



THE CITY OF KEY WEST
PLANNING BOARD
Staff Report

To: Chairman and Planning Board Members

From: Katie P. Halloran, Planning Director

Meeting Date: March 17, 2022

Agenda Item: **Text Amendment of the Land Development Regulations**– A Resolution of the City of Key West Planning Board recommending an Ordinance to the City Commission amending Chapter 122 of the Land Development Regulations, entitled “Zoning”, Article IV, entitled “Districts”, Subdivision III. - Single Family Residential District, Section 122-233. – Special criteria applicable to accessory units, and Section 122-232. – Accessory units.

Request: The proposed ordinance to amend the City’s Land Development Regulations is designed to further incentivize construction of Accessory Units in the Single-Family zoning district and to correct an error in Section 122-232.

Applicant: Commissioner Mary Lou Hoover through the City of Key West

Background:

The proposed ordinance to amend the City’s Land Development Regulations has been requested in order to ensure consistency between the requirements of the accessory unit regulations for properties in the Single Family zoning district (Section 122-233) and the definition of affordable housing (median income) for a rental dwelling unit in Section 122-1466, - Definitions, in the Code of Ordinances of the City of Key West.

Currently, property owners contemplating construction of a deed restricted affordable accessory unit are required to limit rental rates, including utilities, to not more than 15 percent of the median household income in the county. This provision conflicts with and is more restrictive than the definition of affordable housing (median income) in the City’s Workforce Housing ordinance which allows the unit’s rental rate, not including utilities, to be up to 25% of median household income, adjusted for family size, for Monroe County.

This discrepancy creates an unreasonable burden on those property owners that desire to construct an accessory unit. The rental rate restriction at 15% of the annual Monroe County median family income (AMI) may discourage construction of these accessory units by extending the time required for the owner to recoup initial construction and design costs.

For reference, for 2021, annual median family income (AMI) for Monroe County was \$71,200 for a one-person household (see attached “Rental Affordable Housing Units, Monroe County 2021 Qualifying Income Limits” document). City of Key West Code requires accessory units to be efficiencies or one bedroom, unless a larger unit is approved by variance through the Planning Board. City Code Section 122-1472.- Family size, states that the assumed family size for an efficiency (no separate bedroom) is one occupant. A

one bedroom unit is assumed to have a family size of two occupants. The monthly rental rate, including all utilities, for a one-person household per existing Code Section 122-233 would be \$890 ($\$71,200 \times .15/12 = \890), and ($\$81,400 \times .15/12 = \$1,017.50$) for two people.

If this proposed text amendment is approved, the rent, not including utilities, for a single person in an accessory unit could reach up to \$1,483 (based on 2021 Annual Median Family Income) ($\$71,200 \times .25/12 = \$1,483$). The rent for a two-person household could reach up to \$1,696, not including utilities ($\$81,400 \times .25/12 = \$1,696$). Although these are higher rents for prospective tenants, they may help to incentivize private property owners to construct more of these under-market-rate units.

Also Section 122-232. – Accessory units, currently includes an error. It states, “ The building permit allocation methodology includes a permit formula in which one accessory unit equals 0.55 dwelling unit.” This is incorrect; the correct Equivalent Single Family Unit Factor for accessory units (not exceeding 600 feet) is established in Comprehensive Plan Policy 1-1.16.3 (“Permit Allocation System Ratios by Structure Type) and Code Section 108-994, as 0.78.

Request / Proposed Amendment: *Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.

Sec. 122-232. Accessory units.

The single-family residential district (SF) shall accommodate one accessory attached or detached unit per principal dwelling unit so long as the accessory unit is duly approved pursuant to the building permit allocation system, as provided in article IV of chapter 54, and meets the criteria cited in this subdivision. The building permit allocation methodology includes a permit formula in which one accessory unit equals ~~0.55~~ 0.78 dwelling unit. Accessory units shall meet all size and dimension requirements of a principal structure and shall not be excluded from impact fee provisions.

(Ord. No. 97-10, § 1(2-5.2.2(A)(1)), 7-3-1997)

Sec. 122-233. Special criteria applicable to accessory units.

- (a) Accessory units proposed within the single-family residential district (SF) shall meet the following criteria:
 - (1) ~~Each unit shall have a rental rate, including utilities, not exceeding 15 percent of the median household income in the county. 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.
 - (2) Accessory units shall be restricted to occupancy by permanent residents.
 - (3) Accessory units shall not be sold separately as a condominium.
 - (4) When an accessory unit permit is originally initiated, the principal unit must be owned and occupied by a permanent resident.
 - (5) Accessory units shall not take up more than 40 percent of the principal structure.

