



Dissecting the Land Use Tools and Property Tax Exemptions in the Live Local Act

June 15, 2023



AFFORDABLE HOUSING CATALYST PROGRAM

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- Statewide nonprofit organization that is primarily a training and technical assistance provider to local governments and nonprofits on all things affordable housing
- Our work covers:
 - Compliance with local, state, and federal affordable housing programs
 - Affordable housing program design
 - Capacity building for nonprofit housing providers
 - Land use planning for affordable housing
 - Research & data gathering
- We can provide free training & technical assistance to you under the Catalyst Program



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Webinar Logistics

- All participants are on mute
- Please type in your questions and comments into the question box on the side panel
- We will not identify who has asked a question
- Webinar is recorded
- PPT is provided as a handout
- For follow-up information or problems downloading handouts, please contact glazer@flhousing.org



Topics covered today

I. Land use provisions

- Affordable housing land use preemption (s. 125.01055(7)/166.04151(7))
- House Bill 1339 tool (s. 125.01055(6)/166.04151(6))

II. Property tax incentives

- Local option property tax exemption
- Nonprofit land exemption
- “Missing middle” property tax exemption

III. Key themes

- Policy considerations
- Connecting the LLA incentives



Free Live Local Trainings under Catalyst starting July 1

Thanks to the support of the Florida Housing Finance Corporation, from July 1, 2023 – June 30, 2024, the Florida Housing Coalition will provide:

- **Up to 8 Live Local Act site visits.** Free training and technical assistance (up to 15 hours) to local governments specifically on Live Local Implementation.
- **Five LLA-specific training webinars.**
- **200 hours of off-site technical assistance.** Each request typically of up to 10 free hours of assistance for local governments and nonprofit organizations.
- **Seven regional workshops.** We will divide the state into seven regions and provide virtual roundtables for planners on the land use tool.



Disclaimer

- The strategies discussed in this webinar are based on FHC's interpretation of the Live Local Act which do not carry the weight of law and should not be relied upon as legal advice.
- When in doubt on an interpretation, consult with your attorney.
- We are still in very early days of LLA implementation and there are a number of nuanced legal interpretations to sort through.



We want your questions & feedback!

- Your implementation questions and feedback help us structure our trainings to meet your needs
- All questions about how the Live Local Act will work in practice are encouraged!





Live Local Act – Land Use Provisions



Land use standards – Affordable housing in commercial, industrial, and mixed-use zones

- Sections 3 and 5 of the Live Local Act for counties and cities, respectively
- Creates two new subsections of Florida law – **s. 125.01055(7)** (for counties) and **s. 166.04151(7)** (for municipalities)
- Proscribes certain development standards for eligible affordable housing developments in any area zoned for **commercial, industrial, or mixed use**
- Eligible projects (referred to here as “preemption projects”) are entitled to certain **use, density, and height** standards as well as standards regarding administrative approval



What was the intent of this new preemption?

- **Adaptive Reuse.** To facilitate the redevelopment of abandoned or underutilized commercial or industrial centers (think vacant malls and shopping centers)
- To facilitate urban infill and mixed-use centers
- Expedite the approval process for affordable housing development



Eligible Affordable Housing Developments

Lines 327-332/Lines 446-451:

(7)(a) “A county (or municipality) must authorize multifamily and mixed-use residential as allowable uses in any area zoned for **commercial, industrial, or mixed use** if **at least 40 percent of the residential units in a proposed multifamily rental development** are, for a period of 30 years, affordable as defined in s. 420.0004. . . **For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes.**”

Eligibility criteria:

- 1) Must be in an area zoned for at least one of the three eligible uses
- 2) At least 40 percent of the residential units must be affordable to households up to 120% AMI
- 3) Only applies to multifamily or mixed-use rental developments
- 4) If mixed-use, at least 65% of the square footage must be used for residential purposes



What are these “preemption projects” entitled to?

Lines 332-338/Lines 451-458:

(7)(a) “. . . Notwithstanding any other law, local ordinance, or regulation to the contrary, a county (or municipality) may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection.”

Rephrased:

- The height, zoning, and densities authorized under this new subsection are granted by-right, even if those standards conflict with the local government’s own height, zoning, and density regulations.



Entitlement #1 - Use

Lines 327-332/Lines 446-451:

(7)(a) “A county (or municipality) **must authorize multifamily and mixed-use residential as allowable uses** in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development are, for a period of 30 years, affordable as defined in s. 420.0004. . .”

Example

- 1) An eligible preemption project is proposed in a jurisdiction’s C-1 District (commercial).
- 2) The jurisdiction’s C-1 District does not currently allow for residential uses.
- 3) Result: s. 125.01055(7)/s. 166.01451(7) would override the jurisdiction’s C-1 regulations regarding use and authorize the affordable housing development as an eligible use.



Entitlement #1 – Use

Frequently Asked Questions

Q. What if a jurisdiction already allows residential uses in its commercial zone districts?

A. Nothing would change in regards to use, but a preemption project could still use s. 125.01055(7)/166.04151(7) to receive favorable benefits regarding density, height, and administrative approval. (more on this later)

Q. Does the tool apply to single-family or homeownership units?

A. No, it only applies to multifamily or mixed-use **rental** developments.

Q. What is the maximum residential square footage allowed for mixed-use residential?

A. Since the text is silent on a max sq footage (just has a minimum of 65% of total square footage), consult City or County Attorney



Entitlement #2 - Density

Lines 340-343/Lines 459-462:

(7)(b) “A county (or municipality) may not restrict the density of a proposed development authorized under this subsection **below the highest allowed density on any land in [the jurisdiction] where residential development is allowed.**”

What does this mean?

- **Example:** If a city’s maximum density, anywhere in the city limits, is 30 units/acre, then a preemption project is entitled to build up to 30 units/acre as their density allowance.
- It does not override a jurisdiction’s overall maximum density – it just allows a preemption project to be built up to what is allowed elsewhere in the jurisdiction



Entitlement #2 – Density

Frequently Asked Questions

Q. Does “highest allowed density” refer to by-right density allowances or does it include bonus density?

A. Consult your attorney. If this is an issue, amend existing density bonus provisions to exempt projects that utilize this tool.

Q. Does “highest allowed density” mean gross or net density? Can the local government still regulate intensity or Floor Area Ratio (FAR)?

A. Consult your attorney.

Q. How does the density allowance impact low residential density standards for lands in coastal hazard and floodplain zones?

A. Subsection (7)’s density standards would apply but keep in mind that all other local laws/regs, minus density, height, and use, still apply to preemption projects (more on this later).



Entitlement #3 - Height

Lines 344-348/Lines 463-467:

(7)(c) “A county (or municipality) may not restrict the height of a proposed development authorized under this subsection **below the highest currently allowed height for a commercial or residential development** located in its jurisdiction within 1 mile of the proposed development or 3 stories, whichever is higher.”

Process

- Place a proposed development on a map
- Identify the “highest currently allowed height for a commercial or residential development **located in its jurisdiction**” within 1 mile of the proposed development
- A proposed development is entitled up to that highest height, or 3 stories, whichever is higher



Entitlement #3 – Height Frequently Asked Questions

Q. Does “highest currently allowed height” refer to by-right height allowances or does it include bonus height?

A. Consult your attorney. If this is an issue, amend existing height bonus provisions to exempt projects that utilize this tool.

Q. What if a proposed development is on a border of a neighboring jurisdiction? Are we required to look at the height allowances within 1 mile in the neighboring city or county?

A. No. The “1-mile radius” criteria only applies within the jurisdiction that the development is proposed.



Land use standards – Summary of entitlements

Affordable housing developments allowed under this preemption are entitled to:

Use

- Allowed to build multifamily rental or mixed-use in commercial, industrial, or mixed-use zones without a zoning or land development change

Density

- Highest density allowed on any land in the City or County where residential development is allowed

Height

- Highest currently allowed height for a commercial or residential development within 1 mile of the proposed development or 3 stories, whichever is higher



All other state and local laws still apply . . .

Lines 373-375/Lines 490-492:

(7)(g) “Except as otherwise provided in this subsection, a development authorized under this subsection must comply with all applicable state and local laws and regulations.”

What this means:

- Except for the standards governing use, density, height, and administrative approval, a preemption project must comply with all other state and local laws.
- This includes: setback requirements, parking, open space, environmental, concurrency, etc.
- Opportunity for local government to regulate undesired impacts from this tool such as building in high-risk areas



Required administrative approval

Lines 349-358/Lines 468-477:

(7)(d) “A proposed development . . . **must be administratively approved** and no further action by the board of [city or county commissioners] is required **if the development satisfies the [jurisdiction’s] land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan**, with the exception of densities, height, and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements.

What does this mean?

- If a preemption project meets certain criteria, it must be administratively approved with no action from the city or county commission.
- If a preemption project does not meet existing LDRs or the comp plan, local government can require a public hearing and land use change.



Required administrative approval

Frequently Asked Questions

Q. What land development regulations should be applied when determining whether a proposed project “satisfies the [jurisdiction’s] land development regulations for multifamily developments in areas zoned for such use?” What if my jurisdiction has different standards for multifamily developments?

