



BOARD OF COUNTY COMMISSIONERS

POLICY

Number: BCC-100
Cancels: ~~October 24, 2023~~ August 27, 2024
Approved: ~~August 27, 2024~~ XXXX XX, 2026
Effective: July 1, 2026
Originator: Planning and Development
Review: ~~August 27, 2026~~ May 3, 2027

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

I. Objective and Applicability

- A. The objective of this Policy is ~~To~~to institute the requirements of Fla. Stat. § 125.01055 as amended by the “Live Local Act,” Chapter 2023-17, Laws of Florida, and related provisions of law.
- B. The application and review procedures for proposed developments outlined in Sections III and IV of this Policy shall expire on October 1, 2033.
- C. All developments authorized under this Policy shall continue to be treated as a conforming use even after the expiration of this Policy and the developments’ respective Affordability Periods, except for violations of Affordability Period requirements as provided under Subsection V.A. of this Policy.
- D. The provisions of this Policy shall not apply to applications containing property that is:
- i. Within an “airport-impacted area”, unless approved as provided in Fla. Stat. § 333.03;
 - ii. Considered “recreational and commercial working waterfront” under Fla. Stat. § 342.201(2)(b) in any area zoned as industrial;
 - iii. Subject to County Land Development Regulations that were in existence before July 1, 2026, intended to retain the open character of land, including, but no limited to, open space districts, open space recreation districts, open use estate districts, open use rural districts, and park and open space districts;
 - iv. Within the Brevard Barrier Island Area of Critical State Concern, as delineated in Fla. Stat. § 380.0553; or

v. Encumbered by a recorded conservation easement, as defined in Fla. Stat. § 704.06(1).

E. The County shall not consider the inclusion of an adjacent parcel of land within a proposed multifamily development otherwise authorized under this Policy, as provided under Fla. Stat. § 125.01055(7)(k).

II. Definitions and References

A. "Adjacent to" shall means those properties sharing more than one point of a property line, but does not include properties separated by a public road.

B. "Airport-impacted area" as used in this Policy, shall mean any of the following: have the same meaning as provided in Fla. Stat. § 333.03, as may be amended.

~~—The area near a runway within one-quarter mile of a mile laterally from the runway edge and within an area that is the width of one-quarter of a mile extending at right angles from the end of the runway for a distance of 10,000 feet of any existing airport runway or planned airport runway identified in the County's airport master plan.~~

~~—A proposed development within any airport noise zone identified in the federal land use compatibility table.~~

~~E.C.~~ "Affordable" shall have the same definition as that found in Fla. Stat. § 420.0004, or its successor.

~~F.D.~~ "Affordability Period" shall be a minimum of 30 years.

~~G.E.~~ "Available parking" shall means parking available for use by residents of the proposed development including, but not limited to, on-street parking, parking lots, or parking garages.

F. "Commercial use", as used in this Policy, shall have the same meaning as provided in Fla. Stat. § 125.01055(7)(n), as may be amended.

G. Fla. Stat. § 125.01055, "Affordable housing."

H. "Floor area ratio", as used in this Policy, per Fla. Stat. § 125.01055(7)(c), shall include floor lot ratio and lot coverage.

I. "Industrial use", as used in this Policy, shall have the same meaning as provided in Fla. Stat. § 125.01055(7)(n), as may be amended.

~~I.J.~~ "Live Local Act," Chapter 2023-17, Laws of Florida.

~~J.K.~~ "Major transportation hub" shall be any transit station that is served by public transit with a mix of other transportation options, and is accessible from the proposed development by safe, pedestrian-friendly means such as sidewalks, crosswalks, elevated pedestrian or bike paths, or other multimodal design features.

L. "Mixed use", as used in this Policy, shall have the same meaning as provided

in Fla. Stat. § 125.01055(7)(n), as may be amended.

M. “Planned unit development”, as used in this Policy, shall have the same meaning as provided in Fla. Stat. § 125.01055(7)(n), as may be amended.

