

Resolution

RESOLUTION 2024-06

A RESOLUTION OF THE TOWN OF OAKLAND, FLORIDA, MAKING FINDINGS, APPROVING PERMITTING PROCEDURES FOR LIVE LOCAL ACT AFFORDABLE HOUSING PROJECTS AS REQUIRED BY SECTION 166.04151(7)(a), FLORIDA STATUTES, AND PROVIDING AN EFFECTIVE DATE

WHEREAS, in the 2024 Florida Legislative Session, the Florida Legislature approved the Committee Substitute for Committee Substitute for Senate Bill 328, and the Florida Governor signed the bill into law as provided in Chapter 2024-188, Laws of Florida;

WHEREAS, Chapter 2024-188, Laws of Florida, codified in Section 166.04151, Florida Statutes, is also known as the Florida Live Local Act;

WHEREAS, the Florida Live Local Act provides in Section 166.04151(7)(a), Florida Statutes, that all municipalities must authorize multifamily or mixed-use residential projects as an allowable use in any area zoned for commercial, industrial, or mixed-use if at least 40 percent of the multi-family residential units are rented for a period of at least 30 years at an affordable rate as defined in Section 420.0004, Florida Statutes (“Qualified Project”).

WHEREAS, Section 166.041151(7)(a), Florida Statutes, prohibits a municipality from requiring a Qualified Project to go through a future land use amendment, rezoning process, special exception, conditional use, or comprehensive plan amendment for the multi-family or mixed-use residential land use, density, or building height.

WHEREAS, Section 166.041151(7)(b), Florida Statutes, requires that a municipality may not restrict the intensity of a Qualified Project below the highest currently allowed density on any land in the municipality where residential development is allowed.

WHEREAS, Section 166.041151(7)(c), Florida Statutes, requires that a municipality may not restrict the density of a Qualified Project below 150 percent of the highest currently allowed floor area ratio on any land in the municipality where development is allowed.

WHEREAS, Section 166.041151(7)(d), Florida Statutes, requires that a municipality may not restrict the height of a Qualified Project below the highest currently allowed height for a commercial or residential building within one (1) mile of the proposed development or three (3) stories, whichever is higher, with consideration for adjacent single-family development of at least 25 contiguous single-family homes.

WHEREAS, Section 166.041151(7)(e), Florida Statutes, requires that a municipality must administratively approve a Qualified Project with no review or approval of the Town Commission if it is compliant with the Town’s comprehensive plan and land development code with the exception of requirements for land use, density, intensity, or building height.

WHEREAS, the Town is required to provide a procedure for the administrative processing of Qualified Projects and to publish this procedure on the Town’s website.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Commissioners of the Town of Oakland, Florida, that

SECTION 1. The “Permitting Procedures for Live Local Act Affordable Housing Projects”, which is attached to this resolution as Exhibit “A”, is hereby approved.

SECTION 2. The Town Clerk is authorized and directed to publish the “Permitting Procedures for Live Local Act Affordable Housing Projects”, which is attached to this resolution as Exhibit “A”, to the Town’s website.

SECTION 3. This Resolution shall take effect immediately upon its adoption by the Town Commission.

PASSED AND ADOPTED THIS 13TH DAY OF AUGUST 2024.



SHANE TAYLOR, MAYOR

ATTEST:



ELISE HUI, TOWN CLERK



Exhibit “A”



Permitting Procedures for Live Local Act Affordable Housing Projects

Florida Statutes, 166.04151 - Affordable housing

August 13, 2024

Objective:

As required by Section 166.04151, Florida Statutes, Implement Florida’s Live Local Act allowing affordable housing in certain zoning districts through administrative approval processes.

Operational Policies:

The policies below identify Town of Oakland’s applicable zoning districts, density, intensity, mixed use definitions, height limit, review process, and affordability requirements. These policies refer to relevant town development requirements. The town development requirements may be amended from time to time. To the extent there is a conflict between the town development requirements and these policies, the town development requirements shall prevail, except with respect to the allowable land use, height, density and review procedures specifically provided herein.