A. Consult your attorney (more on this next slide).

Q. If a proposed project does not meet my jurisdiction’s land development regulations, excepting use, density, and height, can we require a land use change that requires a public hearing?

A. Yes, local government can still regulate all aspects of a development except for use, density, and height unless the development meets the admin approval requirements in sub (7)(d).



Proactively incorporating subsection (7) into your jurisdiction's land development regulations

- LGs can consider proactively incorporation sub (7) standards in their land development regulations to provide clarity on which “land development regulations for multifamily developments in areas zoned such use” apply
- Ideas:
 - Amend all commercial, industrial, and mixed-use districts to include sub. (7) language
 - Include site specific regulations to use for the sub (7) tool that warrant administrative approval
 - Provide clarity on heights and densities allowed by-right



Considering parking reductions

Lines 359-363/Lines 478-483:

(7)(e) “A [jurisdiction] must consider reducing parking requirements for a proposed development . . . if the development is located within one-half mile of a major transit stop, as defined in the [jurisdiction’s] land development code, and the major transit stop is accessible from the development.”

What does it mean to “consider” reducing parking requirements?

- Consult your city or county attorney
- May just require a showing on record that the jurisdiction “considered” a reduction with a rational basis



The 20% Rule – Jurisdictions that can only use the tool for mixed-use development

Lines 364-372/Lines 484-489:

- **Cities.** If a city has less than 20 percent of total land use designated for commercial or industrial use, **only mixed-use residential is allowed with this tool in commercial and industrial use only districts.**
- **Counties.** If proposed project is within boundaries of a multicounty independent special district 1) created to provide municipal services; 2) is not authorized to levy ad valorem taxes, 3) and less than 20 percent of land in that district is designated for commercial or industrial use, **then mixed-use only in commercial and industrial use only districts.**

In other words, if a jurisdiction satisfies this 20% Rule, multifamily-only developments are not allowed to be approved in commercial or industrial use only districts with s. 125.01055(7)/166.04151(7).



Other frequently asked questions (so far)

Q. Does the tool apply to Planned Unit Developments (PUDs)?

A. FHC interpretation: if the parcel can contain a commercial, industrial, or mixed-use component, the tool applies. A PUD cannot avoid the tool's reach by being named a PUD.

Q. Who is responsible for compliance monitoring on the affordable units?

A. The local government.



When in doubt, consult your Attorney.

We are still in the very early stages of LLA and there are a number of nuanced legal interpretations to sort through.



“HB 1339” (2020) land use tool amended

F.S. 125.01055(6)/166.04151(6): pre-LLA, allowed local government to approve affordable housing developments on any parcel zoned for a **residential**, **commercial**, or **industrial** use without needing a rezoning or comprehensive plan amendment.

What the Live Local Act does:

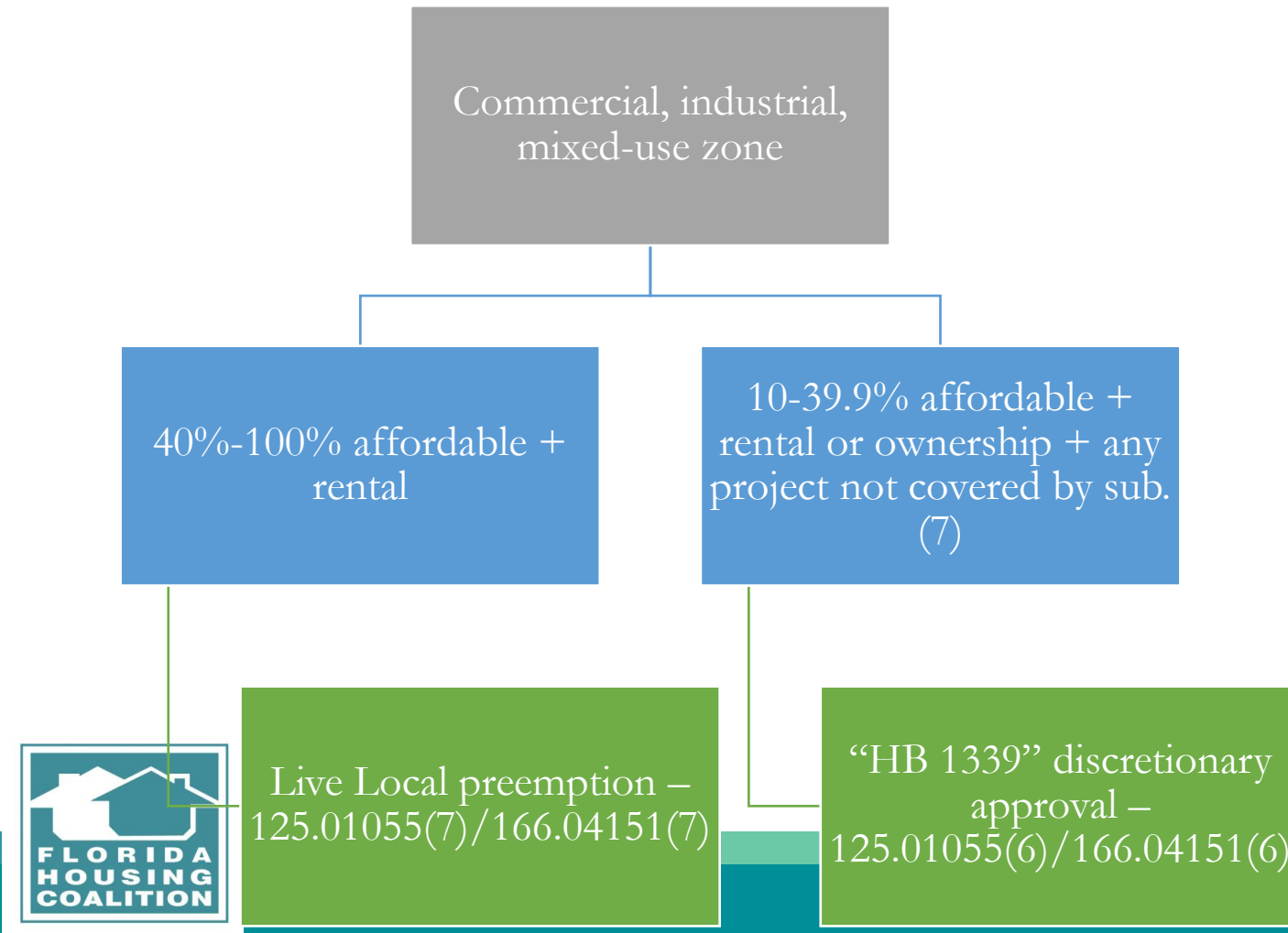
- Strikes out “residential”
- Removes the prohibition on SAIL funded projects

Local governments that have used the tool or are actively considering adoption:

- St. Petersburg, Jacksonville, Collier County, Lakeland, West Palm Beach, Palm Beach County



Comparing the new land use tool in SB 102 (2023) and HB 1339 (2020)



- Can use HB 1339 discretionary approval as a “carrot” to build in desired locations
- Possibility - allow developers to build less % of affordable housing in exchange for building away from certain areas intended to be kept for commercial or industrial

Comparing the new land use tool in SB 102 (2023) and HB 1339 (2020)

	F.S. 125.01055(7)/166.04151(7) – New Live Local tool	125.01055(6)/166.04151(6) – Existing HB 1339 tool as amended by the Live Local Act
Local discretion?	Not for use, density, and height	Yes
Eligible zones	Commercial, industrial, mixed-use	Commercial, industrial
Types of development	Multifamily rental or mixed use residential	Any multifamily or mixed-use residential project (rental or ownership)
Affordability requirement	At least 40% of the units must be affordable for 30 years	At least 10% of the units must be affordable
Local authority	Preempted on certain standards regarding use, height, or density All other state and local laws apply	Discretion to regulate in any manner



Policy ideas for leveraging HB 1339 land use tool

- **Serving lower-incomes.**
 - **Issue.** Sub. (7) allows developments that serve up to 120% AMI to receive the favorable land use standards – sub. (6) gives local governments discretion to set AMI levels
 - **Policy idea.** LGs can use sub. (6) to require less % of affordable housing in exchange for building units affordable to lower-income households
- **Encouraging development away from flood-prone or other less resilient areas.**
 - **Issue.** Sub. (7) does not exempt Coastal High Hazard Areas, floodplains, or other high-risk areas from use of the tool.
 - **Policy idea.** Use sub. (6) to require less % of affordable housing in exchange for building away from high risk areas.



Policy ideas for leveraging HB 1339 land use tool

- **Avoiding the 20% Rule to approve multifamily-only development.**
 - **Issue.** (7)(f) limits the use of the tool in certain jurisdictions to mixed-use residential.
 - **Policy idea.** Use sub. (6) to approve a multifamily-only development.
- **Approving affordable condos**
 - **Issue.** (7) only applies to rental housing whereas (6) can be used for both rental and ownership.
 - **Policy idea.** Use sub. (6) to approve affordable multifamily ownership opportunities.



