

## EXECUTIVE SUMMARY



**To:** Bogdan Vitas, Jr.

**Through:** Donald Leland Craig, AICP, Planning Director

**From:** Nicole Malo, LEED GA, Planner II

**Meeting Date:** September 17, 2013

**RE:** Adopting an Ordinance of the City of Key West amending Chapter 86, Section 86-9 entitled "Definition of Terms"; Chapter 108 of the Land Development Regulations of the Code of Ordinances, entitled "Planning and Development" specifically Article X entitled "Building Permit Allocation System" by amending Section 108-986 "Definitions" and adding the definitions to Section 86-9 entitled "Definition of Terms"; amending Section 108-987 entitled "Purpose and Intent"; amending Section 108-989 entitled "Authority"; amending Section 108-991 "Development Not Affected by Article"; amending Section 108-994 entitled "Established"; amending Section 108-995 entitled "Reporting Requirements and Adjustments in Residential Allocation Schedule"; adding Section 108-996 entitled "Intent"; amending Section 108-997 by adding the Section entitled "Period of Allocation and Ranking/Review of Applications", amending Section 108-998 entitled "Procedures for Ensuring Beneficial Use of Private Property"; by amending Section 108-999 entitled "Zoning in Progress" and changing it to "Allocation of Residential Permits in the Truman Waterfront Redevelopment Area"; and amending Chapter 122 entitled "Zoning", Section 122-1470 Entitled "Accessory Unit Infill"; providing for severability; providing for repeal of inconsistent provisions, providing for an effective date

**Location:** Citywide

**Action Item:**

The purpose of this Ordinance amendment is to update the existing Building Permit Allocation System regulations in response to newly adopted Comprehensive Plan policies and the 2012 Hurricane Evacuation Model Memorandum of Understanding. In summary, the proposed amendments: establish an application process for the allocation of 91 new residential units to be received from the State Department of Economic Opportunity (DEO) annually; clarify definitions related to new residential development and existing residential unit recognition; and repeal Zoning in Progress.

**Attachments:**

1. Planning board recommended BPAS Ordinance
2. Supporting Sustainability Measurement Tools
  - a. LEED Scorecard
  - b. FLGBC Scorecard
  - c. ARCOSA Standards
3. FEMA Flood information

**Strategic Plan Consistency:** The proposed ordinance is consistent with the following goals of the City's 2011 Strategic Plan: Goal #4, The Environment; Goal #4, Infrastructure, Long term sustainability of the City's assets; Goal #8, Government, Development in the City is Guided by Plans which Protect and Enhance the City; Goal #1, Quality of Life, Key West protects and promotes the health of its residents and visitors; Goal #2, Quality of Life, Options for Housing are available to meet the needs of our populations and demographic.

**Process:**

The proposed Ordinance was distributed electronically throughout the community to various interest groups for their review and comments; and on July 25, 2013, planning staff met with the Key West Board of Realtors to review the proposed Ordinance. Although very few comments were received, there was an overall sense of understanding and support for the ordinance. The Planning Board and the public were given two opportunities to comment on the proposed BPAS Ordinance on July 18, 2013 and again on August 15, 2013. There were several questions that came from the Board and one member of the public; and as a result, a few changes were made to the Ordinance. The National chapter of the U.S Green Building Council also suggested changes that were incorporated into the draft that was reviewed and approved by the Planning Board. The proposed Ordinance is a result of the suggested revisions and comments.

**Background**

The Building Permit Allocation System (BPAS), commonly known as the Rate of Growth Ordinance, or "ROGO", was originally adopted in response to the City's 1993 Comprehensive Plan and required by a subsequent stipulated settlement agreement between the City and the Florida Department of Community Affairs in 1996. The purpose of the BPAS is to ensure that residential growth, including transient growth, does not exceed the hurricane evacuation capacity of the roadways in the Florida Keys. For

purposes of the BPAS *residential growth* and *residential unit allocation* means both transient and non-transient units.

The City has not received new residential units for allocation and development since the original 1993 allocation of 1,093 units intended to be distributed at a rate of 91 units per year. According to the Planning Department BPAS Audit records, all of those units have been allocated with the exception of 85-100 units that are reserved for Beneficial Use claims.

