



AGENDA PLANNING AND ZONING MEETING/LOCAL PLANNING AGENCY

6:00 PM - Thursday, June 1, 2023
Commission Chambers

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1. CALL TO ORDER	
2. PLEDGE OF ALLEGIANCE	
3. ROLL CALL	
4. SELECTION OF BOARD MEMBER POSITIONS / MEETING DAY AND TIME	
5. APPROVAL OF THE PREVIOUS MEETING MINUTES	
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6. ADDITIONS, DELETIONS, WITHDRAWALS AND CONTINUANCES	
7. APPLICATIONS/PUBLIC HEARINGS	
7.1. File No: 22-RZ-02	7 - 11
Applicant: Town of Pembroke Park	
Request: Code Amendment to Ban Marijuana Dispensaries	
007.10 - PZB Marijuana Dispensary Memo 05262023	
007.11 - Medical Marijuana Prohibition	
7.2. File No: 22-RZ-03	12 - 16
Applicant: Town of Pembroke Park	
Request: Code Amendment Relating B-1 Mixed-Use Residential	
007.21 - PZB B-1 Mixed Use Memo 05262023	
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7.3. File No: 23-RZ-01	17 - 18
Applicant: Town of Pembroke Park	
Request: Code Amendment to Allow Illuminate "Open" Signs	
007.30 - PZB Sign Memo 05262023	
007.31 - Sign Code	
8. OLD BUSINESS	
8.1. Broward County Comprehensive Plan Policies Concerning Affordable Housing	19 - 25
008.00 - PZB Affordable Housing Memo 05262023	
008.10 - 2023 versions of 2.16.3 and 2.16.4	
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008.20 - Attorney Memo - Florida Live Local Act	

9. NEW BUSINESS

10. ADJOURNMENT

IN ACCORDANCE WITH THE PROVISIONS OF F.S. SECTION 286.0105, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY, OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE, HE OR SHE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ANY PERSON REQUIRING AUXILIARY AIDS AND SERVICES AT THIS MEETING MAY CALL THE TOWN CLERKS OFFICE AT 954-966-4600 AT LEAST TWO CALENDAR DAYS PRIOR TO THE MEETING. IF YOU ARE HEARING OR SPEECH IMPAIRED PLEASE CONTACT THE FLORIDA RELAY SERVICES BY USING THE FOLLOWING NUMBERS: 1-800-955-8770 (VOICE) OR 1-800-955-8771 (TDD)

DECORUM - ALL COMMENTS MUST BE ADDRESSED TO THE COMMISSION AS A BODY AND NOT TO INDIVIDUALS. ANY PERSON MAKING IMPERTINENT OR SLANDEROUS REMARKS, OR WHO BECOMES BOISTEROUS WHILE ADDRESSING THE COMMISSION, SHALL BE BARRED FROM FURTHER AUDIENCE BEFORE THE COMMISSION BY THE PRESIDING OFFICER, UNLESS PERMISSION TO CONTINUE OR AGAIN ADDRESS THE COMMISSION IS GRANTED BY THE MAJORITY VOTE OF THE COMMISSION MEMBERS PRESENT. NO CLAPPING, APPLAUDING, HECKLING OR VERBAL OUTBURSTS IN SUPPORT OR IN OPPOSITION TO A SPEAKER OR HIS/HER REMARKS SHALL BE PERMITTED. NO SIGNS OR PLACARDS SHALL BE ALLOWED IN THE COMMISSION CHAMBERS. PLEASE MUTE OR TURN OFF YOUR CELL PHONE OR PAGER AT THE START OF THE MEETING. FAILURE TO DO SO MAY RESULT IN BEING BARRED FROM THE MEETING. PERSONS EXITING THE CHAMBER SHALL DO SO QUIETLY.

Marlen D. Martell
Town Clerk



MINUTES PLANNING AND ZONING /LOCAL PLANNING AGENCY Meeting

6:00 PM - Thursday, January 5, 2023
Commission Chambers

The PLANNING AND ZONING MEETING/LOCAL PLANNING AGENCY of the Town of Pembroke Park was called to order on Thursday, January 5, 2023, at 6:00 PM, in the Commission Chambers, with the following members present:

1 CALL TO ORDER

VICE CHAIR CHARISSE COLON CALLED THE MEETING TO ORDER AT 6:10 P.M. IN THE COMMISSION CHAMBERS

2 PLEDGE OF ALLEGIANCE

3 ROLL CALL

Board members present were Reneesha McNeil; Erik Morrisette; Vice Chair Charisse Colon

Absent Chair Shauniel Brown.

In attendance were Interim Town Attorney Paul Hernandez; Building Official Miguel Nunez; Building Manager Lucie Manzerolle Assistant to the Town Clerk Suzi Reutlinger recording the meeting, Town Clerk Marlen Martell, Interim Town Planner Michael Vonder- Meulen

4 APPROVAL OF THE PREVIOUS MEETING MINUTES

1. Adoption of Minutes from October 6, 2022

MOTION TO APPROVE MINUTES OF OCT 6, 2022 BE ADOPTED AS PRESENTED MADE BY RENEESSHA MCNEIL, SECONDED BY ERIK MORRISSETTE. ALL VOTED IN FAVOR

5 ADDITIONS, DELETIONS, WITHDRAWALS AND CONTINUANCES

ITEM NUMBER 6.5 TAKEN OFF THE AGENDA ATTACHED TO 6.4

MOTION TO APPROVE THE AMENDED AGENDA WITH CHANGES MADE BY

Town of Pembroke Park
Planning & Zoning Board Meeting
February 3, 2022

RENEESHA MCNEIL, SECONDED BY ERIK MORRISSETTE. ALL VOTED IN FAVOR.

6 APPLICATIONS/PUBLIC HEARINGS

1. File No: 22-CP-03
Applicant: Town of Pembroke Park
Location: SW 30th Avenue
Request: Town Only Land Use Plan Amendment from Industrial to Commercial

Michael Vonder-Meulen gave a presentation.

