



Meeting Name: Planning and Zoning Board
Meeting Date: January 17, 2024
Prepared By: L. Rubin, Town Attorney
Item Title: Ordinance No. 782 – Implementation of Live Local Act

DISCUSSION:

As discussed previously with the Board, this office has prepared an Ordinance implementing the provisions of Chapter 2023-17, Laws of Florida, as codified in Section 166.04151(7), Florida Statutes, known as the Live Local Act. The Act was intended to streamline and incentivize affordable housing developments within the State of Florida and preempts certain use, density, and height regulations for qualifying developments that provide for the establishment of affordable multi-family rental housing. Because less than twenty percent of the Town's land area is designated for commercial or industrial use, all qualifying projects within the Town must be mixed-use residential, containing both residential and non-residential components. The Act requires **administrative approval** for mixed-use residential developments where at least forty percent (40%) of the residential units are, for a period of at least thirty years, affordable as defined in Section 420.004, Florida Statutes.

The purpose of the proposed Ordinance is to supplement and clarify the provisions of the Act and provides as follows:

1. Live local projects are permitted in each of the Town's commercial zoning districts: Commercial General (CG), Commercial Office (CO), and Medical Commercial (MC).
2. All projects shall be reviewed by the Town's Development Review Committee and shall be subject to the Site Plan and Appearance Review procedures and shall meet all criteria set forth in Article II, Division 4 of Chapter 34 (Zoning).
3. Upon receipt of an application, the Town shall notify the public by posting notice of the application on the Town website and providing notice to the public through the Town's e-mail database. The notice shall indicate that copies of all application materials are available upon request.
4. The application shall be subject to administrative review and approval by the Planning and Zoning Director as required by the Act and shall only be approved if it meets all applicable land development regulations, including the Town's community appearance standards. Additionally, the Director shall determine whether the project is consistent with the Town's Comprehensive Development Plan, except

those provisions expressly preempted by statute (relating to location within specified zoning districts, height, and density). The application shall also be subject to engineering review during the building permitting process.

5. The maximum height shall be limited to height permitted as of right (without any bonuses available via special exception or otherwise) for a residential or commercial project within the Town within one mile of the proposed project. The maximum height of any structure within the Town is twelve (12) stories and one hundred and thirty (30) feet (as permitted in the Residential High (RH) zoning district).

6. The maximum density is limited to maximum residential density permitted as of right for a residential or commercial project within the Town or eighteen (18) units per acre as permitted in the Residential High (RH) zoning district.

7. All projects shall have maximum of seventy-five percent of residential use based on total gross floor area consistent with the existing regulations governing mixed-use projects in commercial zoning districts.

8. If the project is utilizing the height and density permitted in the Residential High (RH) zoning district, the Town shall apply the building site area regulations for that district, including the expanded high-rise setbacks. For purely non-residential components or for mixed-use structures that do not exceed four stories or sixty feet in height, the project shall comply with the building site area regulations of the underlying zoning district.

9. The project shall provide two parking spaces per residential unit and one guest space for every seven units as required for residential projects within commercial zoning districts. Parking for the commercial uses shall meet the Code requirements. Because there are no major transit stops within the Town, the Town will not consider reduction in these requirements; however, the project may propose shared parking in accordance with the Code requirements. Approval of shared parking is not mandatory.

10. Affordable units and market units shall be located within the same structure. All common areas and amenities shall be accessible and available to all residents. Access to the required affordable dwelling units shall be provided through the same principal entrances utilized by all other dwelling units in the development. The sizes and number of bedrooms in the affordable dwelling units shall be proportional to the square footage and number of bedrooms in market rate dwelling units.

11. All residential and non-residential components shall be located on the same or unified lot.

12. The Town shall impose a condition of approval requiring that 40% of the units remain affordable for a period of 30 years and no permits shall be issued until the property owner executes and delivers to the Town, a covenant, declaration, or other deed restriction ensuring compliance. Additionally, the property owner shall provide to the Town, each year on January 15th, copies of all leases then in effect for the affordable units, together with such other documentation necessary to demonstrate that such leases meet the affordability criteria set forth in Section 420.0004, Florida Statutes.

13. Any aggrieved or adversely affected party may appeal any order, decision, or interpretation of the enforcement of these regulations to the Town Council, sitting as the Zoning Board of Adjustment and Appeals.

Note: There is a bill (SB 328) pending in the Florida Legislature that would modify the provisions of Section 166.04151(7), Florida Statutes. The bill clarifies that density is the maximum density (or floor area ratio) permitted under the municipality's land development regulations without consideration of any bonuses, variances, or other special exceptions. Additionally, the maximum height is limited to the

maximum height for a commercial or residential building within one-quarter mile of the proposed project (without consideration of bonuses, variances, or other special exceptions). Furthermore, if the height of each building on property adjacent to the proposed development is three stories or less, a municipality may restrict the height to 125% of the tallest building on property adjacent to the proposed development or three stories, whichever is higher.

