THE CITY OF KEY WEST
1300 White Street – Key West, Florida 33040

To:	Chairman and Planning Board Members
From:	Katie P. Halloran, Planning Director
Meeting Date:	February 20, 2025
Application:	**Text Amendment of the Land Development Regulations -** An amendment to Land Development Regulations Chapter 122, entitled "Zoning", Article V, entitled "Supplementary District Regulations", Division 10, entitled "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. The amendment would modify Section 122-1466, entitled "Definitions" by amending definitions regarding annual income, family size, workforce housing classifications. The amendment would modify Section 122-1467, entitled "Requirements of affordable work force housing."
Request:	A request to amend the Land Development Regulations to modify the requirements for Work Force Housing.

Update

An amendment to the workforce housing division of the Land Development Regulations has been submitted by private applicants who are represented by Bart Smith of Smith Hawks, P.L. It includes amendments and new provisions related to residential inclusionary housing, commercial inclusionary housing, performance standard & dimensional criteria waivers, site linkage, definitions, and transfers of development rights.

For ease of review, the proposal has been split into four separate agenda items that the Planning Board will review individually. The February 20, 2025 Planning Board agenda includes revisions to Sections 122-1466 and 122-1467, which relates to workforce housing definitions, and residential inclusionary housing.

Staff had previously been asked to review the proposal, coordinate with the applicant, and provide a draft ordinance that incorporates components that staff would be able to support. Staff provided a version that included amendments to several Code sections, including a commercial inclusionary housing section that generally mirrored the applicant's version.

For this agenda, staff has provided a new version that only addresses Sections 122-1466 and 122-1467. Planning staff has developed this draft amendment as an example of a path forward that responds to several of the applicant's concerns about the existing Code, without rolling back the bulk of its provisions. If the City Commission directs staff to pursue an alternative revision to the workforce housing Code, staff will

develop an amendment that is responsive to the Commission's direction. For the purposes of this agenda, staff's draft amendment is presented to provide policymakers and stakeholders with an opportunity to consider alternative methods to address some of the applicant's concerns with the existing workforce housing regulations.

Staff also wants to specifically address the applicant's proposal to roll back the provisions that were adopted by the City Commission in 2019 under Ordinance 19-11.

Ordinance 19-11 specified that inclusionary housing requirements apply to both new and redeveloped market-rate housing projects (i.e. 30% of all units developed *and* redeveloped must be workforce affordable units.) The applicant's proposals would reverse Ordinance 19-11, such that redevelopment projects would no longer be subject to the workforce housing requirements. Only *new* residential developments would be subject to the requirements.

This would essentially nullify the impacts of the City's residential inclusionary housing regulations. Under the State-mandated Building Permit Allocation System (BPAS), which limits new residential growth in the City, there are only 4 remaining market-rate BPAS units available for allocation. This means that under the applicant's proposal, no more than one (1) new workforce housing unit would be developed under the residential inclusionary housing ordinance. Staff cannot support that change.

In the future, there is a possibility that the State of Florida amends growth management regulations and authorizes the City to issue additional BPAS units. However, it is the position of staff that if there are changes to the regulatory environment in the future, the Code should be amended to be responsive to the specific nature of those changes. Staff does not support curtailing existing housing policy in anticipation of future changes that are currently unknown.

Summary

The Code sections that are being considered on this agenda include Sections 122-1466: Definitions, and 122-1467 - Requirements of affordable work force housing.

Section 122-1467, is the core of the City's workforce housing ordinance, which provides for residential inclusionary housing. It carries out Comprehensive Plan Policy 3-1.1.3, and in doing so:

- Requires 30% of all units developed or redeveloped in the City to be affordable workforce housing units
- Provides an option for developers to pay a fee into the affordable housing trust fund in lieu of constructing affordable units, when the projects has less than 10 units (known as a "fee-in-lieu")
- Allows for the affordable housing component of a project to be built on a separate site from the market-rate units
- Provides eligibility and income requirements for occupants
- Provides maximum rental/sales rates for affordable units

- Allows the City Commission to waive a project's workforce housing requirements under certain

As mentioned previously, the applicant is proposing to exclude redevelopment projects from the workforce housing requirement. In conversations with staff, the applicant has expressed concerns about the financial impacts that the ordinance places on developers. The applicant has also expressed that the existing Code provides a disincentive for property owners to improve their units. The applicant has also expressed that redevelopment projects should be excluded because they are not adding to the City's population, and therefore not creating addition need for workforce housing in the City.