VICE CHAIR COLON OPEN THE FLOOR FOR PUBLIC COMMENT - NONE
VICE CHAIR COLON CLOSED THE FLOOR FOR PUBLIC COMMENT

MOTION TO APPROVE FILE 22-CP-03 MADE BY ERIK MORRISSETTE,
SECONDED BY RENEESHA MCNEIL, ALL IN FAVOR

2. File No: 22-CP-04
Applicant: Town of Pembroke Park
Location: Town-wide
Request: Request Redevelopment Units from the Broward County Planning Council

VICE CHAIR COLON OPEN THE FLOOR FOR PUBLIC COMMENT - NONE
VICE CHAIR COLON CLOSED THE FLOOR FOR PUBLIC COMMENT

MOTION TO APPROVE FILE 22-CP-04 MADE BY RENEESHA MCNEIL,
SECONDED BY ERIK MORRISSETTE, ALL IN FAVOR

3. File No: 22-RZ-01
Applicant: Town of Pembroke Park
Location: SW 30th Avenue
Request: Text Amendment – Creation of Mixed Use-Entertainment District (MXE)

VICE CHAIR COLON OPEN THE FLOOR FOR PUBLIC COMMENT - NONE
VICE CHAIR COLON CLOSED THE FLOOR FOR PUBLIC COMMENT

MOTION TO APPROVE FILE 22-RZ-01 MADE BY RENEESHA MCNEIL,
SECONDED BY ERIK MORRISSETTE, ALL IN FAVOR

4. File No: 22-RZ-04
Applicant: Town of Pembroke Park
Location: SW 30th Avenue
Request: Rezone from C-1 and M-1 to MXE Mixed Use-Entertainment District

VICE CHAIR COLON OPEN THE FLOOR FOR PUBLIC COMMENT - NONE

VICE CHAIR COLON CLOSED THE FLOOR FOR PUBLIC COMMENT

MOTION TO APPROVE FILE 22-RZ-04 MADE BY RENEESHA MCNEIL,
SECONDED BY ERIK MORRISSETTE, ALL IN FAVOR

5. Zoning Legal Description

ITEM WAS DELETED FROM THE AGENDA

7 NEW BUSINESS

NONE

8 ORDINANCES

1. Amending responsibility for connection to Town system - Building Official
Nunez

ORDINANCE NO. 2022-017

AN ORDINANCE OF THE TOWN OF PEMBROKE PARK, FLORIDA,
**AMENDING SECTION 28-279 "Responsibility for connection to Town
system" WITHIN CHAPTER 28 "ZONING" AND MOVING THE SECTION TO
CHAPTER 26 "UTILITIES"; RESCINDING ORDINANCE NO. 2022-010;**
PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE
CODE OF ORDINANCES; SUPERSEDING CONFLICTING ORDINANCES
AND RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

VICE CHAIR COLON OPEN THE FLOOR FOR PUBLIC COMMENT - NONE
VICE CHAIR COLON CLOSED THE FLOOR FOR PUBLIC COMMENT

MOTION TO APPROVE ORDINANCE 2022-017 MADE BY RENEESHA
MCNEIL, SECONDED BY ERIK MORRISSETTE, ALL IN FAVOR

9 OLD BUSINESS

NONE

10 ADJOURNMENT

Vice Chair Charisse Colon moved to adjourn the meeting. All were in favor

The meeting was adjourned at 7:11 PM

ATTEST:

(SEAL)

Suzi Reutlinger, Board Secretary

IN ACCORDANCE WITH THE PROVISIONS OF F.S. SECTION 286.0105, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY, OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE, HE OR SHE MAY NEED TO ENSURE THAT A

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Town of Pembroke Park

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May 26, 2023

To: Planning & Zoning Board

From: Mike Vonder Meulen, AICP, Consultant Town Planner, KEITH

RE: Proposed Code Text Amendment – Marijuana Dispensary Prohibition

Recommendation: The Consultant Town Planner recommends approval of the proposed text amendment.

Background: Attached for the Planning & Zoning Board review, discussion and recommendation are amendments to the Town Land Development Code including Secs 28-94, 28-187, 28-187.3 and 28-189 to Prohibit Medical Marijuana Dispensing Facilities.

One medical marijuana dispensing facility currently operates within the Town, and a second application for a medical marijuana dispensing facility was submitted to the Town before the zoning in progress was adopted. There was concern by the Town about the proliferation of medical marijuana dispensing facilities within the Town.

Florida Statute 381.986(11) allows municipalities to preempt state law by prohibiting medical marijuana dispensaries. However, if a municipality enacts an ordinance regulating the location of dispensing facilities, those regulations cannot be more restrictive than ordinances permitting or determining the locations for pharmacies licensed under chapter 465.

On July 13, 2022, the Town Commission adopted Resolution No. 2022-010, which declared Zoning in Progress pertaining to Medical Marijuana Dispensaries within the Town thus creating a moratorium on medical marijuana dispensing facilities.

If the text amendment is adopted the two medical marijuana dispensing facilities would be permitted to operate as a legal non-conforming use and would be regulated under Article V of the Town Code.

The text amendment was presented to the Town Commission at the May 24th Commission Workshop.

Consistency with the Comprehensive Plan: The Consultant Town Planner finds that the proposed text amendments are consistent and compatible with the Following Goals, Objectives and Policies of the Town of Pembroke Park Comprehensive Plan including:

GOAL I: Encourage the private and public sectors to adhere to the patterns of planned development in the Town which shall promote environmental protection, strive to meet the Town's social and economic needs and contribute to the health, welfare, and safety of its residents.

OBJECTIVE #1.1: Future growth and development will be managed through land development regulations which incorporate a review process for assessing adequacy of public services and facilities consistent with the Town's Capital Improvement Element and providing for both the timely completion and regular maintenance of all required capital improvements and amenities including the annual monitoring of same.

Proposed Text Amendment

Sec. 28.94 Medical Marijuana Dispensing Facilities Prohibited.

- 1) Purpose. It is the purpose of this ordinance to prohibit Medical Marijuana Treatment Centers created under Art. X, § 29 of the Florida Constitution from establishing Medical Marijuana Dispensing Facilities within the municipal limits of the Town of Pembroke Park.
- 2) Findings. Based on authority granted to municipalities in §381.986(11) Florida Statutes, the Town Commission finds that a ban on the establishment of medical marijuana treatment center dispensaries within the Town of Pembroke Park is in the best interest of the Town.
- 3) Prohibition. Medical Marijuana Dispensing Facilities are prohibited within the boundaries of the Town of Pembroke Park.
- 4) Any existing nonconforming uses shall be permitted to operate and shall be subject to Sec. 28-342, of the Town code, as amended.

Sec. 28-187. - Permitted uses.

The following uses are permitted in the B-1 Business District:

- (a) The following kinds of retail stores: Antiques, art supply, automobile accessory, automobile new parts, bait and tackle, boat and marine motors in buildings, business machines, camera and photographic supply, confectionery, dairy products, dairy supplies and equipment not including feed or fertilizers, department, dresses, poultry, dry goods, florist, fruit and vegetable, furniture, furrier, garden supply gift, greeting cards, grocery, hardware, hobby supply, home appliances, household furnishings, ice cream, jewelry, leather goods and luggage, linens, fabrics and draperies, meat market, ~~medical marijuana treatment centers and dispensaries~~, music and musical instruments, newsstand, notions, office furniture and equipment, optical goods, package liquor, paint, pets and pet supply, pharmacy, seafood, souvenir, sporting goods, stationery and books, sundry, supermarket, television, tobacco, radio and phonograph, toy, wallpaper, wearing apparel, swimming pool supplies and equipment, variety.

Sec. 28-187.3. - Definitions related to medical marijuana.