RECOMMENDATION:

Staff recommends that the Planning and Zoning Board review Ordinance No. 782 and provide a recommendation to the Town Council.

TOWN OF JUNO BEACH, FLORIDA

ORDINANCE NO. 782

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF JUNO BEACH, FLORIDA AMENDING CHAPTER 34, "ZONING," OF THE TOWN CODE OF ORDINANCES TO BY AMENDING ARTICLE IV, "SUPPLEMENTAL REGULATIONS," TO ADOPT A NEW DIVISION 18, "LIVE LOCAL ACT," TO IMPLEMENT CHAPTER 2023-17, LAWS OF FLORIDA; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, on March 29, 2023, the Governor signed into law Senate Bill 102, "Live Local Act," codified by Chapter 2023-17, Laws of Florida ("Act"), which is intended to streamline and incentivize affordable housing developments with the State of Florida; and

WHEREAS, the Act preempts certain use, density, and height regulations for qualifying developments that provide for the establishment of affordable multi-family rental housing in commercial, industrial, and mixed-use areas; and

WHEREAS, notwithstanding such preemption, the Town retains its home rule authority to establish land development regulations to implement the Act and adopt regulations that are not expressly preempted by the Act; and

WHEREAS, the Act provides that if a municipality has designated less than twenty percent of its land area within its jurisdictional boundaries for commercial or industrial use, the municipality is only required to allow multi-family affordable housing as part of a mixed-use development; and

WHEREAS, because less than twenty percent of the land area within the Town is designated for commercial or industrial uses, any development submitted pursuant to the Act must consist of a mixed-use residential project as defined in the Act; and

WHEREAS, the Town's Planning and Zoning Board has conducted a public hearing on this Ordinance and has provided its recommendation to the Town Council; and

WHEREAS, the Town Council has determined that adoption of this Ordinance is in the best interests of the general welfare of the residents and property owners of the Town of Juno Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JUNO BEACH, FLORIDA as follows:

Section 1. The foregoing "Whereas" clauses are hereby ratified as true and confirmed and are incorporated herein.

Section 2. The Town Council hereby amends Article IV, "Supplemental Regulations," of Chapter 34, "Zoning," of the Town Code of Ordinance by adopting a new Division 18, "Live Local Act," to read as follows (additional language underlined):

DIVISION 18. LIVE LOCAL ACT

Sec. 34-1325. Applicability.

(a) The provisions of this division shall apply to all applications for the development of land for mixed-use projects with affordable multi-family residential units pursuant to Live Local Act, as set forth in Section 166.04151(7), Florida Statutes ("Act").

(b) Such projects shall only be permitted in the Commercial General (CG), Commercial Office (CO), and Medical Commercial (MC) zoning districts.

Sec. 34-1326. Procedure.

(a) All projects shall be reviewed by the town's development review committee and shall be subject to the site plan and appearance review procedures and shall meet all criteria set forth in article II, division 4 of this chapter.

(b) Upon receipt of an application for development approval, the town shall notify the public by posting notice of the application on the Town website and providing notice to the public through the Town's e-mail database. The notice shall indicate that copies of all application materials shall be provided upon request.

(c) The application shall be subject to administrative review as required by the Act, and the project shall be approved by the planning and zoning director only if it meets all applicable land development regulations, including the community appearance standards set forth in division 14 of article II of this chapter, and the requirements of this division. The director shall further determine that the project is consistent with the provisions of the comprehensive development plan, except those provisions expressly preempted by Section 166.04151(7), Florida Statutes, relating to location with specified zoning districts, height, and density.

(d) The application shall be subject to engineering review and approval during the building permitting process in the same manner as any other development application.

Sec. 34-1327. Limitations on height and density.

(a) Height. Pursuant to Section 166.04151(7), Florida Statutes, the maximum height permitted shall be limited to the height permitted as of right for a commercial or residential project within the town within one (1) mile of the

proposed development without consideration of any bonuses or modifications permitted through the special exception process or otherwise. In no event shall the height of any structure exceed twelve (12) stories and one hundred and thirty (130) feet.

(b) *Density.* Pursuant to Section 166.04151(7), Florida Statutes, the maximum density permitted shall be limited to density permitted as of right for a residential project within the town without consideration of any bonuses or modifications permitted through the special exception process or otherwise. In no event shall the residential density of any proposed development exceed eighteen (18) units per acre.

Sec. 34-1328. Development standards and criteria.

(a) *Required mix of uses.* Consistent with the existing regulations governing mixed-use projects within the town's commercial zoning districts, all projects submitted pursuant to this division shall have a maximum of seventy-five (75) percent of residential use based on total gross floor area.