- (6) Accessory units shall comply with maximum impervious surface regulation within the SF district. Parking surfaces shall not be counted as open space.
 - (7) Accessory units shall comply with applicable landscaping requirements.
 - (8) Accessory units shall comply with the maximum threshold for lot coverage by impervious surfaces.
 - (9) Parking requirements shall be satisfied by both the principal and accessory unit.
 - (10) Density shall be calculated based only upon the number of principal units on a site.
 - (11) Accessory units shall not exceed 600 square feet and the minimum size shall be 300 square feet.
- (b) Any application for accessory units shall include deed restrictions which shall be filed with the city and the clerk of the circuit court. The deed restrictions shall incorporate mandatory compliance with the criteria cited in subsection (a) of this section.

(Ord. No. 97-10, § 1(2-5.2.2(A)(2)), 7-3-1997)

**Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.*

Land Development Regulations Text Amendment Process:

Planning Board Meeting:	March 17, 2022
City Commission (1st Reading):	TBD, 2022
Local Appeal Period:	30 days
DEO Review (1st Reading):	Up to 60 days
City Commission (2nd Reading / Adoption):	TBD, 2022
Local Appeal Period:	30 days
DEO Review (2nd Reading):	Up to 45 days
DEO Notice of Intent (NOI):	Effective when NOI posted to DEO site

Analysis:

The purpose of Chapter 90, Article VI, Division 2 of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) is to provide a means for changing the text of the Land Development Regulations. It is not intended to relieve hardships nor to confer special privileges or rights to any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the Planning Board and the City Commission shall consider the consistency of the proposed amendment with the intent of the Comprehensive Plan.

Pursuant to Code Section 90-552, the Planning Board shall hold a public hearing thereon with due public notice. The Planning Board shall consider recommendations of the City Planner, City Attorney, Building Official and other information submitted at the scheduled public hearing. The Planning Board shall transmit a written report and recommendation concerning the proposed change in the LDRs to the City Commission for official action.

The Code provides criteria by which LDR amendments must be evaluated:

Section 90-520 (6) Justification. The need and justification for the proposed change shall be stated. The evaluation shall address but shall not be limited to the following issues:

- a. Comprehensive Plan consistency. Identifying impacts of the proposed change in zoning on the Comprehensive Plan. The zoning must be consistent with the Comprehensive Plan.**

The proposed Land Development Regulation amendment will ensure consistency between the Land Development Regulations implementing the Building Permit Allocation System and those same provisions within the Comprehensive Plan. There is currently an internal inconsistency between Comprehensive Plan Policy 1-1.16.3 and Land Development Regulations Section 122-232.

With respect to the changes proposed for Section 122-233, the Comprehensive Plan Objective 3-1.1 states, "Provide Quality Affordable Housing and Adequate Sites for Low and Moderate Income Housing." This and related policies state that the City shall endeavor to provide housing for low and moderate income households. Facilitating the construction of accessory units may assist in implementation of this Objective and associated Policies.

- b. Impact on surrounding properties and infrastructure. The effect of the change, if any, on the particular property and all surrounding properties. Identify potential land use incompatibility and impacts on infrastructure.**

There will be no impact on surrounding property or infrastructure.

- c. Avoidance of special treatment. The proposed change shall not constitute a spot zone change. Spot zoning occurs when:**

- 1. A small parcel of land is singled out for special and privileged treatment:**

The proposed amendments to the LDRs will not affect the zoning of any specific parcels in the City.

- 2. The singling out is not in the public interest but only for the benefit of the landowner.**

The proposed change does not affect the City's official zoning map nor the City's future land use map. The proposed amendment will incentivize the development of workforce housing, a critical need of the community. The proposed amendment is in the public interest.

- 3. The action is not consistent with the adopted comprehensive plan.**

The proposed amendment is needed to ensure consistency between the LDRs and the Comprehensive Plan with respect to accessory unit and BPAS provisions.

- d. Undeveloped land with similar comprehensive plan future land use map designation. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested shall be stated.**

This proposed amendment is not associated with a particular Comprehensive Plan Future Land Use designation or specific zoning district.

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request to amend the Land Development Regulations be **APPROVED**.