



THE CITY OF KEY WEST
PLANNING BOARD
Staff Report

To: Chairman and Planning Board Members
Through: Katie P. Halloran, Planning Director
From: Nathalia A. Mellies, Assistant City Attorney
Meeting Date: August 19, 2021

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”, Division 2 entitled “Building Permit Allocation System, Section 108-995 – Reporting requirements and residential allocation schedule; for building permit allocation system units for the property known as the 3.2 (re# 00001630-000801); providing for concurrent and conditional adoption upon adoption of comprehensive plan amendments; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Request: The proposed ordinance to amend the City’s Land Development Regulations is an essential part of an effort to encourage the redevelopment of vacant City-owned properties and mixed-use development to include high density mixed income housing including affordable housing. The Planning Board is hearing this Land Development Regulation text amendment (the “LDRs”) and associated text amendments to the Comprehensive Plan in order to set aside 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 an essential part of an effort to promote the Bahama Village community, encourage the redevelopment of vacant City-owned properties, and encourage local business and workforce housing in the Bahama Village community. The Bahama Village Visioning and Capital Projects Workplan, recommended for approval by the Bahama Village Redevelopment Advisory Committee (BVRAC) on August 10, 2017, and adopted by the Community Redevelopment Agency (CRA) on January 17, 2018, lists seven (7) recommended capital projects. Capital project number four (4) recommends an affordable housing and mixed-use development project on the City-owned 3.2 acre parcel located on Fort Street in Bahama Village. The recommended project is listed as “critical” on the prioritization level. The proposed ordinance to amend the City’s Land Development Regulations is an effort to more effectively implement Comprehensive Plan Goals, Objectives, and Policies

of the City of Key West. The City recognizes the finite nature of the Building Permit Allocation System, and that in 2023, or when all BPAS units have been allocated, whichever comes last, the City may no longer be authorized to issue permits for new residential units.

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

Sec. 108-995. – Reporting requirements and residential allocation schedule.

The City of Key West building permit allocation system shall limit the number of permits issued for new permanent development, to 910 units during the period from July 2013 to July 2023, with the exception of the beneficial use permit allocations that have been reserved separately to address property rights claims. The annual allocation will not exceed ninety-one (91) single-family units or equivalent types of units based on the equivalency factors established in policy 1-1.16.3 of the comprehensive plan. The annual allocation limitation shall not apply to affordable housing allocations. No transient allocations will be made subsequent to the closure of the 2017-2018 allocation period.

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 ten (10) (2016—2023), a minimum of 50 percent of the total allocations shall be affordable. Between years four (4) and ten (10), 80 percent of remaining (non-affordability restricted) units shall be permanent, and 20 percent may be transient. Between years six (6) and ten (10), 100 percent of the units shall be permanent. 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, and shall meet the prerequisite standards for obtaining BPAS awards.

During year nine (9) (July 2021—2022), 128 of the units to be allocated will be dedicated for use at the property currently known as the 3.2 development located in Bahama Village and shall meet the prerequisite standards for obtaining BPAS awards.

Table 2.0 below identifies the number of units that may be allocated at a rate of 1.0 ESFU's by housing type and by year for the period from July 2013 to July 2023.

July 1, 2013 - June 30, 2014	July 1, 2014 - June 30, 2015	July 1, 2015 - June 30, 2016	July 1, 2016 - June 30, 2017	July 1, 2017 - June 30, 2018	July 1, 2018 - June 30, 2019	July 1, 2019 - June 30, 2020	July 1, 2020 - June 30, 2021	July 1, 2021 - June 30, 2022	July 1, 2022 - June 30, 2023
48 affordable units to be allocated for Peary Court development. Minimum of 7 affordable units. Maximum of 36 market rate units.	Minimum of 55 affordable units. Maximum of 36 market rate units.	Minimum of 55 affordable units. Maximum of 36 market rate units.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units.	Minimum of 45 affordable units. Maximum of 46 market rate units.	Minimum of 45 affordable units. Maximum of 46 market rate units.	<u>38.4 market rate units and 89.6 affordable units shall be allocated to the property currently known as the 3.2 development in Bahama Village.</u> Minimum of 45 affordable units. Maximum of 46 7.6 market rate units.	Minimum of 45 0.4 affordable units. Maximum of 46 market rate units.

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

Land Development Regulations Text Amendment Process:

Planning Board Meeting:	August 19, 2021
City Commission (1st Reading):	TBD, 2021
Local Appeal Period:	30 days
DEO Review (1st Reading):	Up to 60 days
City Commission (2nd Reading / Adoption):	TBD, 2021
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 amendment will support and further implement the Comprehensive Plan objectives and policies listed below:

Objective 1-1.6: Integrate Former Military Sites: Ensure that the integration of former military land provides for long-term, sustained, economic growth consistent with the community's vision for the City of Key West, as follows:

- 1. Provide meaningful integration of the sites into the community fabric;*
- 2. Help diversify the economy;*

3. Encourage balanced growth in the area's economy, including commercial and service sector job growth;
4. Provide employment opportunities for the region's unemployed and underemployed persons;
5. Strengthen the local tax base
6. Help existing business and industries expand;
7. Help small businesses develop;
8. Provide affordable housing for Key West residents;
9. Provide public recreation and access opportunities, especially on the waterfront;
10. Provide opportunities for port, harbor and marina improvements;
11. Facilitate improvements and provide physical and economic links to Bahama Village;
12. Ensure environmental sensitivity and efficient resource use;
13. Provide opportunities for social services and special needs facilities.