~~Dispensing organization means an organization approved by the Florida Department of Health to cultivate, process, and dispense low-THC cannabis pursuant to F.S. § 381.986.~~

~~Low-THC cannabis (low-THC marijuana) has the meaning given low-THC cannabis in F.S. § 381.986(1)(b).~~

~~Low-THC cannabis dispensary means a business operation for the distribution of low-THC cannabis or related supplies, whether a principal use or accessory use, pursuant to Senate Bill 1030, constitutional amendment or any other provision of Florida law.~~

~~Low-THC cannabis facility means any authorized low-THC dispensary, dispensing organization or any other facility that dispenses, processes, grows, cultivates, distributes, sells, or engages in any other activity that involves or is related to low-THC cannabis, pursuant to Florida law.~~

~~Medical marijuana means any strain of cannabis, in any form, including low-THC cannabis, which is authorized by state law to be dispensed or sold in the State of Florida for treatment of certain medical conditions.~~

~~Medical marijuana dispensary means a business operation for the distribution of medical marijuana or related supplies, whether a principal use or accessory use, pursuant to constitutional amendment or any other provision of Florida law.~~

~~Medical marijuana facility means any authorized medical marijuana treatment center, medical~~

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Words in underlined type are additions.

Proposed Text Amendment

~~marijuana dispensary, or any other facility that dispenses, processes, grows, cultivates, distributes, sells, or engages in any other activity that involves or is related to medical marijuana pursuant to Florida law.~~

~~Medical marijuana permit means a business permit issued by the city pursuant to this article authorizing a business to sell medical marijuana in the city. Also referred to as "permit."~~

~~Medical marijuana retail center means a retail establishment, licensed by the Florida Department of Health as a "medical marijuana facility," "medical marijuana treatment facility," "medical marijuana treatment center," "medical marijuana dispensary," "dispensing organization," "dispensing organization facility," "low-THC cannabis dispensary," "low-THC cannabis facility," or similar use, that sells and dispenses medical marijuana for individual use, but does not engage in any other activity related to preparation, wholesale storage, distribution, transfer, cultivation, growing or processing of any form of medical marijuana or medical marijuana product, and does not allow on-site consumption of medical marijuana.~~

~~Medical marijuana treatment center means any entity that acquires, grows, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, or distributes medical marijuana, or that administers medical marijuana, products containing medical marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers and is registered or licensed by the department of health. A medical marijuana treatment center may include retail sales or dispensing of marijuana. A facility which provides only retail sales or dispensing of marijuana shall not be classified as a medical marijuana treatment center under this chapter. Also, may be referred to as a "medical marijuana treatment facility" or "dispensing organization" or other similar term recognized by state law.~~

~~Non-medical/recreational marijuana uses means the production, growing, cultivation, distribution, purchase, sale, transfer, delivery or any other similar or related use of marijuana, cannabis, cannabis-based products or cannabis plants when such production, growing, cultivation, distribution, purchase, sale, transfer, delivery or any other similar or related use is not associated with any medical purpose or use, whether or not such purchase, sale, transfer or delivery is lawful under federal or state law.~~

~~Owner or owner/operator means any person, including any individual or other legal entity, with a direct or indirect ownership interest of five (5) percent or more in the applicant, which interest includes the possession of stock, equity in capital, or any interest in the profits of the medical marijuana retail center, or any person who operates a medical marijuana retail center, regardless of ownership interest.~~

~~Premises means the building, within which a medical marijuana retail center is permitted to operate by the city, including the property on which the building is located, all parking areas on the property or that are utilized by the medical marijuana retail center and sidewalks, alleys and parkways adjacent to the property on which the medical marijuana retail center is located.~~

~~Qualified patient means a resident of the State of Florida who has been added to the state's compassionate use registry by a physician licensed under F.S. Ch. 458 or Ch. 459, to receive medical marijuana from a dispensing organization or medical marijuana treatment center or similar use as defined in Florida Statutes.~~

Sec. 28-189. - Uses not permitted.

In the B-1 Business District, the permissible uses enumerated in this division shall not be construed to include, either as a principal or accessory use, any of the following which are listed for emphasis:

- (1) Open air sale or display of machinery, farm implements, construction equipment;
- (2) Manufacturing except as accessory to a permitted use;

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Proposed Text Amendment

- (3) Wholesale, warehouse or storage uses;
- (4) Rooming house or boarding house;
- (5) Any use first permitted in a less restricted district;
- (6) Religious establishments, and/or ancillary educational facilities, except as provided in [section 28-187.01](#);
- (7) Tattoo and/or body piercing parlors;
- (8) Flea markets;
- (9) Psychic/fortune tellers;
- (10) Swinger clubs or similar establishments.
- (11) Medical marijuana treatment centers and dispensaries.

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May 26, 2023

To: Planning & Zoning Board

From: Mike Vonder Meulen, AICP, Consultant Town Planner, KEITH

RE: Proposed Code Text Amendment – B-1 Mixed-Use Regulations

Recommendation: The Consultant Town Planner recommends approval of the proposed text amendment.

Background: Attached for the Planning & Zoning Board review, discussion and recommendation are amendments to the Town Land Development Code including Secs 21-19 and 21-20 to allow an illuminated “open” sign.

There has been interest by the Town to amend the Mixed-use development regulations in B-1 to encourage redevelopment and address affordable housing needs. The attached text attempts to accomplish both.

Below is a synopsis of the changes to the B-1 Mixed-use regulations:

- If a property is 10 acres or less, a project can be a freestanding residential building or a mixed-use building. If the project is mixed-use, the commercial component must be a minimum of 5,000 square feet as specified in the Town's Comprehensive Plan.
- Increasing permitted density and creating allowance for affordable housing density bonuses.
- Setbacks have been reduced to push the building closer to the street. This should also help activate the street with pedestrians.
- Bedroom sizes have been adjusted as well as identify other county policies in terms of density calculation.
- Pervious area has been reduced to allow for the higher density of residential.
- Height has been increased to allow for higher density developments.
- Minimum ground level active uses. Again, to activate the street and front façade of the building.
- Identifying the affordable housing density bonuses available through Broward County.

The text amendment was presented to the Town Commission at the May 24th Commission Workshop.

Consistency with the Comprehensive Plan: The Consultant Town Planner finds that the proposed text amendments are consistent and compatible with the Following Goals, Objectives and Policies of the Town of Pembroke Park Comprehensive Plan including:

GOAL I: Encourage the private and public sectors to adhere to the patterns of planned

development in the Town which shall promote environmental protection, strive to meet the Town's social and economic needs and contribute to the health, welfare, and safety of its residents.

OBJECTIVE #1.1: Future growth and development will be managed through land development regulations which incorporate a review process for assessing adequacy of public services and facilities consistent with the Town's Capital Improvement Element and providing for both the timely completion and regular maintenance of all required capital improvements and amenities including the annual monitoring of same.

