



CITY OF KEY WEST

Building Permit Allocation System 2022 Annual Report

INTRODUCTION:

This annual report is written in accordance with Section 108-995 of the Building Permit Allocation System Ordinance (BPAS) (Ordinance 13-19). This section requires the City Planner charged with implementation and interpretation of the Land Development Regulations to provide an annual report to the Planning Board and the State Land Planning Agency to identify any remaining or unused allocations for the current year and the number of permits by building type that have been allocated by September 1 for each year of the BPAS.

ANALYSIS RESULTS:

The City's Building Permit Allocation System (BPAS) is a growth management mechanism developed and implemented in 1993 to ensure adequate evacuation time for residents and visitors in the event of a hurricane possibly affecting the City. The BPAS is also commonly referred to as the Rate of Growth Ordinance, or "ROGO", as the intent of the ordinance is to limit the amount and rate of new residential units approved in the City.

Building Permit Allocation System Ordinance 13-19

Ordinance 13-19 updated the existing Building Permit Allocation System regulations in response to the newly adopted Comprehensive Plan policies and the 2012 Hurricane Evacuation Model Memorandum of Understanding. The amendments established an application process for the allocation of 91 new residential units to be received from the State Department of Economic Opportunity (DEO) annually for ten years as well as necessary changes that allow for clarification, simplification, and ease of use for the residential development regulations process.

- 1. Lawful Unit Determination Process (LUD's)** – Under the Ordinance 13-19, the date a homeowner must prove his/her unrecognized residential unit was in existence changed from April 1, 1990 to April 1, 2010, which is based on the most recent published US Census population data. The intent of the Building Permit Allocation System (BPAS), pursuant to City Code Section 108-987, is to implement the City's Comprehensive Plan by limiting annual permanent (non-transient) and transient residential development. All new permanent and transient residential units within the City are subject to the BPAS, except as expressly exempted in City Code Section 108-991.

2. Beneficial Use Criteria – Regulations codify Comprehensive Plan Policy 1-1.16.1 which required that the remaining residential BPAS units (from the original 1993 allocation) be 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. The Planning Department accepts residential units into the Beneficial Use pool, if property owners elect to utilize a waiver and release of building permit allocation to voluntarily reduce onsite residential density in order to receive and utilize transient units and licenses pursuant to the criteria in Sec. 122-1339 – Transfer of transient business tax receipt. In other instances, property owners choose to reduce the total number of legal on-site units on their property and voluntarily surrender these units to the City’s beneficial use pool, allowing them to be utilized elsewhere on the island.

Total Beneficial Use Units Allocated through 2022	
Total Beneficial Use Allocation Surplus through June 30, 2022	116.55
Total Beneficial Use Allocated from July 1, 2021 through June 30, 2022	1
Total Recovered / Surrendered from July 1, 2021 through June 30, 2022	4
Total Surplus:	119.55

Source: City of Key West Planning Department 2022

3. Application Process - Using the framework adopted in the 2013 Comprehensive Plan, staff created an application process that ensures that the limited number of residential unit allocations is distributed in a fair and equitable manner over time and that any future residential development contributes to the sustainable future of the City of Key West.

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

Allocations by Residential Unit Type				
Application/ Allocation Year	Affordable Housing Units (AH)*	Market Rate Units	Transient Rental Units	Total Units
2013/2014	48 Units dedicated for Peary Court; 7 AH units available for allocation	Maximum of 36	0	91 annually
2014/2015 2015/2016	Minimum of 55 annually	Maximum of 36 annually; 72 over 2 years	0	91 annually
2016/2017 2017/2018	Minimum of 45 annually	Maximum of 46 annually; 92 over 2 years	Maximum of 10 annually (deducted from market rate)	91 annually
2018/2019 2019/2020 2020/2021 2021/2022 2022/2023	Minimum of 45 annually; 225 over 5 years	Maximum of 46; 230 over 5 years	0	91 annually; 455 over 5 yrs
Over next 10 years	480	430		910