Policy ideas for leveraging other local incentives to guide development

- **Really don't want affordable housing in certain high-risk commercial, industrial, and mixed-use areas?**
 - **Policy idea:** Craft local incentive policies to provide greater incentives to targeted areas that are suitable for long-term affordable housing development.
 - Overlay districts over targeted areas
 - Use standard toolkit of incentives: expedited permitting, fee waivers, parking reductions etc.
 - **Policy idea:** Developments that use sub. (7) in stated areas are entitled to additional regulatory incentives
 - Choose targeted areas based on rational planning decisions, not on NIMBY opposition



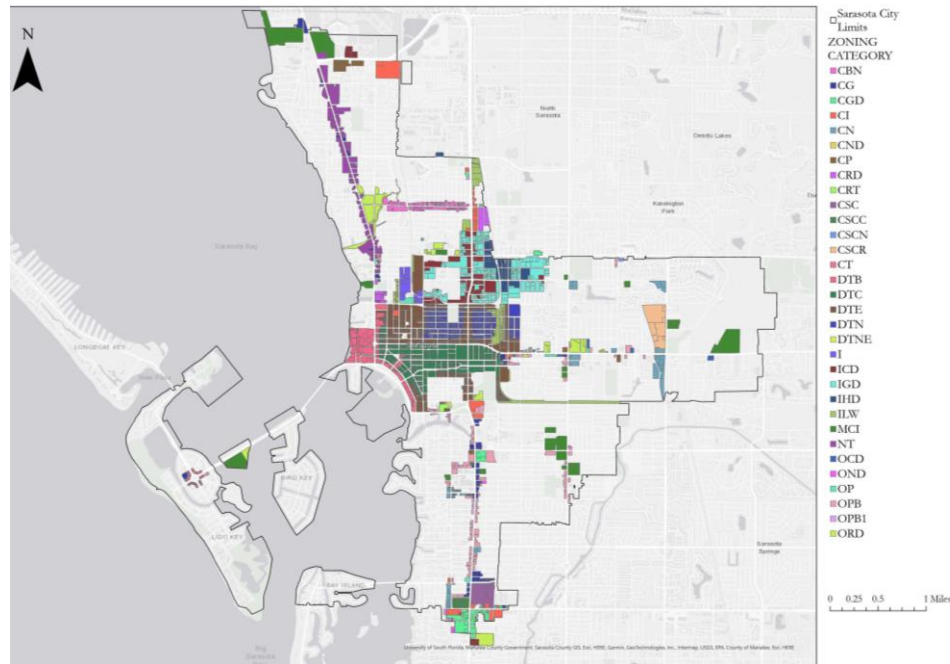
What to do now re: these land use standards for AH?

1. How much land is eligible for this new tool?
2. What types of projects can be expected on eligible parcels?
3. How can the City/County guide and facilitate use of the tool for affordable housing on eligible parcels?

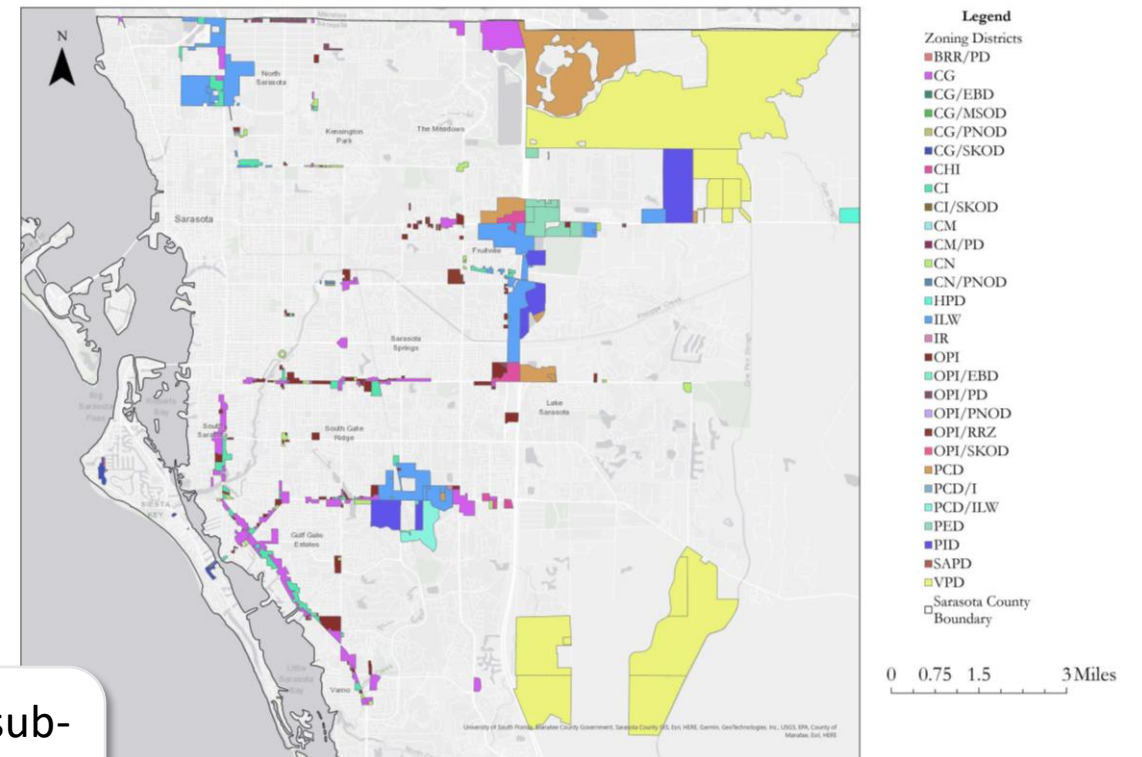


How much land is eligible for this new tool? Map it!

City of Sarasota Mapping Exercise



Sarasota County Zoning Mapping Exercise

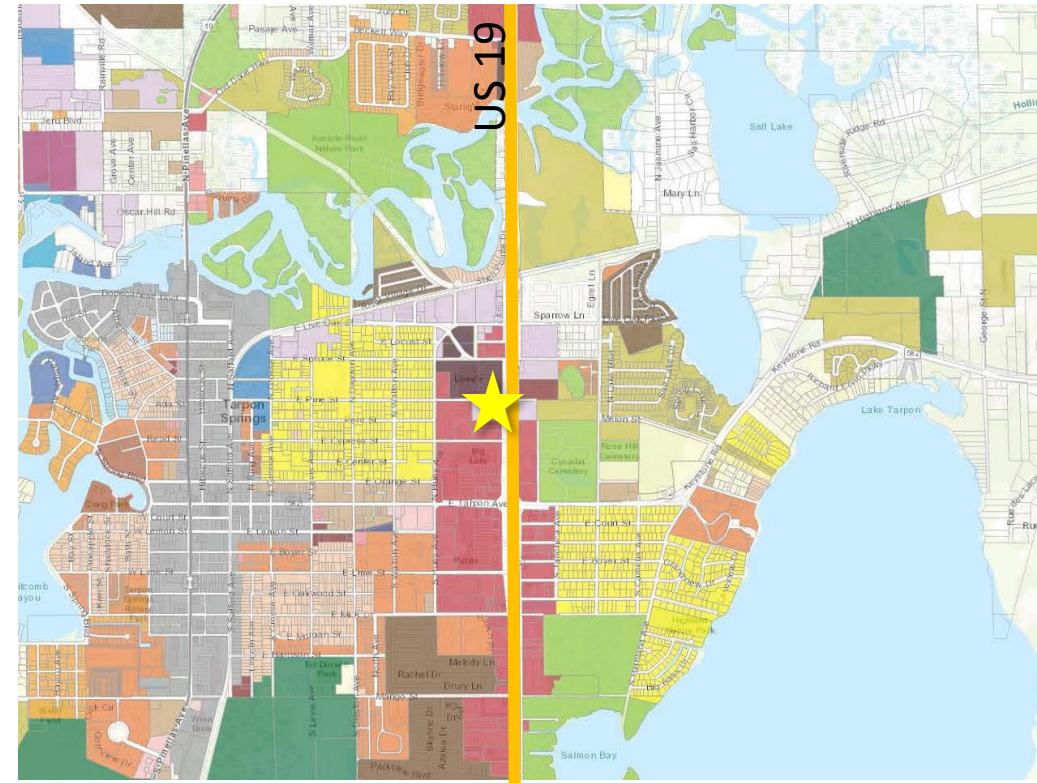


Additional layer of analysis: vacant and underused subset of eligible parcels based on zoning to indicate areas even more likely to see use of this tool.

What types of projects can be expected? Check the regulations!

Tarpon Springs example site zoned Highway Business (HB):

Use: Multifamily dwelling typically allowed as a conditional use in HB. LLA would entitle eligible projects to include residential multifamily and mixed-use with residential without the conditional use approval.