1. Qualifying Zoning Districts

Commercial Zoning Districts:

- C-1 Commercial General
- C-2 Commercial Restricted
- RNC Residential-Neighborhood Commercial

Industrial Zoning Districts:

- I-1 Industrial General
- I-2 Industrial Restricted

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Mixed Use Districts:

- MUC Mixed Use Corridor (Only portion that is designated for commercial development)
- MUTC Mixed Use Town Center (Only portion that is designated for commercial development)
- PD Planned Development (Only portion that is designated for commercial or industrial development)

Qualifying Developments:

Developments in the above defined zoning districts, wherein at least forty percent (40%) of the residential units are affordable multifamily rental units as defined in Section 420.0004, Florida Statutes, for a period of at least thirty (30) years.

As of July 1, 2024, the town’s total land area designated for commercial or industrial development is 16.9% of the town’s total land area (246.8 acres of 1,462.8 acres). This is less than 20% of the town’s total land area. Under Section 166.04151(7)(g), Florida Statutes, any local government with less than 20% of its total land area designated for commercial or industrial use, the Qualifying Development must be a mixed-use residential project (i.e. mix of 65% residential and 35% non-residential uses).

2. Permitting Rules and Procedures for Qualifying Developments

Qualifying Developments are eligible to submit a consolidated development review application regarding land use, height, and density and intensity allowances as permitted under Florida law.

Other than land use, height, and density and intensity, all other development standards, such as building and site design standards, stormwater management, impervious surface, open space, landscaping, environmental and tree protection, infrastructure concurrency and proper availability of potable water and wastewater services, transportation, public schools, and parks and recreation, development buffers, building setbacks, parking, and any other applicable development requirement provided in the Town’s Comprehensive Plan, Land Development Code, and Code of Ordinances.

3. Maximum Height

The development must be allowed to meet the highest height currently allowed within one mile of the development or three stories, whichever is higher. The one-

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mile distance will be measured in a straight line from the property line of the proposed development to the property line of a developed or developable parcel. If the Qualifying Development is adjacent to, on two or more sides, a parcel zoned for single-family residential use and is developed with at least 25 contiguous single-family homes, the height must not exceed 150 percent of the highest building on any property adjacent to the Qualifying Development, the highest height currently allowed for the property, or three stories, whichever is higher. “Adjacent to” means properties sharing more than one point of a property line but does not include properties separated by a public road.

Specially approved height limits in a PD or approved as a condition of approval of a development that are different than what the underlying zoning district or design district allows will not be considered as part of the height limit review. The standard height limit associated with the underlying zoning or design district will be used.

4. Maximum Density and Intensity

The Qualified Development must be allowed to meet the highest density allowed in the town, which is 25 dwelling units per acre. However, the total number of dwelling units may be reduced resulting in a density of less than 25 dwelling units per acre, due to potential limitations related to, but not limited to, parking, open space, available infrastructure, or environmental constraints.

The Qualified Development shall not exceed 150 percent of the highest Floor Area Ratio (FAR) allowed within the town, which is 3.0 FAR (Maximum FAR in Town is 2.0). This applies to the entire square footage of the building, not just the non-residential portion. However, the total building square footage may be reduced resulting in a FAR of less than 3.0, due to potential limitations related to, but not limited to, parking, open space, available infrastructure, or environmental constraints.

Any request for a density or intensity bonus must meet all criteria of the Town’s Comprehensive Plan and Land Development Code.

5. Parking

Parking requirements will be determined based on the requirements of the Land Development Code and consideration for a reduction will be provided if the Qualified Project is within 0.25 miles of a transit stop. There are no Transit Oriented Developments (TOD) or Major Transportation Hubs (MTH) within the town.

6. Mixed Use Residential Projects

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As provided in the Qualifying Project section of this document, all Qualified Projects must be developed as a Residential Mixed Use Project with 65% of the floor area, excluding any parking garages or interior garages, for residential uses and 35% of the floor area for non-residential uses.