*Per City Commission Ordinance 17-13

- 4. Application Review and Ranking** – The Building Permit Allocation application period opens to the public in July of each year until the system ends per Ordinance 13-19. Applications will be reviewed and ranked by City staff and the Final Determination of Award will be made by the Planning Board. Based on the level of proposed development, development plan approvals will be reviewed by the relevant Boards and Commissions no later than June of the award 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. BPAS Year 1, 2, 3, 4, 5, 6, 7, 8, and 9 have been allocated as follows:

BPAS Award Allocations					
Allocation Year	Market Rate	Total Number of Units Allocated (ESFU)			
		Market Rate to Deed Restricted Affordable	Affordable	Affordable Advanced Award	Transient
Year 1	36		55	15.9	0
Year 2	31		44.1	8.46	0
Year 3	7		14.72	0	0
Year 4	29		22	0	8.6
Transferred Via Ordinance No. 17-13	0		104	0	0
Year 5	46		4.78	0	0
Year 6	9		105.56	0	0
Year 7	7		2.34	0	0
Year 8	43		24.96	0	0
Ordinance No. 22-05 3.2 Acre Set-Aside Year 9	34.40	1.86	89.74		0
Year 9	11	3.78	0	0	0
Allocations Subtotal	253.40	5.64 (deducted from market rate pool)	467.20 491.56	24.36	8.6 (deducted from market rate pool)

BPAS Summary			
	Market Rate	Affordable	Grand Total
Total Allocations Available 10 Years (2013-2023)	430	480	910
Total Allocated Through Year 9	267.64	491.56	759.20
Total # Recovered/Surrendered Units	6	13.90	
Total Allocations Remaining Year 10 2023	168.36	2.34	170.70

**Source: PB Resolutions 2015-06, 2015-26, 2016-16, 2017-06, 2018-17, 2019-25, 2020-17, 2020-025, 2021-20, 2022-27, Ordinance 17-13, Ordinance 22-05, Waiver Agreement, and CS/HB 1499. Also, 103 affordable units may be surrendered/recovered to the affordable BPAS pool if litigation is resolved associated with the City of Key West's 300 Early Evacuation Affordable pool. The 103 units were awarded on April 22, 2021, PB Resolution 2021-06. The Major Development project on College Road will surrender 103 previously allocated units and replace them with Early Evacuation units.*

CONCLUSION:

The Planning Department estimates that a total of 119.55 beneficial use units remain unallocated and will be reserved as a contingency for potential beneficial use claims.

Years 1, 2, 3, 4, 5, 6, 7, 8, and 9 of the BPAS have allocated a total of 739.30 units, of which just over 64-percent are for deed-restricted affordable rate projects.

Attachments: A: Year 1, 2, 3, 4, 5, 6, 7, 8, and 9 BPAS Allocations (PB Resolutions 2015-06, 2015-26, 2016-16, 2017-06, 2018-17, 2019-25, 2020-17, 2020-25, 2021-06, 2021-20, 2022-27, Ordinance 17-13, Ordinance 22-05, Waiver Agreement, CS/HB 1499, and 3rd DCA Opinion.

**PLANNING BOARD
RESOLUTION NO. 2015-06**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD
APPROVING BUILDING PERMIT ALLOCATION SYSTEM
(BPAS) RANKINGS AND MAKING THE FINAL
DETERMINATION OF AWARD OF SEVEN (7)
AFFORDABLE AND 24 MARKET-RATE UNITS FROM
YEAR 1 (JULY 1, 2013 – JUNE 30, 2014) AND THE
ADVANCED AWARD OF 15.9 AFFORDABLE UNITS FROM
YEAR 2 (JULY 1, 2014 – JUNE 30, 2015) PURSUANT TO
SECTIONS 86-9 AND 108-997 OF THE LAND
DEVELOPMENT REGULATIONS OF THE CODE OF
ORDINANCES OF THE CITY OF KEY WEST, FLORIDA;
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City of Key West, Florida (the “City”) adopted Ordinance No. 13-19, which became effective on February 27, 2014, establishing a Building Permit Allocation System (“BPAS”) in order to limit the amount of new permanent and transient residential development in the City pursuant to Objective 1-1.16 of the Comprehensive Plan; and

