

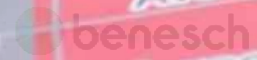
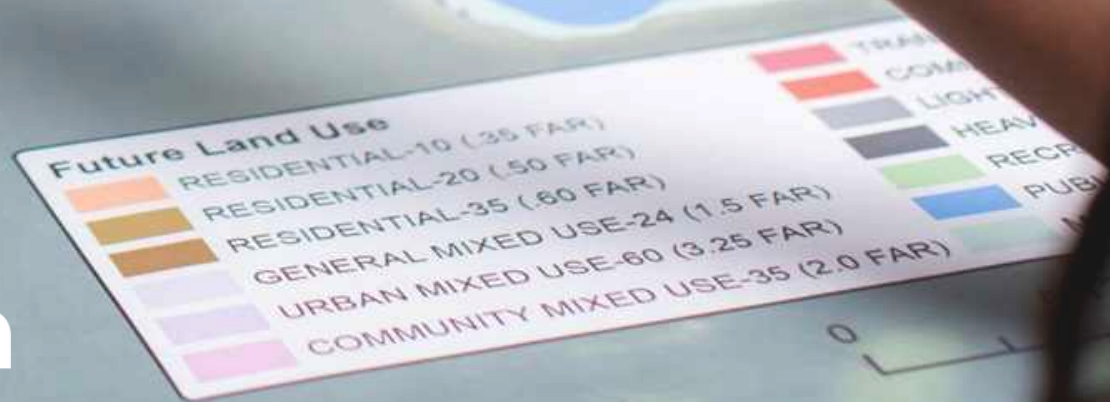
# Catherine Hartley, AICP, CNU-a

Senior Project Manager

August 27, 2024

Florida Housing Conference

Orlando, Florida



# Catherine Hartley

## AICP, CNU-a

Senior Project Manager

Public Sector – 15 years

Private Sector – 6 years (public sector clients)

Land Use and Housing Policy Expertise

Legislative Policy Committee Member for APA Florida

### Bradenton looks to streamline affordable housing opportunities

BY MARK YOUNG

MYOUNG@BRADENTON.COM

UPDATED OCTOBER 23, 2016 8:28 PM



# PINK TAPE

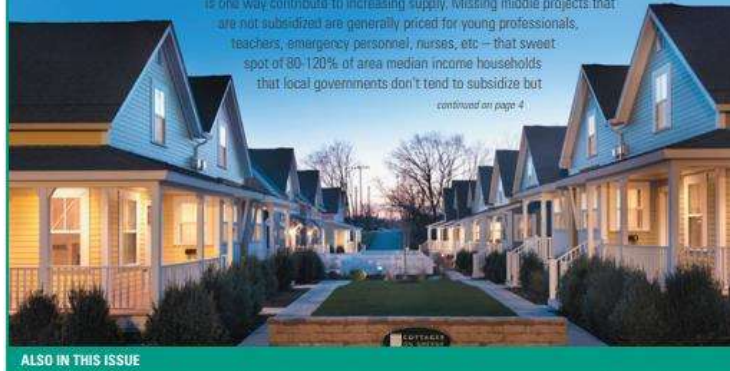
By: Catherine M. Hartley, AICP, CNU-3

## Code Edits That Reduce the Red Tape For Affordable, Workforce, and Missing Middle Housing

There are several areas in conventional, Euclidean zoning codes that can impede the provision of affordable, workforce, and missing middle housing. With rising land, material, and labor costs, local governments are struggling to provide affordable housing without direct cash subsidies, such as money local governments contribute to Low-Income Tax Credit projects.

Without donating cash or land and reducing fees, local governments can contribute to lowering the cost of housing by allowing an increase in supply—particularly in areas where they say want infill housing. Allowing “missing middle” housing in infill and redevelopment areas is one way contribute to increasing supply. Missing middle projects that are not subsidized are generally priced for young professionals, teachers, emergency personnel, nurses, etc.—that sweet spot of 80-120% of area median income households that local governments don’t tend to subsidize but

*continued on page 4*



ALSO IN THIS ISSUE

## Living La Vida Local:

Leaning Into the Live Local Act By: Catherine Hartley, AICP, CNU-A

If you’re anything like this planner, you immediately started singing to yourself Ricky Martin’s 1999 hit “Living La Vida Loca” during webinars about this new law. (Don’t forget to mute!)

