

Objections to Land Development Regulation changes to implement Policy 1-1.17

Last Stand recommends that the Planning Board reject the Land Development Regulation changes to implement policy 1-1.17 because important criteria in sections 90-521 and 90-522(a) have not been met.

Criteria (3) Changed Conditions. Since the Comprehensive Plan was adopted, it has become much clearer that changing climate conditions have resulted in the rapid acceleration of tropical storms into major hurricanes. Examples include 2017 Hurricane Harvey and 2018 Hurricane Michael. This results in the clear potential that Phase I and later phase evacuations will occur simultaneously. The ROGOs already allocated by the State of Florida to Monroe County and its municipalities will fill up the 24-hour evacuation stream. When fast developing storms in the future compress evacuation into less than 48 hours currently planned, occupants in units created by the Affordable Workforce Housing Initiative will be evacuating in the same stream as permanent residents that already use all available evacuation capacity. This will unnecessarily endanger lives.

Criteria (7) Economic effects. The general welfare of Key West residents will be adversely affected because the restrictions on early evacuation are unenforceable, making it likely that residents in Affordable Workforce Housing Initiative units will evacuate after Phase I.

1. The deed restriction requiring evacuate during Phase I evacuation is not enforceable. Key West Police and Emergency Managers will not have sufficient manpower to insure Affordable Workforce Housing Initiate unit tenants evacuate as required by their lease.
2. It is doubtful that a lease restriction requiring early evacuation is enforceable in a court of law. The City Attorney should seek an expert opinion on specific language to be required in an Affordable Workforce Housing Initiate unit as to whether it will be possible to penalize or evict tenants under that lease. We have been advised that this is not a provision that will be enforced by a judge. If the units are built and the provision is in fact not able to be enforced, both these unit tenants and Key West residents will be endangered when evacuating after Phase I.
3. Allowing additional units under the Affordable Workforce Housing Initiate will adversely affect the general welfare by trying to put too many vehicles into the evacuation stream at the risk that not all vehicles that need to travel 120 miles to Miami-Dade County Line will be able to do so safely. Key West residents will have already suffered the consequences of too many vehicles evacuating before any lease provisions will be enforced.

Criteria (10) Other Matters. The Planning Board should consider the lack of available land to use 300 allocations within the City of Key West. It is likely that some portion of the 300 units will be used outside city limits in unincorporated Monroe County, where the city will be unable to enforce restrictions to evacuate in Phase I. It is unclear that Monroe County will be accepting an allocation of Affordable Workforce Housing Initiative units. If Monroe County has not changed its comprehensive plan and land development regulations, early evacuation required of these units will be unenforceable.