WHEREAS, the BPAS is now codified in Chapter 108, Article X of the Land Development Regulations (“LDRs”) of the Code of Ordinances (the “Code”); and


WHEREAS, City Code Section 108-995 identifies the annual amount of residential development that may be allocated by housing type (affordable, market-rate and transient) using the Equivalent Single-Family Unit (ESFU) Factors of City Code Section 108-994; and

WHEREAS, for Year 1 (July 1, 2013 – June 30, 2014), 55 affordable and 36 market-rate units are available for allocations; and

WHEREAS, pursuant to Comprehensive Plan Policy 1-1.16.1 and City Code Section 108-



Chairman

 Planning Director

995, during Year 1 (July 2013—2014), 48 of the affordable units to be allocated will be dedicated for use at the Peary Court Housing complex property, leaving seven (7) affordable units available for allocations; and

WHEREAS, City Code Section 86-9 provides for the advanced award of units for multi-unit affordable housing projects one year in advance; and

WHEREAS, City Code Section 86-9 provides that, upon ranking, in the event that two applications are determined to have the same numerical ranking score, and units are not available to provide awards to both projects, a drawing of lots will determine the awardee; and

WHEREAS, on February 4, 2015, the Planning Board conducted a public hearing regarding the BPAS rankings and Final Determination of Award prepared by the Planning Director; and

WHEREAS, a drawing of lots was held for two market-rate applications had the same score and the Final Determination of Award reflects the outcome of that drawing; and

WHEREAS, the Planning Board desires to approve the rankings and make the final determination of award for Year 1 and an advanced award from Year 2.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE CITY OF KEY WEST, FLORIDA:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. The Planning Board approves the attached rankings and makes its Final Determination of Award of seven (7) affordable units and 36 market-rate units from BPAS Year 1, and the advanced award of 15.9 affordable units from BPAS Year 2 as follows:

Affordable:

- Twenty-nine (29) units with a 0.10 ESFU to 2700-2706 Flagler Avenue with 60 points;
- Twenty (20) units with a 1.0 ESFU to 3800 North Roosevelt Boulevard with 25 points;

Market-Rate:

- Two (2) units with a 1.0 ESFU to 1028-1030 Truman Avenue with 75 points;
- Eight (8) units with a 1.0 ESFU to 2800 Flagler Avenue with 75 points;
- One (1) unit with a 1.0 ESFU to 1315 Whitehead Street with 70 points;
- One (1) unit with a 1.0 ESFU to 700 Eaton Street with 65 points;
- One (1) unit with a 1.0 ESFU to 700 Amelia Street with 25 points per drawing of lots; and
- Twenty-three (23) units with a 1.0 ESFU to 5555 College Road with 25 points per drawing of lots.

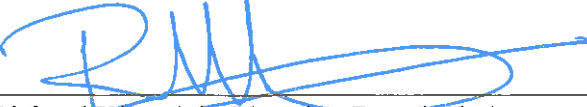
Section 3. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Board.

Section 4. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order shall be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for 45 days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the 45-day review period, the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved

by agreement or order.

Read and passed on first reading at a regularly scheduled meeting held this 4th day of February, 2015.

Authenticated by the Chairman of the Planning Board and the Acting Planning Director.