In 2010 a Statewide Regional Hurricane Evacuation Study update was initiated using the 2010 US population Census information. In 2011 and 2012 numerous workshops were held and county wide coordination was conducted between Monroe County and its municipalities, the Department of Transportation, Emergency Management and the Department of Economic Opportunity (DEO). Relying on the 2010 census population counts, the TIME Model that was used to determine evacuation times under distinct phased evacuation scenarios, determined that current conditions would allow for a safe 24 hour permanent population evacuation, but that additionally, the Keys could support restricted residential growth and still maintain a compliant 24 hour permanent population evacuation time. As a result, the entities entered into a Memorandum of Understanding (HEM MOU), executed on August 2, 2012, that updated and reestablished the entire county's residential unit allocation system. On March 7, 2013 the Administrative Commission approved the new allocation of 91 new units a year allotted to the City of Key West.

As part of the 2013 Comprehensive Plan amendments that were adopted on May 2, 2013 the background for the more detailed regulations proposed in this Ordinance were established. Supplementary policies in the newly adopted Comprehensive Plan in concert with the adopted Climate Action Plan and the 2011 Strategic Plan are also used to form the basis for the proposed regulations with particular focus on resource management, greenhouse gas reduction and sea level rise planning.

The proposed amendments are organized in chronological order by Chapter beginning with Chapter 86 General Provisions, Section 86-9 Definitions; and followed by Chapter 108 entitled Planning and Development, Division 2, Building Permit Allocation System; and ending with a minor amendment to Chapter 122 entitled Zoning Section 122-1470. Therefore the summary below provides and explanation and supporting evidence for how and why the ordinance was written to operate the BPAS. The proposed amendments are as follows:

### **Definitions**

As currently constructed the City's Land Development Regulations concentrates many definitions in Chapter 86 General Provisions, Section 86-9 Definition of Terms; however, additional definitions are scattered throughout Volume I and Volume II of the Code of Ordinances, making them difficult to find, and often creating a situation where there are multiple and sometimes conflicting definitions for one term. As part of the future Land Development Regulation overhaul process in response to the Comprehensive Plan

amendments, this issue will be resolved by locating all definitions in a single central resource location. In response, staff has begun with the proposed Ordinance by eliminating the existing definitions from within the BPAS Ordinance (108-986) and relocating them to Section 86-9 with a reference as to where apply within the Code. For clarification purposes, staff added additional definitions of terms otherwise undefined throughout the Code that are related to residential development. The new definitions provide clarity to the public and to City staff in determining what constitutes a residential unit that requires a BPAS allocation, beneficial use allocation, or lawful unit determination (LUD) and what does not.

The proposed new definitions were derived using the 2010 Florida Building Code, the International Construction Code and the Monroe County Code as references, while adapting the terms to make them applicable to the unique Key West BPAS and Land Development Regulations. Further, staff scrutinized the existing Code for potential conflicts or inconsistencies with new terms before they terms were used.

### **Building Permit Allocation System Ordinance**

The new BPAS will provide the City with a mechanism for distribution of the new residential unit allocations, and is described in the **Application** section later in this report. There are several other necessary changes proposed to the existing Ordinance that allow for clarification, simplification and ease of the use of the residential development regulations process:

1. **Lawful Unit Determination Process (LUD's)** – The date at which a homeowner must prove his/her unrecognized residential unit was in existence is proposed to change from 1990 to 2010. As proposed in the Draft Ordinance, the Lawful Unit Determination application process will remain; however, the applicant must prove that the unit was constructed before April 1, 2010, the time that the most recent US Census population data update was published. This new date is possible as a result of the 2010-2012 Statewide Hurricane Evacuation Modeling process that used the 2010 US Census data to project hurricane evacuation times for the Keys (required to be 24 hours for permanent residents), and justify the allocation of additional residential units to the county. The US Census data is considered to be the most accurate population documentation available. Therefore, the Hurricane Evacuation TIME model counted all residential units existing in the city, whether recognized by the City's licensing division or not. The census number is higher than the number of units - both permanent and transient- listed in City records. By signing the Hurricane Evacuation Memorandum of Understanding, the State DEO and Emergency Management Division acknowledged these facts, which were further solidified by ratification of the Rule by the Florida Land and Water Adjudicatory Commission to allow new residential unit growth in the Keys.