Buffer	CRM	IPD	P/SP	R-70A	SAP
Zoning Districts	GB	IR	R-100	RM	WDI
A	HB	LC	R-100A	RO	WDI-A
CPD	IB	MHP	R-60	RPD	WDI-B
	IH	NB	R-70	RV	WDII

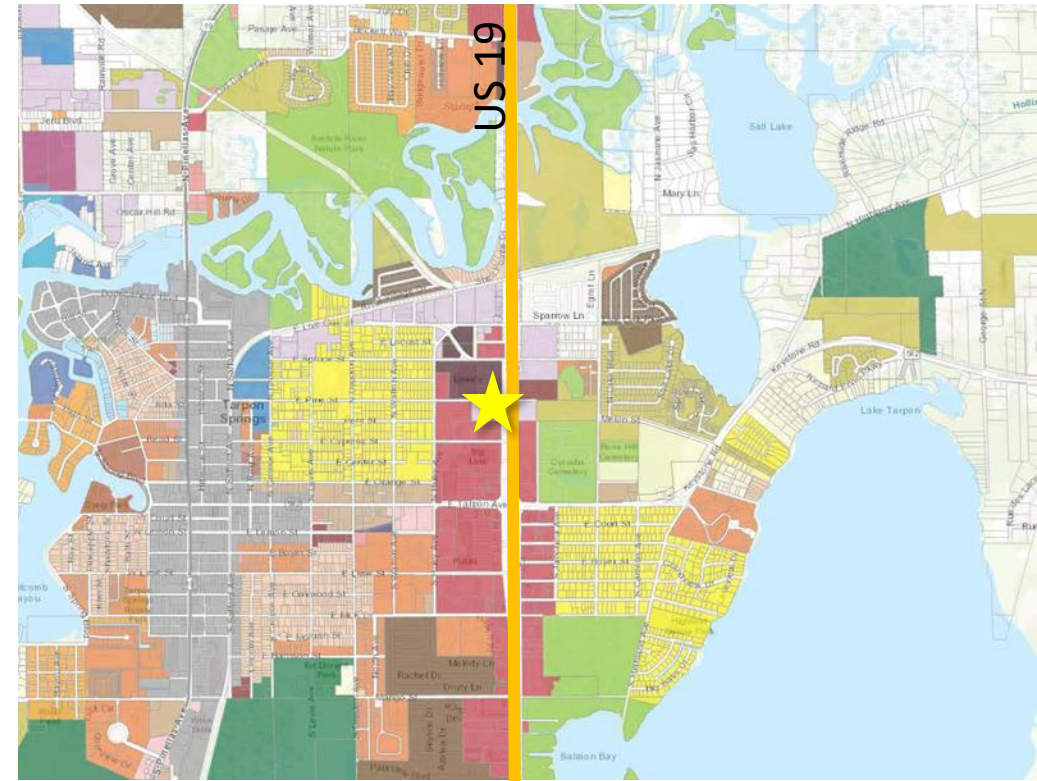


What types of projects can be expected? Check the regulations!

Tarpon Springs example site zoned Highway Business (HB):

Density: Undefined maximum in Downtown Character District of CRA in Special Area Plan. 40-unit maximum identified in Comprehensive Plan for that area.

Check PUDs, overlays, bonus provisions, etc. that may indicate additional applicable “allowed” density.



Buffer	CRM	IPD	P/SP	R-70A	SAP
Zoning Districts	GB	IR	R-100	RM	WDI
A	HB	LC	R-100A	RO	WDI-A
CPD	IB	MHP	R-60	RPD	WDI-B
	IH	NB	R-70	RV	WDII

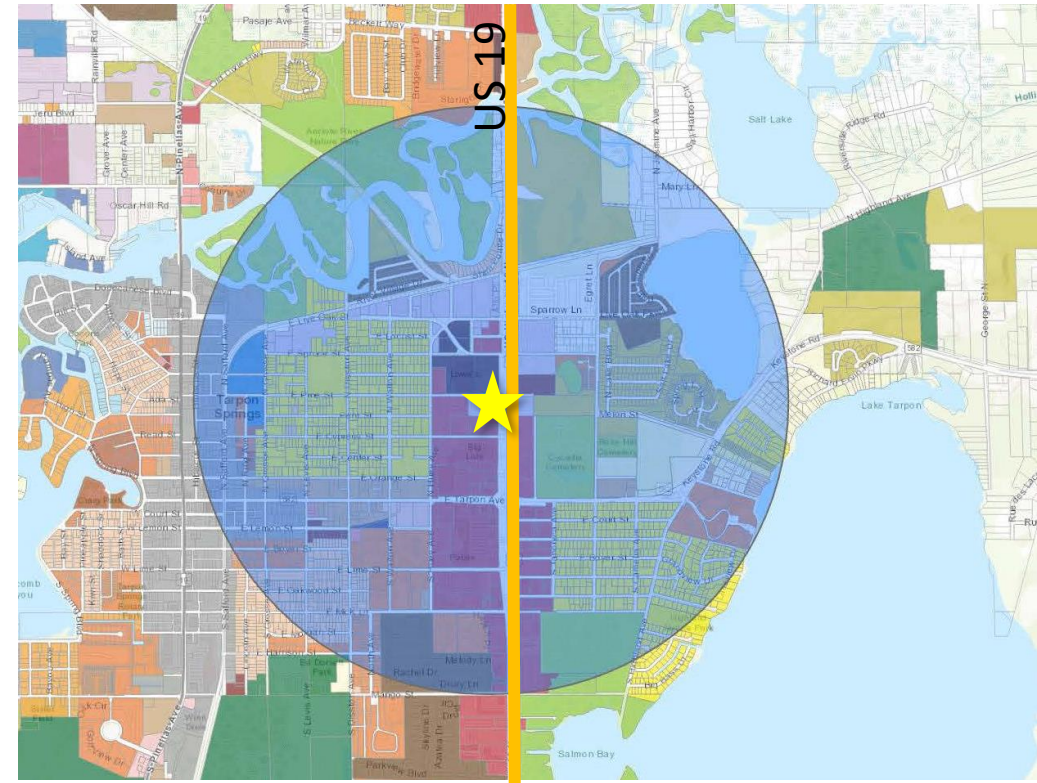


What types of projects can be expected? Check the regulations!

Tarpon Springs example site zoned Highway Business (HB):

Height: the highest allowed in 1-mile radius for residential or commercial is 70 ft for hotels in HB district (otherwise would be 45-ft maximum for multi-family).

Check PUDs, overlays, bonus provisions, etc. that may indicate additional applicable “allowed” height.



Buffer	CRM	IPD	P/SP	R-70A	SAP
Zoning Districts	GB	IR	R-100	RM	WDI
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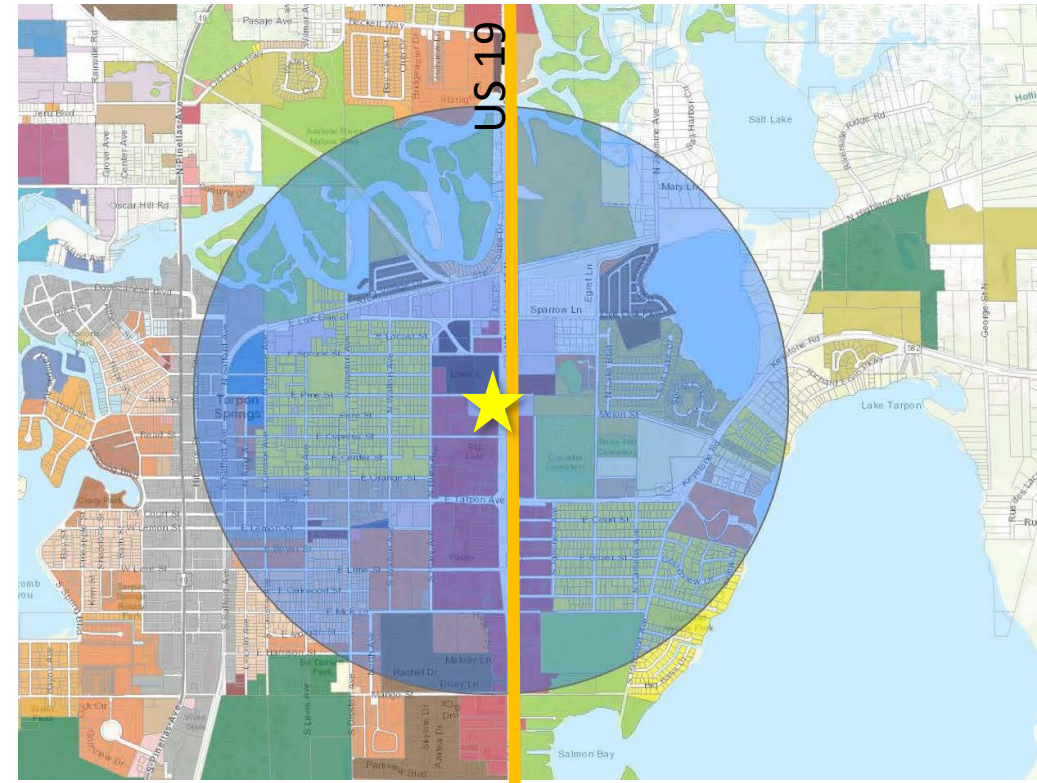


What types of projects can be expected? Check the regulations!

Tarpon Springs example site zoned Highway Business (HB):

Multi-family regulations applicable for administrative approval are not further specified in the LLA.

Other factors include insurance requirements, subsidy program locational criteria, etc.