Regarding the latter point, it is important to note that the existing Code already provides an avenue for developers to petition the City Commission for relief from the requirements of the workforce housing ordinance. Staff believes that it is premature to do away with the existing requirements if developers have not already exhausted the existing remedies under the Code.

Regarding the financial considerations, staff notes that there is a way to pursue a middle ground that can increase the profitability of a project while still maintaining the 30% affordable unit requirements. If the City Commission desires to amend the Code to increase the profitability of development and/or redevelopment projects, staff has identified the following mechanisms to accomplish that:

1. Increase the maximum rental rates and income limits across the board
2. Further increase maximum rental rates for "redeveloped" housing units
3. Further increase maximum rental rates and income limits for units with more bedrooms
4. Provide development review fee waivers and eligibility for expedited review for "redeveloped" housing units
5. New alternative to fee-in-lieu: allow a developer to exchange for the deed restriction of an existing dwelling unit within the City, in exchange for developing/redeveloping a new unit or paying the fee-in-lieu.

In response to constructive comments from the applicant, staff also proposes to exempt redevelopment projects comprised of individually-owned condominium development projects.

It's important to note that these changes would have tradeoffs. It would promote more workforce units for households making , between 120% and 160% of the area median income, but at the expense of more units for median-households and low-income households.

Staff's draft also includes amendments to 122-1466 – *Definitions*, based on feedback from housing policy professionals including Habitat for Humanity staff and the City's Community Development Office. The most significant of these changes is to provide definitions to specify what constitutes "redevelopment" for the purposes of this ordinance. It defines "redevelopment" in terms of substantial improvement of a structure. Staff is including this definition to address situations where older, lower-quality, or blighted housing is redeveloped and is no longer affordable for members of the local workforce. For example, an existing housing development that services the workforce could be redeveloped into luxury units or monthly

vacation rentals. The definition provided by staff would ensure that 30% of redeveloped units are set aside for the workforce. While staff has developed options for how this could be accomplished, staff also recognizes that there are several ways to accomplish this, and looks to stakeholders and policy makers for further input.

Conclusion

Staff cannot support the substantive changes to the workforce housing ordinance proposed by the applicant. Staff has presented this draft amendment as a middle-ground alternative for discussion and consideration.

As the other three agenda items that reflect the remainder of the applicant's complete proposal make their way through Planning Board review, it is staff's recommendation that the four separate components are ultimately considered by the City Commission in concert, so that the Commission, staff and the public can consider the collective impact of the amendments together.

Review Criteria

Per Section 90-520, applications for a text amendment to the land development regulations shall evaluate the following:

Review Criteria	**Staff Analysis**
Justification. The need and justification for the proposed change shall be stated:	This amendment carries out the directive in Comprehensive Plan Policy 3-1.8.1, which provides that "The policy implications of major changes in housing supply and demand shall be evaluated on a continuing basis. Housing policy shall be refined as needed in order to remain responsive to changing problems and issues."
Comprehensive plan consistency. Identifying impacts of the proposed change in zoning on the comprehensive plan. The zoning must be consistent with the comprehensive plan.	This amendment carries out policies and objectives of Goal 3-1: Housing, including Policy 3-1.1.3 which requires that 30% of all units constructed in each year shall be affordable.
Impact on surrounding properties and infrastructure. The effect of the change, if any, on the particular property and all surrounding properties. Potential land use incompatibility and impacts on infrastructure shall be identified.	This is a text amendment rather than a zoning map amendment, and therefore does not apply to specific properties.

Avoidance of spot zoning. The proposed change shall not constitute a spot zone change.	This is a text amendment rather than a zoning map amendment, and therefore does not apply to specific properties.
Undeveloped land with similar zoning. The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested.	Not applicable. This is a text amendment rather than a zoning map amendment.

Land Development Regulations Text Amendment Process:

Planning Board Meeting:	February 20, 2025
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:

Staff recommends that the Planning Board consider and discuss the two workforce housing agenda items on this evening's agenda. Staff recommends that the Planning Board identify strengths and weaknesses of the existing workforce housing ordinance, and provide a recommendation to the City Commission as to whether and how the workforce housing ordinance ought to be amended.