



THE CITY OF KEY WEST
PLANNING BOARD
Staff Report

To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel Sobczak, Planner I, AICP-C

Meeting Date: November 19th, 2020

Agenda Item: **Text Amendment of the Land Development Regulations**– A Resolution of the City of Key West Planning Board recommending an Ordinance to the City Commission, to amend Chapter 122 of the Code of Ordinances entitled “Zoning”, by amending Section 122-1466 to add the definition of affordable housing (Very Low Income); Providing for severability; Providing for repeal of inconsistent provisions; providing for an effective date.

Request: To amend the City’s Land Development Regulations to add a definition for very low affordable housing.

Applicant: City Attorney’s Office Sponsored by Commissioner Kaufman

Background:

The proposed ordinance to amend the City’s Land Development Regulations is an effort to more closely implement the Comprehensive Plan of the City of Key West, and to encourage the development of affordable workforce housing for all income levels across the City. The proposal is designed to define and encourage the development of very low-income affordable workforce housing, The Land Development Regulations of the City of Key West define workforce housing as deed restricted housing required to be 30% of the aggregate total of all market rate units proposed on any one site. Affordable work force housing shall include low income, median income, moderate income and middle-income housing, per Section 86-9. The Planning Board is hearing this LDR amendment in order to add very low-income to the required affordable workforce housing requirements, including the introduction of a definition for very low-income affordable workforce housing in Section 122-1466 and revising the definition of very low-income workforce housing in Section 86-9.

Request / Proposed Map Amendment:

Proposed for 122-1466:

Affordable housing (very low income) for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents 60 percent of the monthly median household income (adjusted for family size). For an owner-occupied dwelling unit, affordable housing (very low income) shall mean a dwelling unit whose sales price shall

not exceed one and one-half times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.

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

Land Development Regulations Text Amendment Process:

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| Planning Board Meeting: | November 17 th , 2020 |
| City Commission (1st Reading): | December 2 nd , 2020 |
| City Commission (2nd Reading / Adoption): | January ____, 2020 |
| Local Appeal Period: | 30 days |
| Render to DEO: | 10 working days |
| DEO Review: | 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 particular hardships nor to confer special privileges or rights on 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, in addition to the factors set forth in this subdivision, the consistency of the proposed amendment with the intent of the Comprehensive Plan.

Pursuant to Code Section 90-552 the Planning Board, regardless of the source of the proposed change in the LDRs, 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. In its deliberations, the Planning Board shall consider the criteria in Code Section 90-521.

90-520 (6) Justification. The need and justification for the proposed change. 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 should be consistent with the Comprehensive Plan.

“Goal 3-1: - Housing: Allocate land area for accommodating a supply of housing responsive to the diverse housing needs of the existing and projected future population and served by adequate public facilities; assist the private sector in: providing affordable quality housing in neighborhoods protected from incompatible uses; promote best practices of land use planning, urban design, and landscaping.”

The City’s Chapter 3:- Housing Element of the Comprehensive Plan addresses the City’s goal to allocate land area to accommodate a supply of housing that is responsive to the diverse housing needs of the existing and projected future populations.

“Objective 3-1.1: Provide Quality Affordable Housing and Adequate Sites for Low- and Moderate-Income Housing. The Comprehensive Plan currently requires affordable housing for low-income and moderate-income housing but does not reference a requirement to construct housing for the very low-income category.”

Amending the Land Development Regulations to add an affordable workforce housing category for the very low-income category helps provide a better definition to both public and private developers of future affordable workforce housing developments.

“Policy 3-1.1.3: Ratio of Affordable Housing to Be Made Available City-Wide. At Least 30% of the aggregate of all residential units constructed each year in the City shall be affordable as herein defined in accordance with the adopted Workforce Housing Ordinance.”

The proposed revision to the Land Development Regulations will revise a definition for the very low-income category in the LDRs in reference to the adopted Workforce Housing Ordinance. Including a definition for the very low-income workforce housing category may help the city better implement Comprehensive Plan Policy 3-1.1.3 and better define the needs of its residents. The amendment may also assist the City to provide housing for a broader range of future tenants, including those in the very low-income category.

“Policy 3-1.1.1.14: Redevelopment or Sale of Former Military Properties. When military properties are redeveloped or sold for residential use, at least 30% of the units must be affordable.”

The introduction of the proposed language to the LDRs may allow a portion of the 30% of affordable units required in Policy 3-1.1.1.14 to be earmarked for the very low-income category.

- 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.