As a result of the proposed unit recognition date change, the Planning Department expects to be able to legitimize the majority of existing unrecognized residential units throughout the city. The applicant will still be responsible for proving when the unit

was constructed and paying back fees for utility and solid waste service as well as impact fees.

2. **Exclusion of Public/government Facilities from the BPAS** – Similar to provisions in the Monroe County BPAS Ordinance, the proposal includes a clarification that public/government facilities and services are exempt from the BPAS, this includes but is not limited to temporary shelters or protective services where overnight stays are likely, but not permanent, such as a fire stations and homeless shelters.
3. **Beneficial Use Criteria** – Regulations are proposed in order to codify Comprehensive Plan Policy 1-1.16.1 requiring that the 85-100 remaining residential BPAS units (from the original 1993 allocation) are reserved for Beneficial Use purposes only. The City has reserved enough Beneficial Use allocations to cover any potential takings claims, leaving the new unit allocations available for new development.

Since the 2010 Beneficial Use Ordinance 10-10 was adopted staff has identified an unintended consequence resulting from the way it was written. Presently the Ordinance doesn't account for vacant lot situations where there may have been a lot line shift on a property of record, that did not create a new lot, but otherwise meets all the other criteria for receiving a Beneficial Use Allocation. Therefore, a minor amendment is proposed to correct the regulation.

4. **ESFU** – As a result of the Hurricane Evacuation Modeling update new single family unit equivalencies were recalculated based on the change in US Census findings of an increase in cars per residential unit throughout Monroe County. This change is derived by Comprehensive Plan Policy 1-1.16.3. Additionally, the Nursing Home use has been added to the table for clarification.

<b>Residential Structure Type</b>	<b>Equivalent Single-Family Unit Factor<sup>(1)</sup></b>
Single-family	1.00 <sup>(a)</sup>
Accessory apt./SRO	0.5578 <sup>(b)</sup>
Multifamily	1.00 <sup>(c)</sup>
Transient unit	0.5886 <sup>(d)</sup>
<u>Nursing home, Rest Home, Assisted Living Facility and Convalescent Home</u>	0.10 (e)

<sup>(1)</sup> Pursuant to comprehensive plan policy 1-1.126.3, the equivalent single-family unit factors are based on the ratio of the average number of vehicles per unit based on the 1992010 U.S. Census for the respective

residential structure types divided by the vehicles per single-family units (i.e., 1.028 vehicles per unit). The computations are as follows:

- (a) Single-family:  $1.28/1.28 = 1.00$
- (b) Accessory unit, single room occupancy (SRO):

$$1.00/1.280 = 0.5578$$

- (c) Multifamily:  $1.28/1.28 = 1.00$
- (d) Transient unit:  $1.10/1.28 = 0.586$  is

~~consistent with the traffic-generating assumptions of the county hurricane evacuation model based on the Transportation Interface for Modeling Evacuations (TIME) Model for the Florida Keys (1.10 vehicles per transient unit in Monroe County).~~

- (e) Nursing home, rest home, assisted living facility and convalescent home:  $1.0/1.0 = 0.10$  based on provisions set forth in Chapter 86-9. Definition of Terms.

### Application Process

In response to the opportunity that the City has been given for new residential growth, the planning department, with support from the legal department, using the framework adopted in the 2013 Comprehensive Plan has carefully composed an application process that ensures that the limited number of residential unit allocations are distributed in a fair and equitable way over time and that any future residential development contributes to the sustainable future of the City of Key West. As provided for in the Ordinance the application components are as follows:

Allocations by Residential Unit Type – Based on requirements in the Comprehensive Plan the Ordinance requires that unit types be allocated as follows:

Application/ Allocation Year	Affordable Housing Units*	Market Rate Units	Transient Rental Units	Total Units
2013/2014	48 Units dedicated for use at Peary Court; 7 AH units available for allocation	36	0	91
2014/2015 2015/2016	55 annually; 110 over 2 years	36 annually; 72 over 2 years	0	91 annually; 182 over 2 yrs
2016/2017 2022/2023	45 annually; 315 over 7 years	36 annually; 252 over 7 years	10 annually; 70 over 7 years	91 annually; 637 over 7 yrs
<b>Over next 10 years</b>	480	360	70	910

\* This table does not consider the rate of available AH units if a Nursing Home use or SRO use were to apply that have a lower ESFU Value. Affordable housing units also include Work Force Housing.

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Application Review and Ranking – As proposed in the Ordinance, every year the Building Permit Allocation application period will open to the public in July and will close by mid-September. Applications will be reviewed and ranked by City staff and the Final Determination of Award will be made by the Planning Board no later than April 1 of the award year. Based on the level of proposed development, development plan approvals will be reviewed by the relevant Boards and Commissions by May of each year. An application approval and allocation schedule will be published in June of each year with the specific deadlines and dates anticipated for final allocation approvals.

There are two types of applications that will be made available based on the size of the development, but an application only competes for units within the affordable or market rate bracket. In order to encourage and facilitate affordable housing projects only, Advanced Allocations can be requested one allocation year in advance.

Once an allocation has been approved for award by the Planning Board the applicant will have two years from the date of the award to obtain a building permit otherwise the unit will revert back to the city as a Recovered Unit for reallocation the following year. If the Recovered Unit is not allocated at that time they will revert back to the Department of Economic Opportunity for distribution within the County in accordance with the 2012 HEM MOU.

Prerequisites – In order for a proposal to be eligible to obtain a residential unit allocation all proposed construction must meet a level of sustainability identified as **Prerequisites**. The proposed prerequisites are based on the most pressing sustainability issues facing Key West: potable water consumption, sea level rise and the reduction of greenhouse gasses. Further, staff coordinated extensively with the local builders and architects in addition to known leaders in the field of green building throughout South Florida in order to identify a green building standard requirement that is easy to measure and use, and has been proven to be successful. There are two definitions of Prerequisites based upon the level of proposed development as follows:

- (1) *Prerequisite major construction/renovation* means the minimum standards for new development, including additions to existing structures, or redevelopment constituting more than 50% of the value of the building, required in order to be eligible to receive an allocation award from the BPAS system as follows:
  - a. All new units shall be constructed in compliance with and obtain a Baseline Green Building Certification (see definition below).
  - b. All new buildings shall be constructed so as to have the first habitable floor 1.5 feet above the required base flood elevation, with the exception of properties located within the historic zoning districts, where the applicant must first demonstrate that such elevation does not interfere with the essential form and integrity of properties in the neighborhood by obtaining a certificate of appropriateness.

- c. All new buildings shall be constructed with a rainwater catchment system that will hold a minimum of 1,000 gallons or the amount of water equivalent to 100% of the new roof area in gallons whichever is greater.

- (2) *Prerequisite, minor renovation* means the minimum standards for redevelopment constituting less than 50% of the value of the building. In order to be eligible to receive an allocation award from the BPAS system applicants must demonstrate water and energy use 15% below the Florida Building Code using recognized energy and water rating standards.

**\* Exceptions: Please note that residential units recognized through the lawful unit determination (LUD) process, or units that are yet to be developed that have vested rights, or Beneficial Use rights, or are existing units that redevelop, are not subject to the above development requirements.**

Because the vast majority of property in the city is built-out, the majority of all new residential construction under the 2013-2023 BPAS will be for second units, multi-family development, affordable housing and urban infill redevelopment. Therefore, the City is in a unique position to assure that all new residential development be subject to a higher and more sustainable standard of development, setting a pattern which others may voluntarily emulate.