N. “Recreational and commercial working waterfront” shall have the same meaning as defined in Fla. Stat. § 342.201(2)(b).

~~K.O.~~ “Religious Institution”, as used in this Policy, shall have the same meaning as provided in Fla. Stat. § 170.201, as may be amended.

~~L.P.~~ “Transit Stop” shall have the same definition as that of “transit stop,” as defined in Section 62-2, “rules of construction and definitions,” Brevard County Code of Ordinances.

III. Proposal Procedures

A. An ~~developer~~applicant 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. Existing structures, if any, including plans for renovation, reconstruction, or demolition

~~2.4.~~ Whether any existing structures are contributing resources to a historic district listed in the National Register of Historic Places prior to January 1, 2000, or are individually listed in the National Register of Historic Places

5. Type of residential development (i.e., ~~single-family residential, attached or detached; multi-family residential; mixed residential types, etc.~~ or mixed-use multi-family residential)

~~3.6.~~ If mixed-use, description of non-residential use(s), total square footage, Floor Area Ratio, and any other details required for parking calculations

4.7. Number of total residential units proposed

~~5.8.~~ Whether the proposed units are to be owner-occupied units or Number of proposed affordable rental units

~~6.9.~~ Household income levels proposed for each unit of the development (i.e., moderate, low, ~~or~~ very low, and/or extremely low)

~~7.10.~~ A statement of how the income restrictions will be enforced

~~8-11.~~ 11. Provide a copy of the marketing brochure of similar development, if applicable

~~9-12.~~ 12. Provide a sample lease agreement (~~terms of the lease shall be a minimum 91 days within single-family residential zoning classifications~~)

~~10-13.~~ 13. Building style of the proposed development (i.e., single-story or multi-story; number of building floors; townhome style; garden home style; etc.)

14. Number of parking spaces

15. Proposed building height(s)

16. Whether the subject property is owned by Brevard County or Brevard Public Schools

17. Whether the property is more than 3 acres in size, is owned by a Religious Institution, and has contained a physical house of public worship for at least 10 years before the date of application. If so, the applicant shall also provide plans for the preservation of the house of public worship and continued operations after the proposed development is constructed.

~~11-18.~~ 18. Whether any portion of the proposed development site is within an "airport-impacted area". If so, the applicant shall also provide records of approval as provided in Fla. Stat. § 333.03.

~~12-19.~~ 19. 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.

~~A.B.~~ A.B. A project proposed under this Policy that comprises an assemblage of parcels under common ownership or control, separated by no more than 15 feet of land and limited to public pedestrian access, shall not be denied solely on the basis of such assemblage. Such an assemblage shall be reviewed as any other proposal under this Policy.

~~B.C.~~ B.C. Staff shall confirm that the application for the development is made prior to October 1, 2033, unless the Florida legislature extends relevant provisions of the Live Local Act.

D. Staff shall ~~evaluate whether~~ confirm that at least one of the following sets of criteria is true:

- i. ~~the~~ The entire proposed development site is in an area ~~with~~-zoned for commercial, industrial, or mixed-use-zoning, or in a portion of a flexibly zoned area such as a planned unit development that is permitted for commercial, industrial, or mixed-use.
- ii. The entire proposed development site is on property that is owned by Brevard County or Brevard Public Schools, and that Brevard County or Brevard Public Schools, respectively, is a party to the application for the proposed development.
- iii. The entire proposed development site is on property that is more than 3 acres in size, that the property is owned by a Religious Institution, that the property has contained a physical, on-site house of in-person public worship for at least 10 years prior to application, that the Religious Institution is a party to the application, and that the house of public worship will continue to operate on the property after the proposed development is constructed.