OBJECTIVE #1.2: Future planning decisions shall be consistent with sound planning principles, and promote protection of existing and planned residential areas by utilizing innovative land use regulations and considering the individual and cumulative impacts of land use plan amendments on the existing and planned transportation facilities. Innovative land use regulations shall promote neighborhoods, especially mobile home parks that are attractive, well-maintained and contribute to the health, safety and welfare of neighborhood and mobile home park residents and protected from disruptive land uses and nuisances.

POLICY #1.3.3: PERMITTED USES IN FUTURE LAND USE CATEGORIES:

B. COMMERCIAL USE

9. Residential uses are permitted in the same structure and/or parcel of land as a commercial use without the need to amend the Town's Comprehensive Plan provided that the Town applies flexibility or reserve units to the parcel land and;

OBJECTIVE 3.3: The Town shall continue to provide adequate sites for affordable housing opportunities necessary to accommodate the present and future very low, low and moderate income families living in the Town. The Town shall attempt to increase the appraised value of housing stock while maintaining no less than 1,500 affordable housing units.

POLICY 3.3.1: Continue to permit affordable housing opportunities located in proximity to major employment centers.

Sec. 28-187.01. - Special exception; designation.

The following primary uses shall be designated as special exceptions for the purpose of issuance of building permits and/or granting of a business tax receipt and certificates of use and shall be permitted as a special exception only after public hearing and approval by the Town Commission:

(a) Religious establishments and ancillary uses, including but not limited to, religious education related to the use on site, social services related to the use on site, counseling and office uses.

(b) Mixed Use Residential Development according to Section 28-194.1 ~~Multiple-family residential use up to twenty-five (25) units per net acre of site area (or the density specified in the Future Land Use Element, whichever is less) as a part of a commercial structure provided that a minimum of five thousand (5,000) square feet of commercial use is provided onsite.~~

Sec. 28-194.1. - Mixed-use residential developments.

Following ~~The following~~ is the minimum criteria for mixed-use residential uses in the B-1 Business District:

(a) ~~(a)~~ Applicability. Properties which are ten (10) acres or less in area ~~which are master-planned as integrated mixed-use projects. Properties must be a minimum of seven and one-half (7.5) acres in size to qualify for such development use, designated commercial on the Pembroke Park Future Land Use Plan Map. Freestanding multi-family residential uses are permitted on a parcel 10 acres or less in area. Any mixed-use development, other than the freestanding multi-family residential use, must contain a minimum of 5,000 square feet of commercial use.~~

(b) Density. ~~Subject to allocation of Flexibility and/or Reserve Dwelling units by the Town Commission, but not to exceed the number of units permitted by the Future Land Use Element of the Town's Comprehensive Plan. The maximum base density in B-1 Business District is 50 dwelling units per gross acre and an affordable housing density bonus to a maximum of 100 units per gross acre if affordable housing is provided pursuant to Policies 2.16.3 and 2.16.4 of the Broward County Comprehensive Plan.~~

(c) Setbacks.

(1) Front and street side: Buildings shall be set back a minimum of ~~twenty-five (25)~~five (5) feet from adjacent roadways.

(2) Side: Minimum ~~fifteen (15)~~ten (10) feet.

(3) Rear: Minimum ~~twenty (20)~~ten (10) feet.

(d) Maximum building length. Maximum two hundred fifty (250) feet length for residential buildings.

(e) Minimum floor areas.

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- (1) Efficiency 400 square feet Efficiencies 500 square feet or less are counted as 0.5 of a dwelling unit for density calculations.
- (2) One (1) bedroom 600-550 square feet
- (3) Two (2) bedrooms 800 square feet
- (4) Add one hundred fifty (150) square feet for each bedroom greater than two (2).
- (f) Pervious area. A minimum of thirty (30)fifteen (15) percent of the total lot area.
- (g) Building height. ~~The same as the underlying B-1 Business District (One hundred and fifty (100150) feet permitted).~~
- (h) Active ground level uses. A minimum of 30% of the primary front façade shall be activated with residential uses, accessory residential use (lobby, leasing office, fitness center, etc.) and or commercial uses. Parking spaces. Each automobile parking space for residential uses shall be a minimum of nine (9) feet in width by nineteen (19) feet in depth, and each automobile parking space for nonresidential uses shall be a minimum of ten (10) feet in width by twenty (20) feet in depth.
- (i) Allocation and expiration of flexibility and/or reserve dwelling units.
 - (1) The Town may allocate available flexibility and/or reserve dwelling units and affordable housing bonus density to property located in the B-1 Business District upon receipt of an application from the property owner or property owner's authorized agent.
 - (2) The allocation of flexibility and/or reserve dwelling units and affordable housing bonus density will be based on review criteria established by Resolution of the Town Commission and consistent with the Town's Adopted Comprehensive Plan. The Town is not mandated to allocate units flexibility and/or reserve dwelling units to an applicant, even when unallocated flexibility and/or reserve dwelling units and affordable housing bonus density are available.
 - (3) The Town Commission will conduct a public hearing to consider the application for flexibility and/or reserve dwelling units. The number of flexibility and/or reserve dwelling units allocated to an applicant, if any, will be set forth in a Resolution adopted by the Town Commission.
 - (4) Flexibility and/or reserve dwelling units and affordable housing bonus density may only be allocated concurrently with the approval of a site development plan for the property, and said allocation is valid only for a specified period of time.
 - ~~(5) All allocations of flexibility and/or reserve dwelling units and affordable housing bonus density shall have an expiration date that coincides with the expiration date of the site development plan issued concurrently with the flexibility and/or reserve dwelling unit allocation.~~
 - ~~(56) The allocation of flexibility and/or reserve dwelling units shall expire in the event building permits for a principal building on the property incorporating the allocated flexibility and/or reserve dwelling units are not obtained prior to the allocation expiration~~

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~~date.~~ All flexibility and/or reserve dwelling units and affordable housing bonus density
which expire or are not utilized by the expiration date shall revert back to the Town.

DRAFT

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Town of Pembroke Park

3150 SW 52nd Avenue • Pembroke Park, Florida 33023

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May 26, 2023

To: Planning & Zoning Board

From: Mike Vonder Meulen, AICP, Consultant Town Planner, KEITH

RE: Proposed Code Text Amendment – Signage

Recommendation: The Consultant Town Planner recommends approval of the proposed text amendment.

Background: Attached for the Planning & Zoning Board review, discussion and recommendation are amendments to the Town Land Development Code including Secs 21-19 and 21-20 to allow an illuminated “open” sign.

In 2022 and 2023, there were several requests made by local business owners at Town Commission meetings to allow illuminated “open” signs. Many of the local businesses have tinted windows and doors which make the businesses appear closed, especially during the winter months when the sunset early. It was recommended by the commission that staff draft a code amendment to address the business owner’s concerns.

The code amendment also corrects an incorrect numbering reference concerning neon signage.

The text amendment was presented to the Town Commission at the May 24th Commission Workshop.