Assuming a maximum of 910 new residential units are developed in the next ten years using these standards, the environmental impacts of the new buildings should be minimized, lessening the City's greenhouse gas emission levels. Water consumption for outdoor use, including pools, landscaping, car and deck washing etc. should remain low, helping minimize the impacts of new development on the cost of water to individuals and the community. The additional elevation of structures above the required flood elevation will help the City begin to prepare for anticipated sea level rise and contribute to the City's efforts to increase its rating with the National Flood Insurance Program (NFIP) Community Rating System (CRS). This will save money for flood insurance policy holders, and make residential structures in the city more resistant to damage from flooding. Further, the energy efficient design and fixtures required of green building practices as applied in the BPAS Ordinance will reduce the cost of monthly utility bills, which is particularly helpful to affordable housing occupants and has proven to provide a healthier living space.

Key Definitions - See Attachment 2 for detailed information regarding LEED, FGBC and ARCSA development options.

1. "*Baseline Green Building Certification* means the Florida Green Building Coalition (FGBC) Bronze level certification or Leadership in Energy and Environmental Design (LEED) Certified".

Of the available green building certification programs these two programs provide the Key West property owner with the most Florida user friendly certification rating systems on the market. Both programs also provide easily legible standards



for City staff reviewing the project. LEED is internationally recognized and used, while FGBC offers a program tailored to the Florida climate; however, both systems reflect a higher standard of sustainability than the 2010 Florida Building Code while promoting compatibility with the Historic Guidelines. Both the FGBC bronze level and LEED certified are the first level of certification possible. Attached as Exhibits 1 and 2 are the Scorecards for each of the rating systems which provides the specific design options for each of the certification programs.

2. Flood elevation requirement means that the first habitable floor of the structure is elevated 1.5' above the base flood level required by the City's Floodplain Ordinance as to accommodate anticipated sea level rise. Requiring additional base flood height will help the City meet the Climate Action Plan goals, protect homes from future flooding and assist in NFIP Community Rating System accreditation (see Attachment 3 for current FEMA Flood standards)
3. *Rainwater Catchment System* means an on-site rain water harvesting system including an associated reuse/redistribution system/plan, designed and built according to standards developed by the American Rainwater Catchment System Association (ARCSA).

According to FKAA research, the two fastest growing and largest uses of water throughout the Keys are residential outdoor landscaping and pools. Because both of these uses do not require potable water, cisterns can provide an alternative water supply to help alleviate the growing per capita water use and reduce associated future costs of increased potable water production. Additionally, use of a cistern yields water bill cost savings to the homeowner, as no utility charges (water and sewer) are associated with its use.

The proposed minimum size of each residential catchment system is based on the goal to accommodate a reasonable portion of the water leaving the impervious area created by the new development. If a roof area is at least 1,000 square feet, a 1,000 gallon catchment system has the capacity to capture 100% of rainfall during our four driest months, when the alternative water supply is most needed. Assuming full monthly use of a 1,000 gallon cistern, a homeowner can save up to \$1,297 annually, which would pay off the initial investment of the catchment system within a year or two.

In order to protect the homeowner (and the City) from the costly mistake of installing a system that is inefficient, or is improperly installed the system should be designed and built by a licensed ARCSA professional or an Architect, Landscape Architect or Engineer trained in ARCSA standards.

#### Methodology for Point System Criteria

In order to create a competitive process for the limited number of BPAS allocations available a point system is proposed for which points are awarded based on Comprehensive Plan Goals, Objectives and Policies, and the recommendations of the

Climate Change Action Plan. The highest number of points can be achieved by obtaining the Green Building Certification, Upgrade 3, which is equivalent to LEED or USGBC Platinum level of certification. Additional point options include several sustainable design practices such as: exceeding the minimum required ratio of affordable housing on the site, designing paved areas with low heat emitting materials, and providing additional on-site open space or recreational facilities. The intention is not to price lower income projects out of the competition, but to make a sustainable new building policy with several options that are achievable to everyone. The point system is distinct for projects that are for three or more units.

Projects that fail to illustrate how the green building standards will be achieved will be withheld a final certificate of occupancy until such time that the applicant is able to establish that the green building standard has been accomplished.

There may be times when the majority of BPAS allocations are made for projects where only the minimum prerequisites are achieved; however, it is anticipated that over time applicants will wish to become more competitive and achieve a higher standard of sustainability.

