




MEMORANDUM

Date: March 14, 2024

To: Honorable Mayor and Commissioners

Via: Albert P. Childress
City Manager 

From: Katie P. Halloran
Director, Planning Department

Subject: **23-5060 Text Amendment of the Land Development Regulations** – An ordinance of the City of Key West, Florida, amending Land Development Regulations Chapter 122 entitled “Zoning”, Article IV. entitled “Districts”, Division 3 entitled “Residential Districts”, Subdivision III entitled “Single-Family Residential Districts (SF)”, Section 122-232 entitled “Accessory Units”, and Section 122-233 entitled “Special Criteria Applicable to Accessory Units” to reduce the required rear and street-side setbacks for deed-restricted, affordable accessory units in the Single-Family zoning district to five feet; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Introduction

Building Department staff have developed a text amendment, with sponsorship from Commissioner Carey, to amend Sections 122-232 and 122-233 of the Land Development Regulations to adjust the setback and area requirements for accessory units in the Single Family (SF) zoning district. The amendment is intended to mirror existing requirements for accessory structures.

Background

This item was recommended for approval by the Planning Board at their December 12, 2023, hearing. The Planning Board recommended three substantive changes to the regulation of Accessory Units. This included:

- (1) A reduction of all setback requirements for Accessory Units to five (5) feet,
- (2) The elimination of the requirement that Section 122-233 (4) which states that “*When an accessory unit permit is originally initiated, the principal unit must be owned and occupied by a permanent resident.*”

(3) The modification of Section 122-233 (1) which states: *“The monthly rent for a rented accessory unit, not including utilities, shall not exceed 25 percent of that amount which represents 100 percent of the monthly median household income (adjusted for family size) for Monroe County. This affordability criteria shall be duly recorded as a deed restriction in perpetuity.”*

The Planning Board recommended the following amendment to the language above:

“The monthly rent for a rented accessory unit, not including utilities, shall be in concurrence with the City’s workforce housing guidelines. ~~not exceed 25 percent of that amount which represents 100 percent of the monthly median household income (adjusted for family size) for Monroe County. This affordability criteria shall be duly recorded as a deed restriction in perpetuity.”~~

The recommendations by the Planning Board to eliminate Section 122-233 (4), to reduce all setbacks to five feet (including the front yard setback) for Accessory Units, and to modify the affordability criteria contained in Section 122-233 (1) were introduced at the hearing after discussion by individual members and were not part of the original recommendations by the Building Department.

It is noted that the changes to the affordable housing provisions contained within Section 122-233 (a)(1) and the deletion of the criteria related to the requirement that the principal unit *“must be owned and occupied by a permanent resident,”* were also not advertised in connection with the Planning Board hearing.

The proposed changes involve modifications to Chapter 122 (Zoning), which includes specific criteria for accessory units (Section 122-233). However, Chapter 86 of the City Code (General Provisions) also contains seven (7) criteria for accessory units (Definitions, Section 86-9). The modifications to Chapter 122 (Zoning) as proposed by the Planning Board are potentially in conflict with the provisions contained within Section 86-9 (General Provisions, Definitions). Specifically, Section 86-9 requires that the accessory unit be “deed restricted as affordable.” The proposed language recommended by the Planning Board simply states that the accessory unit “shall be in concurrence with the City’s workforce housing guidelines.”

Subsequent to the First Reading at City Commission, Planning staff, along with Building staff and the City Attorney, have worked to address potential concerns associated with the proposed amendments. Collectively, City staff recommend several modifications of the proposed amendment to simplify and streamline the review process associated with Accessory Units. This includes the following:

- Exempting Accessory Units from lot coverage requirements.
- Exempting Accessory Units from impervious surface requirements, provided that all stormwater can be retained on site as certified by a licensed engineer.
- Exempting Accessory Units from applicable landscape requirements.
- Reducing front yard setback requirements for Accessory Units to the existing setback for the principal structure or the average depth of front yards on developed lots within one hundred (100) feet on each side, whichever is less.
- Eliminating parking requirements for Accessory Units.

Finally, staff is recommending that the income of the occupant of the Accessory Unit also be incorporated into the Ordinance. This eliminates the current omission in the Code which regulates the rent for the unit but not the income of the occupant. A copy of both the Planning Board resolution and subsequent amendments to the Ordinance recommended by City staff are included for the Commission’s reference.

Procurement

No anticipate impacts.

Recommendation

This item was recommended for approval by the Planning Board at their December 12, 2023, hearing. However, with direction from City Commission, City staff respectfully recommend the adoption of the revised draft ordinance.