




MEMORANDUM

Date: May 9, 2024

To: Honorable Mayor and Commissioners

Via: Albert P. Childress 
City Manager

From: Katie Halloran,
Planning Director

Subject: **File 24-5399 - Text Amendment of the Land Development Regulations** - A 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; Directing Building and Planning Department staff to defer the acceptance and processing of Major Development Plan applications associated with the Limited Commercial (CL) and/or General Commercial (CG) Districts whose construction costs meet or exceed \$1,500,000.00 in value as determined by the Chief Building Official; continuing this policy until new permit requirements and/or amended Land Development Regulations are adopted by the City Commission or until after the passage of 120 days from the date of this ordinance, whichever occurs first; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Introduction

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.

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 2013 with 91 units in each of the following ten years. It is expected that the City will issue its last allocations in the 2024 or 2025 allocation cycles.

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 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.

Land Development Regulations Text Amendment Process:

Planning Board Meeting:	February 15, 2024
City Commission (1 st Reading):	April 11, 2024
Dept. of Commerce (1 st Review):	Up to 60 days
City Commission (2 nd Reading / Adoption):	May 9, 2024
Local Appeal Period:	30 days
Dept. of Commerce Review (2 nd Reading):	Up to 45 days
Dept. of Commerce Notice of Intent (NOI):	Effective when NOI posted to DOC site

Recommendation:

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.

The Planning Board, after due public hearing, recommended to DENY the invoking of the Zoning in Progress Doctrine to the City Commission. The Planning Board stressed the need to develop needed amendments to the City's existing affordable and workforce housing code without any delay in the processing of individual development permits. Subsequently, the city Commission on April 11, 2024 recommended the adoption of the Zoning in Progress Doctrine with a number of additional limitations. Specifically, the City Commission recommended the following:

- Increasing the project cost to \$1,500,000
- Limiting the application of the Doctrine to Major Development Plans
- Limiting the establishment of the Doctrine to 120 days
- Limiting the Doctrine to the Limited Commercial (CL) and General Commercial (CG) Districts

The Ordinance amendment has been modified consistent with the direction of the City Commission. Respectfully submitted to the City Commission for use in making its determination.

Request/Proposed Text Amendment:

*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, INVOKING 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; DIRECTING BUILDING AND PLANNING DEPARTMENT STAFF TO DEFER THE ACCEPTANCE AND PROCESSING OF MAJOR DEVELOPMENT PLAN APPLICATIONS ASSOCIATED WITH THE LIMITED COMMERCIAL (CL) AND/OR GENERAL COMMERCIAL (CG) DISTRICTS WHOSE CONSTRUCTION COSTS MEET OR EXCEED \$1,500,000.00 IN VALUE AS DETERMINED BY THE CHIEF BUILDING OFFICIAL; CONTINUING THIS POLICY UNTIL NEW PERMIT REQUIREMENTS AND/OR AMENDED LAND DEVELOPMENT REGULATIONS AND COMPREHENSIVE PLAN POLICIES ARE ADOPTED BY THE CITY COMMISSION OR UNTIL AFTER THE PASSAGE OF 120 DAYS FROM THE DATE OF THIS ORDINANCE, WHICHEVER OCURS FIRST; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Key West City Commission desire to review existing Land Development

Regulations (LDRs) to determine whether there is a need for additional measures to promote the development of affordable and workforce housing to meet the needs of local residents and workers within the City of Key West; and

WHEREAS, the City Commission has directed Planning staff to continue to develop innovative approaches to meeting the City's growing housing needs for local workers and residents for City Commission review and adoption; and

WHEREAS, the City Planner began documented efforts concerning the subject on or before _____; and

WHEREAS, the City Commission of the City of Key West wishes to definitively place all parties on notice that it is considering amendments to the Land Development Regulations (LDRs) and Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: Zoning in Progress. The City hereby recognizes that City Planning and legal staff are preparing and processing ordinances and related Comprehensive Plan amendments that would establish new and improved workforce and affordable housing standards, including, but not limited to, inclusionary commercial workforce and affordable housing ordinances and Comprehensive Plan policies. The pending Ordinances and Comprehensive Plan policies, if adopted, will amend the City's LDRs and Comprehensive Plan. All affected property and business owners are placed on notice with respect to the pending Ordinances and Comprehensive Plan amendments and the actions being taken by the appropriate departments of the City.

Section 2: That this policy shall be in effect until new or amended Land Development Regulations (LDRs) and/or Comprehensive Plan policies are adopted by the City Commission or until the passage of 120 days, whichever occurs first. This policy may be extended by Resolution of the City Commission for additional 120 day periods to complete the tasks outlined herein.

Section 3: Public Notice. The Adoption of this Ordinance and/or Comprehensive Plan amendments shall be evidenced by placement of a notice in a newspaper of general circulation within the City, in accordance with Chapter 50, Florida Statutes, within two weeks after adoption of this Ordinance. A copy of this Ordinance shall also be posted at City Hall for the next one-hundred twenty (120) days.

Section 4: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 5: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 6: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission and approval by the State Department of Commerce pursuant to Chapter 380 Florida Statutes, however City staff shall continue to utilize the ____ date as the commencement of the implementation of the pending Ordinance doctrine.

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