#### Compact Infill Development: Methodology for Density Bonus Ratios

Based on the new Comprehensive Plan Policy 1-1.1.4, the proposed Ordinance defines how density/intensity bonuses are allowed in order to promote compact infill redevelopment within the General Commercial (CG) and Limited Commercial (CL) zoning districts. The purpose is to provide incentives for mixed use redevelopment in the commercial districts, which increases affordable housing close to jobs and commercial centers. Based on Policy 1-1.1.4 the following design principals are required for developers that take advantage of the density bonus opportunities:

- a. Housing types - Provide for a range of housing types, inclusive of apartments, townhouses, efficiencies, accessory units and single room occupancies.
- b. Pedestrian and Bicycle linkage - Provide safe onsite bicycle and pedestrian circulation with connectivity to the City's existing bicycle and pedestrian pathway network. Provide an enclosed bicycle storage area for residents.
- c. Mixed use redevelopment - For development including commercial floor area, provide enclosed bicycle storage for employees together with shower facilities for the bicycle user.
- d. Open Space and Recreation - Provide a minimum of 5% more than the open space requirement, of which a minimum of 30% shall be designed as collective community gathering/recreation space.

The methodology for the affordable/market rate density bonus ratios is based on the award of one market rate unit for every three affordable units above the allowable density and above the 30% market rate requirement for such projects. Priority is given to affordable units based on the pressing need for affordable housing and adopted Comprehensive Plan Land Use Element Policy 1-1.1.4, which calls for the provision of affordable housing proximate to mixed use employment centers. The definition of

affordable housing in Housing Element Policy 3-1.1.8 is broad (up to 140% of median income) due to the demand for workforce housing. It is anticipated that market demands and locational constraints will result in most if not all of the housing subject to this provision will be affordable based on this definition. See attachment 4 for detailed property data regarding the residential development potential as a result of density bonus.

#### Transient Units

Because transient units will not be available for allocation until the 2016/2017 application cycle this ordinance does not provide for the transient unit allocation application process which is required by April of 2016.

#### **Amendment to Section 108-1000**

Amendments to Section 108-1000 are in response to the Comprehensive Plan Policy 1-1.16.4 and allows for transfer of development rights into the Truman Waterfront residential zone, from anywhere in the city.

#### **Amendment to Section 122-1470**

Amendments to Section 122-1470 are reflective of the change in unit equivalency factors or ESFU's.

#### **LDR Amendment Review Criteria**

Section 90-522 of the Code outlines key review criteria for any changes to the Land Development Regulations. A review of the proposed ordinance relative to the criteria is provided below.

#### **Sec. 90-521. Criteria for approving amendments to official zoning map.**

**In evaluating proposed changes to the official zoning map, the city shall consider the following criteria:**

**(1) *Consistency with plan.* Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

The proposed change does not impact the official zoning map or underlying future land use map designations. It does provide for regulations that implement Objective 1-1.16 and associated policies of the recently adopted Comprehensive Plan, as follows:

***OBJECTIVE 1-1.16: MANAGING BUILDING PERMIT ALLOCATION.*** *In order to protect the health and safety of the residents in the Florida Keys, the City of Key West shall continue to regulate the rate of population growth commensurate with planned increases in evacuation capacity in order to maintain and improve hurricane evacuation clearance times. Regulation of the rate of growth also prevent further deterioration of public facility service levels. Therefore, in concert with Monroe, its municipalities, and the State of Florida, the City shall manage the rate of growth in order to maintain an evacuation clearance times of 24 hours.*

**Policy 1-1.16.1: Maintain a Building Permit Allocation Ordinance.** *The City of Key West shall maintain and enforce its building permit allocation ordinance as follows: Between 85 and 100 units will be reserved as beneficial use permits to address property rights associated with existing vacant lots of record. The permit allocation system shall limit the number of permits issued for new permanent and transient development to 910 units during the period from July 2013 to July 2023. The annual allocation will be ninety-one units (91) single-family units or an equivalent combination of residential and transient types based on the equivalency factors established in Policy 1-1.15.3. In order to address the ongoing affordable housing shortage and affordable housing deed restrictions expected to expire, during the first three years (July 2013 – July 2016) 60 percent of the units allocated shall be affordable. Between years four (4) and 10 (2016 – 2023), 50% shall be affordable. Between years four (4) and 10, 80 percent of remaining (non-affordability restricted) units shall be permanent, and 20 percent may be transient. During Year One (1) (July 2013 – 2014), 48 of the affordable units to be allocated will be dedicated for use at the Peary Court Housing complex property, being transferred from military to private sector housing, in the transfer of Peary Court from military to private sector housing.*

