



THE CITY OF KEY WEST

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To: City Commissioners
From: Division of Community Development Services
Date: March 11, 2014
Subject: Building Height – Referendum and LDR Amendment Process

Statement of Problem

The City of Key West is a low lying island with a maximum topographic elevation of 16' above sea level, leaving the city, its residents and assets vulnerable to flooding from high tides, storm surge and sea level rise. Furthermore, the island substrate is permeable limestone and cannot be buffered from water inundation. The City's adopted Climate Action Plan, consistent with regionally adopted standards, anticipates an increase in the number of intense storms in the region and predicts that sea levels will rise between 3" and 7" feet by 2030. According to NOAA tidal gauges, the tide has risen 9" since 1870, causing an increase in flooding throughout the city on a regular basis, limiting access to homes and businesses, and causing water damage during marginal rain storm events and/or high tides.

According to the FEMA NFIP rate maps nearly 2/3 to 3/4 of the City is currently located within the Special Flood Hazard Area and susceptible to the negative effects of sea level rise. In order for the city to adequately protect the city's tax base and private property from high insurance cost and water damage it is critical that the City's Land Development Regulations facilitate the ability for property owners to elevate their property above the flood plain.

Conversely, the current building height restrictions do not anticipate the city's need to adapt for sea level rise and are too low to effectively adapt the existing and future housing stock and commercial structures, built on small properties within a dense urban land fabric. Further, the height restrictions in the Land Development Regulations are restricted by the charter and subject to change only upon approval of a majority public vote at a general municipal election (Charter Section 1.05 (a)).

Solution Statement

Staff recommends that the City Commission consider a referendum item for the November election to consider allowing additional height for buildings that elevate their structures in order to construct livable area above the flood plain. The maximum amount of height would be limited as follows:

Draft Approach – Referendum Language (75 words or less)

In city areas wherein the maximum building height is 35 feet or less, should the building height restrictions contained in the land development regulations be amended to allow one foot of additional building height for each one foot of elevation above the base flood elevation of up to 5 feet within the VE and AE flood zones on NFIP's rate map to protect against flood damage and lessen the cost of flood insurance citywide?

Why go through the process of amending LDR's related to building height?

1. *Roadblock to property protection* - Current building height restrictions create a roadblock for property owners attempting to protect their assets.
2. *Stable tax base* - Protecting property facilitates stability of property values and tax base.
3. *BW 12* - October 1, 2013 Brigit Waters 12 became effective eliminating the National Flood Insurance Policy subsidy program. Although negotiations have postponed the new flood insurance rates from taking effect they are inevitable. For nonconforming properties (majority of city), the rate increase will be significant. Drastic discounts provided for elevating structures out of the floodplain with steeper discounts for freeboard protection.
4. *CRS Rating* - Creating mandatory building height elevation automatically elevates our CRS rating, systematically lowering everyone's flood insurance rates.
5. *FEMA NFIP Rate Map Changes looming* – loss of 1 foot BFE likely citywide (possibly 2018).
6. *Climate Change Action Plan* - Adopted Sea Level Rise predicts 3-7" by 2030 and 9-24" by 2060. Meets Adaptation needs for City's Adopted Climate Change Action Plan.
7. *New BPAS units* - Minimum of 910 new residential BPAS units to be constructed by 2023 required to be built 1.5' above BFE.
8. *Timely* - LDR Amendment Overhaul Process beginning now.
9. *Best interest of Community* - Best interest of property owners and the community as a whole.

What happens if we don't do anything?

1. More and more private and public property will be subject to flooding and or insurance defaults due to height restrictions that prevent existing structures
In light of regulations that new development and substantial improvement be built 1' above Base Flood Elevation, building reasonably sized
Land Development Regulations will or existing structures from elevating to protect themselves from rising sea level, storm surge, high tides, heavy rain events and raising insurance rates. The city may be subject to lawsuit.
2. Many properties may go into foreclosure due to inability to pay high flood insurance costs.
3. Tax base may be negatively affected.
4. The City's CRS rating will remain stagnant and low, and citywide flood insurance rates will remain high.