Richard Klitenick, Planning Board Chairman


2/12/15
Date

Attest:


Kevin Bond, AICP, Acting Planning Director

2/6/2015
Date

Filed with the Clerk:


Cheryl Smith, City Clerk

2-19-15
Date

KEY WEST BUILDING PERMIT ALLOCATION SYSTEM (BPAS)
YEAR 1 FINAL RANKINGS

YEAR 1 MARKET-RATE BPAS APPLICATIONS

RECOMMENDED FOR AWARD

DRAWING OF LOTS

PROJECTS	Units Requested	Equivalent Single-Family Unit (ESFU) Factor	Major/Minor Renovation	Building 1.5: higher than BFC (-5)	Providing add'l affordable housing (+10)	GBC Upgrade 1 Silver (+30)	GBC Upgrade 2 Gold (+40)	GBC Upgrade 3 Platinum (+60)	LEED Accredited (+10)	Electric Car Charging (+5)	Non-roof SRI of at least 29 (+10)	Vegetated materials SRI 29 (+5)	Vegetated Roof 50% (+15)	Building 1.5: higher than BFC (-5)	Providing add'l affordable housing (+5)	GBC Upgrade 1 Silver (+30)	GBC Upgrade 2 Gold (+40)	GBC Upgrade 3 Platinum (+60)	LEED Accredited (+10)	Electric Car Charging (+5)	Non-roof SRI of at least 29 (+10)	Vegetated Roof 50% (+15)	On-site Recreational (+10)	TOTAL BPAS POINTS:	
1028-1030 THUMAN AVE	2	1.00	2 Major	5	30																				42
2800 FLAGLER AVE	8	1.00	8 Major																						42
1315 WHITEHEAD ST	1	1.00	1 Major	5	30																				70
700 EATON ST	1	1.00	1 Major	5	30																				65
700 AMELIA ST	1	1.00	1 Minor	5																					25
5555 COLLEGE RD	30	1.00	30 Major																						25
TOTAL REQUESTED:		43																							

YEAR 1 AFFORDABLE BPAS APPLICATIONS

RECOMMENDED FOR AWARD

DRAWING OF LOTS

PROJECTS	Units Requested	Equivalent Single-Family Unit (ESFU) Factor	Major/Minor Renovation	Building 1.5: higher than BFC (-5)	Providing add'l affordable housing (+10)	GBC Upgrade 1 Silver (+30)	GBC Upgrade 2 Gold (+40)	GBC Upgrade 3 Platinum (+60)	LEED Accredited (+10)	Electric Car Charging (+5)	Non-roof SRI of at least 29 (+10)	Vegetated materials SRI 29 (+5)	Vegetated Roof 50% (+15)	Building 1.5: higher than BFC (-5)	Providing add'l affordable housing (+5)	GBC Upgrade 1 Silver (+30)	GBC Upgrade 2 Gold (+40)	GBC Upgrade 3 Platinum (+60)	LEED Accredited (+10)	Electric Car Charging (+5)	Non-roof SRI of at least 29 (+10)	Vegetated Roof 50% (+15)	On-site Recreational (+10)	TOTAL BPAS POINTS:	
2700-2706 FLAGLER AVE	29	0.10	2.9 Major																						60
3800 N ROOSEVELT BLVD	20	1.00	20 Major																						25
TOTAL REQUESTED:		22.9																							

NOTES:

YEAR 1 MARKET-RATE UNITS AVAILABLE: 36

YEAR 1 AFFORDABLE UNITS AVAILABLE: 7

In case of tie scores and insufficient available units, a drawing of lots will determine the awardee. Advanced award allowed for multi-unit affordable housing projects.

