

A large, stylized graphic in the background featuring a yellow sun with rays and several green leaves of varying shades, all set against a white background.

# Live Local Act – SB102

(BCC Strategic Focus Area Workshop 11-21-2023)

Charlotte County Board of County Commissioners



CHARLOTTE COUNTY  
FLORIDA

# What Is It?

- A multi-pronged bill creating new regulations and opportunities for affordable and workforce housing
- Affects zoning and land use
- Provides for tax exemptions & credits

# What Is It?

- Allows a county to circumvent its comprehensive plan and zoning regulations when approving the development of statutorily defined affordable housing on any parcel zoned for commercial, industrial, or mixed-use, subject to certain conditions.
- Specifically, current law provides that a county may approve a residential project on any parcel zoned as residential, commercial or industrial without the need to follow local rules and regulations (for example, without the need to rezone the parcel) as long as: (i) at least 10% of the units included in the project were used for affordable housing; and (ii) the developer did not apply for or receive SAIL funding.

# What Does It Do?

- Removes a county's ability to approve affordable housing developments pursuant to the statutory process on parcels zoned in residential areas, but also removes the restriction on developers who have applied for/or received SAIL funding for parcels zoned in commercial or industrial areas.

# Income Brackets

- The amendment provides that a county **must** authorize proposed multifamily and mixed-use residential projects as an allowable use in **any area zoned for commercial, industrial, or mixed use** if the project will provide the following:
  - At least 40% of the residential units are affordable;
  - Affordable means: that the monthly rents, including taxes, insurance, and utilities do not exceed 30% of the AMI for extremely-low-income persons (i.e., 30% AMI) (“ELI”), very-low-income persons (i.e., 50% AMI) (“VLI”), low-income persons (i.e., 80% AMI) (“LI”), and moderate-income persons (120% AMI) (“MI”);
  - Period of at least 30 years; and
  - For a mixed-use project at least 65% of the total square footage of the improvement on the parcel must be used for residential purposes.

# Land Use and Zoning

- For proposed multifamily developments meeting the above requirements and that are to be located in areas zoned for commercial, industrial, or mixed use, a county may no longer require the owner to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for building height and densities. With respect to density and building height, a county may not:
  - Density – restrict density below the highest allowed density on any unincorporated land in the county where residential development is allowed;
  - Height – restrict the height of the proposed development below the highest allowed height for a commercial or residential development located in its jurisdiction within one mile of the proposed development, or three stories, whichever is higher.

# Land Use and Zoning

- It should be noted that a proposed development authorized under this section must still satisfy the county's land development regulations (i.e., setbacks, parking, etc.) and be administratively approved, with the exception of provisions establishing allowable densities, height, and land use.
  - Further, there is no requirement to blend the AMI limits. All of the units could be 120% AMI.
- A county also must consider a reduced parking requirement for projects containing at least 40% affordable units if the parcel is located within a half-mile of a major transit stop.
- These provisions will expire on Oct. 1, 2033

# County Requirements

- Requires county to publish a list of county-owned properties available that may be suitable for affordable housing development
  - Real Estate Services currently does this, but may need to modify their procedures
- Encourages creation of inclusionary housing ordinances and inclusionary zoning
  - Staff is trying to reconcile this provision with other statutory provisions which discourage inclusionary zoning, or require a developer to be “made whole”



# Tax Exemptions and Funding

- Affordable housing property tax exemptions
  - Already have impact fee exemptions and Charlotte HOME program
- Other provisions revolving around state lands and use of state funding
- Prevents local governments from enacting any type of rent control ordinance

# Tax Exemptions and Funding

- Affordable housing property tax exemptions:
  - The bill adds an exemption for land owned by a nonprofit that meet the following;
  - Land is 100% owned by a nonprofit;
  - Nonprofit leases the property for a minimum of 99 years;
  - Land is predominately used for providing housing to ELI, VLI, LI, or MI persons.
  - This bullet three is met if more than 50% of the improvements on the land are used for providing housing to the ELI, VLI, LI, or MI persons.
- First applies to the 2024 tax roll and is repealed Dec. 31, 2059

# Tax Exemption and Criteria

- The Missing Middle
- The bill adds an ad-valorem property tax exemption for portions of property in a multifamily project up to:
  - 75% of the assessed value if the project provides housing to natural persons or families whose annual household income is greater than 80% but no more than 120% AMI; or
  - 100% of the assessed value if the project provides housing to natural persons or families whose annual household income does not exceed 80%AMI.

# Tax Exemption and Criteria

- Requirements:
  - Project must be newly constructed meaning that the improvements were substantially completed within five years before the earlier of (i) the date of an applicant's first submission of a request of certification; or (ii) an application for an ad-valorem exemption
    - Note, the definition of newly constructed may include substantial rehabilitation.
  - Project must contain more than 70 units dedicated to persons or households whose household incomes do not exceed 120% AMI.
  - Units must be rented for the lesser of (i) an amount that does not exceed the amounts specified by the most recent multifamily rental program income and rental limit chart posted by FHFC (derived from HUD); or (ii) 10% below the market rate.
  - Units must not be subject to an agreement with Florida Housing.
  - Cannot be used with the exemption provided in Paragraph G below.

