

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

December 13, 2021

The Honorable Teri Johnston
Mayor, City of Key West
1300 White Street
Key West, Florida 33040

Dear Mayor Johnston:

The Department of Economic Opportunity (“Department”) has completed its review of the proposed comprehensive plan amendment for the City of Key West (Amendment No. 21-03ACSC), which was received and determined complete on October 15, 2021. We have reviewed the proposed amendment in accordance with the state coordinated review process set forth in Sections 163.3184(2) and (4), Florida Statutes (F.S.), for compliance with Chapter 163, Part II, F.S.

The attached Objections, Recommendations, and Comments Report outlines our findings concerning the amendment. We have identified an objection and have included recommendations regarding measures that can be taken to address the objection. We are also providing a comment. The comment is offered to assist the local government but will not form the basis for a determination of whether the amendment, if adopted, is “In Compliance” as defined in Section 163.3184(1)(b), F.S. Copies of comments received by the Department from reviewing agencies, if any, are also enclosed.

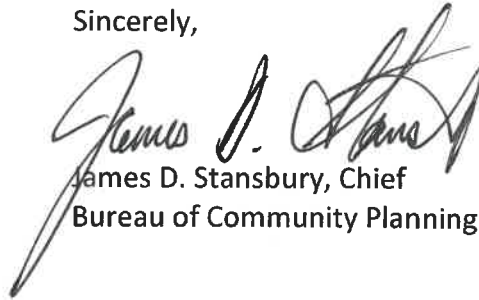
The City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for final adoption and transmittal of the comprehensive plan amendment. **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of the Department’s attached report, or the amendment will be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(4)(e)1., F.S.

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
(850) 245.7105 | www.FloridaJobs.org | www.Twitter.com/FLDEO | www.Facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

Department staff is available to assist the City to address the objection and comment. If you have any questions related to this review, please contact Anthony Milordis, Planning Analyst, by telephone at (850) 717-8433 or by email at anthony.milordis@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is fluid and cursive, with a large initial "J" and "S".

James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/am

Enclosures: Objections, Recommendations, and Comments Report
Procedures for Adoption
Reviewing Agency Comments

cc: Katie Halloran, Director of Planning, City of Key West
Isabel Cosio Carballo, Executive Director, South Florida Regional Planning Council

**Objections, Recommendations and Comments Report
Proposed Comprehensive Plan Amendment
City of Key West 21-03ACSC**

The Department of Economic Opportunity has identified an objection and a comment regarding the City of Key West's proposed comprehensive plan amendments. The objection and comment are provided below, along with recommended actions the City could take to resolve issues of concern. If the City adopts the plan amendment without adequately addressing the objection, the Department may find the amendment not in compliance with Chapter 163, Part II, Florida Statutes (F.S.), pursuant to section 163.3184(4)(e)4., F.S. Comments are offered to assist the local government and will not form the basis for a compliance determination.

Department staff has discussed the basis of the report with local government staff and is available to assist the City to address the objection and comment.

I. Objection:

1. Objection (Property Rights Element): Section 163.3177(6)(i), F.S. (Ch. 2021-195, Laws of Fla.), requires each local government to include a property rights element in its comprehensive plan. Proposed Amendment 21-03ACSC adds a "Property Rights Element" (Goal 10-1, Objective 10-1.1 and Policies 10-1.1.1, 10-1.1.2, 10-1.1.3 and 10-1.1.4) to the City of Key West Comprehensive Plan. Goal 10-1 states that "The City of Key West will make planning and development decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property." Prior to adoption, the proposed amendment must be revised to indicate the City will consider private property rights in all local decision making in accordance with Section 163.3177(6)(i)1., F.S. To ensure adopted language does not conflict, the Department recommends that the local government consult its legal department.

Statutory Authority: Sections 163.3177(6)(i); and 163.3184, F.S.

Recommendation: Revise the amendment to indicate that the City will consider private property rights in all local decision making in accordance with Section 163.3177(6)(i)1., F.S.

