

EXECUTIVE SUMMARY



To: Patti McLauchlin, City Manager
From: Jordan Mannix-Lachner, Planner I
Through: Katie P. Halloran, Planning Director
Meeting Date: April 4, 2023

Agenda Item: **Text Amendment of the Land Development Regulations** – An ordinance of the City of Key West, Florida, modifying the membership of the Development Review Committee (DRC) and transferring the responsibility to approve lot splits from the DRC to the Planning Board, by amending Land Development Regulations Chapter 90, entitled “Administration”, Article II, entitled “Boards, Committees, Commissions”, Division 2, entitled “Planning Board”, Section 90-55, entitled “Functions and Powers”; Chapter 108, entitled “Planning and Development”, Article II, entitled “Development plan”, Division 2, entitled “Development Review Committee”, Section 108-61 entitled “Established and membership.” and Section 108-63, entitled “Powers and duties.”; and Chapter 118, entitled "Subdivisions", Article III, entitled “Plats and plans”, Division 2 entitled “Lot split and minor subdivision procedures”, Section 118-169, entitled “Lot splits.”; providing for severability; providing for repeal of inconsistent provisions, providing for an effective date.

Action Statement: The proposed ordinance would modify the membership of the DRC to utilize staff resources more effectively by amending the membership requirements for the DRC. It would also transfer the responsibility to approve lot splits from the DRC to the Planning Board.

Background:

The Development Review Committee (DRC) is composed of City staff whose purpose is to review development applications for consistency with Land Development Regulations (LDRs) and other applicable regulations.

Code Section 108-61 calls for eleven specific personnel to serve on the DRC. Several job titles listed in this section of Code are outdated and incorrect. Listed personnel includes certain staff whose general job functions are not directly related to the development review process. Requiring attendance from these staff at DRC meetings is not the most efficient use of City resources and it can be difficult to maintain quorum.

The proposed amendment would eliminate the DRC membership requirement for the police chief,

recreation director, and bicycle pedestrian coordinator. This would allow these positions to provide development review input when necessary, but would not make their DRC attendance a requirement.

This amendment would also transfer the final determination for lot split applications from the DRC to the Planning Board. The DRC acts in an advisory capacity for all development applications, with the exception of lot splits. The Planning Board acts in an advisory capacity to City Commission in some instances, but also functions as a voting body for other quasi-judicial matters in the Land Development Regulations. Transferring the voting responsibility for lot splits from the DRC to the Planning Board would be more consistent with Section 108-61, which provides that the purpose of the DRC “is to facilitate and coordinate technical comments by the city staff on development applications.” Through amendments to the lot split process outlined in Section 118-169, the lot split review and approval process is clarified to further facilitate this process for both applicants and City staff.

Request / Proposed Amendment:

**Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.*

Sec. 90-55. Functions and powers.

(a) The planning board shall have the power and authority to carry out the duties and responsibilities conferred upon it by the land development regulations consistent with F.S. § 163.3174 and shall perform these duties in the best interests of the health, safety, and welfare of the citizens of the city. The planning board shall have the following functions:

- 1) Be responsible for preparation and review of the comprehensive plan. During preparation of the plan prior to any recommendations to the city commission, the planning board shall hold at least one public hearing with due public notice on the proposed plan or element or portion thereof, pursuant to F.S. § 163.3174(4)(a), and make recommendations to the city commission concerning enactment;
- 2) Monitor and oversee the effectiveness and status of the comprehensive plan, review any proposed amendments to the comprehensive plan, prepare periodic reports required pursuant to F.S. § 163.3191, and make recommendations to the city commission concerning enactment;
- 3) Review proposed land development regulations and amendments thereto and make recommendations to the city commission as to the consistency of proposed land development regulations with the adopted comprehensive plan or element or portion thereof, pursuant to F.S. § 163.3174(4)(c);
- 4) Review major development plans submitted pursuant to article II of chapter 108 and make recommendations to the city commission regarding such plans;
- 5) Review minor development plans submitted pursuant to article II of chapter 108;

- 6) Review conditional uses as provided in article III of chapter 122, which may be part of a minor or major development plan;
- 7) Review and authorize in specific cases a variance from the terms of the land development regulations where the requirements of section 90-394 are met;
- 8) Review subdivision proposals submitted pursuant to chapter 118 and street dedication and reconfiguration proposals and make recommendations to the city commission regarding compliance with applicable laws and ordinances;
- 9) Review lot split proposals submitted pursuant to article III of chapter 118;
- 10) Conduct such public hearings as may be required to carry out the functions set forth in this subsection; and
- 11) Pursuant to F.S. § 163.3174(4)(d), perform any other duties which are assigned to the planning board by the city commission or by general or special law.

[...]

Sec. 108-61. - Established and membership.

[...]

(c) The development review committee shall be comprised of the directors of the following departments and divisions, or their designee; the following personnel and/or designated staff:

- ~~(1) City planner;~~
- ~~(2) Recreation director;~~
- ~~(3) Fire chief;~~
- ~~(4) Engineering services director;~~
- ~~(5) City engineer;~~
- ~~(6) Police chief;~~
- ~~(7) Building official;~~
- ~~(8) Landscape coordinator;~~
- ~~(9) HARC planner;~~
- ~~(10) Utilities director;~~
- ~~(11) ADA/bicycle pedestrian coordinator, and~~
- ~~(12) Any other staff designated by the city manager.~~

- (1) Planning Department;
- (2) Fire Department;
- (3) Engineering Department
- (4) Building Department;
- (5) Urban Forestry Division
- (6) Historic Preservation Division
- (7) Utilities Department;
- (8) Geographic Information Systems Division

(d) In addition, the city manager may appoint additional members to serve on the development review committee. Additional appointments shall be documented in memorandum submitted to the chair of the DRC.

