



THE CITY OF KEY WEST
PLANNING BOARD
Staff Report

To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Dan Gulizio, Senior Planner

Meeting Date: February 9, 2024

Application: ***Text Amendment of the Land Development Regulations** - A resolution of the City of Key West Planning Board recommending an ordinance to the City Commission to invoke the Zoning in Progress Doctrine declaring that the City is considering amendments to the Land Development Regulations to adopt inclusionary affordable and workforce housing standards for commercial properties along with additional measures to promote housing opportunities for local workers and those in need of affordable and workforce housing opportunities; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Request: The text amendment would authorize the invoking of the Zoning in Progress Doctrine and permit the City Commission to consider amendments to the Land Development Regulations to better address the City's affordable and workforce housing needs.

Sponsor: Vice Mayor Kaufman with support from the Planning Department

Background

The City of Key West is uniquely limited in its efforts to meet local housing needs. Like other coastal communities, the City of Key West is geographically limited in its ability to grow. In addition, the City has a finite capacity for growth based upon a series of environmental constraints including groundwater capacity, wastewater capacity, threatened and endangered habitat types, traffic capacity associated with hurricane evacuation...etc. Most importantly, the State has designated the City of Key West and the entire Florida Keys as an "Area of Critical State Concern."

The designation of the City of Key West as an Area of Critical State Concern has included limitations on the number of new market rate and affordable housing units that can be constructed within the City. The most recent allocation of development permits included 921 market rate and affordable housing units in 2003 with 91 units in each of the following ten years. It is expected that the City will, in large part, issue almost all allocations in the 2024 allocation cycle.

Finally, the City of Key West is home to the largest Historic Preservation District in the State of Florida. Development within the City’s Historic District is further limited by design guidelines that have been adopted by the City and approved by the State Historic Preservation Office – commonly referred to as the Florida Division of Historic Resources.

Taken together, these limitations make the development of affordable and workforce housing particularly challenging in the City of Key West. Growth restrictions tied to the Area of Critical State Concern prevent the City from promoting the development of higher density housing patterns through incentive-based zoning strategies. At the same time, environmental and geographic constraints have historically limited both the location and density of housing.

Staff Analysis:

The Zoning in Progress Doctrine has been used in the past by the City Commission to address ongoing development trends. Most recently, the Doctrine was invoked in order to address the development of pain clinics and their associated impacts throughout the region.

Under the Zoning in Progress Doctrine, the City is provided a period of time to develop regulatory controls to better meet ongoing challenges. In this instance, the development of affordable and workforce housing represents the single biggest challenge facing the City and Keys region as a whole. It is anticipated that Planning staff, working in cooperation with the Housing and Community Development Director, the City Attorney’s Office, the Building Department, and other departments will develop additional strategies to address ongoing housing shortfalls. Under particular consideration is the development of inclusionary non-residential (commercial) affordable and workforce housing policies. Similar inclusionary non-residential or commercial programs already exist in Monroe County and the Village of Islamorada.

It is anticipated that the initial period under consideration will be six (6) months. The intent is to move quickly in order to minimize the impact on individual property owners to the greatest extent possible. The proposed draft ordinance is attached.

Land Development Regulations Text Amendment Process:

Planning Board Meeting:	February 15, 2024
City Commission (1st Reading):	TBD, 2024
Local Appeal Period:	30 days
DEO Review (1st Reading):	Up to 60 days
City Commission (2nd Reading / Adoption):	TBD, 2024
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.

Code Section 90-520 (6) 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:

The stated justification for the proposed amendment is to provide City staff with an opportunity to develop improved regulatory controls to better address regional and local affordable and workforce housing needs.

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 invocation of the Zoning in Progress Doctrine is consistent with numerous Comprehensive Plan goals, policies, and objectives. Specifically, this includes the following:

- Policy 1-1.1.4: - Affordable Housing and Compact Development Incentives.
- OBJECTIVE 1-1.17: - WORKFORCE-AFFORDABLE HOUSING INITIATIVE.
- Policy 1-1.17.1: - Distribution of Workforce-Affordable Housing Allocations.
- Policy 1-1.17.2: - Specific Standards and Requirements for Workforce-Affordable Housing.
- GOAL 3-1: - HOUSING. 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.
- OBJECTIVE 3-1.1: - PROVIDE QUALITY AFFORDABLE HOUSING AND ADEQUATE SITES FOR LOW AND MODERATE INCOME HOUSING.
- Policy 3-1.1.2: - Developing Public/Private Partnerships.
- Policy 3-1.1.5: - Affordable Housing Trust Fund.
- Policy 3-1.1.10: - Design Guidelines for Affordable Housing.
- Policy 3-1.1.11: - Selecting Sites for Affordable Housing for Low and Moderate Income Households.
- OBJECTIVE 3-1.7: - CONSERVE NEIGHBORHOOD QUALITY AND EXISTING HOUSING STOCK.
- Policy 3-1.7.1: - Promote Maintenance of Housing Stock and Neighborhood Conservation.
- Policy 3-1.7.5: - Continuing Housing Programs.

- 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.*

Any potential impacts will be temporary and limited in scope as the Zoning in Progress Doctrine is expected to be invoked for an initial period of 6 months. Additional extensions of the Doctrine will be subject to further review and dependent on the advancement of additional regulatory controls needed to address the region's ongoing housing crisis.

- 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 amendment is not specific to a single parcel.

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

The proposed amendment is not specific to a single parcel.

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

The action is consistent with the adopted comprehensive plan which speaks to the need to provide a variety of housing types, including affordable and workforce housing opportunities to those in need and the local workforce.

- 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.

CONCLUSION

The development of affordable and workforce housing opportunities is the single biggest challenge facing the City. In addition to meeting the needs of local residents, the provision of affordable and workforce housing is critical to the health of the local tourist economy. Absent the ability to attract and retain high-skilled local workers, the resort industry, restaurant, and retail sectors of the economy will suffer. In addition, the region's multi-billion-dollar marine economy is dependent on its ability to both attract and retain workers.

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 invoke the Zoning in Progress Doctrine be recommended for APPROVAL to the City Commission. Respectfully submitted to the Board for use in making its determination.