The proposed amendment to add language to define the very low-income category in reference to the Affordable Workforce Housing Ordinance may help both private and public development in the allocation of units to better reflect the diverse housing needs of the City’s residents.

- 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 will be effective for all development within City boundaries.
2. The singling out is not in the public interest but only for the benefit of the landowner.
The proposed amendment will allow for development to meet the definition of very low-income affordable workforce housing.

3. The action is not consistent with the adopted comprehensive plan.
The proposed amendment would be consistent with the adopted Comprehensive Plan, particularly with Objective 3-1.1 and Policy 3-.1.1.3 and Policy 3-1.1.14

- 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.

The proposed amendment to create a definition for the very low-income category in the Affordable Workforce Housing Ordinance may assist the City and private development better implement the Comprehensive Plan's goal of affordable housing for all income groups in the City.

Criteria for Approving Amendments to the LDRs pursuant to Code Section 90-521 and 90-

522 (a). In evaluating proposed changes to the LDRs, the City shall consider the following criteria:

- (1) **Consistency with plan. Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

Consistency with the Comprehensive Plan

The City's Comprehensive Plan was developed in response to the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, Florida Statutes). The Plan and its updates are consistent with the State, Regional and County plans; and serves as the basis for all land development decisions within the City of Key West. In addition to fulfilling legislative requirements, the City's Plan:

- Protects and maintains its natural, historic and cultural resources;
- preserves its community character and quality of life;
- ensures public safety, and;
- directs development and redevelopment in an appropriate manner.

The proposed amendment would be consistent with the overall purpose of the Comprehensive Plan, particularly objectives 3-1.1 and Policy 3-.1.1.3 and Policy 3-1.1.14.

Consistent with the adopted infrastructure minimum level of service standards and the concurrency management program

The proposed amendment would be consistent with the adopted infrastructure minimum level of service (LOS) standards and the concurrency management program.

- (2) **Conformance with requirements.** Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.

The proposal is in conformance with all applicable requirements of the Code of Ordinances.

- (3) **Changed conditions.** Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations and whether such conditions support or work against the proposed rezoning.

The existing LDRs were adopted on July 3, 1997 through Ordinance No. 97-10 following adoption of the 1994 Comprehensive Plan. Over the years, the Comprehensive Plan and LDRs have been amended from time-to-time. A new Comprehensive Plan was adopted on March 5, 2013 and became effective on May 2, 2013.

The proposed ordinance to amend the City's Land Development Regulations is an effort to encourage the development of affordable work-force housing for all income levels across the City. The proposed ordinance will amend the Affordable Workforce Housing Ordinance of the City Code which was last altered in May 2019 to clarify the definition of development and redevelopment for the purposes of Section 122-1446.

- (4) **Land use compatibility.** Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.

Land use incompatibilities are not anticipated with the amendment to the Affordable Workforce Housing Ordinance. Workforce housing for the very low-income category shall be permitted wherever affordable housing is permitted by right. Workforce housing for the very low-income category shall be conditional wherever affordable housing is a conditional use.

- (5) **Adequate public facilities.** Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services. Rezoning does not constitute a concurrency determination, and the applicant will be required to obtain a concurrency determination pursuant to Chapter 94.

The extent to which the proposal would have on demand on public facilities and services cannot be determined at this time as no development plans are a part of this proposal. All applications for development will be required to complete a concurrency determination pursuant to chapter 94 of the Land Development Regulations.

- (6) **Natural environment.** Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

Any impacts on vegetative communities and the natural environment would be reviewed and mitigated at the time of a proposed development. Any proposed map development shall be beholden to the City Code and is not expected to result in adverse impacts on the natural environment.

- (7) **Economic effects.** Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.

The revision of the definition of the very low-income category for affordable workforce housing is unlikely to adversely affect the property values or the general welfare. The proposal may result in more inclusive affordable housing developments.

- (8) **Orderly development.** Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.

The proposed amendment to create a definition in Section 122-1446 should not have any impact on orderly and compatible land use patterns across the City. The introduction of the definition for very low-income affordable workforce housing will allow the City or a private developer to develop units that meet the new definition wherever affordable workforce housing is already allowed.

- (9) **Public interest; enabling act.** Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of the land development regulations in this subpart B and the enabling legislation.

The proposed amendment to the Land Development Regulations would not be in conflict with the public interest and it is in harmony with the purpose and intent of the Land Development Regulations.

- (10) **Other matters.** Other matters which the planning board and the city commission may deem appropriate.

RECOMMENDATION:

The Planning Department, based on the criteria established by the Land Development Regulations and the Land Development Regulations, recommends to the Planning Board that the request to amend the Land Development Regulations be **APPROVED**.