In order to determine the percentage of the building that is residential, all lobbies, services areas, and amenity areas exclusively serving the residential use shall be considered residential square footage. Shared lobbies, services areas, and amenity areas shall be proportionally allocated between the residential and non-residential square footage requirements.

The state statutes do not provide exemptions from the Comprehensive Plan, Land Development Code, or Code of Ordinances for non-residential uses; therefore, non-residential uses must meet all criteria of the Comprehensive Plan, Land Development Code, and Code of Ordinances.

7. Administrative Review Process

All Qualifying Development project applications qualify for administrative review. Such application must be submitted prior to submittal of a building permit. It will be reviewed administratively, and the application will be distributed to all Town Departments, including the Town Attorney for review and comment. After review, the applicant will receive a letter from the Town Planner in response, including conditions of approval that must be met for building permit review. The application fee is the fee adopted by the Town for all site development review applications.

The Town’s Land Development Code requires all non-single-family developments to be reviewed and approved through the Appearance Review Process. All Qualifying Developments shall be processed through the Town’s Appearance Review Process, which includes review and approval by the Town’s Appearance Review Board, Planning & Zoning Board, and Town Commission. The Appearance Review Process is to assure development is consistent with the building and site design requirements of the Town’s adopted Design Districts with related site and building design requirements. As provided in Florida law, the review shall not address use, density, nor height. The Qualified Development must meet all standards of such boards. The Appearance Review Process will not include any public hearings. However, as required by Florida law, the meetings of the Appearance Review Board, Planning and Zoning Board, and Town Commission shall be public noticed.

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If a Qualified Development needs a variance that requires review by the Planning and Zoning Board or needs alternative development standards that would necessitate Planned Development (PD) zoning review by the Planning & Zoning Board and Town Commission, such requests must be reviewed and approved by the Planning & Zoning Board and Town Commission.

If an applicant has questions about the applicability of this policy, and would like guidance from staff before preparing an administrative master plan application, the applicant may request that the Town Planner, with consultation with the Town Attorney, provide a determination if the proposed project is a Qualifying Development.

If the applicant disagrees with the written findings of the Town Planner, the decision may be appealed to the Town Manager. If the applicant disagrees with the decision of the Town Manager, the Town Manager’s decision may be appealed to the Town Commission.

8. Monitoring Affordability

In order to ensure that affordable units are provided in a similar manner across all projects, affordable units must meet the following requirements:

- Affordable units must be located proportionally within the development site. In single-building development sites, affordable units must not be grouped in one portion of the building. In multi-building development sites, affordable units must be located in the majority of the buildings and must not be grouped in one building.
- All common areas and amenities must be accessible and available to all unit occupants (both affordable and market rate units).
- Access to affordable units must be provided through the same principal entrance(s) used by market rate units. An exterior door to an individual unit is exempt from this requirement.
- The size and number of bedrooms in affordable units must be proportional to the size and number of bedrooms in the market rate units (e.g., if 30% of the

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market rate units are one-bedroom units, then approximately 30% of the affordable units must be one-bedroom units).

- The finishes and building materials for both the interior and exterior of affordable units must be the same as those used for market rate units.
- Additional fees such as laundry, parking, cable TV or other services must be charged at the same rate (or less) for affordable units as for market rate units.
- In order to ensure that units remain affordable for the entire 30-year duration of the affordability requirement, all projects will be subject to a requirement for a restrictive covenant. The property owner shall execute and deliver to the Town, on a form approved by the Town Attorney, a covenant, declaration of restriction, or other deed restriction in favor of the Town ensuring compliance with the affordability requirements. The document must be approved and executed prior to the issuance of a building permit, and must be recorded in the Public Records of Orange County, Florida at the applicant's expense.
- During the affordability period, the property owner shall submit to the Town such documentation necessary to demonstrate that the affordable units meet the affordability criteria as set forth in Section 420.0004, Florida Statutes, pursuant to a schedule to be approved as part of the site plan review.

End of Permitting Procedures for Live Local Act Affordable Housing Projects