Commonly known as the Live Local Act, *Senate Bill 102* went into effect on July 1, 2023. Provisions of the law include affordable housing funding, tax credits and exemptions, and guidance on the disposition of surplus property. But the sections that many planners have voiced concerns over are the provisions for approving affordable housing, as defined in *Section 420.0004, Florida Statutes*.

### WHAT DOES THE BILL ADDRESS? PERMISSIVE V. PREEMPTIVE PROVISIONS

Specifically, the bill allows local governments to approve an affordable housing project on a parcel zoned for commercial or industrial uses if the project sets aside a minimum of 10 percent of the units for affordable housing. This part of the law does not require local governments to approve these projects; it is permissive, not preemptive. It simply gives local governments the green light to approve projects without requiring an “ordinance” (implying an ordinance for a zoning or future land use map change) or “regulation” (implying an ordinance for a text amendment to the land development code or comprehensive plan) or any additional procedures to approve the project. It is unclear if it also applies to commercial or industrial districts that allow other uses. The preemptive section of the bill specifically applies to commercial, industrial, and mixed-use properties.

However, the legislature imposed a preemption that requires local governments to administratively approve affordable housing rental projects if at least 40 percent of the units are affordable for at least 30 years and the project is located in zoning districts that allow for commercial, industrial, or mixed uses, as noted above. The law does not permit the local government to restrict density below the highest permitted in its comprehensive plan or restrict height below the highest permitted within a mile of the project or three stories, whichever is greater. It also requires local governments to consider a reduction in parking but does not require the reduction. As long as the project meets all other code and comprehensive plan requirements, the local government must approve the project administratively.



### WHAT DOES THE BILL FAIL TO ADDRESS?

There is some ambiguity in the bill. First, it does not define mixed-use. While many planners think of mixed-use as residential located above a commercial-use project, the bill provides no such guidance. To be on the safe side, local governments should liberally construe mixed-use to mean any residential use mixed with any use other than residential on the project site.

The bill also fails to define “accessible” “major transit stop” and directs the local government to refer to its own zoning code. For those local governments that need to amend their code to define it, a suggested definition is a stop that is located on a line with at least 60-minute headways (preferably less) during morning and evening peak hours, Monday through Friday.

Accessible is not defined as a facility compliant with the Americans with Disabilities Act; it can be construed to mean the stop is not separated from the project by a waterway, wildlife area, bridge, or similar feature.

Finally, while the bill is specific about density and height, it does not give guidance on what zoning parameters apply to multifamily developments. It reads: no further action is required by the local government “if the development satisfies . . . development regulations for multifamily development in areas zoned for such use.”

Local government zoning regulations for setbacks, minimum lot size, buffers, etc., can vary widely among zoning districts. The bill gives no guidance on which regulations to use. Further, it is imposing residential requirements on a commercial or industrial zone, the context of which can also vary widely. To avoid confusion, the local government can use its least restrictive residential or residential mixed-use district standards. The local government’s Comprehensive Plan and, where applicable, Local Housing Assistance Plans, likely advocate for reducing regulatory barriers to affordable housing, particularly typical site design requirements.

### LEAN-IN TO THE LAW

The Federal *Infrastructure Investment and Jobs Act* allows Metropolitan Planning Organizations (MPO) within *Transportation Management Areas* to develop *Housing Coordination Plans*. Many local governments contribute significant funding to support affordable housing projects, and applications for such funding often contain requirements for these projects to be located in proximity to community facilities such as schools, transit, grocery stores, pharma-

*continued on page 20*

“ I love to explain complicated zoning and land use/housing policy in a way the community can understand. Being able to translate government jargon into average human language brings me joy. ”

Source – Florida Planning Magazine, Fall 2021 Edition

Note: The term “pink tape” was coined by Andres Duany – means “less red tape”