E. Staff shall confirm that all of the following criteria are true:

- i. None of the proposed development site is within an “airport-impacted area”, unless approved as provided in Fla. Stat. § 333.03;
- ii. None of the proposed development site is considered “recreational and commercial working waterfront” under Fla. Stat. § 342.201(2)(b) in any area zoned as industrial;
- iii. None of the proposed development site is subject to County Land Development Regulations that were in existence before July 1, 2026, intended to retain the open character of land, including, but not limited to, open space districts, open space recreation districts, open use estate districts, open use rural districts, and park and open space districts;
- iv. None of the proposed development site is within the Brevard Barrier Island Area of Critical State Concern, as delineated in Fla. Stat. § 380.0553; and
- v. None of the proposed development site is encumbered by a recorded conservation easement, as defined in Fla. Stat. § 704.06(1).

~~G.~~

~~D. Staff shall confirm that the proposed development is not within one-quarter mile of a military installation.~~

~~E. Staff shall confirm that the proposed development is not within an “airport-impacted area” or on property that is “recreational and commercial working waterfront” under Fla. Stat. § 342.201(2)(b).~~

F. ~~If the conditions outlined in subsection B, C, D, and E are met, and if~~ the proposed development is for mixed-use, staff shall ~~determine whether~~confirm that at least 65 percent of the total square footage is to be used for residential purposes.

G. Staff shall ~~determine whether~~confirm that the proposal includes at least 40 percent of the total residential units being affordable rental units for the affordability period.

H. Staff shall confirm that proposed demolition of existing structures, if any, is in compliance with all State and local regulations.

~~H.I.~~ I. If the applicable requirements outlined above in this Section are met, staff shall not require the proposed multi-family or mixed-use multi-family residential development to obtain a zoning or land use change, conditional use permit, variance, transfer of density or development units, amendment to a development of regional impact, comprehensive plan amendment, or similar waiver, as it relates to building height, zoning classification, floor area ratio, or density limitations, provided the following conditions are met:

1. The proposed density is no more than 30 units per acre.

2. If the proposed development is (i4) not adjacent to, on two or more sides, a parcel zoned for single-family residential use which is within a residential development with at least 25 contiguous single-family homes, or (ii2) not on a parcel with a contributing resource to a historic district listed in the National Register of Historic Places before January 1, 2000, or with a structure or building individually listed in the National Register of Historic Places, then the height of the proposed development shall be no more than the highest of:

a) the ~~The~~ highest currently allowed height for a commercial or residential building within unincorporated Brevard County within 1 mile of the site, ~~that was not excluding heights authorized permitted~~ pursuant to Fla. Stat. § 125.01055(7), Fla. Stat., or which has a height that was the result of and excluding heights based a variance, bonus, or waiver; or

~~a)~~b) The highest height allowed on July 1, 2023, for a commercial or residential building within unincorporated Brevard County within 1 mile of the site, excluding heights authorized pursuant to Fla. Stat. § 125.01055(7), Fla. Stat., and excluding heights based on a variance, bonus, or waiver; or

~~b)~~c) 3 stories, whichever is higher.

3. If the proposed development is adjacent to, on two or more sides, a parcel zoned for single-family residential use which is within a single-family residential development with at least 25 contiguous single-family homes, then the height shall be ~~either no more than the highest of (whichever is higher):~~

a) Current ~~Permissible~~ permissible height for the subject property under the Brevard County Land Development Code; or

~~a)~~b) Permissible height for the subject property under the Brevard County Land Development Code on July 1, 2023; or

~~b)c) No more than the highest of the following:~~

~~i.) 150 percent of the height of the tallest building on any adjacent property; i) or~~

~~ii.)~~d) 3 stories

In no case shall the height of the proposed development exceed 10 stories. ~~Should the highest height otherwise authorized under this Paragraph exceed 10 stories, the maximum height of the proposed development shall be limited to 10 stories.~~

4. If the proposed development is on a parcel with a contributing structure - ~~resource~~ within ~~to~~ a historic district listed in the National Register of Historic Places before January 1, 2000, or with a structure or building individually listed in the National Register of Historic Places, then the height shall be no more than the highest of:

a) The highest currently allowed height or the highest height allowed on July 1, 2023, (whichever is higher) for any building within unincorporated Brevard County within three-fourths of a mile of the site, irrespective of any conditions; or

b) 3 stories

5. The County shall not restrict heights below those authorized under Paragraphs IV.1.2 – 4 through other dimensional means, such as establishing setbacks or stepbacks by height, or require setbacks or stepbacks that are more restrictive than the minimum permitted for the proposed development.