*The annual building permit allocation period will begin on July 1 of each year. Applications will be accepted between July 1 and September 30. Applications will be reviewed and processed by City staff and the appropriate boards between October 1 and April 1. Applicants will be allowed to amend their application to address review comments during that timeframe. Final award will occur on or around July 1 or the year following receipt of the application. Staff may consider the following criteria in ranking applications:*

- 1) Building one to two feet higher than the base flood elevation;*
- 2) Exceeding the minimum required percentage of affordable housing;*
- 3) Compliance with green building standards;*
- 4) Compliance with adopted urban design standards, and;*
- 5) A minimum contribution to a sustainability and open space recreation fund.*

*Building permits shall be pulled within two years of the development approval date. If a building permit is not pulled within that timeframe the allocated units will revert back to the City for allocation during the next allocation season. If the recovered units are not allocated within one year they will revert to the County for beneficial use purposes and/or affordable housing.*

**Policy 1-1.16.2: Building Permit Allocation Ordinance and Affordable Housing.** *The City permit allocation system shall require that sixty percent (60%) of all new permanent residential units be affordable units based on definitions and criteria contained in Policy 3-1.1.3 between July 1, 2013 and July 1, 2016, and that fifty (50%) be affordable between July 1, 2016 and July 1, 2023.*

**Policy 1-1.16.3: Permit Allocation System Ratios by Structure Type.** *The permit allocation system shall be sensitive to differing trip generating characteristics of permanent and transient residential units as well as single-family units, accessory*

apartment units and multi-family residential units. The annual allocation shall be ninety-one units (91) single-family units based on the Transportation Interface for Modeling Evacuations (TIME) Model. The permit allocation system shall incorporate a series of equivalent single-family unit (ESFU) values in applying the annual permit allocation threshold established in the building permit allocation ordinance as hereinafter explained.

Residential Structure Type	Equivalent Single-Family Unit Value (ESFU) <sup>(1)</sup>
Single-Family	1.00 (a)
Accessory Apt./SRO	0.78 (b)
Multi-Family	1.00 (c)
Transient Unit	0.86 (d)

(1) The equivalent single family unit values are predicated on the ratio of the average number of vehicles per unit based on the 2010 US Census for the respective residential structure types divided by the vehicles per single family units (i.e., 1.28 vehicles per unit). The computations are as follows:

- (a) Single family:  $1.28/1.28 = 1.00$
- (b) Accessory Apt. or Single Room Occupancy (SRO):  $1.00/1.28 = .78$ . The former Fl. Department of Community Affairs (now Department of Economic Opportunity) approved the estimated average vehicles per accessory unit or single room occupancy (SRO) as one (1) vehicle per accessory unit or SRO.
- (c) Multi-family:  $1.28/1.28 = 1.00$
- (d) Transient Unit:  $1.10/1.28 = .86$ . Based on the Hurricane Evacuation Study 1.10 vehicles per transient unit in Monroe County.

**Policy I-1.16.4: Building Permit Allocation System.** The designation of Future Land Use Classifications which allow residential densities within the Truman Waterfront Parcel does not in itself provide any allocation of units through the Building Permit Allocation System for that area. In order to facilitate redevelopment of the Truman Waterfront Parcel, equivalent single-family unit values and associated development rights may be transferred from anywhere within the city to land use classifications within the Truman Waterfront Parcel which allow residential development. This is not a transfer of density; rather, it pertains to the transfer of units which are allocated or vested in accordance with the Building Permit Allocation Ordinance. Any density associated with the unit host site will

*remain on that site; however, once the unit is transferred, the density on the host site cannot be developed until units are allocated through the Building Permit Allocation Ordinance. The City Manager or his designee shall maintain records of the transfer of units under this provision.*

**(2) Conformance with requirements. Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.**

The proposed modifications are consistent with all applicable requirements of the Code. The proposed provides a rational guide for allocating new development rights provided in the new Comprehensive Plan.