Consistency with the Comprehensive Plan: The Consultant Town Planner finds that the proposed text amendments are consistent and compatible with the Following Goals, Objectives and Policies of the Town of Pembroke Park Comprehensive Plan including:

GOAL I: Encourage the private and public sectors to adhere to the patterns of planned development in the Town which shall promote environmental protection, strive to meet the Town’s social and economic needs and contribute to the health, welfare, and safety of its residents.

POLICY #1.1.2: The Town shall periodically review its current Land Development Regulations to:

e) Regulates signage

Sec. 21-19. - Prohibited signs.

The following are those signs which shall not be permitted within the municipal limits of the Town:

(a) Animated signs;

(o) Window signs, when illuminated except as permitted in section 21- 20.C.3;

(p) Tenant identification signs, except in the interior or shopping centers;

(q) Exposed neon tubes or bare bulb signs placed in geometric forms to outline structures, roofs, windows or doors in such a manner as to attract attention, except as permitted in [section 21-20.C.6\(7\)](#).

Sec. 21-20. - Permanent signs.

Only such permanent signs as are listed in this section shall be permitted to be erect or maintained upon any building lot, plot or parcel of land, for the following types of land uses:

(c) All nonresidential uses:

3. Window/door signs

a. Hours-of-business sign shall be permitted on a door or adjacent window with letters not in excess of two (2) inches in height and total area not in excess of two (2) square feet.

b. An illuminated and non-animated "Open" sign shall be permitted on a door or adjacent window with a total area not in excess of two (2) square feet.

6. Individual business under-canopy signs may be permanently installed in shopping centers perpendicular to the storefront and equidistant between the storefront and the canopy edge, center in the store frontage. Under-canopy signs shall be no longer than fifty (50) percent of the width of the canopy up to a maximum of four (4) feet in width. The height of the sign shall be no more than thirty (30) inches, inclusive of suspension devices. The copy displayed is to be used only to indicate to the public the legal or exact firm name or the main character of the business carried on therein or thereon. Internal illumination is permitted. A minimum of eight (8) feet clearance from the bottom of signs to walkway shall be required. Under-canopy signs shall be suspended by rigid mount so as to prohibit any movement of the sign.

Town of Pembroke Park

3150 SW 52nd Avenue • Pembroke Park, Florida 33023

954.966.4600 • www.tppfl.gov



May 26, 2023

To: Planning & Zoning Board

From: Mike Vonder Meulen, AICP, Consultant Town Planner, KEITH

RE: Broward County Affordable Housing Density Bonus Policies and State of Florida Live Local Act

Recommendation: No Recommendation. This is for informational purposes only.

Background: Attached for the Planning & Zoning Board review and discussion are the Affordable Housing Density Bonus Policies of the Broward County Comprehensive Plan and a copy of the memo from the Town Attorney concerning the recently adopted Live Local Act by the State of Florida.

Affordable/attainable housing is recognized as a crisis throughout the State of Florida. To address the crisis, both Broward County and the State of Florida have enacted regulations to encourage development of affordable housing.

Broward County Affordable Housing Density Bonuses

Through the County Comprehensive Plan, Broward County encourages development/redevelopment of residential and commercial land use properties by granting density bonuses through the flex unit program. These density bonuses do not come out of the Town current pool of flex units. Property owners will need to deed restrict their properties for a minimum of 30 years to take advantage of the density bonuses. Below are financial examples of maximum rents and maximum income limits which Broward County uses to certify affordability.

Maximum Rent Limits Adjusted to Unit Size: These figures represent the most recent maximum gross chargeable rents which must include an allowance for utilities.

Income Category	Percent of Median Income	Efficiency	One bedroom	Two Bedroom	Three Bedroom	Four Bedroom
Very Low (0-50%)	50%	\$793	\$850	\$1,021	\$1,179	\$1,316
Low (51-80%)	80%	\$1,270	\$1,361	\$1,634	\$1,887	\$2,106
Moderate (81-120%)	120%	\$1,905	\$2,041	\$2,451	\$2,830	\$3,159

*Source: Florida Housing Finance Corporation
Effective 4/1/2021

Maximum Income Limits: These figures represent the most recent maximum gross income limits adjusted by family size.

Household Size	Extremely Low (30%)	Very Low (50%)	Low (80%)	Moderate (120%)
1	19,050	31,750	50,800	76,200
2	21,780	36,300	58,080	87,120
3	24,510	40,850	65,360	98,040
4	27,210	45,350	72,560	108,840
5	29,400	49,000	78,400	117,600
6	31,590	52,650	84,240	126,360
7	33,750	56,250	90,000	135,000
8	35,940	59,900	95,840	143,760

*Note: Broward County Median Income is: **\$82,100** effective 04/18/2022

Live Local Act

During the 2023 legislative session, the State of Florida enacted the Live Local Act to address the affordable housing crisis. Attached is a memorandum from the Town attorney which thoroughly outlines various sections of the act.

Consistency with the Comprehensive Plan: By County Charter, the Town of Pembroke Park's Comprehensive Plan is required to be consistent and compatible with the Broward County Comprehensive Plan. The Consultant Town Planner believes the County Policies further goals, objectives and policies found in the Town's Comprehensive Plan concerning housing affordability and therefore, intends to implement the County Policies to future development/redevelopment projects within the Town. The Town is also referencing the county policies into recent Land Development Text Amendments.

The Live Local Act preempts current land development regulations of Broward County and the Town of Pembroke Park. The Consultant Town Planner will work with the Town Attorney and other Town staff to ensure that the Town of Pembroke Park complies with the regulations established in the Live Local Act.

POLICY 2.16.3

- (1) Bonus residential density may be allocated to facilitate the development of affordable housing for persons within the following income categories as defined in the Broward County Land Use Plan:

- Moderate-income persons having a total annual anticipated income for the household that does not exceed 120 percent of the median annual income adjusted for family size for households within the county.*

- Low-income persons having a total annual anticipated income for the household that does not exceed 80 percent of the median annual income adjusted for family size for households within the county.*

- Very-Low income persons having a total annual anticipated income for the household that does not exceed 50 percent of the median annual income adjusted for family size for households within the county.*

*While occupying a rental unit, annual anticipated gross income may increase to an amount not to exceed 140 percent of the applicable median income adjusted for family size.

- (2) Bonus Formulas

Moderate-income: Six (6) bonus units per every one (1) “moderate-income” unit (including areas east of the Intracoastal Waterway).

Low-income: Nine (9) bonus units per every one (1) “low-income” unit (including areas east of the Intracoastal Waterway).

Very-Low-income: Nineteen (19) bonus units per every one (1) “very-low-income” unit (including areas east of the Intracoastal Waterway).