Positive and Negative Considerations of Approach

Positive

1. Simple and easy to understand.
2. Protects the existing height and character of districts outside of the Special Flood Hazard Areas such as the majority of the Historic District.
3. All of residential neighborhoods would still maintain a maximum height of 35-40'. Below Tree height.

4. Responds to Federal and local request to improve the City's Community Rating System (CRS) by FEMA.
5. New policy would automatically improve City's CRS, lowering flood insurance rates throughout the city.
6. Shows leadership on a national level.
7. Provides flexibility for future FEMA Flood Map amendments.
8. Accommodates potential 3' sea level rise predictions.
9. In some cases it may provide space for property owners to park or have storage beneath the house.
10. Potential to invite development – raising property values.
11. Limits amount of legislative changes necessary (see below).

Negative

1. The character of the traditional, ground level neighborhoods, characteristic of the single family zoning district, will begin to change. Particularly in the lowest places on the island.
2. Perception of massing and scale.

Other Elements Taken into Consideration

These statements were all weighed and considered by staff in order to formulate the most responsible approach as proposed.

- Consider amending height restrictions by flood zone district instead of land use zoning district.
- Consider amending the definition of Building Height (where height is measured from) instead of using the reference point of the crown of the road.
- Limit the number of stories allowed.
- Provide flexibility for: future changes to flood insurance maps; future rate hikes; storm surge; sea level rise; and mitigates flood insurance risk for 910 new Building Permit Allocation System units.
- Provides minimum and maximum.
- Use design standards in future LDR amendments to mitigate changing character of neighborhoods.
- What about in the X – zone and Historic preservation concerns?
- Florida Building Code provides exceptions to Brigget Waters (BW 12) for contributing structures (Ch. 11).
- Will 5' of height facilitate ability for some structures to add parking and storage below house?
- November 4, 2014 – Timeline for ballot request (see attached).
- Referendum is no cost to the City.
- Will approach accommodate existing structures in the lowest lying areas (SF district)? Code currently allows 5' for a pitched roof.
- BW 12 reclassifies the threshold for redevelopment that triggers the elevation of a structure – 30% of value of the building constitutes “substantial improvement”; 50% of the value is considered “substantial damage.”

Legislative Considerations:

Existing Supporting Legislation -

Comprehensive Plan Policy 1.1.12.5: Increased Height: The City shall consider allowing increased heights for new construction or redevelopment if such additional height is justified based on adopted Coastal High Hazard Maps and Storm Surge Flood Maps in order to promote safe new development

and redevelopment based on sea level rise predictions. Such additional height must be compatible with surrounding development.

This approach supports Limited Policy Amendments -

- **Changes to the LDR's would be limited to new language in Chapter 122** including: the Supplemental District Regulations, and perhaps the addition of references to each zoning district Section for clarity.
- **No existing LDR's referencing height would be removed.**
- **No changes to the Comprehensive Plan are necessary** if definition of "Building Height" is not changed.
- **Changes to the HARC Guidelines are not likely necessary**

Focus Groups and Key Partners

Board of Realtors, Sustainability Advisory Board, Last Stand, USGBC, GLEE, HARC, Insurance Companies, League of Women Voters, Architect organizations, Planners Forum, County and State, Developers and Public Participants, Historic Preservation groups, Chamber of Commerce and the Business Guild.

Attachments:

1. Exhibit 1 - 2014 Referendum and LDR Amendments Timeline
2. Exhibit 2 – BW 12 Update. 20140305 email from Scott Fraser
3. Exhibit 3 – Massachusetts Coastal Zone Management Smart Cost information
4. Exhibit 4 - FEMA NFIP rate maps (pending)
5. Exhibit 4 - District Map
6. Exhibit 5 – 2011 Key West Stormwater Master Plan Topography Map
7. Exhibit 6 – FEMA Repetitive Loss and Severe Repetitive Loss Map
8. Exhibit 7 – FEMA Repetitive Loss and Severe Repetitive Loss Map Enhancements
9. Exhibit 8 – City of Key West Storm Surge Map, Engineering Services, 2012
10. Exhibit 9 – Adopted Comprehensive Plan Coastal High Hazard and Storm Surge Map