**(3) Changed conditions. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed rezoning.**

The underlying need for a Building Permit Allocation System remains the same as it did when the Comprehensive Plan was originally adopted. However, modification of the ordinance is required implement the newly adopted Comprehensive Plan policies and the availability of new building permit allocations.

**(4) Land use compatibility. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.**

This proposal does not impact land use classifications; therefore, this provision is not applicable.

**(5) Adequate public facilities. Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services. Rezoning does not constitute a concurrency determination, and the applicant will be required to obtain a concurrency determination pursuant to chapter 94.**

The proposed ordinance modifications affect the allocation of residential units and do not impact concurrency determinations or other public facility determinations in the Comprehensive Plan and Land Development Regulations. All development and redevelopment must comply with those regulations.

**(6) Natural environment. Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.**

The proposed ordinance modifications relate to the allocation of residential units and do not impact existing natural resource protection regulations.

**(7) *Economic effects.* Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.**

Revisions to the ordinance regulating the allocation of new units are not expected to have any negative impacts on property values or the general welfare of the City, new development enabled by the new available allocation, will enable property owners to improve their properties, resulting in a positive economic effect.

**(8) *Orderly development.* Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.**

This modification is not expected to have any new impact on existing land use patterns; although, new residential development will result from the allocation process. All other requirements of code, such as density and intensity, apply, except where density bonuses are allowed consistent with the Comprehensive Plan.

**(9) *Public interest; enabling act.* Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of the land development regulations in this subpart B and the enabling legislation.**

The proposed revisions to the Building Permit Allocation System ordinance are required and reflect the City's newly adopted 2013 Comprehensive Plan and growth management approach.

**(10) *Other matters.* Other matters which the planning board and the city commission may deem appropriate.**

Modifications to the Building Permit Allocation System are necessary to clarify provisions of the system. The changes are required as part of long overdue updates to the Comprehensive Plan which became effective on May 2, 2013.

**Process:**

The Planning Board recommended approval of the new BPAS Ordinance at a regularly scheduled meeting held on August 22, 2013. The ordinance will require two City Commission readings for adoption. Absent any appeals, the ordinance will be rendered to the DCA, who will have 60 days to issue an order which determines consistency with Florida Statutes 380.0552 and the City's Comprehensive Plan.

**Options / Advantages / Disadvantages:**

**Option 1.** Approve the Ordinance for the City's new BPAS as proposed.

1. **Consistency with the City's Comprehensive Plan and Land Development Regulations:**  
The proposed ordinance is consistent with the City's Comprehensive Plan and Land Development Regulations.
2. **Consistency with the City's Strategic Plan, Vision and Mission:**  
The proposal is consistent with the City's Strategic Plan, Vision, and Mission.
3. **Financial Impact:**  
The proposal is intended to create a fair, equitable building permit allocation structure with provisions for affordable housing and green building development as part of the new residential development allowance. Approving the ordinance will allow new residential development that will have a positive financial impact to the city.

**Option 2.** Deny the proposed ordinance.

1. **Consistency with the City's Comprehensive Plan and Land Development Regulations:**  
Denying the Ordinance is not consistent with the City's Comprehensive Plan that supports the proposed ordinance and leaves in place outdated Building Permit Allocation System regulations.
2. **Consistency with the City's Strategic Plan, Vision and Mission:**  
Denying the Ordinance is not consistent with the City's Strategic Plan, Vision, and Mission.
3. **Financial Impact:**  
The proposal is intended to create a fair, equitable building permit allocation structure with provisions for affordable housing and green building development as part of the new residential development allowance. Denying the ordinance will prohibit new residential development and thus deny the city the new tax base and development fees from new residential development

**Recommendation:**

The Planning Department and Planning Board recommend the **approval of Option 1.**