# Projects



## Housing Action Plan Peer Review

Forward Pinellas – Pinellas MPO/PPC

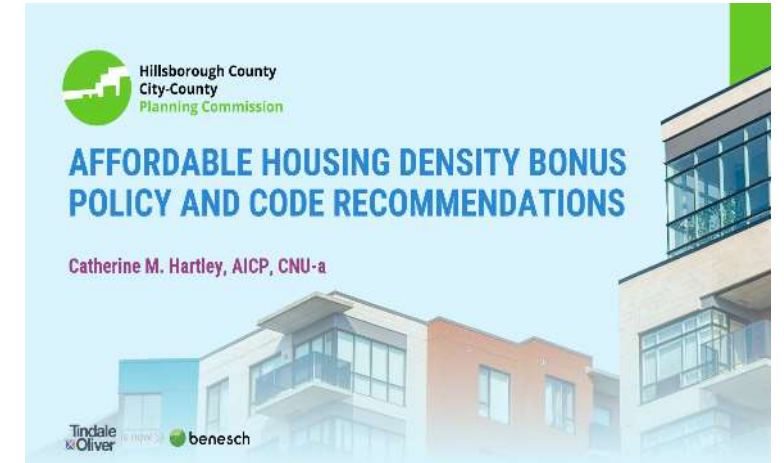
- Evaluated and made recommendations to draft plan
- Integrated Live Local practices
- Presented to County and Forward Pinellas staff best practices when developing action items for plan implementation



## Housing Action Plan

City of Tampa, FL

- Evaluating how the city's comprehensive plan and zoning code/map accommodates future housing needs for all income levels
- LDC text and comp plan policy recommendations; Zoning map and Future Land Use Map amendments



## Affordable Housing Density Bonus Study

Hillsborough County, FL

- Evaluated the county's code and comp plan language regarding affordable housing density bonuses
- Used a pro forma based approach to evaluate policy options
- Tested various AMI levels, parking ratios, and building types using RS MEANS data