RAK

KCB

**PLANNING BOARD
RESOLUTION NO. 2015-26**

A RESOLUTION OF THE KEY WEST PLANNING BOARD APPROVING BUILDING PERMIT ALLOCATION SYSTEM (BPAS) RANKINGS AND MAKING THE FINAL DETERMINATION OF AWARD OF 44.1 AFFORDABLE AND 31 MARKET-RATE UNITS FROM YEAR 2 (JULY 1, 2014 – JUNE 30, 2015) AND THE ADVANCED AWARD OF 8.46 AFFORDABLE UNITS FROM YEAR 3 (JULY 1, 2015 – JUNE 30, 2016) PURSUANT TO SECTIONS 86-9 AND 108-997 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Key West, Florida (the “City”) adopted Ordinance No. 13-19, which became effective on February 27, 2014, establishing a Building Permit Allocation System (“BPAS”) in order to limit the amount of new permanent and transient residential development in the City pursuant to Objective 1-1.16 of the Comprehensive Plan; and

WHEREAS, the BPAS is now codified in Chapter 108, Article X of the Land Development Regulations (“LDRs”) of the Code of Ordinances (the “Code”); and

WHEREAS, City Code Section 108-995 identifies the annual amount of residential development that may be allocated by housing type (affordable, market-rate and transient) using the Equivalent Single-Family Unit (ESFU) Factors of City Code Section 108-994; and

WHEREAS, for Year 2 (July 1, 2014 – June 30, 2015), 39.1 affordable and 36 market-rate units are available for allocations; and

WHEREAS, City Code Section 86-9 provides for the advanced award of units for multi-unit affordable housing projects one year in advance; and



Vice-Chairman


Planning Director

WHEREAS, City Code Section 108-997(d) provides in the event that all market rate units are not claimed or applied for, after initial staff evaluation of the applications, any remaining market rate units may be awarded for affordable housing purposes; and

WHEREAS, City Code Section 86-9 provides that, upon ranking, in the event that two applications are determined to have the same numerical ranking score, and units are not available to provide awards to both projects, a drawing of lots will determine the awardee; and

WHEREAS, on June 29, 2015, the Planning Board conducted a public hearing regarding the BPAS rankings and Final Determination of Award prepared by the Planning Director; and

WHEREAS, the Planning Board desires to approve the rankings and make the final determination of award for Year 2 and an advanced award from Year 3.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE CITY OF KEY WEST, FLORIDA:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. The Planning Board approves the attached rankings and makes its Final Determination of Award to applicants for a total of 44.1 affordable units and 31 market-rate units from BPAS Year 2, and the advanced award of 8.46 affordable units from BPAS Year 3 as follows:

Affordable:

- Two (2) units with a 0.78 ESFU to 1020 18th Terrace with 100 points;
- Twelve (12) units with a 1.0 ESFU to 3900 South Roosevelt Boulevard with 85 points;
- Thirty-nine (39) units with a 1.0 ESFU to 5555 College Road with 40 points;



Vice-Chairman


Planning Director

Market-Rate:


- One (1) unit with a 1.0 ESFU to 2800 Flagler Avenue with 100 points;
- One (1) units with a 1.0 ESFU to 1020 18th Terrace with 100 points;
- Twenty-eight (28) units with a 1.0 ESFU to 3900 South Roosevelt Blvd. with 85 points;
- One (1) unit with a 1.0 ESFU to 515 Angela Street with 75 points;

Section 3. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Board.

Section 4. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this resolution shall be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this resolution is not effective for 45 days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the 45-day review period, the DEO can appeal this resolution to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the resolution until the appeal is resolved by agreement or order.

Read and passed on first reading at special meeting held this 29th day of June, 2015.

Authenticated by the Vice Chairman of the Planning Board and the Planning Director.





Sam Holland, Planning Board Vice-Chairman

06/29/15

Date

Attest:



Vice-Chairman


Planning Director

THADDEUS COHEN

29 JUNE 2015

Thaddeus Cohen, Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

June 29, 2015

Cheryl Smith, City Clerk

Date



Vice-Chairman



Planning Director

YEAR 2 MARKET-RATE BPAS APPLICATIONS RECOMMENDED FOR AWARD

Rank	Project	Units Requested	ESFU Factor	ESFUs Requested	Major/Minor Renovation	Score
1	2800 FLAGLER AVE	1	1.00	1	Major	100
1	1020 18 TH TERRACE	1	1.00	1	Minor	100
2	3900 S. ROOSEVELT BLVD.	28	28.00	28	Major	85
3	515 ANGELA STREET	1	1.00	1	Major	75
Total		31	31.00	31		

