

Insights

Office of the Attorney General Releases Informal Opinion Shedding Light on the Meaning of “Mixed Use” Zoning Districts Under Live Local Act

Article

Lowndes

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The Live Local Act (Act), originally passed on March 29, 2023, was modified by SB328 on May 16, 2024. While the Act has been heralded as a solution to Florida’s affordable housing shortage, it has faced roadblocks since its adoption. However, the clarifications in SB328 have been helpful for developers and local governments navigating these new rules. Recently, the Office of the Attorney General of the State of Florida also provided additional clarity on what qualifies as a “mixed use” zoning.

On July 12, 2024, the Office of the Attorney General issued an informal opinion providing guidance on which zoning districts qualify under the Act. The letter seeks to shed light on the phrase “area zoned for commercial, industrial, or **mixed use**” (emphasis added) included in the Act. Specifically, it provides guidance on determining whether a particular zoning classification is considered “mixed use” under the Act.

In pertinent part, the opinion concludes that while a “particular name given by a municipality or County to a zoning classification is potentially helpful for determining whether a classification is a “mixed use” zoning classification, it is just one of several aspects worthy of consideration in determining whether a classification is a “mixed use” under the Act.” Further, the opinion posits that an analysis of the context and objective of the Act indicates that the phrase “mixed use” refers to a zoning classification allowing for commercial or industrial development alongside residential development.

The letter explicitly addresses concerns that a local government might title or re-title a zoning classification to avoid the application of the Act. The opinion advises looking beyond just the title of a zoning classification and instead focusing on whether the permitted uses are similar to “what has been historically and is normally understood to be a mixed use zoning classification”.

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If you have additional questions about the Live Local Act or real property rights, land use, zoning and business matters, please contact **Tara Tedrow** (tara.tedrow@lowndes-law.com) and **Rebecca Wilson** (rebecca.wilson@lowndes-law.com).