# Tax Exemption and Criteria

- Compliance:
  - To receive an exemption, the property owner must submit to the property appraiser an application along with a certification notice from Florida Housing by March 1st.
- Applicability:
  - First applies to the 2024 tax roll and sunsets on Dec. 31, 2059

# Tax Exemption and Criteria

- Affordable Housing Property Tax Exemption.
- Allows counties and municipalities to adopt an ordinance to exempt portions of property used to provide affordable housing.
- To be eligible, the portions of the property must meet the following:
  - Used to house persons or families whose annual income is no greater than 60%AMI;
  - Must contain more than 50 residential units of which at least 20% will be used to provide affordable housing;
  - Units must be rented for the lesser of (i) an amount that does not exceed the amounts specified by the most recent multifamily rental program income and rental limit chart posted by FHFC (derived from HUD); or (ii) 10% below the market rate; and
  - The property must not have been cited for three code violations in the preceding 24 months and must not have outstanding code violations or related fines before final determination on a property's qualification.

# Tax Exemption and Criteria

- Amount of exemption:
  - If all units in the development are used for affordable housing, then the local government can exempt up to 100% of the assessed value of each residential unit used to provide affordable housing;
  - If less than 100% of the units are used for affordable housing, then the local government can exempt up to 75% of the assessed value of each residential unit used to provide affordable housing.
- Compliance:
  - To receive an exemption the property owner must submit to the property appraiser an application along with a certification of qualified property by March 1st.
- Applicability:
  - First applies to the 2024 tax roll.

# Other Provisions

- Building Materials Sales Tax Refund
- Corporation Tax Donation Credit or the "Live Local Credit"
- State-owned lands for Affordable Housing
- Job Growth Grant Fund
- Prohibition of Rent Control



# Practical Applications

- Maximum heights and densities
  - Up to 65 units per acre
    - In Charlotte County Compact Growth Mixed Use FLUM designation allows up to 65 units/acre
  - Height - highest allowed height within one mile of proposed project, or 60 ft, whichever is higher
    - Riverwalk Zoning District in Charlotte Harbor allows up to 90 ft, and is now constructed (Sunseeker)

# Practical Applications

- Parking reductions if near fixed-route transit location
  - Not applicable to Charlotte County
- Constraints on commercial and industrial properties
  - Less inventory for non-residential uses
  - Less/no property taxes

# Practical Applications

- Income levels for affordable housing are defined, but not prioritized or even required.
- Workforce housing (120%) will be the most likely income targeted by developers.

# What Doesn't It Do?

- Does **not** exempt:
  - Floodplain management
  - Concurrency
  - **Transfer of Density Units**
  - Other code provisions
    - Only exempts parking (when located near fixed-route transit), density, and height

# Positive Aspect of Live Local

The Live Local Act fully funds the Sadowski Trust Funds programs:

- State Housing Trust Fund-primarily funds State Apartment Incentive Loan (SAIL) program
- Local Government Housing Trust Fund -primarily funds State Housing Initiatives Partnership (SHIP)program

# State Housing Initiatives Partnership (SHIP) program

- Administered by the Florida Housing Finance Corporation (FHFC)
- Deploys funds to 67 counties and 55 eligible municipalities
- Each SHIP jurisdiction develops a Local Housing Assistance Plan (LHAP) that governs its uses of the funding
- SHIP statute provides a series of “set-asides” that local governments must adhere to including:
  - At least 75% for construction-related activities
  - At least 65% for ownership; no more than 25% for rental housing
  - At least 30% for VLI households; up to 4% for MI households (81-120% AMI); remaining funds for LI households (80% AMI)
  - At least 20% for households with a person with special needs as defined in § 420.0004 of the Florida Statutes
  - No more than 10% on admin expenses

Charlotte County allocation for FY 2023: \$2,260,559

# State Apartment Incentive Loan(SAIL) program

- Administered by the Florida Housing Finance Corporation
- Provides low or no-interest loans on a competitive basis for the development of affordable housing
- Can be used for new construction and acquisition/rehab • Generally can only serve households at or below 60% of Area Median Income (AMI) – except in the Keys
- SAIL statute and rule contain key terms to follow regarding compliance, monitoring, and structuring

# Florida Hometown Hero Program

- LLA codifies the Hometown Hero Program in state statute at s. 420.5096 and funds it at \$100 million for FY 23-24
- Provides down-payment and closing cost assistance to eligible first-time homebuyers
- Eligibility criteria for applicants:
- Income not to exceed 150% of state median income or local median income, whichever is greater
- Must be a Florida resident and employed full-time (35 hours or more/week) by a Florida-based employer