YEAR 2 AFFORDABLE BPAS APPLICATIONS RECOMMENDED FOR AWARD

Rank	Project	Units Requested	ESFU Factor	ESFUs Requested	Major/Minor Renovation	Score
1	1020 18 TH TERRACE	2	1.56	1.56	Minor	100
2	3900 S. ROOSEVELT BLVD.	12	12.00	12	Major	85
3	5555 COLLEGE ROAD	39	39.00	39	Major	40
Total		53	52.56	52.56		

**PLANNING BOARD
RESOLUTION NO. 2016-16**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD
APPROVING BUILDING PERMIT ALLOCATION SYSTEM
(BPAS) RANKINGS AND MAKING THE FINAL
DETERMINATION OF AWARD OF 14.72 AFFORDABLE
AND 7 MARKET-RATE UNITS FROM YEAR 3 (JULY 1, 2015
– JUNE 30, 2016) PURSUANT TO SECTIONS 86-9 AND 108-
997 OF THE LAND DEVELOPMENT REGULATIONS OF
THE CODE OF ORDINANCES OF THE CITY OF KEY WEST,
FLORIDA; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City of Key West, Florida (the “City”) adopted Ordinance No. 13-19, which became effective on February 27, 2014, establishing a Building Permit Allocation System (“BPAS”) in order to limit the amount of new permanent and transient residential development in the City pursuant to Objective 1-1.16 of the Comprehensive Plan; and

WHEREAS, the BPAS is now codified in Chapter 108, Article X of the Land Development Regulations (“LDRs”) of the Code of Ordinances (the “Code”); and

WHEREAS, City Code Section 108-995 identifies the annual amount of residential development that may be allocated by housing type (affordable, market-rate and transient) using the Equivalent Single-Family Unit (ESFU) Factors of City Code Section 108-994; and

WHEREAS, for Year 3 (July 1, 2015 – June 30, 2016), 46.54 affordable and 36 market-rate units are available for allocations; and

WHEREAS, City Code Section 86-9 provides that, upon ranking, in the event that two applications are determined to have the same numerical ranking score, and units are not available to provide awards to both projects, a drawing of lots will determine the awardee; and



Chairman

Planning Director

WHEREAS, on March 17, 2016, the Planning Board conducted a public hearing regarding the BPAS rankings and Final Determination of Award prepared by the Planning Director; and

WHEREAS, the Planning Board desires to approve the rankings and make the final determination of award for Year 3

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE CITY OF KEY WEST, FLORIDA:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.


Section 2. The Planning Board approves the attached rankings and makes its Final Determination of Award of 14.72 affordable units and 7 market-rate units from BPAS Year 3

Affordable:

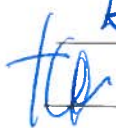
- Eight (8) units with a 0.10 ESFU to 2700-2706 Flagler Avenue with 60 points;
- Two (2) units with a 0.78 ESFU to 725 Duval Street with 55 points;
- One (1) unit with a 0.78 ESFU to 1412 Johnson Street with 50 points;
- One hundred and eight (108) units with a 0.10 ESFU to Poinciana Gardens with 25 points;
- One (1) unit with a 0.78 ESFU to 2303 Linda Avenue with 25 points;

Market-Rate:

- Five (5) units with a 1.0 ESFU to 725 Duval Street with 55 points;
- One (1) unit with a 1.0 ESFU to 2 Go Lane with 50 points;
- One (1) unit with a 1.0 ESFU to 2303 Linda Avenue with 25 points;




Chairman




Planning Director

Section 3. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Board.

Section 4. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order shall be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for 45 days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the 45-day review period, the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.



