors; townhome style; garden home style; etc.)
 11. Number of parking spaces
 12. How the project will meet all review criteria, as stated in Section IV
- B. Applicant shall furnish any documentation required by staff necessary to complete its review and certify compliance as needed.

IV. Review Criteria

- A. As these criteria are in furtherance of administering exceptions to the County's Land Development Regulations pursuant to Florida Law, the below review criteria are to be strictly construed.
- B. Staff shall confirm that the application for the development is made prior to October 1, 2033, unless the legislature extends relevant provisions of the Live Local Act.
- C. Staff shall evaluate whether the development site is in an area with commercial, industrial, or mixed-use zoning.
- D. If the conditions outlined in subsection B and C are met, and if the proposed development is for mixed-use, staff shall determine whether at least 65 percent of the total square footage is to be used for residential purposes.
- E. Staff shall determine whether the proposal includes at least 40 percent of the residential units being affordable for the affordability period.
- F. If the applicable requirements outlined in this Section are met, staff shall not require the proposed multi-family development to obtain a zoning or land use change, conditional use permit, variance, comprehensive plan amendment, or similar waiver, as it relates to building height, zoning classification, or density limitations, provided the following conditions are met:
 1. The proposed density is no more than 30 units per acre.

2. The height of the proposed development is no more than the highest allowed height for a commercial or residential development within unincorporated Brevard County within 1 mile of the site (pursuant to Chapter 62, Brevard County Code of Ordinances) or 3 stories, whichever is higher.
 3. Staff shall determine that the proposed development is otherwise consistent with the Brevard County Comprehensive Plan and Brevard County Code of Ordinances.
 - a) This shall include, but not be limited to, parking requirements, except that if the development is within one-half mile of a "major transit stop," and such a stop is accessible from the development, staff shall evaluate whether it is appropriate to reduce parking requirements on a case-by-case basis.
 - i. As part of this analysis, staff may request the applicant to provide data supporting a reduction in parking requirements prepared by a Professional Engineer (PE) or allied profession licensed by the State of Florida.
- G. Upon certification by the County Manager, or his/her designee, that all of the above criteria are met, staff shall administratively approve the development, subject to continuing requirements outlined in this Policy.

V. Monitoring, Compliance, and Enforcement

- A. Any development approved under this Policy must continue to meet the requirements outlined herein and the related sections of Florida law impacted by the Live Local Act, as may be amended. Failure to do so may result in the revocation of approval, thereby subjecting the development to the normal requirements of the County's Comprehensive Plan and Code of Ordinances.
- B. The County Manager, or his/her designee, shall have the authority to require a Land Use Restrictive Agreement in order to ensure the development maintains the affordability requirements under the Live Local Act, and that such requirements remain binding on successors-in-interest to the applicant.
- C. Affordable housing developments approved under this policy shall be required to provide documents to the County showing compliance with all criteria throughout the affordability period. This shall include, but not be limited to, the following:
 1. The property owner/manager shall certify the income qualification for tenant-applicant at initial lease-up and re-certify annually thereafter for

each affordable housing unit. The property owner/manager shall provide the County Housing and Human Services Department with annual income compliance reports to satisfy this requirement. Annual income compliance reports required by other federal or State agencies, including, but not limited to, the Florida Housing Finance Corporation, the State of Florida, or Housing and Urban Development, may satisfy this requirement.

D. Recordkeeping Requirements (to be made available to the County for inspection upon request)

1. Affordable housing development projects with rental units shall maintain records on each affordable housing rental unit, including a copy of leases, all income verification documents, and rent calculation documentation.
2. Affordable housing development property owner/manager shall maintain and retain no less than the five (5) most recent years of documentation throughout the affordability period.
3. Affordable housing developers of newly constructed single-family homes shall maintain records of income verification and transfer-of-property documents for each property.
4. Failure to maintain and make available such records may result in the revocation of approval, thereby subjecting the development to the normal requirements of the County's Comprehensive Plan and Code of Ordinances.

VI. Reservation of Authority

The authority to issue or revise this policy is reserved by the Board of County Commissioners.



Rachel Sadoff, Clerk



Rita Pritchett, Chair

Board of County Commissioners

As approved by the Board on October 24, 2023