# Florida Hometown Hero Program

- First-time homebuyer (does not apply to active duty servicemember or veterans)
- Other provisions:
- Can be used to purchase manufactured homes constructed after July 13, 1994 which are permanently affixed to real property
- Intended to be a revolving loan program
- Can be paired with SHIP and other sources of down payment
- Terms of assistance:
  - Loan due at closing if property is sold, refinanced, rented, or transferred, unless approved by FHFC
  - Minimum of \$10,000 and up to 5% of first mortgage loan, not exceeding \$35,000

# What have we done since April workshop?

- Attended Live Local Webinars and various conferences with this subject as a topic
- Researched what other jurisdictions are doing
- Have had three project conferences on potential projects
  - None have submitted to date

# Implementation

- Allows up to 65 units/acre of Density
  - Does not *grant* the density, only the allowance up to
    - Just as any other FLUM designation
  - Applicant would need to purchase proper density on the private market and transfer it to the property
    - Consent Agenda BCC item
  - Or qualify for Charlotte HOME
    - County can place density from Incentive Density pool
      - Consent Agenda BCC item
- Allows up to 60 ft.
  - Or max height of any structure within one mile
  - Properties near Sunseeker Resort may reach up to 90 ft.

# Implementation

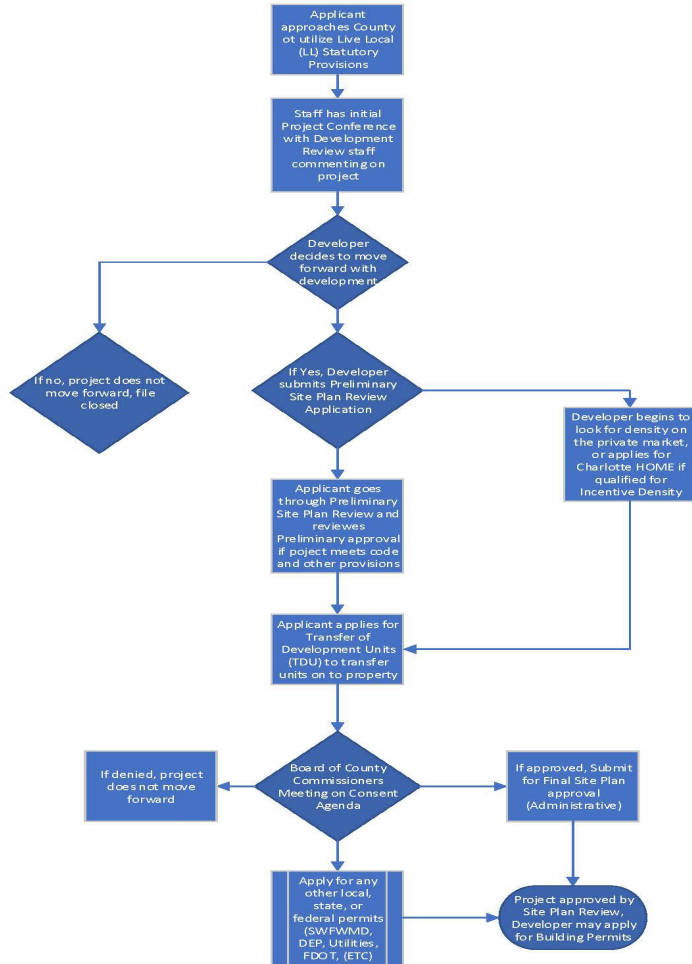
- Applies to all County zoned properties Mixed-use (Mixed-use (MU), and Charlotte Harbor Mixed-use (CHMU), Commercial (General (CG), Neighborhood (CN), or Tourist (CT)), or Industrial (General (IG) or Intensive (II))
  - Does not apply to Office, Medical, and Institutional (OMI) or any other districts not explicitly zoned Commercial, Industrial, or Mixed-use

# Process Flow

- Staff has project conference with Applicant seeking to utilize LL provisions
  - Staff comment from all relevant disciplines on project
- Applicant Applies for Site Plan Review (administrative review) stating they are utilizing LL and delineating how they meet the statutory requirements
- Applicant acquires density as stated above

# Process Flow

- Applicant meets all technical code requirements (setbacks, landscaping, parking, etc...) and receives Preliminary Site Plan approval
- Applicant applies to transfer density
  - If denied by BCC, project dies
- If approved, Applicant acquires all necessary federal, state, and local permits (SWFWMD, FDEP, Utilities, FDOT, etc... as applicable)
- Applicant applies for Final Site Plan review
- Administrative staff review for approval with all applicable codes.



# Discussion Points

- Verify that BCC is in agreement with interpretation of statute regarding density and TDU's?
- Verify that BCC is in agreement with interpretation of statute regarding districts which would allow Live Local to be utilized?



# Questions and Discussion?