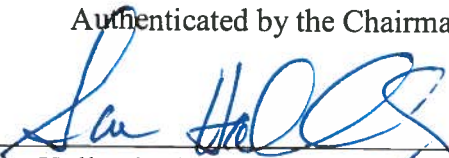
Chairman




Planning Director

Read and passed on first reading at a regularly scheduled meeting held this 17th day of March, 2016.

Authenticated by the Chairman of the Planning Board and the Planning Director.



Sam Holland, Planning Board Chairman



Date

Attest:



Thaddeus Cohen, Planning Director



Date

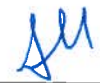
Filed with the Clerk:




Cheryl Smith, City Clerk



Date



Chairman



Planning Director

**PLANNING BOARD
RESOLUTION NO. 2017-06**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD
APPROVING BUILDING PERMIT ALLOCATION SYSTEM
(BPAS) RANKINGS AND MAKING THE FINAL
DETERMINATION OF AWARD OF 22 AFFORDABLE, 29
MARKET-RATE UNITS AND 8.6 TRANSIENT UNITS FROM
YEAR 4 (JULY 1, 2016 – JUNE 30, 2017) PURSUANT TO
SECTIONS 86-9 AND 108-997 OF THE LAND
DEVELOPMENT REGULATIONS OF THE CODE OF
ORDINANCES OF THE CITY OF KEY WEST, FLORIDA;
PROVIDING FOR AN EFFECTIVE DATE**


WHEREAS, the City of Key West, Florida (the “City”) adopted Ordinance No. 13-19, which became effective on February 27, 2014, establishing a Building Permit Allocation System (“BPAS”) in order to limit the amount of new permanent and transient residential development in the City pursuant to Objective 1-1.16 of the Comprehensive Plan; and


WHEREAS, the BPAS is now codified in Chapter 108, Article X of the Land Development Regulations (“LDRs”) of the Code of Ordinances (the “Code”); and

WHEREAS, City Code Section 108-995 identifies the annual amount of residential development that may be allocated by housing type (affordable, market-rate and transient) using the Equivalent Single-Family Unit (ESFU) Factors of City Code Section 108-994; and

WHEREAS, for Year 4 (July 1, 2016 – June 30, 2017), 29 market-rate units, 22 affordable units and 8.6 transient units are available for allocations; and

WHEREAS, City Code Section 86-9 provides that, upon ranking, in the event that two applications are determined to have the same numerical ranking score, and units are not available to



Chairman


Planning Director

provide awards to both projects, a drawing of lots will determine the awardee; and

WHEREAS, on February 23, 2017, the Planning Board conducted a public hearing regarding the BPAS rankings and Final Determination of Award prepared by the Planning Director; and

WHEREAS, the Planning Board desires to approve the rankings and make the final determination of award for Year 4:

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE CITY OF KEY WEST, FLORIDA:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. The Planning Board approves the attached rankings and makes its Final Determination of Award of 29 market-rate units, 22 affordable units and 8.6 transient units from BPAS Year 4:

Market-Rate:

- Twenty-eight (28) units with a 1.00 ESFU to 3900 South Roosevelt Boulevard with 85 points;
- One (1) unit with a 1.00 ESFU to 1421 1st Street with 20 points;

Affordable:


- Twelve (12) units with a 1.0 ESFU to 3900 South Roosevelt Boulevard with 85 points;
- Ten (10) units with a 1.0 ESFU to 2312-2318 North Roosevelt Boulevard with 20 points;

Transient:

- Ten (10) units with a 8.6 ESFU to 801 Eisenhower Drive with 110 points;

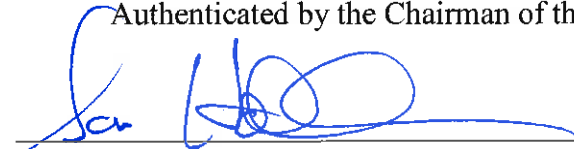
Section 3. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Board.

Section 4. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order shall be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for 45 days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the 45-day review period, the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.


