



## THE CITY OF KEY WEST

1300 White Street – Key West, Florida 33040

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**To:** Chairman and Planning Board Members

**From:** Katie P. Halloran, Planning Director

**Meeting Date:** December 19, 2024

**Application:** **Text Amendment of the Land Development Regulations** – Land Development Regulations Amendment - Barton W. Smith, Attorney, on behalf of Stockrock SI LLC, Island-West Investment Corp., Poinciana - Venture II LLC, and Meisel Holdings FL - 1321 Simonton Street, seeks to amend the Land Development Regulations Chapter 122 (Zoning) Article V, Division 10 (Work Force Housing) pursuant to Section 90-518 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** A request to amend the Land Development Regulations to modify the requirements for Work Force Housing.

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### **Update and Background:**

This amendment was originally presented to the Planning Board at a Special Called meeting on July 23, 2024. At the November 21 Planning Board hearing, the Planning Board indefinitely postponed agenda item #2 item which represented staff-prepared amendments to the City's workforce housing ordinance; the draft ordinance was not attached to the November agenda. The Board expressed concern that staff and the legal team representing this item had not brought a combined draft ordinance for review. Since that time, the Assistant Director of the Planning Department, Dan Gulizio, who was assigned to this application, has resigned. The Director and other staff have stepped in to continue review of the application. The applicant requested tracked changes and comments on the applicant's draft, which were transmitted, and staff then met with the applicants, represented by Bart Smith and Anthony Davila. Staff appreciates that some components of the applicant's draft amendments are advantageous to the public and facilitate the development of workforce housing. Staff further appreciates that the applicant has further modified some provisions of the draft amendment, after discussions. However, disagreements regarding major substantive components of this draft amendment remain.

### **Analysis**

One of the fundamental concerns associated with this code amendment is that it waives a vast majority of existing performance criteria and dimensional standards while eliminating the opportunity for public hearings and appeals for the most high-density developments in the City. This proposal conflicts with dozens of Comprehensive Plan policies.

Another fundamental concern associated with this code amendment process is that it has not directly included any rental advocates, such as members of the workforce, entities such as Habitat for Humanity, or



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affordable housing experts such as the Florida Housing Coalition. It has not involved single family property owners, or the Historic Architectural Review Commission which was established by Charter and tasked with overseeing development in the historic district. Staff agrees that the voices of experienced for-profit affordable housing developers are critical to develop reasonable, defensible laws to promote affordable and workforce housing in Key West, but not at the exclusion of other stakeholders who may be able to help develop workforce housing code amendments with a more balanced approach.

This staff report shall not function to replace the previous staff published for the November 21, 2024, Planning Board hearing, instead it shall serve as an addendum to the record.

### **Staff Analysis:**

1. The applicant's proposed new laws regarding transfers of development rights, ("Division 15. Transfer of BPAS-Exempt Units") must be postponed. This item diverges significantly in substance from the concepts noticed in conformance with City Land Development Regulations associated with the processing of text amendments. This new proposed section of code was submitted after the initial application and should not proceed at this time.
2. The applicant's proposals are largely based on the experience of their team of for-profit affordable housing developers and land use attorneys representing development interests. Significant components of the proposal would emphasize the development of housing for single workers in employer-owned, dormitory-style housing (housing up to 8-12 people per unit), rather than housing types that accommodate diverse needs of the workforce, including families. Staff is concerned that this would magnify the trend of families and business owners being priced out of Key West, and start a new trend wherein new affordable housing units are available only to single corporate employees. Staff acknowledges that there is a high demand for one- and two-bedroom rentals, and believes there is a lack of analysis regarding the impact of prioritizing single workers.
3. The applicant maintains that the City will suffer legal challenges if it continues to require any affordable housing mitigation associated with redevelopment, or substantial improvement, given the applicant concludes that redevelopment of existing structures does not contribute to a need for additional workforce. As a result, their proposal walks back multiple aspects of the City's existing workforce housing laws. The Planning Department has not yet had time to confer with the City's Legal staff regarding this assertion; however notes that the City has not received any legal challenges regarding this aspect of City law to date.
4. The proposal would modify how building height is calculated for certain developments, which would allow developments to exceed maximum height requirements without an approved referendum, which is currently required. Instead, building heights in excess of current limits would be approved by-right without public hearing. Currently, building height is measured from the "... crown of the nearest adjacent street to the highest point of the proposed building." (Section 122-1149) The applicant proposes the following definition:



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Section 122-1474(2) Height. Building height shall be measured from base flood elevation or existing pre-fill grade or the crown of the nearest adjacent street, whichever is higher, to the highest point of habitable space of the proposed building and shall not include mechanical equipment including mechanical equipment and elevator shafts or roof lines or parapets utilized to hide mechanical equipment and elevator shafts. A building level dedicated to ground level parking that does not contain habitable space shall not be considered a building "story."

Staff finds it paramount to seek and maintain public trust and transparency and believes it is disingenuous to those voters that participated in the City's height referendum, which established height in the City's Charter, to redefine how building height is measured in the City of Key West. Staff has stated that certain areas outside the historic district, which are sufficiently supported by stormwater infrastructure, and near evacuation corridors, may be ideal candidates for increased height. Allowable height increases, tempered by design standards, to ensure higher density development without negatively impacting surrounding neighborhoods may be supported by the electorate. However, this change should occur through a referendum. Staff cannot support circumventing the City Charter by changing established definitions of fundamental development standards.