- (3) Affordable housing density bonuses are conditioned on the developer or purchaser providing, in a manner acceptable to the affected unit of local government, guarantees, as a minimum, through the use of restrictive covenants, that the affordability of the bonus units for the affordable income groups described above will be maintained for a period of at least thirty (30) years for rental housing and at least thirty (30) years for owner occupied housing.
- (4) The total number of units, including affordable and bonus units, on lands designated as “Residential” may not exceed a maximum of 50 dwelling units per acre on the Broward County Land Use Plan. For parcels designated “Commerce” or similar designation on the local land use plan map, these maximum densities shall not be applicable. If the total density, including the affordable and bonus units, exceeds the density permitted by the existing zoning classification, the governing body of the local government shall make a finding of compatibility with existing and future land uses and its local land development

regulations at a publicly noticed meeting, consistent with its notification requirements; otherwise, the local planning agency of the local government may make the finding of compatibility at a publicly noticed meeting, consistent with the above.

- (5) At the time of allocation of bonus density, the applicable local government must make a finding that adequate public facilities and services are in place or will be in place with completion of project construction, to accommodate all bonus and affordable units.
- (6) Allocations of bonus residential density do not require an amendment to the Broward County Land Use Plan or local land use plan.
- (7) Units of local government may utilize the Bonus Density provisions regardless of whether such provisions are incorporated within their certified local land use elements. This Policy is discretionary upon the local government and does not create any entitlements to the bonus units. Allocation of the bonus units requires authorization of the local government at a publicly noticed meeting, consistent with its notification requirements, of the governing body or, when the total density, including affordable and bonus units, does not exceed the density permitted by the existing zoning classification, by the local planning agency.
- (8) By January 31 of each year, an official of each local government shall transmit to the Planning Council an annual report providing tables reflecting bonus density units allocated.
- (9) “Affordable” unit and bonus unit construction is subject to the following, as enforced by the applicable local government:
 - a. One hundred percent (100%) of “affordable” units must receive certificates of occupancy before the final fifty percent (50%) of bonus units receive their certificate of occupancy; or
 - b. The local government must require that “affordable” units are available before or concurrently with bonus units.
- (10) This Policy is incentive-based and units of local government may be more restrictive and are not required to adopt, utilize or implement the above referenced bonus formulas.

POLICY 2.16.4 Within parcels located west of and including US 1*, and designated "Commerce" on the Broward County Land Use Plan and fronting with direct access to a roadway classified as a State road, County arterial, per the Broward Highway Functional Classification map, or other road or portion thereof, as approved by the Board of County Commissioners, herein after referred to as a "Qualified Road," or within a parcel designated "Activity Center," multi-family residential use is permitted in addition to that permitted otherwise in those designations by this Plan, subject to the following:

(1) One or more of the affordable housing categories, as defined by this Plan, must be a component of the residential development based on the following "bonus" units to "affordable" unit formula(s) described below:

(a) Moderate income: six (6) bonus units for every (1) one moderate income unit.

(b) Low income: nine (9) bonus units for every (1) one low income unit.

(c) Very-low income: nineteen (19) bonus units for every (1) one very-low income unit.

(2) (a) Each required affordable housing unit must be no smaller than ten percent (10%) less than the average gross floor area of each bonus unit corresponding type (i.e., one-bedroom, two-bedroom, three-bedroom, etc.) in the development project; or

(b) The number of bedrooms/bathrooms provided in the affordable units must be proportional to the number provided in the bonus units type (i.e., one-bedroom, two-bedroom, three-bedroom, etc.).

(3) Single-family dwelling units are not permitted. Residential units shall not be permitted on the ground floor portion of any building that fronts a Qualified Road. As per Policy 2.2.5 of the Broward County Land Use Plan, studio or efficiency housing units, no greater than 500 square feet in size, may be counted by the local government as 0.5 dwelling units for residential density purposes.

(4) These additional permitted residential density provisions are conditioned on the developer or purchaser providing, in a manner acceptable to the affected unit of local government, guarantees, at a minimum through the use of restrictive covenants, that the affordable unit(s) will be maintained as affordable to the applicable designated income group(s) for a minimum period of thirty (30) years.

(5) Within a development containing residential units, the following shall apply:

(a) Office and commercial use may either be vertically or horizontally integrated providing the following:

1. At least fifty percent (50%) of the ground floor of any portion of a building or development, excluding ingress and egress, facing a Qualified Road shall provide office and/or commercial uses;
2. Portions of a development not facing a Qualified Road within an Activity Center is not required, but encouraged, to provide for office and/or commercial uses.

(b) On parcels greater than five (5) acres, a minimum of ten percent (10%) of the gross floor area, excluding parking garages, must be reserved or utilized for office and/or commercial uses not ancillary to the residential units.

(6) "Affordable unit" requirements may be satisfied via an in-lieu payment to the Broward County Affordable Housing Trust Fund** equal to \$10,000 per unit for the total number of units within the development which sum shall increase by 3% annually.

(7) Units of local government may utilize the additional permitted residential density provisions described in this Policy, at their option, regardless of whether such provisions or conflicting provisions are incorporated within their certified local land use plan elements and utilization of these provisions does not require an amendment to the Broward County Land Use Plan map or local land use plan map.

(8) Local government utilization of the additional permitted residential density provisions described in this Policy is subject to the following, as enforced by the applicable local government: (a) One hundred percent (100%) of the "affordable" units shall be available for occupancy before the final twenty-five percent (25%) of bonus units are available for occupancy.

(9) In addition to the provisions of this Policy, parcels designated "Commerce" and meeting the location, frontage, and access requirements of this Policy or within an Activity Center, where the residential development will be located within ¼ mile of a State road, County arterial, or other road or portion thereof, as approved by Board of County Commissioners ("Board"), the Board shall consider the following in the review of funding applications submitted by local governments for future public infrastructure and economic development projects:

(a) Local government adoption of this Policy into the municipal Comprehensive Plan;

(b) Local government adoption of specific regulations, in the municipal zoning and/or land development code, to allow allocation of additional residential density units as a permitted use, by right, within specific zoning district(s);

(c) Local government adoption of specific regulations to implement the provisions and criteria of this Policy, including:

1. Establishment of a minimum net residential density of twenty-five (25) dwelling units per acre;

2. Where a building is located within 100 feet of any parcel which prohibits, through the applicable zoning regulations, residential development of ten (10) dwelling units per gross acre or more, the local government may establish a maximum building height limit of not less than five (5) stories; and

3. The zoning regulations that establish reduced on-site parking to accommodate the mixed uses.

(d) The Urban Planning Division, in consultation with the Office of the County Attorney, must certify that all the foregoing requirements of this Section (9) have been satisfied.

(10) Units of local government may be more restrictive and are not required to adopt, utilize or implement the above referenced Policy.

* includes all parcels that front and have direct access to US 1 and, at the option of the applicable municipality as a permitted or special exception use, on parcels east of US 1 and west of the Intracoastal Waterway, provided the municipality makes a finding that the additional dwelling units

on said parcels will not negatively impact hurricane evacuation clearance times and/or emergency shelter capacities. A local government is not required to apply this Policy to properties east of US 1 in order to be eligible for funding consideration by the Board of County Commissioners pursuant to Section (9) herein.