Buffer	CRM	IPD	P/SP	R-70A	SAP
Zoning Districts	GB	IR	R-100	RM	WDI
A	HB	LC	R-100A	RO	WDI-A
CPD	IB	MHP	R-60	RPD	WDI-B
	IH	NB	R-70	RV	WDII



How can the City/County guide and facilitate use of the tool for affordable housing on eligible parcels?

LLA is an opportunity to:

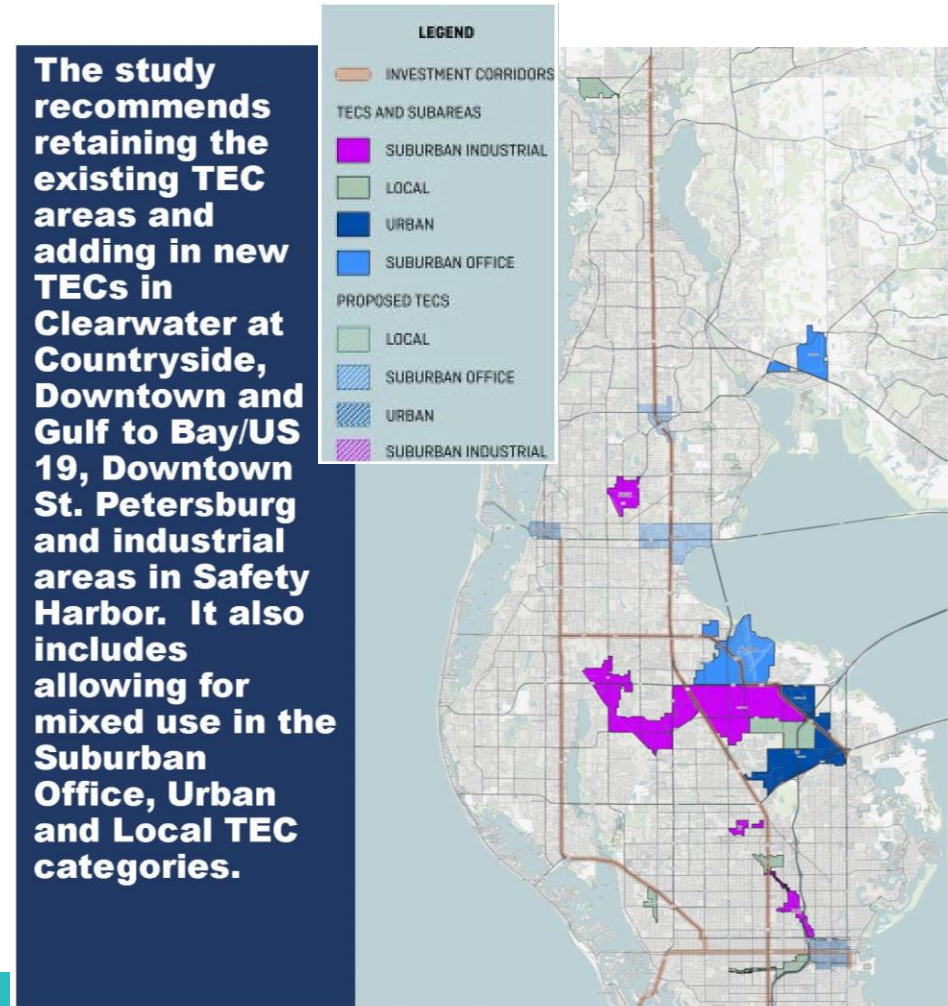
- Evaluate this new tool in view of existing local vision, regulations, and incentives to increase the supply of affordable housing and support local vision.
- Facilitate redevelopment/infill projects to convert underutilized commercial & industrial properties into affordable housing.
- Increase mixed-use and access – both physical access between residential and non-residential and access via affordability.
- Save staff time – no need to rezone parcels for housing uses.
- Guide use of this new tool towards target areas and away from non-target areas, in line with local vision and goals (e.g., industrial land protection).



Pinellas County Example: Components of Local Vision

Target Employment and Industrial Land Study Update:

- Study recommends enabling close to **60% of the Target Employment Centers (TECs) to become mixed use without sacrificing employment potential.** The other 40% of acreage in TECs are still well suited for employment only-based uses.
- New mixed-use designation for some TECs presents an **opportunity to incorporate a range of housing options near key employers.** Countywide affordable and workforce housing strategies could be revisited to identify the best opportunities for incorporation of housing options within TECs.




Map 7 – Proposed and Existing Target Employment Centers and Proposed Land Use Typologies

Image source: Forward Pinellas Target Employment and Industrial Land Study (TEILS) Update, p 34

Tarpon Springs Example: Redevelopment

CITY OF TARPON SPRINGS

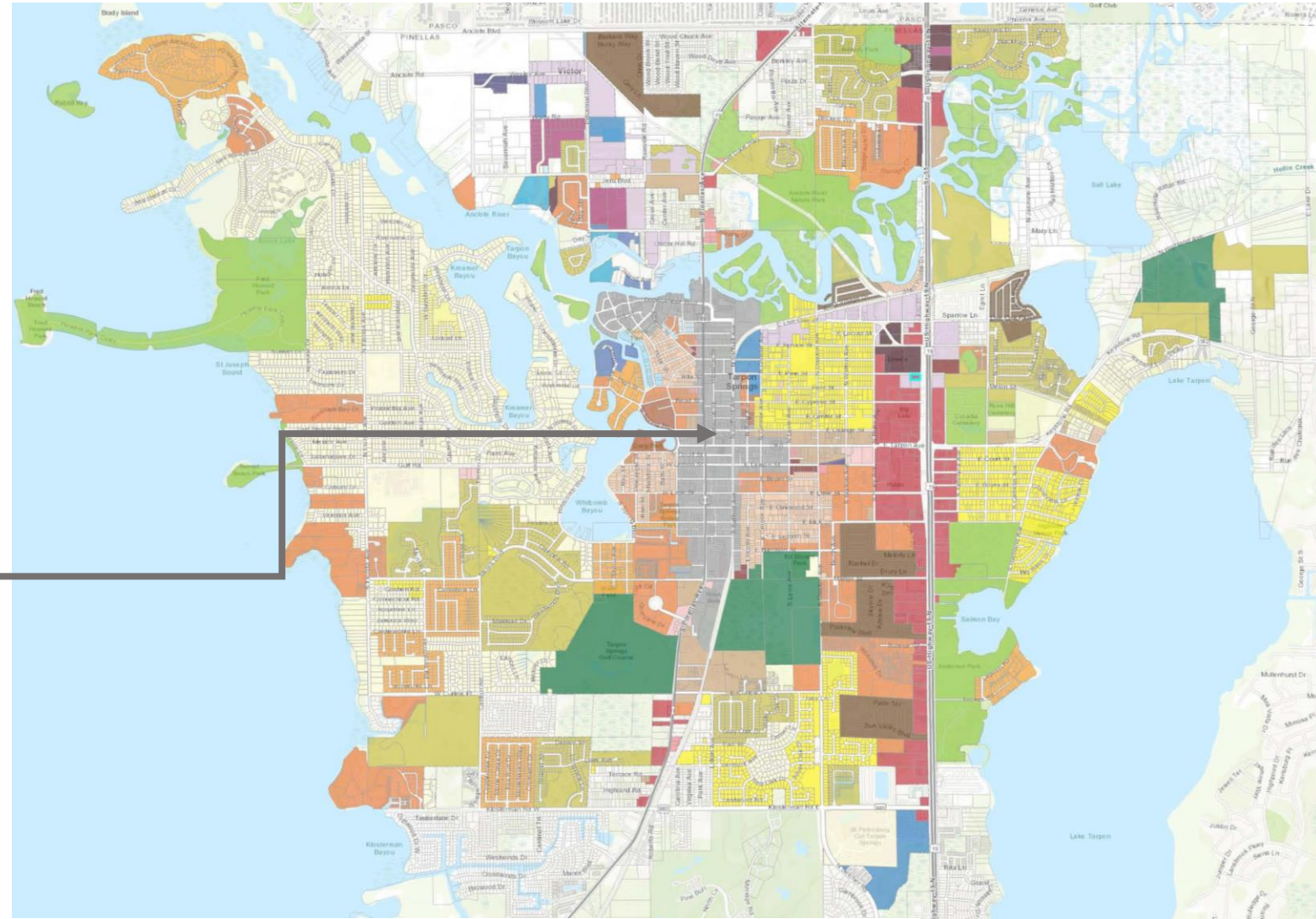
A TRANSECT-BASED INFILL CODE FOR THE SPONGE DOCKS AND COMMUNITY REDEVELOPMENT AREA



AMENDMENTS

Ord. 2013-18 Sept. 17, 2013	Ord. 2018-25
Ord. 2013-23 Oct. 15, 2013	Ord. 2019-22 Map Amendment
Ord. 2013-24 Dec. 3, 2013	Ord. 2021-10 Sept. 14, 2021
Ord. 2017-11	Ord. 2022-27 Dec. 13, 2022
Ord. 2018-03	

