



THE CITY OF KEY WEST
PLANNING BOARD
Staff Report

To: Chairman and Planning Board Members

From: Katie P. Halloran, Planning Director

Meeting Date: January 20, 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 108 of the Land Development Regulations, entitled “Planning and Development”, Article X entitled “Building Permit Allocation System”

Request: The proposed ordinance to amend the City’s Land Development Regulations is related to previous approvals to support redevelopment of vacant City-owned properties through a set aside of Building Permit Allocations (BPAS) for the City-owned parcel known as the 3.2 (RE# 00001630-000801).

Applicant: City of Key West

Background:

The proposed ordinance to amend the City’s Land Development Regulations is associated with Planning Board resolutions 2021-36 and 2021-37, respectively, which recently amended the City’s Comprehensive Plan and Land Development Regulations to set aside 128 Building Permit Allocation System (BPAS) units for affordable workforce housing at the “3.2” property during the Year 9 BPAS cycle. A balance of 89.6 affordable units were allocated along with 38.4 market rate units; these 38.4 could also be deed restricted if so desired by the City and its development partner.

Planning Board Resolution 2021-36 specifically recommended an ordinance to the City Commission of the City of Key West to amend the City of Key West Comprehensive Plan, Chapter 1: Future Land Use Element, Policy 1-1.16.1 – Maintain a Building Permit Allocation Ordinance. The changes included the aforementioned provision to allocate 128 units during Year 9 for use at the property known as the 3.2 acres in Bahama Village. The proposed amendment also established that there would not be a reallocation provision that would automatically revert these units to the City’s BPAS pool after two (2) years if a building permit is not obtained within that timeframe for the project.

Mistakenly, this same provision was not also added to Planning Board Resolution 2021-36 and its associated ordinance to adopt similar language within the Land Development Regulations. This adjustment is proposed at this time to ensure consistency between the City of Key West Comprehensive Plan and the Land Development Regulations.

It is important that this reversion clause not apply in this instance because this complex project will require subsidy through federal and state grants that will be attained by the City’s development partners, Vestcor

and AH Monroe and their financial team. Final design and financial planning is likely to require more than a 24 month timeframe between allocation of units and building permit issuance.

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

Sec. 108-997. Period of allocation and ranking/review of applications.

{ . . . }

- (e) *Recovered units.* Building permits shall be obtained within two years of the final award date. If a building permit is not issued within that timeframe the allocated units will revert to the city for reallocation. The reallocation provision shall not apply to the property currently known as the 3.2 development located in Bahama Village.
 - (f) *Affordable unit allocations.*
 - (1) All units allocated as affordable are subject to subsections 122-1467(c), (d), (e), and (f) of the workforce housing ordinance.
 - (2) Applicant eligibility requirements are subject to subsections 122-1469(2) through (15) of the workforce housing ordinance.
 - (3) Affordable housing projects enabled by federal tax credit housing are not subject to [subsection] 122-1467(c).
 - (g) *Penalty.* For projects that fail to achieve the green building standard certification, as purported in the application for which the award was granted, final certificate of occupancy will not be awarded until such time that the applicant is able to establish that the green building standard has been achieved.
- (Ord. No. 13-19, § 2, 11-6-2013; Ord. No. 18-01, § 1, 1-4-2018; Ord. No. 18-11, § 5, 6-5-2018; Ord. No. 19-18, § 2, 8-6-2019)

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Land Development Regulations Text Amendment Process:

Planning Board Meeting:	January 20, 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 that have been proposed for modification to provide 128 residential permits for the 3.2 acre development site. The vision for this affordable workforce housing is function as an extension of the neighborhood fabric of Bahama Village and provided much needed housing for eligible families.

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 amendment to the LDRs will not affect the zoning of the parcel nor the zoning of any other parcels elsewhere 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 allow for the development of mixed income housing and affordable workforce housing, a critical need of the community. There is a severe shortage of affordable housing not only in

Bahama Village but City-wide. The proposed amendment is directly in the public interest.

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

The proposed amendment is needed to ensure the continued consistency between the LDRs and the Comprehensive Plan with respect to 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**.