# Live Local in Tampa Bay



**How have local governments addressed the Live Local Act?**

# Pinellas County: Largo and St. Petersburg



## 336-unit apartment development planned for Largo using Florida's Live Local Act

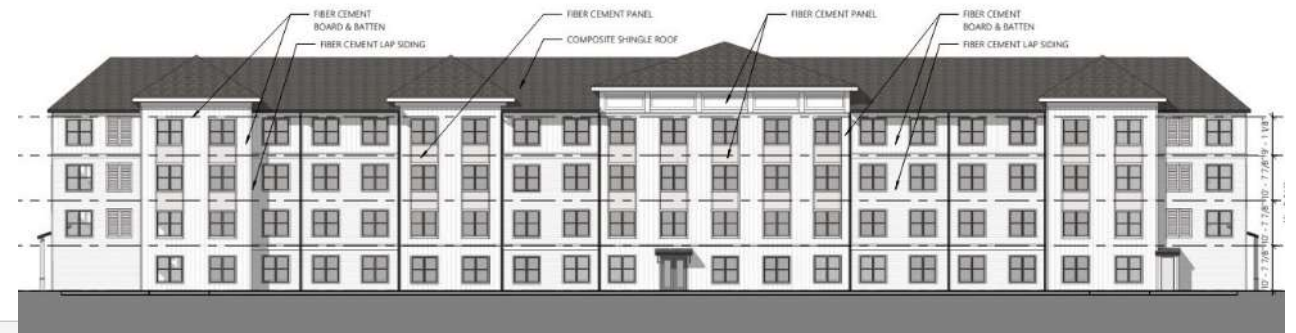
May 21, 2024



Availability: Unavailable

## 304-unit apartment development filed under Florida's Live Local Act proposed for 22nd Avenue North in St. Pete

April 23, 2024

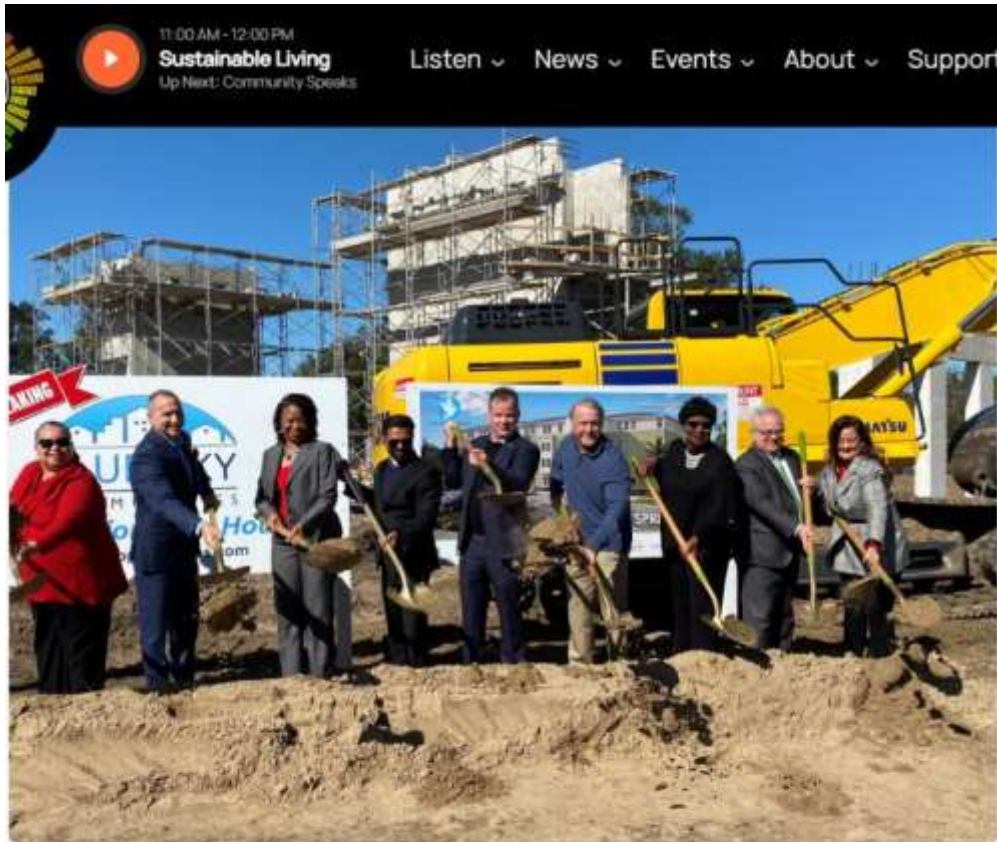


1 BUILDING T02 - FRONT ELEVATION  
SCALE: 1/16" = 1'-0"

# Hillsborough County

Florida's Live Local Act spurs new affordable housing in East Hillsborough

POSTED ON DECEMBER 19, 2023 • BY CHRIS YOUNG



Developers, County Commissioners, and other leaders during groundbreaking in Seffner // Chris Young, 12/19/2023

600 apartments in suburban Tampa become first Hillsborough project to move forward under Live Local Act