RENAISSANCE PLANNING GROUP



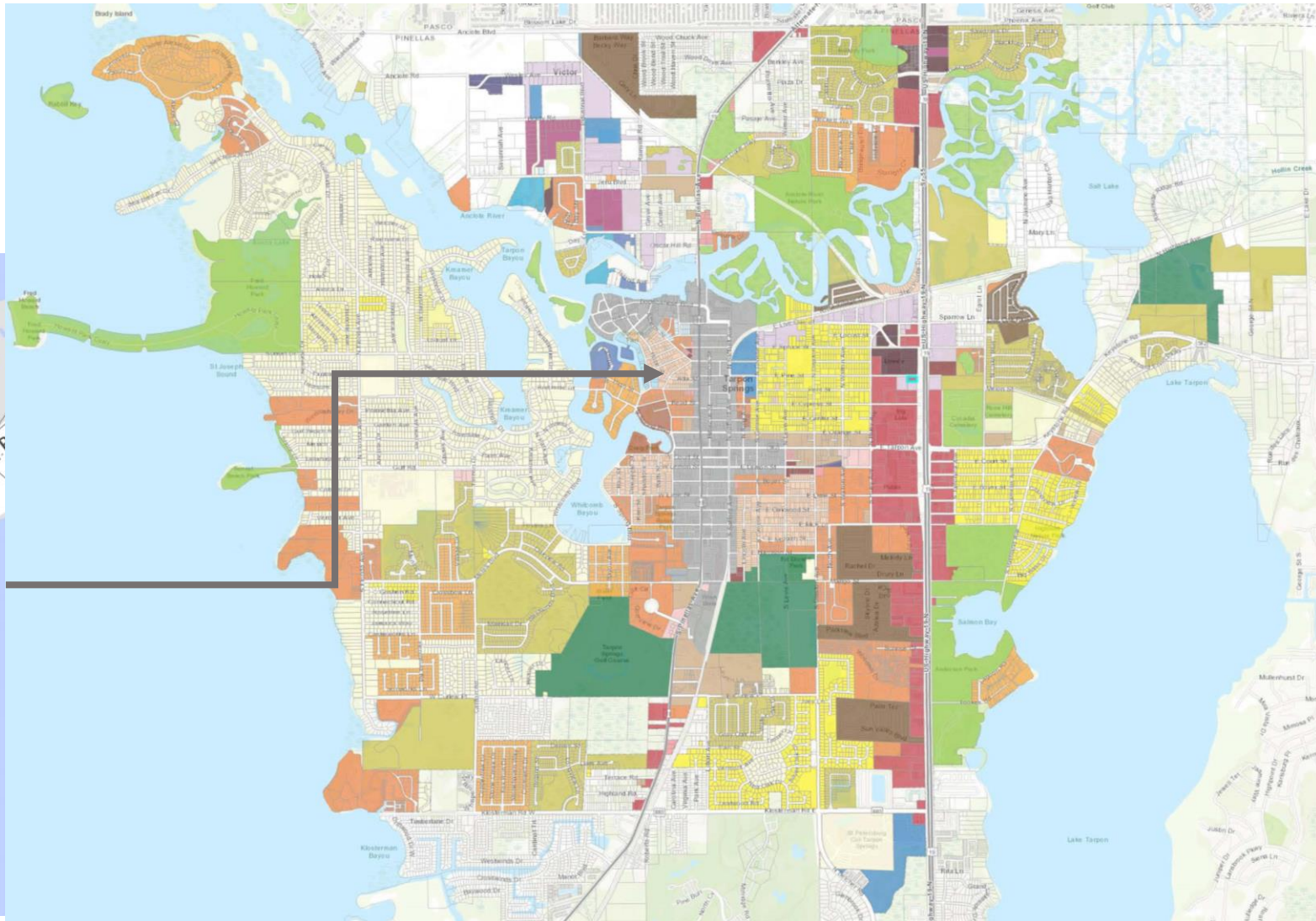
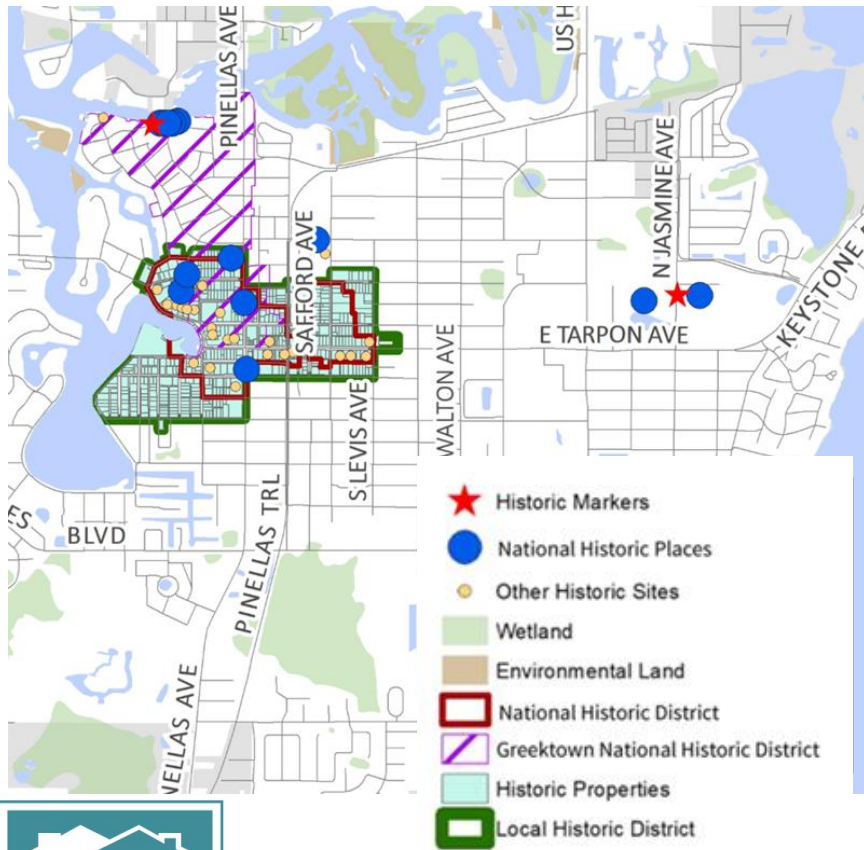
Zoning Districts	GB	IR	R-100	RM	WDI
	HB	LC	R-100A	RO	WDI-A
A	IB	MHP	R-60	RPD	WDI-B
CPD	IH	NB	R-70	RV	WDII
CRM	IPD	P/SP	R-70A	SAP	



