



EXECUTIVE SUMMARY

To: Jim Scholl, City Manager

From: Amy Kimball-Murley, AICP, Planning Director

Meeting Date: September 21, 2010

RE: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO CHAPTER 18, BUSINESSES, OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST TO INCLUDE A CONDITIONAL APPROVAL PERMIT; AND PROVIDING AN EFFECTIVE DATE.

ACTION STATEMENT:

Request: Approval of an amendment to the Code of Ordinances to create a “Conditional Approval Permit” to encourage better monitoring and enforcement of conditions associated with land use approvals.

Location: City-Wide

BACKGROUND:

In November of last year the Planning Board recommended approval of a draft ordinance that encouraged better monitoring and enforcement of conditions associated with certain types of approvals regularly reviewed by the Board. The draft ordinance was initially scheduled for consideration by the City Commission in February 2010; however, the City Attorney requested additional time to review potential legal concerns associated with language in the ordinance. Several administrative issues also arose, and over the last month staff has worked with the City Manager’s office and the Legal Department to resolve concerns and redraft sections of the ordinance. The Planning Board recommended changes to the draft ordinance on June 10, 2010 via Resolution Number 2010-022 (see attached).

The ordinance is intended to accomplish two important functions that can not occur today:

- Create an annual renewal and inspection process which will serve as a gentle reminder of conditions associated with the approval; and,
- Create an option for removal of the approval if an owner does not operate the facility in compliance with the conditions.

Because conditions often resolve important concerns which might otherwise prevent a recommendation of approval, they can represent important operational commitments. The Planning Board perceives these commitments as a kind of promise made to the community in each approval that they grant. However, because current code compliance approaches cannot affect the underlying approvals even in instances of chronic violators, and because with time even the most well-intentioned owners might forget obligations associated with the approvals, the Planning Board has a long standing concern that conditions alone are not enough to assure proper long term operation.

This ordinance anticipates that recipients of land use approvals with conditions (Conditional Use Approvals, Minor and Major Development Plans and Transient Units Transfers) will obtain an annual permit (much like an entertainment license or a mobile vender license). An inspection is also included. The ordinance includes an annual inspection and permitting fee of \$150. Any changes to the fee in the future will be approved by resolution.

The draft ordinance is not a Land Development Regulation modification; therefore procedural requirements in the code for changes to the Land Development Regulations are not applicable.

Previous City Actions:

- October 15, 2009: Planning Board discussion of draft ordinance
- November 19, 2009: Planning Board recommendation of approval
- June 10, 2010: Planning Board recommendation of approval of revised ordinance

Options/Advantages/Disadvantages:

Option 1: Recommendation of Approval

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** The Strategic Plan is silent on issues associated with this ordinance.
2. **Financial Impact:** The ordinance would require the City Commission to establish a yearly fee which would offset staff time to implement the permitting and inspection associated with the ordinance.

Option 2:

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** The Strategic Plan is silent on issues associated with this ordinance.

2. Financial Impact: There would be no financial impact to the City.

Recommendation

The Planning Department recommends **approval** of the proposed ordinance.

K:\LDR Amendments\Conditions of Approval Enforcement\092110-cc executive summary.doc