** Fifty percent (50%) of in lieu fees may be paid into an Affordable Housing Trust Fund of the applicable municipality, provided the municipality requires said monies to be used for the construction of new affordable units or home repair. All in-lieu payments shall be made at the time of issuance of building permit.

TOWN OF PEMBROKE PARK

MEMORANDUM NO. 2023-007

TO: Mayor Ashira Mohammed
Members of the Town Commission

CC: J.C. Jimenez, Town Manager
Michael Vonder-Meulen, Planning Consultant
Marlen D. Martell, Town Clerk

FROM: Jacob G. Horowitz, Interim Town Attorney *JGH*
Paul B. Hernandez, Assistant Interim Town Attorney *PBH*

DATE: May 25, 2023

RE: Town of Pembroke Park ("Town") – Senate Bill 102 – Florida Live Local Act

As a follow-up to the May 24, 2023, Town Commission Workshop, the Interim Town Attorney's Office has prepared a legal analysis of Senate Bill 102, more commonly known as the "Live Local Act" (the "Act"). The Act, which was approved by the Legislature during its 2023 Legislative Session, implements a multi-faceted approach to addressing the statewide demand for the development of affordable housing. The purpose of this memorandum is to provide the Town with a summary of the provisions within the Act that impact local government.

As it pertains to local government, the Act primarily aims to address affordable housing development demand in Florida by:

1. Enacting certain preemptions and requirements on local government pertaining to the approval processes and zoning considerations for affordable housing development;
2. Requiring local government to compile and publish a list of all government-owned properties within the municipality that may be suitable for affordable housing;
3. Providing new property tax exemptions to incentivize Property Owners to explore affordable housing options; and
4. Appropriating \$711,000,000.00 in State funding to the Florida Housing Finance Corporation.

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The Act was approved by the Governor and filed in the office of the Secretary of State on March 29, 2023. The Act has been codified as Chapter 2023-17 of the Laws of Florida. Unless otherwise stated below, the Act becomes effective July 1, 2023.

Affordable Housing Development Review, Approval Requirements, and Preemptions

The Act restricts a municipal government's traditional authority to determine its own planning and zoning regulations and approval processes for eligible affordable housing projects. This section shall provide a summary of conditions where the Act allows municipal government to approve proposed affordable housing developments and conditions where the Act requires municipal government action subject to specific conditions outlined below.

Discretionary Authority to Approve Developments

Sec. 166.04151(6) of the Act grants the Town Commission the discretion to approve an affordable housing development including, but not limited to, a mixed-use residential affordable housing development, "on any parcel with a commercial or industrial use." To be eligible, a proposed development must dedicate at least 10 percent (10%) of the units included in the proposed development as affordable housing as defined by State Statute.¹ Sec. 166.04151(6) further provides that the Town Commission is not required to amend its Code prior to granting an approval of eligible affordable housing developments pursuant to the terms of the section because the provisions of the statute are self-executing.

Required Authorization of Allowable Uses

Perhaps the most notable preemptions on a municipal government's ability to regulate proposed affordable housing development projects within the Act are found in Sec. 166.04151. The following sections require a municipality to authorize residential uses or development within areas with an underlying zoning designation of industrial or commercial:

Fla. Stat. § 166.04151(7)(a) **requires** a municipality to authorize multifamily and mixed-use residential as allowable uses for any parcel with an underlying zoning designation of commercial, industrial, or mixed-use if at least forty percent (40%) of the units for a proposed development

¹ F.S. Sec. 420.0004(3) defines "affordable" as monthly rents or mortgage payments including taxes, insurance, and utilities not exceeding 30 percent (30%) of that amount which represents the percentage of median adjusted gross annual income for households earning from 30 percent (30%) to one hundred twenty percent (120%) of the State's median annual adjusted gross income.

are dedicated as affordable housing units, as a defined by State Statute, for a minimum of thirty (30) years.

Fla. Stat. § 166.04151(7)(f) **requires** a municipality that designates less than twenty percent (20%) of its land area within its jurisdiction for commercial or industrial uses to authorize a proposed multifamily development as provided by within the subsection in areas zoned for commercial or industrial use only if the proposed multifamily development is mixed-use residential.

The Act specifies that qualifying mixed-use residential projects are required to dedicate at least sixty-five percent (65%) of the total square footage of each property for residential purposes. The Act is silent on the type of multifamily residential zoning regulations a municipality should apply for proposed developments on properties with an underlying Commercial or Industrial zoning designation.

The Act is silent on which multi-family zoning district regulations should apply when a local government has multiple multi-family zoning districts with different regulations. Based on the intent of the Act to facilitate the development of affordable housing, and Act's preemption of a municipality's ability to restrict the density and height of certain proposed developments, it appears the Town should apply the most liberal of multifamily zoning districts in a manner that conforms to the requirements of the Act. As this subject is open to interpretation, we shall continue to conduct further research on the Act's requirements and if necessary consider seeking further guidance from the State related to this matter.

The Act further provides an additional preemption on a municipality's ability to require a proposed multifamily development to obtain a zoning or land use change, special exception, condition use approval, variance, or comprehensive plan amendment related to the proposed development's zoning, building height, and density. The prohibitions on density and building height requirements are as follows:

1. The Act provides that a municipality may not restrict the density of a proposed affordable housing development authorized pursuant to the Act below the highest-allowed density on any land within the municipality where residential development is allowed.
2. Further, municipalities may also not restrict the height of a proposed affordable housing development authorized by the Act to less than the higher of either a municipality's maximum allowable height for a commercial or residential development located in the municipality within a one (1) mile radius of the proposed development or three (3) stories.

Sec. 166.04151(7)(d) **requires administrative approval** by the municipality for affordable housing development applications meeting the standards detailed above, including those developments located on properties with underlying zoning designations of industrial or commercial, so long as the development satisfies the municipality's land development regulations for areas zoned for multifamily uses and is otherwise consistent with the municipality's comprehensive plan excluding the municipality's present regulations on allowable building height, density, and zoning designations that conflict with the provisions of the Act. This means that such projects would not be subject to the public hearing process and the Town will need to formally designate the official responsible for the administrative approval.

The Act further requires municipalities to consider reducing parking requirements for a proposed affordable housing development authorized pursuant to the Act if the development is located within one-half mile of a major transit stop, as defined in the municipality's land development code, that is accessible from the development. Otherwise, the proposed development must meet the municipality's standards for setbacks, parking, and other land development regulations within for the proposed zoning district where the development will occur.

An additional requirement of local government related to the development, approval, and funding of affordable housing development under the Act is the requirement that a local government publicly display on its website the local government's procedures and expectations for the expedited processing of building permits and development orders. Further, the Act provides that State and local governments shall provide incentives such as density bonus incentives that encourage the private sector to be the "primary delivery vehicle" for affordable housing development.