Image Source: City of Tarpon Springs

Data Source: City of Tarpon Springs

Tarpon Springs Example: Historic Districts



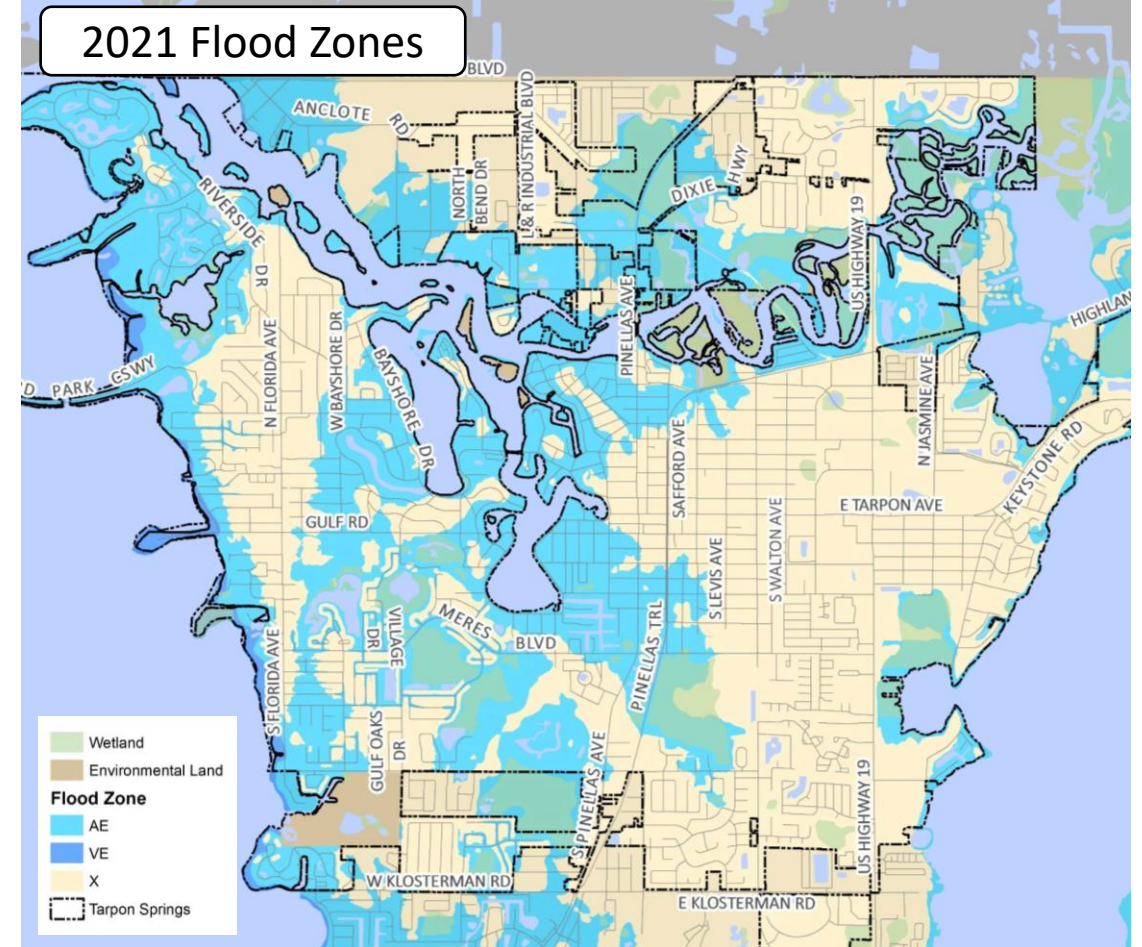
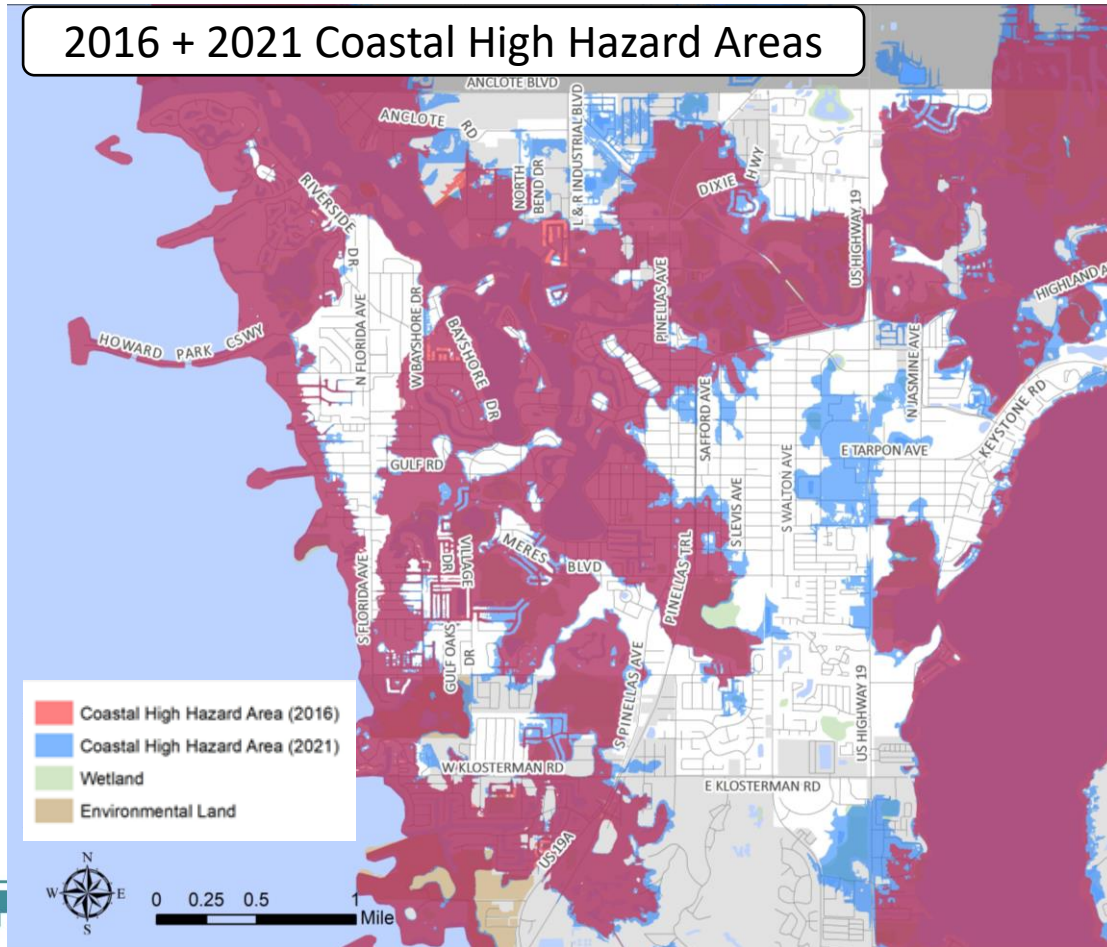
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CRM	IH	NB	R-70	RV	WDII
	IPD	P/SP	R-70A	SAP	



Image Source: City of Tarpon Springs

Data Source: City of Tarpon Springs

Tarpon Springs Example: Coastal High Hazard Areas (CHHA) + Flood Zones



Tarpon Springs Example: Transportation

- Transit routes include service on US 19, Alt US 19, Jolley Trolley.
- Multi-Modal Transportation District includes redevelopment area.
- Improvement projects for bicycles, pedestrians, and safe/inclusive use of street with many types of transportation (“complete streets”) include Disston Ave and Meres Blvd.
- Road design vision for local governments with state roads: see **s. 336.045(6), F.S.** for coordination with FDOT on state roadway design.



Recent + Programmed/Committed Projects from County and Regional Agencies

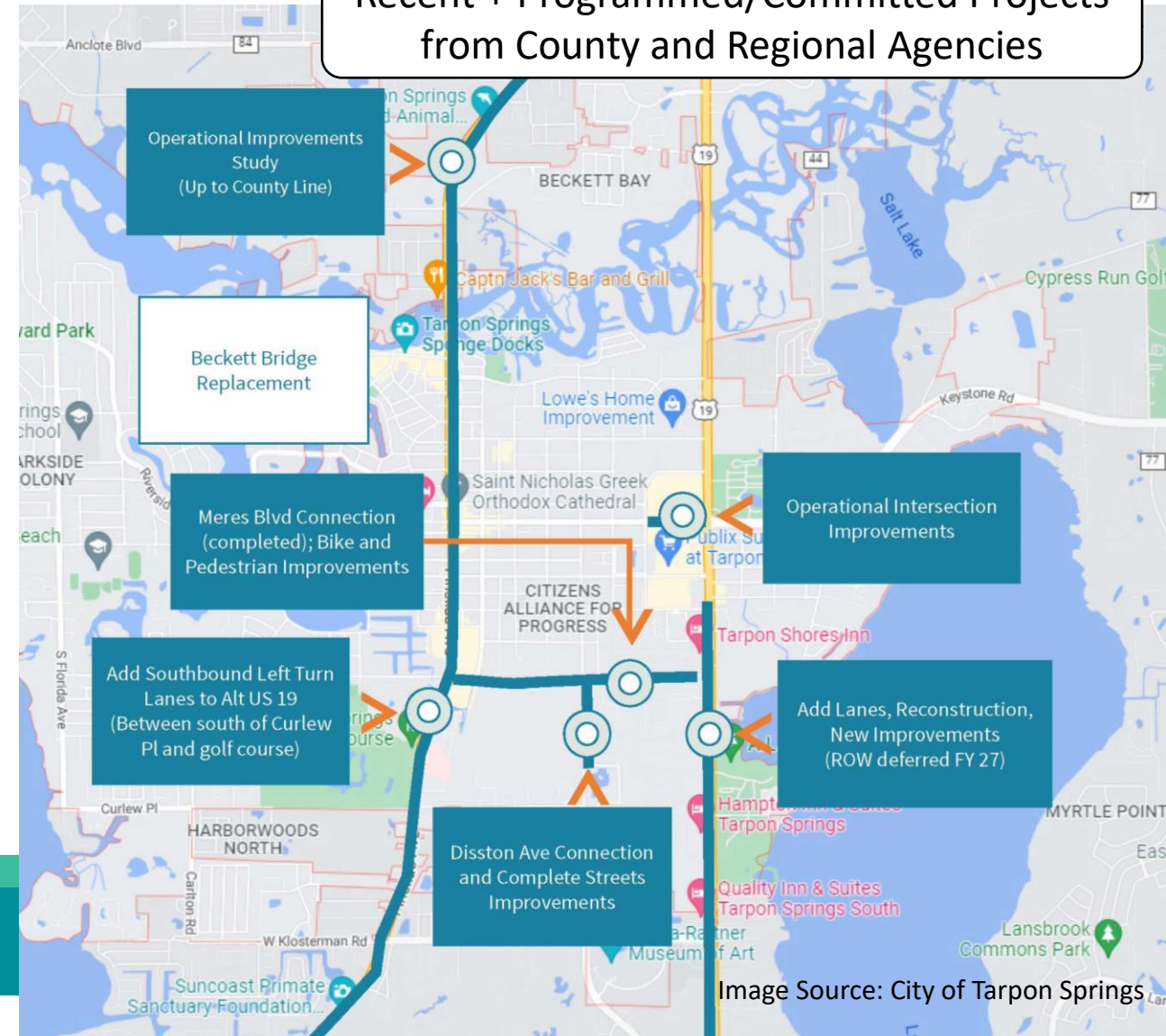


Image Source: City of Tarpon Springs

Tarpon Springs Example: Economic Development Goals

Strategic Plan industrial development and affordable housing objectives:

- Obj. D.1.2 Increase "clean industrial" and business park development
- Obj. D.1.3 Develop a plan for remaining developable land (north side of the river)
- Obj. D.2.1 Develop plan for attainable housing (all income levels)
- Obj. D.2.2 Encourage infill redevelopment through incentives for vacant and unkempt properties

TEILS indicated 1 “Local” Target Employment Center Area in northern Tarpon Springs, suggesting industrial could be integrated as part of mixed-use development.