(b) *Building site area regulations.*

1. If the project is utilizing the height and density permitted in the town's Residential High (RH) zoning district, the following site area regulations shall apply:

- a. Minimum total area: 40,000 square feet;
- b. Minimum lot width: 150 feet;
- c. Minimum lot depth: 200 feet;
- d. Front set yard setback: 30 feet from street line;
- e. Side yard setback: 35 feet with one side having a minimum of 15 feet;
- f. Rear yard setback: 30 feet;
- g. Minimum floor space per dwelling unit: 1,000 square feet of habitable space for a one bedroom; 1,200 square feet of habitable space for a two bedroom; and 1,400 square feet of habitable space for three or more bedrooms;
- h. Maximum building dimension: 150 feet, provided, however that along the building face having the maximum dimension, said dimension may be increased to no more than 175 feet;
- i. Maximum lot coverage: 50%; and
- j. Minimum landscaped open space: 15% of lot area.

1 In addition to the foregoing, all structures exceeding two
2 (2) stories shall comply with the high-rise setback, which
3 requires thirty (30) feet from all property lines and an
4 additional five (5) feet of setback at ground level for each
5 additional story beyond the first two stories up to a
6 maximum of sixty (60) feet. For those lots having a width
7 of two hundred (200) feet or less as recorded in the office
8 of the county property appraiser, the maximum setbacks
9 shall not exceed fifty (50) feet; however, the maximum
10 building dimension on such lots shall not exceed one
11 hundred and fifty (150) feet.

- 12
13 2. For purely non-residential components of the project or
14 mixed-use structures where the height does not exceed
15 four (4) stories and sixty (60) feet, the project shall comply
16 with the building site area regulations of the applicable
17 commercial zoning district.

18
19 (c) Parking. The project shall provide for two (2) spaces per
20 residential unit and one (1) guest space for every seven (7) units as required
21 for residential uses in commercial zoning districts. The parking for commercial
22 uses shall be governed by division 4 of article IV of this chapter. Due to the
23 lack of any major transit stops in the town, no parking reductions shall be
24 considered. However, the project may propose, for consideration and
25 approval by the town, shared parking in accordance with the criteria governing
26 the minimum parking requirements for mixed-use projects in the town's
27 commercial zoning districts.

28
29 (d) Equivalent treatment of all dwelling units. All affordable dwelling
30 units and market rate dwelling units shall be located within the same structure.
31 All common areas and amenities shall be accessible and available to all
32 residents of the development. Access to the required affordable dwelling units
33 shall be provided through the same principal entrances utilized by all other
34 dwelling units in the development. Additionally, the sizes and number of
35 bedrooms in the affordable dwelling units shall be proportional to the square
36 footage and number of bedrooms in the market rate dwelling units. By way of
37 example, for the number of bedrooms, if twenty-five (25) percent of the market
38 rate dwelling units consist of two bedrooms, then twenty-five (25) percent of
39 the affordable dwelling units shall have two bedrooms.

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41 (e) Unified lot. All residential and non-residential components of the
42 site plan shall be located on the same or unified lot.
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Sec. 34-1329. Affordability.

(a) Pursuant to Section 166.04151(7), Florida Statutes, at least forty (40) percent of the multi-family residential units shall remain affordable, as defined in Section 420.0004, Florida Statutes, for a period of at least thirty (30) years. This requirement shall be incorporated as a condition into any administrative approval. Furthermore, as prerequisite to the issuance of a building permit, the applicant shall execute and deliver to the town for recordation in the public records, on a form approved by the town attorney, a covenant, declaration, or other deed restriction in favor of the town ensuring compliance with this affordability requirement.

(b) The applicant shall provide to the town, on January 15th of each year subsequent to the town's issuance of a certificate of occupancy for the project, copies of all leases then in effect for the affordable units, together with such documentation necessary to demonstrate that such leases meet the affordability criteria set forth in Section 420.0004, Florida Statutes.

Sec. 34-1330. Appeals.

Any aggrieved or adversely affected party may appeal an administrative order, decision, approval, or interpretation in the enforcement of the regulations of this division to the zoning board of adjustment and appeals in accordance with section 34-66 of the town code.

Section 3. The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Juno Beach. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 4. If any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5. All ordinances or parts of ordinances of the Town of Juno Beach, Florida, which are in conflict with this Ordinance, are hereby repealed to the extent of such conflict.

Section 6. This Ordinance shall be effective immediately upon adoption.

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FIRST READING this _____ day of _____, 2024.

SECOND, FINAL READING AND ADOPTION this _____ day of _____, 2024.

AYE

NAY

ALEXANDER COOKE, MAYOR

AYE

NAY

PEGGY WHEELER, VICE MAYOR

AYE

NAY

MARIANNE HOSTA, VICE MAYOR PRO TEM

AYE

NAY

DD HALPERN, COUNCILMEMBER

AYE

NAY

ATTEST:

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

CAITLIN COPELAND-RODRIGUEZ
TOWN CLERK

LEONARD G. RUBIN
TOWN ATTORNEY