5. In some instances, the City's workforce housing ordinance triggers a requirement for developers and property owners to construct or deed restrict new affordable workforce housing units. The applicant's amendments would allow for these required affordable projects to be linked, or constructed, up to 30 miles away from the City. This conflicts with numerous Comprehensive Plan objectives to build workforce housing in close proximity to employment centers. It would also exacerbate traffic congestion, which has become increasingly problematic in recent years; for example, average travel speed on US1 in Stock Island decreased by 5 miles per hour between 2021 and 2023, according to data reported in Monroe County's draft 2023 US1 Arterial Travel Time study.

Policy makers are encouraged to further study the long-term consequences of allowing workforce housing linkage projects miles beyond the city limits of the City of Key West. There are clearly more opportunities for less costly land outside the city limits, but removing the workforce from close proximity to their places of employment, schools, and other services will have impacts that have not been sufficiently analyzed to date.

6. One of staff's most notable concerns related to the applicant's proposed amendment, is the component erroneously entitled, "Section 122-1474 Live Local Act Implementation." The Live Local Act is a state law which already applies to the City of Key West. This section of the applicants' amendments is a misnomer, and in substance, surpasses the parameters of the state law. If these amendments are adopted, thousands of property owners throughout the City of Key West will lose their rights to receive public notice associated with certain eligible proposed multifamily



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developments, which may be composed of more market rate units than workforce units. The applicant has proposed significant relaxation of site development standards including landscaping, setbacks, building coverage, and height (as noted above); these relaxations would no longer be subject to public consideration or comment. To preempt development standards for the most high-intensity type of development in the City runs counter to the Comprehensive Plan and fundamental urban planning principals. Staff opines these changes erode government transparency, open communication and ultimately trust in government. New developments constructed through this new provision may have significant negative impacts on neighborhood character and traffic. Staff instead suggests that stakeholders work on more focused code amendments to facilitate workforce housing development.

The applicant has stated that existing density bonuses in the City code are not effective, and staff agrees that improvements can be made. However, removing the rights of property owners and residents to have input on the development of potentially thousands of new housing units is contrary to basic principles of urban planning and may affect private property values throughout the City. Staff is not aware of any city in the state of Florida that has adopted similar policies to allow for administrative approval of major developments.

7. The applicants' amendment is in conflict with multiple City of Key West Comprehensive Plan Goals, Objectives and Policies. It is in conflict with Area of Critical State Concern Principles for Guiding Development, including the objective to "strengthen local government capacity for managing land use and development." It conflicts with numerous Code provisions, and does not advance the public health, safety, and welfare as outlined above (Chapter 90, Division 2, Section 90-243) The proposed amendments do not further the ability of the city to implement the Comprehensive Plan as mandated by state law, and instead reverse oversight of new development.

Below is a non-exhaustive list of Comprehensive Plan policies with which the proposed amendment conflicts:

### **Chapter 1: Future Land Use Element:**

- Policy 1-1.14.7: - Manage Current Developmental Impacts,
- Policy 1-1.14.8: - Urban Design and Community Appearance.
- Policy 1-1.1.3: - Intensity Defined.
- Policy 1-1.1.4: - Affordable Housing and Compact Development Incentives.
- Policy 1-1.1.6: - Historic Preservation Areas.
- Policy 1-1.2.1: - Provide Access to Goods and Services and Protect Residential Areas from the Adverse Impacts of Transition in Land Use.
- Policy 1-1.2.2: - Promote Orderly Land Use Transition
- Objective 1-1.5: Promote community appearance, natural amenities and urban design principles.



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- Policy 1-1.5.1: - Land Development Regulations for Gateway Corridors.
- Policy 1-1.5.1: - Reinforce and Enhance the City's Community Appearance.
- Policy 1-1.9.2: - Comprehensive Plan Implementation and Land Development Regulations.

### **Chapter 3: Housing Element:**

- Goal 3-1: 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.
- Policy 3-1.1.7: - Affordable Housing Dwelling Unit Eligibility
- Policy 3-1.1.8: - Affordable Housing Applicant Eligibility Requirements.
- Policy 3-1.1.11: - Selecting Sites for Affordable Housing for Low and Moderate Income Households.

In summary, staff agrees that the need for workforce housing in the City of Key West is critically important. However, the City should utilize other policy amendments and new programs to repurpose existing housing, before taking more drastic measures to facilitate the construction of potentially thousands of new housing units with less public participation in the development review and approval process.

### **Land Development Regulations Text Amendment Process:**

Planning Board Meeting:	December 19, 2024 (postponed July 23, 2024 and November 21, 2024)
City Commission (1st Reading):	TBD
Dept. of Commerce (1st Review):	Up to 60 days
City Commission (2nd Reading / Adoption):	TBD
Local Appeal Period:	30 days
Dept. of Commerce Review (2nd Reading):	Up to 45 days
Dept. of Commerce Notice of Intent (NOI):	Effective when NOI posted to DOC site

### **Recommendation:**



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At this time, staff is respectfully recommending that the Planning Board recommend adoption of the Non-Residential or Commercial Work Force Housing code *as provided in the staff version of the workforce housing code amendment and as codified by Monroe County*, along with an increase in the Payment-In-Lieu fee contained within the existing Work Force Housing Ordinance, to \$400,000.00, along with the new voluntary deed restriction program financed through the Affordable Housing Trust Fund outlined in the staff-drafted workforce housing code amendment. Staff recommends that the applicant's text amendments be reviewed by a balanced group of property owners, renters, architects, and policy makers before it advances to City Commission.