(e) Unless additional members are appointed by the City Manager, five (5) members of the development review committee shall constitute a quorum for the transaction of business, but a smaller number may act only to adjourn meetings for lack of a quorum. The affirmative vote of a majority of the quorum shall be required to pass any action of the development review committee.

(Ord. No. 97-10, § 1(4-18.6(A)), 7-3-1997; Ord. No. 02-26, § 1, 11-6-2002)

[...]

Sec. 118-169. - Lot splits.

Any applicant desiring to create a lot split as defined in section 118-3 shall submit to the Planning Department a letter of intent with an existing and proposed signed and sealed boundary survey of all pertinent properties. submit to the administrative official copies of a final plat in conformance with the regulations identified in sections 118-256 through 118-260, as prepared by a land surveyor and any other requirements of F.S. ch. 177. The submitted boundary surveys shall be reviewed approved by the development review committee, and approved by the Planning Board pursuant to procedures outlined in sections 90-51 through 90-68. Once voted upon, all submitted boundary surveys shall be included as exhibits with the Planning Board resolution and each approved boundary survey shall be signed and dated by the City Clerk and Planning Director. Within ninety (90) days of Planning Board approval the applicant shall submit the signed resolution, including the signed boundary surveys. Upon approval, the plat of record shall be filed to the Monroe County Clerk of the Courts for recording; following recordation the applicant shall return the resolution and recorded boundary surveys to the Planning Department. by the applicant with the administrative official within a required time period from the date of approval. Failure to file within the required ninety (90) day time period shall void such lot split approval.

(Ord. No. 97-10, § 1(4-19.5(D)), 7-3-1997)

[...]

*Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.

Land Development Regulations Text Amendment Process:

Planning Board Meeting:	February 16, 2023 (Planning Board Res. 2023-001)
City Commission (1st Reading):	April 4, 2023
DEO Review (1st Reading):	Up to 60 days
City Commission (2nd Reading/Adoption):	TBD
Local Appeal Period:	30 days
DEO Review (2nd Reading):	Up to 45 days
DEO Notice of Intent (NOI):	Effective when NOI posted to DEO site

Analysis:

The purpose of Chapter 90, Article VI, Division 2 of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) is to provide a means for changing the text of the Land Development Regulations. It is not intended to relieve hardships nor to confer special privileges or rights to any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the Planning Board and the City Commission shall consider the consistency of the proposed amendment with the intent of the Comprehensive Plan.

Pursuant to Code Section 90-552, the Planning Board shall hold a public hearing thereon with due public notice. The Planning Board shall consider recommendations of the City Planner, City Attorney, Building Official and other information submitted at the scheduled public hearing. The Planning Board shall transmit a written report and recommendation concerning the proposed change in the LDRs to the City Commission for official action.

The Code provides criteria by which LDR amendments must be evaluated:

Section 90-520 (6) Justification. The need and justification for the proposed change shall be stated. The evaluation shall address but shall not be limited to the following issues:

- a. ***Comprehensive Plan consistency. Identifying impacts of the proposed change in zoning on the Comprehensive Plan. The zoning must be consistent with the Comprehensive Plan.***

The proposed amendment would not impact the Official Zoning Map or the Future Land Use Map. The proposed amendments would be consistent with Comprehensive Plan Policy 1-1.9.2; 1-1.9.3; 1-1.9.5; 1-1.14.4; 1-1.14.7; 1-1.15.4; and Objective 1-1.9.

- b. ***Impact on surrounding properties and infrastructure. The effect of the change, if any, on the particular property and all surrounding properties. Identify potential land use incompatibility and impacts on infrastructure.***

Residential, commercial and mixed-use property owners will benefit from these proposed text amendments. Currently, if a quorum is not met, the project has to be postponed to the next DRC meeting. The increased flexibility afforded through these changes will provide equal benefit to property owners City-wide. There will be no impact on surrounding property or infrastructure, as the proposed amendment to the LDRs does not apply to any specific parcel of land.

c. ***Avoidance of special treatment. The proposed change shall not constitute a spot zone change. Spot zoning occurs when:***

1. ***A small parcel of land is singled out for special and privileged treatment:***

The proposed amendment to the LDRs is not spot zoning and does not apply to any specific parcel of land.

2. ***The singling out is not in the public interest but only for the benefit of the landowner.***

The proposed amendment to the LDRs does not apply to any specific parcel of land.

3. ***The action is not consistent with the adopted comprehensive plan.***

The proposed amendment would be consistent with the Comprehensive Plan as outlined above.

d. ***Undeveloped land with similar comprehensive plan future land use map designation. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested shall be stated.***

This proposed amendment is not associated with a particular Comprehensive Plan Future Land Use designation or specific zoning district.

Options / Advantages / Disadvantages:

Option 1: Approve the proposed text amendments to the LDRs with language as proposed in Planning Board Res. 2023-001.

Advantages:

- Staff time would be utilized more effectively by allowing the DRC to require attendance only from staff whose roles are directly related to development review.
- Increase consistency with regard to quasi-judicial development proceedings by transferring lot split approvals to the Planning Board.

Disadvantages:

- None identified.

Option 2: Deny the proposed text amendments to the LDRs.

Advantages:

- Maintain consistency with existing practices.

Disadvantages:

- Would not allow for the ongoing improvement of the development review process based on new insights and best practices.

Recommendation:

Staff recommends approval of these amendments as stated in OPTION 1.