How can the City/County guide and facilitate use of the tool for affordable housing on eligible parcels?

Review Scope of Possible Local Applications of LLA + Local Vision/Goals

Regulatory

- Codify LLA land use tool provisions to help clarify local application.
- Incorporate policies in Comprehensive Plan to guide use of the tool.

Incentives

- Adopt local process for use of HB 1339 (lower affordability threshold, local discretion on project approval).
- Target land acquisition, funding for new construction, and regulatory incentives to focus areas for LLA tool use; consider in view of new LLA tax exemptions.

**More Affordable Housing +
Progress on Local Vision/Goals**





Live Local Act – Property tax exemptions

Property tax incentives in the Live Local Act

1. Local option affordable housing property tax exemption
2. Nonprofit land used for affordable housing with a 99-year ground lease
3. “Missing middle” property tax exemption



1. Local option affordable housing property tax exemption

- **Section 9** of the LLA – creates new [s. 196.1979](#) of Fla. Stat.
- Authorizes local governments to provide property tax exemptions for specified affordable housing developments.
- **Eligible developments:**
 - Contain at least 50 or more units
 - At least 20% of the units must be affordable to households at or below 60% AMI
- Tax exemptions only apply to the affordable units
- FHC interpretation: Can apply to new and existing developments



1. Local option affordable housing property tax exemption (cont.)

- Property tax exemptions allowed are based on % of affordability
 - <100% of the units are affordable = up to 75% property tax exemption
 - 100% of the units are affordable = up to 100% property tax exemption
- S. 196.1979(5): Ordinance adopted under this section “**must expire before the fourth January 1 after adoption**; however, the [city or county commission] may adopt a new ordinance to renew the exemption.” (lines 962-973)
- Local gov’t have the option to provide exemption to units that serve up to 60% AMI or just up to 30% AMI



Process for adoption of local option property tax incentive

S. 196.1979(3) – contains elements of an ordinance adopting the incentive (lines 892-948). The ordinance must (some but not all of the requirements):

- (a): Be adopted by city or county commission under the procedures for adoption of a nonemergency ordinance
- (b): Designate the local entity which must “develop, receive, and review applications for certification and develop notices of determination of eligibility”
- (c): Require property owner to apply to the local entity on a form provided by the responsible local entity.
- (d): Require the local entity to verify and certified property meets the requirements of the exemption and to forward the certification to the property appraiser.
- (f): Require the property owner to submit an application for the exemption to the county property appraiser.



Process for adoption of local option property tax incentive

[S. 196.1979\(3\)](#) – contains elements of an ordinance adopting the incentive (lines 892-948). The ordinance must:

- (g): Specify that the exemption applies “only to the taxes levied by the unit of government granting the exemption”
- (h): Specify the property may not receive an exemption after expiration or repeal of the ordinance
- (i): Identify the percentage of the assessed value which is exempted
- (l): Require the local government to post to its website a list of certified properties



Local option affordable housing property tax exemption

- Other provisions:
 - Maximum rents based on HUD's Multifamily Tax Subsidy Projects Income Limits or 90% of Fair Market Value as determined by a local rental market study, whichever is less
 - Penalties for noncompliance
- Of note:
 - Property owners must apply to **both** the local entity responsible for administration and the local property appraiser



Local discretion within the local option?

- FHC interpretation: Other than setting whether the option will serve up to 60% AMI or only up to 30% AMI, the text does not provide for local discretion
- In other words, the city or county could not “pick and choose” on a case-by-case basis which developments can receive the optional property tax exemption based on factors not associated with AMI levels



2. Nonprofit land used for affordable housing w/99-year ground lease exemption

- New s. 196.1978(1)(b)
- Property tax exemption applies to **land** owned entirely by a nonprofit that:
 - 1) is leased for a minimum of 99 years
 - 2) is predominately used to provide affordable housing to households up to 120% AMI
- Land is considered “predominately used” for affordable housing if the square footage of the improvements on the land for affordable housing is greater than 50% of all the square footage of the improvements
- Tax exemption is for the **land** only – not the improvements



Opportunities with the new nonprofit land exception

- How does this new exemption differ from the existing nonprofit housing property tax exemption at s. 196.1978(1)?
 - 99-year ground leases will now explicitly qualify for the exemption
- May increase partnerships between nonprofit landowners and for-profit developers
- Community Land Trusts – CLT homeowners now get property tax-free land



3. “Missing middle” property tax exemption

- New s. 196.1978(3)
- Provides a property tax exemption to “newly constructed” multifamily developments that have **more than 70 affordable units** for households up to 120% AMI
 - “Newly constructed” means “an improvement to real property which was substantially completed within 5 years of the date of the applicant’s first submission of a request for [the exemption] (lines 691-695)
- Tax exemption only applies to the **affordable** units
- Tiered property tax exemptions:
 - Units affordable to 80-120% AMI = 75% property tax exemption
 - Units affordable to <80% AMI = 100% property tax exemption



“Missing middle” property tax exemption (cont.)

- (3)(k): Units subject to an agreement with FHFC to provide housing to persons up to 80% AMI are not eligible for this exemption
- (3)(l): Property receiving the local option property tax exemption in s. 196.1979 are not eligible for this exemption
- (3)(m): Required rental market study standards
- Exemption is repealed in 2059



Process to apply for “missing middle” exemption

1. Property owner must apply for a “certification notice” from the Florida Housing Finance Corporation (FHFC).
2. FHFC reviews request for certification and approves or denies the request. If approved, FHFC sends the certification notice to the property owner and local property appraiser.
3. Property owner must submit an application on a form proscribed by the Department of Revenue by March 1 to the local property appraiser with the certification notice granted by FHFC.



The Certification Notice

- FHFC is required to create the application for a certification notice. The application must include: (lines 744-760)
 - The most recently completed rental market study meeting the statute's requirements
 - A list of the units for which the property owner seeks an exemption
 - The rent amount received for each unit which the property owner seeks an exemption
 - A sworn statement, under penalty of perjury, from the applicant restricting the property for a period of **not less than 3 years to housing income-eligible families**



Effect of the “Missing middle” property tax exemption

- Effectiveness will depend on relationship between \$ for rents a market-rate developer could charge vs. property tax savings if rented to households at or below 120% AMI
- Will work differently in different markets
- May impact local willingness to devote local dollars to affordable housing initiatives





Connecting the dots –
Effect of the LLA’s
land use & property
tax tools on local
housing initiatives



Live Local's effect on AHAC Strategies

Strategy	Relevant section(s) of the Live Local Act
a. Expedited Permitting	38
b. Fee waivers	8, 9
c. Flexibility in densities	3, 5, 26
d. Reservation of infrastructure capacity	25
e. Affordable accessory residential units	26
f. Reduction of parking and setback requirements	3, 5, 26
g. Flexible lot configurations	3, 5, 26
h. Modification of street requirements	3, 5, 26
i. Housing impact statement	
j. Inventory of publicly owned lands	4, 7, 26, 32
k. Support of development near transit, major employment centers, and mixed-use	3, 4, 5, 7, 26, 32



The “missing middle” exemption & density bonus polices

- The property tax exemptions could spark greater interest in local affordable housing density bonuses
- Hypothetical housing developer voice: “You’re telling me I can get a 75% property tax exemption and 25% density bonus for units affordable to folks between 80 and 120% AMI? Sign me up!!”
- These new LLA tools is a great opportunity to revisit or adopt local land use incentives for affordable housing
- **Policy idea.** Reserve greatest incentives for the production of units to lower-income households (below 80% AMI)



LLA Property tax exemptions and state inclusionary zoning law

- **S. 125.01055(4)/166.04151(4):** requires local governments that administer mandatory inclusionary zoning programs to provide incentives to “fully offset all costs” of an affordable housing requirement
- **Q:** Can the LLA property tax exemptions be used in the calculation to “fully offset all costs” under a mandatory IZ ordinance?
- **FHC interpretation:** The property tax reductions can be considered a reduction in development costs in the pro forma which will lower the amount of costs that need to be offset by the local government.



Questions?

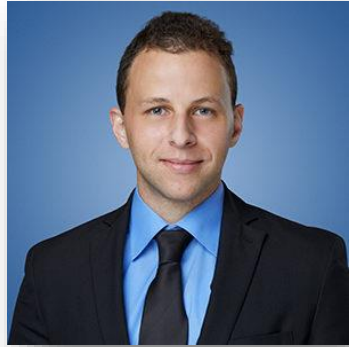


Training and technical assistance offered by FHC

- Virtual question and answer sessions with local government staff and nonprofits through the Catalyst Program
- Formal trainings to housing organizations including AHACs, MPOs, and housing councils
- Implementation technical assistance
- For assistance, please contact Kody Glazer at glazer@flhousing.org



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