The parcel for which the new building permits would be allocated is former military land, granted to the City of Key West through a quit claim deed, recorded with the County, book # 1839, page # 410. The amendment to the Land Development Regulation will allow a meaningful integration of the sites into the community fabric by providing affordable and mixed-income housing for Key West residents, employment opportunities for the region's unemployed and underemployed persons, a strengthening of the local tax base, and an encouragement of a balanced growth in the area's economy, including commercial and service sector job growth.

Objective 3-1.1: - Managing Building Permit Allocation. The Comprehensive Plan currently requires the City to manage a Building Permit Allocation System in order to protect the health and safety of the residents in the City of Key West. The City shall implement the following policies in order to assist in accommodating existing and projected housing need- Monitoring Measure: Number of affordable housing units provided (public housing and deed restricted affordable housing) compared to current and projected demand.

The proposed reservation of BPAS units will allow for the development of mixed income housing at the 3.2-acre development site and ensure that any future development be predominately workforce affordable, with at least 70% of the units deed restricted affordable.

Policy 1-1.6.4: Truman Waterfront Organizing Elements: All new development and redevelopment within the Truman Waterfront Parcel shall be consistent with the following key organizing elements:

1. Recreation and open space linked through landscaped multimodal green ways and view corridors with multiple access points connecting the large park and recreational area on the northwestern portion of the site.
2. Uninterrupted public access to the waterfront through a wide promenade along the full length of the harbor.
3. Landscaped and hardscaped areas which are well-lit and designed to provide a safe area for use by a diverse mix of recreational users.
4. Affordable housing, neighborhood retail and social service uses which function as an extension of the neighborhood fabric of Bahama Village.
5. Educational and historical activity nodes.
6. Expanded use of the portions of the Truman Waterfront property for port activities.
7. Multiple ingress/egress points into the Truman Waterfront property.

8. *High profile green design and livability principles, including but not limited to the International Dark Sky Association, the National Complete Streets Coalition, and highest-level green building certifications.*

The proposed Land Development Regulation amendment will allow for redevelopment within the Truman Waterfront Parcel to contain mixed use, high-density mixed income housing, affordable workforce housing, neighborhood retail, and social services that will function as an extension of the neighborhood fabric of Bahama Village.

Policy 3-1.1.11: Selecting Sites for Affordable Housing for Low and Moderate Income Households. "The City shall . . . promote access to a broad range of housing opportunities with a full complement of urban services through cooperation and coordination with the private sector and Monroe County."

Policy 3-1.1.13: South Florida Regional Planning Council Initiatives. "The City of Key West shall participate in South Florida Regional Planning council initiatives directed toward educating local governments of new techniques especially programs applicable to the region and/or the County, for promoting affordable housing. . . the City shall ensure that regulatory techniques and review procedures do not create barriers to affordable housing."

Goal 3-1: - Housing: Allocate land area for accommodating a supply of housing responsive to the diverse housing needs of the existing and projected future population and served by adequate public facilities; assist the private sector in: providing affordable quality housing in neighborhoods protected from incompatible uses; promote best practices of land use planning, urban design, and landscaping.

The proposed Land Development Regulations amendment will encourage the redevelopment of vacant City-owned properties while encouraging and ensuring affordable housing in the Bahama Village community.

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.

The Bahama Village Visioning and Capital Projects Workplan, recommended for approval by the Bahama Village Redevelopment Advisory Committee (BVRAC) on August 10, 2017, and adopted by the Community Redevelopment Agency (CRA) on January 17, 2018, lists seven (7) recommended capital projects. Capital project number four (4) recommends an affordable housing and mixed-use development project on the City-owned 3.2 acre parcel located on Fort Street in Bahama Village. The recommended project is listed as "critical" on the prioritization level.

The effect of this amendment will be to implement the aforementioned capital project. Surrounding properties will be afforded the same protections associated with other Historic Neighborhood Commercial zoning districts, including limitations on density, height, and setbacks. In addition, architecture and site design (urban fabric) will be reviewed by the Historic Architecture Review Commission and historic preservation staff in order to ensure development is in accordance with the City's adopted historic district guidelines.

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 would be consistent with the adopted Comprehensive Plan, particularly with Objectives 1-1.6 and 3-1.1, and Policy 1-1.6.4, Policy 3-1.11.1, Policy 3-1.11.13, and Goal 3-1 along with the City's Chapters 1 and 3.

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.

Undeveloped land and vacant properties are subject to unit allocations from the Beneficial Use pool. The proposed change involves allocation of new building permits in a recently created district where the landowners are mostly governmental entities and most of the undeveloped property is protected, i.e. Fort Zachary Taylor State Park. Owners of undeveloped land with similar land use designation may apply for BPAS or Beneficial Use units at any time.

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**.