II. Comment:

1. Comment (Property Rights Element): The proposed Property Rights Element Policy 10-1.1.2 omits the word "use" (prior to the word "maintain"). As discussed with the City's Planning Department, this omission was unintended and will be revised before the City considers the amendment for adoption. Please be advised the property rights element adopted by the local government may not conflict with the statement of rights provided in Section 163.3177(6)(i)1., F.S. To ensure adopted language does not conflict, the Department recommends that the local government consult with its legal department.

SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

FOR STATE COORDINATED REVIEW

Section 163.3184(4), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit electronically using the Department’s electronic amendment submittal portal “**Comprehensive Plan and Amendment Upload**” (<https://floridajobs.secure.force.com/cp/>) **or** submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ Department of Economic Opportunity identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format;

_____ In the case of future land use map amendment, an adopted future land use map, **in color format**, clearly depicting the parcel, its existing future land use designation, and its adopted designation;

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for state coordinated review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be the date the state land planning agency posts a notice of intent determining that this amendment is in compliance. If the amendment is timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the Department of Economic Opportunity did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the Department of Economic Opportunity to the ORC report from the Department of Economic Opportunity.

From: [Plan Review](#)
To: [Eubanks, Ray](#); [DCPexternalagencycomments](#)
Cc: [Plan Review](#)
Subject: [EXTERNAL] - Key West 21-03ACSC Proposed
Date: Wednesday, November 10, 2021 12:37:23 PM
Attachments: [image002.png](#)

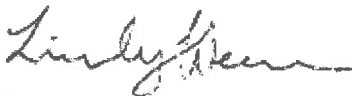
To: Ray Eubanks, DEO Plan Review Administrator

Re: Key West 21-03ACSC – State Coordinated Review of Proposed Comprehensive Plan Amendment

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Please submit all future amendments by email to plan.review@floridadep.gov. If your submittal is too large to send via email or if you need other assistance, contact Lindsay Weaver at (850) 717-9037.





Florida Department of Transportation

RON DESANTIS
GOVERNOR

1000 NW 111 Avenue
Miami, FL 33172-5800

KEVIN J. THIBAUT, P.E.
SECRETARY

November 5, 2021

Ms. Katie Halloran
Director of Planning
City of Key West
PO Box 1409
Key West, Florida 33041

**Subject: Proposed Comprehensive Plan Amendment
City of Key West - FDEO#21-03ACSC**

Dear Ms. Halloran:

The Florida Department of Transportation, District Six, completed a review of the subject amendment pursuant to Section 163.3184(3), Florida Statutes (F.S.), in its role as a reviewing agency as identified in Section 163.3184(1)(c), F.S. The proposed amendment includes adding a property rights element within the comprehensive plan, and also designates affordable housing units for a City-owned parcel located in Bahama Village, within the Building Permit Allocation System.

The District review found that there would be no adverse impacts to transportation resources and facilities of State importance as a result of the amendment.

The District's number one priority is safety for all road users and elimination of fatalities and serious injuries on the State Highway System. The District recommends that Key West continue to identify and address the safety needs of all modes of travel, including public transportation, and to continue to improve pedestrian and bicycle facilities, creating a walkable and connected community consistent with ss. 163.3177, Florida Statutes.

Please contact me at 305-470-5393 if you have any questions concerning our response.

Sincerely,

DocuSigned by:

A handwritten signature in blue ink, appearing to read "Sheren Yee Fong", is enclosed in a blue DocuSign signature box.

866CD06755854D1E
Sheren Yee Fong

Transportation Planner IV

Ms. Katie Halloran
November 5, 2021
Page 2 of 2

Cc: Daniel Iglesias, P.E., FDOT, District 6
Dat Huynh, P.E., FDOT, District 6
Kenneth Jeffries, FDOT, District 6
Jennifer Carver, AICP, FDOT Central Office
Ray Eubanks, Department of Economic Opportunity
Isabel Cosio Carballo, South Florida Regional Planning Council
Kathe Lerch, South Florida Regional Planning Council