The provisions of this section do not apply to property defined as "Recreational and Commercial Waterfront" pursuant to s. 342.201(2)(b) F.S. located within an area zoned as Industrial.² The above-referenced requirements of the Act and their accompanying sections shall sunset on October 1, 2033 unless extended by the Legislature.

² "Recreational and Commercial Working Waterfront" means a parcel or parcel of real property that provides access for water-dependent commercial activities or provides access for the public to the navigable waters of the State. Recreational and Commercial working waterfronts require direct access to or a location on, over, or adjacent to a navigable body of water. The term includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the State or that are support facilities for recreational, commercial, research, or government vessels.

Inventory of Publicly-Owned Vacant Lands

Sec. 166.0451 of the Act requires each municipal government in Florida to prepare an inventory list by October 1, 2023 of all real property that is appropriate for use as affordable housing and is wholly-owned by the respective municipality or any dependent special district. The list shall be updated every three (3) years upon the municipality's governing body approval of a resolution listing the inventoried-properties. The inventory list shall be published on the municipality's website to encourage potential development and shall include the legal description of each property and a description specifying whether the property is improved or vacant land

The Act offers several options for the municipal government related to its disposition of the properties identified within the published inventory list. The municipality may enter into a long-term land lease for the properties requiring the development and maintenance of affordable housing. Alternatively, the municipality may sell the properties and use the proceeds to purchase land for the development of affordable housing or to increase the municipality's fund, if any, earmarked for affordable housing. Another option provided by the Act allows the municipality to sell the properties with a restriction that requires the development of the properties as permanent affordable housing. Lastly, the municipality may otherwise make the properties available for use for the development and preservation of permanent affordable housing.

Tax Exemptions

The Act provides for three (3) new ad valorem tax exemptions for affordable housing-related developments. The extent to which the ad valorem tax exemptions listed below may impact a municipal government's annual budget is unknown, but it is important to note that with the exception of land owned by not-for-profit corporations, the new exemptions may only apply to certain portions of the affordable housing developments. The new tax exemptions created by the Act are as follows:

Land Owned by Not for Profit Corporation

The Act exempts land that is owned entirely by a not for profit corporation qualified as charitable under Section 501(c)(3) of the Internal Revenue Code and is leased for a minimum of 99 years predominantly for the purpose of providing housing to persons or families meeting the extremely-low-income to moderate-income limits specified by Florida Statute.³ This exemption

³ To qualify for this exemption, land is "Predominantly" used for residential purposes when the square footage of the improvements on the land used to provide affordable housing is greater than 50 percent (50%) of the square footage of all improvements on the land.

shall become effective on January 1, 2024 and shall sunset on December 31, 2059. This exemption requires no action by the Town.

Exemption for Portions of Properties Used for a Charitable Purpose

The Act establishes a second tax exemption for newly constructed or substantially rehabilitated developments that provide at least 70 rent-restricted housing units for households earning 120 percent (120%) or less of the area median income. Each unit shall receive a tax exemption of 75 percent (75%) of its assessed value.

The act provides a full exemption for those units rented to persons or families whose annual household income does not exceed 80 percent (80%) of the median annual adjusted gross income for the metropolitan statistical area where the person or family resides. This exemption shall become effective on January 1, 2024. This exemption requires no action by the Town.

Optional County and Municipal Affordable Housing Exemption

The Act allows municipalities to adopt an ordinance exempting those portions of multifamily rent-restricted development containing fifty (50) or more residential units, at least twenty percent (20%) of which are used to provide affordable housing that houses persons or families whose annual household income does not exceed sixty percent (60%) or less of the area median income.

The eligible portions of the property must be rented for an amount no greater than the amount no greater than the amount as specified by the most recent multifamily rental programs income and rent limit chart derived from the Multifamily Tax Subsidy Projects Income Limits published by the United States Department of Housing and Urban Development or ninety percent (90%) of the fair market value rent as determined by a rental market study, whichever is less.

Qualifying portions of each property may not have been cited for code violations on three (3) or more occasions in the twenty-four (24) months before submission of a tax exemption application; may not have any cited code violations that have not been properly remedied prior to submission of a tax exemption application; and may not have any unpaid fines or charges related to the cited code violations.

This additional tax exemption is optional. Should a municipality wish to enact such an exemption, the Act requires a proposed municipal ordinance granting a tax exemption to be adopted under non-emergency procedures; include language that incorporates a local entity under the supervision of the municipality's governing body to develop, receive, and review applications for certification and develop notices of determination of eligibility; to require the

property owner to apply for certification by the municipality in order to receive the exemption. Said ordinance must expire before the fourth (4th) January 1 after its adoption at which time the municipality may choose to adopt a new ordinance to renew the exemption. A copy of the approved ordinance must be delivered to the Property Appraiser within ten (10) days from the ordinance's date of adoption. This exemption will first apply to the 2024 tax roll.

Preemption on Rent Control

Sec. 166.043(2) of the Act prohibits local governments from passing a new ordinance or rule pertaining to controlling the price of rents. The act further prohibits local governments from maintaining existing ordinances or rules that control the price of rents. Sec 166.043(2) reads as follows:

"A municipality, county, or other entity of local government may not shall adopt or maintain in effect any law, ordinance, rule, or other measure that which would have the effect of imposing controls on rents"

The Act is silent on a municipality's right to enact a "Tenant's Bill of Rights" or other forms of tenant protection, but such protection may not include a provision concerning rent control. Thus, the Act does not affect the Tenant's Bill of Rights requirements recently enacted by the Town Commission.

State Requirements

The Act allows the Florida Housing Finance Corporation to provide technical assistance through the entity providing statewide training and technical assistance related to the provisions of this Act selected to provide to local governments in establishing selection criteria and related regulations for competitive solicitations for the use or lease of government-owned real property for affordable housing purposes.

Appropriation

The Act appropriates \$711,000,000.00 (the "Appropriation") in State funding to the Florida Housing Finance Corporation (the "FHFC"). The FHFC is a public-private entity created by the Florida Legislature to provide affordable housing opportunities and administer the two largest statewide affordable housing programs: The State Apartment Incentive Loan Program (SAIL) and the State Housing Initiatives Partnership program (SHIP);

The Appropriation includes \$252,000,000.00 in funding toward the SHIP program for local governments. The SHIP program was created by the legislature to provide funds to Counties and

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certain municipalities complying with the requirements of Fla. Stat. §420.9072(2)(a) to provide funding to Counties and municipalities that promotes and encourages further development of affordable housing and housing-related employment.

Conclusion

The Act fundamentally changes local regulation on eligible affordable housing development, even eliminating public hearing requirements for some developments. The Act also updates the law requiring municipalities to account for and publish their inventory of surplus land that may be suitable for affordable housing development. The Act also provides \$252,000,000.00 in SHIP funding for the 2023-2024 fiscal year.

The Interim Town Attorney's Office remains available to answer any questions that you may have regarding the Act or its impact on the Town.

JGH:PBH