Image: TMM Development

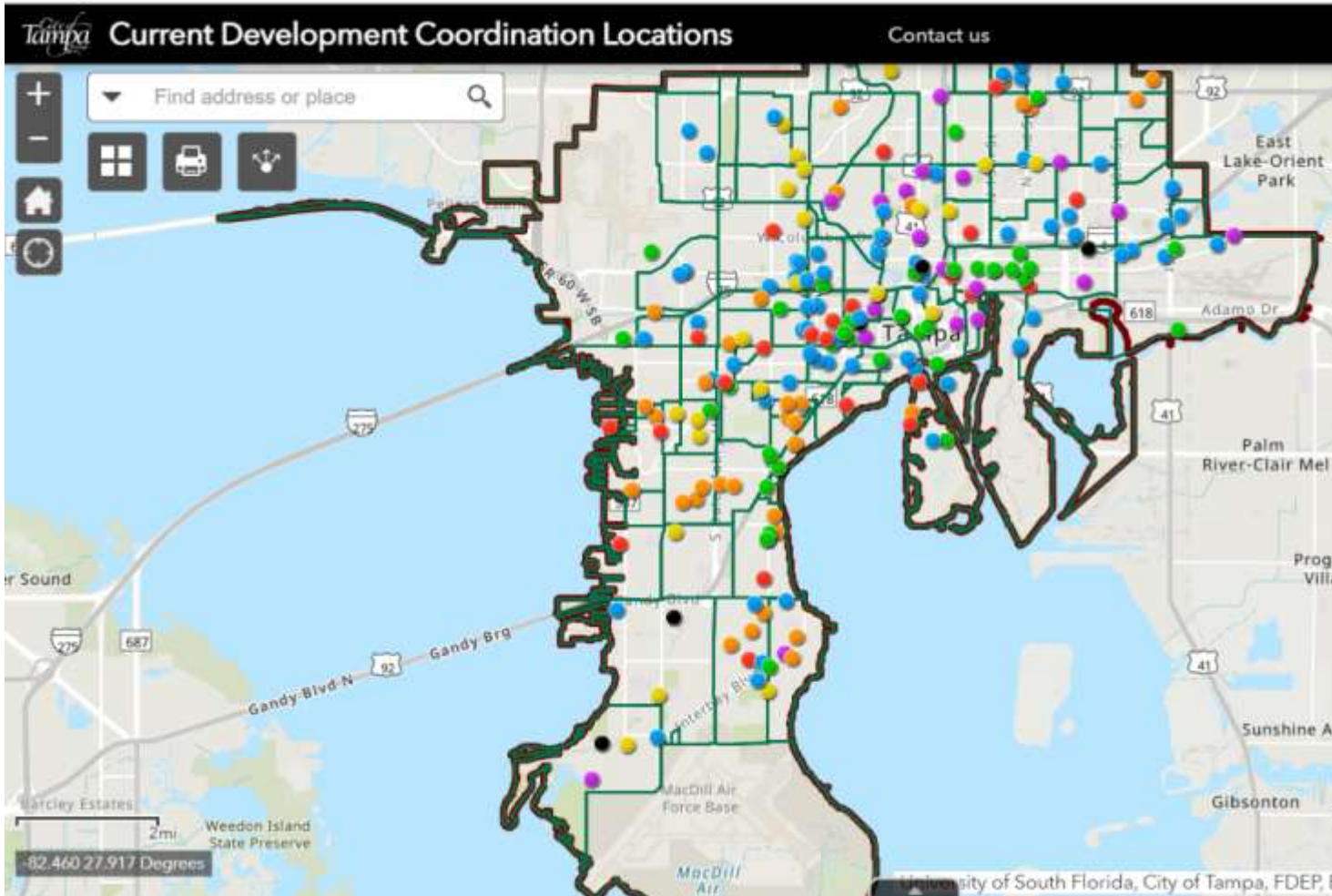
# City of Tampa



City of Tampa  
Jane Castor, Mayor

Development & Growth Management  
Development Coordination  
1400 N. Boulevard  
Tampa, Florida 33607

Office (813) 274-3100, Option 2



## MEMORANDUM

**DATE:** June 30, 2023  
**TO:** Nicole Travis, Administrator, Development and Economic Opportunity  
**THROUGH:** Abbye Feeley, Deputy Administrator, Development and Growth Management  
**FROM:** Eric Cotton, Zoning Administrator/Manager, Development Coordination  
**SUBJECT:** Implementation of Senate Bill 102 - Live Local Act

### Background

On March 29, 2023, Governor Ron DeSantis signed into law Senate Bill 102, also known as the "Live Local Act" ("LLA"). This bill takes effect on July 1, 2023, and precludes local governments' ability to apply their use, height, and density restrictions and hearing processes to certain multi-family and mixed-use affordable housing developments. Importantly, LLA doesn't preempt other applicable local laws and regulations.

- LLA requires local governments to administratively approve development projects:
  - ✓ Where at least forty percent (40%) of the residential units are affordable (as defined in section 420.0004 Fl. St.) for at least thirty (30) years; or
  - ✓ If developed as a mixed-use project, at least sixty-five percent (65%) of the square footage is used for residential purposes (of which forty percent (40%) are affordable as defined in section 420.0004 Fl. St.); and
  - ✓ Are located within commercial, industrial, or mixed-use zoning districts.
- Local governments are required to allow projects to develop at the highest allowed density on any land within the local government where residential density is allowed.
- Local governments cannot restrict height below the highest allowed for a commercial or residential development within the city limits and within one (1) mile of the proposed development or three (3) stories, whichever is higher.
- Local governments must consider reducing parking for such developments.
- Notwithstanding the provisions of the law, projects must comply with all other local land development regulations.