~~4.6.~~ _____ The Floor Area Ratio is no more 3.72.

~~5.7.~~ _____ Staff shall review the proposed development for compliance and consistency with applicable provisions of the Brevard County Comprehensive Plan and Brevard County Code of Ordinances, as well as applicable provisions of State and Federal regulation that are part of the County's normal review process. As part of this analysis, staff will ensure concurrency under the County's Land Development Regulations.

a) This shall include, but not be limited to, parking requirements, except that

i. Parking requirements under the Land Development Code shall, upon request of the applicant, be reduced by ~~20~~15 percent if any of the following criteria are met:

a. The development is within one-quarter mile of a transit stop and the transit stop is accessible from the development;

b. The development is within one-half mile of a major transportation hub that is accessible from the proposed development by safe, pedestrian-friendly means, such as sidewalks, crosswalks, elevated pedestrian or bike paths, or other

multimodal design features; or
c. The development has available parking within 600 feet of the proposed development which may consist of options such as on-street parking, parking lots, or parking garages available for use by residents of the proposed development. However, the County may not require that the available parking compensate for the reduction in parking requirements.

~~a. The development is within one-half mile of a major transportation hub, and;~~

~~b. The development has available parking within 600 feet, regardless of whether such parking compensates for the reduction; or~~

OR

~~i. If the development is within one-quarter mile of a 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.~~

~~g. 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.~~

~~I.~~ J. Upon certification by the County Manager, or his/her designee, that all of the above criteria and conditions are met, and that the proposed development is not within one-quarter mile of a military installation, staff shall administratively approve the development, subject to continuing requirements outlined in this Policy. If the proposed development is within one-quarter mile of a military installation, the applicant shall be required to follow all public hearing procedures pursuant to Section 62-1151, "amendments to official zoning map—amendments initiated by property owner", Brevard County Code of Ordinances. However, the applicant shall not be required to obtain a zoning or land use change, conditional use permit, variance, transfer of density or development units, amendment to a development of regional impact, comprehensive plan amendment, or similar waiver, as it relates to building height, zoning classification, floor area ratio, or density limitations.

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 treatment as a nonconforming use under the County's Comprehensive Plan and Code of Ordinances. In the event of a failure to maintain the requirements herein, a reasonable time shall be given to cure such violation, as determined by the County Manager or his/her designee.

- 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.~~
 - ~~4.3.~~ Failure to maintain and make available such records may result in the revocation of approval, thereby subjecting the development to treatment as a nonconforming use under County's Comprehensive Plan and Code of Ordinances.

VI. County Reporting Requirements

- A. Beginning November 1, 2026, and annually thereafter, the County shall prepare and deliver to the State land planning agency a report which includes:
1. A summary of all litigation relating to proposed projects reviewed under this Policy, including litigation that was initiated, remains pending, or was resolved during the previous fiscal year; and
 2. A list of all ~~proposed~~ projects reviewed under this Policy during the previous fiscal year. For each project, the report ~~must~~ shall include, at a minimum, whether the project was approved; the project's size, density, and intensity; and the total number of units proposed, including the number of affordable

units and associated targeted household incomes.

VII. Reservation of Authority

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

/S/ Rachel Sadoff

Rachel Sadoff, Clerk

/S/ ~~Jason Steele~~ Thad Altman

~~Jason Steele~~ Thad Altman, Chair

Board of County Commissioners

As approved by the Board on ~~August 27,~~
~~2024~~ XXXX XX, 2026