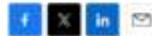
# Pasco County



Politics

## The Live Local Act poses challenges for Pasco County

WUSF | By **Craig Kopp**  
Published December 1, 2023 at 6:23 AM EST



**WUSF's Craig Kopp discusses Pasco County's approach to the law with County Commissioner Seth Weightman. The county considered a multi-family housing moratorium until problems with the law can be worked out.**

The Live Local Act was passed by the Florida Legislature to increase affordable housing in the state.

But since it went into effect July 1, counties in the greater Tampa Bay region say it's blocking their ability to plan for the specific needs of their communities.



NEWS > PASCO COUNTY



## Pasco County officials take steps to protect community from Florida's Live Local Act

Pasco County is continuing to take steps to ensure that Florida's Live Local Act does not have a negative impact on the community.



Pasco County is continuing to take steps to ensure that Florida's Live Local Act does not have a negative impact on the community. Officials are prepared to take action against two apartment complexes as they seek tax exemption under the act. Chief Assistant County Attorney David Goldstein sent letters to the owners of The Gallery at Trinity and Tapestry Cypress Creek apartments, requesting that they do not apply for or withdraw their applications for the tax exemption.



[Click Here for Video Source](#)

# What a Difference a Year Makes

TAMPA BAY  
BUSINESS JOURNAL

## Hillsborough County to consider limiting Live Local Act on certain sites

## Tampa denies Harbour Island tower with affordable, workforce housing

DEVELOPMENT TAMPA

## Hotel developer's zoning challenge could cause legal chaos in Florida

Shah family's Liberty Group wanted to build a 10-story hotel; instead they got a potential sea change in how zoning cases are decided

FOX 13 News Weather Sports Good Day We Live Here Contests More

## Keystone 'Live Local' affordable housing project shot down by Hillsborough County leaders

Published July 9, 2024 10:49pm EDT | Hillsborough County | FOX 13 News |



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July 20, 2023

Eve A. Boutsis  
Dania Beach City Attorney  
100 W Dania Beach Boulevard  
Dania Beach, FL 32115

Dear Ms. Boutsis:

In a letter dated May 2, 2023, you requested an opinion regarding section 166.04151, Florida Statutes, ("Affordable housing"), which the Legislature amended during the 2023 legislative session.<sup>1</sup> As relevant here, newly created subsection (7)(a) provides, in pertinent part: "A county must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed use . . ."<sup>2</sup>

On behalf of the City of Dania Beach, Florida ("City"), you asked for an opinion addressing substantially the following rephrased question:

As used in the Committee Substitute to Senate Bill 102 (the "Live Local Act"), does the phrase "area zoned for commercial, industrial, or mixed use" refer to land located in zoning districts having a "commercial," an "industrial," or a "mixed use" zoning classification, or to land located in *any* zoning district in which commercial, industrial, or mixed use land uses are permitted?

In summary, I conclude that, as used in the Committee Substitute to Senate Bill 102, the phrase "area zoned for commercial, industrial, or mixed use" refers only to land located in districts having those specific zoning classifications, rather than encompassing land in any zoning district where some commercial, industrial, or mixed use land uses may be permitted.

<sup>1</sup> 2023 Fla. Sess. Law Serv. Ch. 2023-17 (C.S.S.B. 102) (West) (hereinafter, "C.S.S.B. 102").

<sup>2</sup> *Id.* (creating section 166.04151(7)(a)).

[AG Letter Source](#)

# What Changes Does the Live Local Act Need?

## Definitions

- “Mixed Use” – Suggestion: A tract of land and/or building/structure developed or approved for two or more different uses such as, but not limited to, residential, office, service, manufacturing, retail, recreation, or entertainment.
- Major Transportation Hub: “mix of other transportation options” – are sidewalks or micromobility parking sufficient?

## Clarification

- Needs to address Planned Developments or needs to reference Future Land Use category, not zoning
- Needs to address density in the Coastal High Hazard Area (category 1 storm surge)
- Clarify rules for Local Governments Under Countywide Rules (Broward and Pinellas)