Chairman

Planning Director

Read and passed on first reading at a regularly scheduled meeting held this 23rd day of February, 2017.

Authenticated by the Chairman of the Planning Board and the Planning Director.

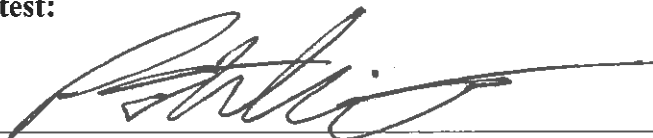


Sam Holland, Planning Board Chairman

3/15/17

Date

Attest:



Patrick Wright, Interim Planning Director

3-16-17

Date


Filed with the Clerk:




Cheryl Smith, City Clerk

3-16-17

Date



Chairman



Planning Director

KEY WEST BUILDING PERMIT ALLOCATION SYSTEM (BPAS)
YEAR 4 FINAL RANKINGS

YEAR 4 MARKET-RATE/TRANSIENT BPAS APPLICATIONS

PROJECTS	Units Requested	Equivalent Single-Family Unit (ESFU) Factor	Major/Minor Renovation	Building 1.5' higher than BFE (+5)	Providing addtl affordable housing (+10)	GBC Upgrade 1 (+30)	GBC Upgrade 2 (+40)	GBC Upgrade 3 (+60)	AJPP / Tree Fund (+10)	LEED Architect (+10)	Electric Car Charging (+5)	Non-roof SRI of at least 29 (+10)	Roofing materials SRI 29 (+5)	Vegetated Roof 50% (+15)	Building 1.5' higher than BFE (+5)	Providing addtl affordable housing (+5)	GBC Upgrade 1 (+30)	GBC Upgrade 2 (+40)	GBC Upgrade 3 (+60)	AJPP / Tree Fund (+10)	LEED Architect (+10)	Electric Car Charging (+5)	Non-roof SRI of at least 29 (+10)	Open Space / On-site Recreational (+10)	Vegetated Roof 50% (+15)	TOTAL BPAS POINTS: CLAIMED	TOTAL BPAS POINTS: VERIFIED
3800 NORTH ROOSEVELT	10	10.00	8.60	Major											5		60	10	10	10	5	10	10			110	110
3900 SOUTH ROOSEVELT	28	28.00	28.00	Major											5	30		10	10	10	5	10	10			85	85
801 EISENHOWER DRIVE	10	10.00	8.60	Major											5	5	40		10	10	5	10	10			95	75
1421 1ST STREET	1	1.00	1.00	Major																						20	20
TOTAL REQUESTED:																											

YEAR 4 AFFORDABLE BPAS APPLICATIONS

PROJECTS	Units Requested	Equivalent Single-Family Unit (ESFU) Factor	Major/Minor Renovation	Building 1.5' higher than BFE (+5)	Providing addtl affordable housing (+10)	GBC Upgrade 1 (+30)	GBC Upgrade 2 (+40)	GBC Upgrade 3 (+60)	AJPP / Tree Fund (+10)	LEED Architect (+10)	Electric Car Charging (+5)	Non-roof SRI of at least 29 (+10)	Roofing materials SRI 29 (+5)	Vegetated Roof 50% (+15)	Building 1.5' higher than BFE (+5)	Providing addtl affordable housing (+5)	GBC Upgrade 1 (+30)	GBC Upgrade 2 (+40)	GBC Upgrade 3 (+60)	AJPP / Tree Fund (+10)	LEED Architect (+10)	Electric Car Charging (+5)	Non-roof SRI of at least 29 (+10)	Open Space / On-site Recreational (+10)	Vegetated Roof 50% (+15)	TOTAL BPAS POINTS: CLAIMED	TOTAL BPAS POINTS: VERIFIED
3900 SOUTH ROOSEVELT	28	28.00	28.00	Major											5		30		10	10	5	10	10			85	85
2312-2318 N. ROOSEVELT	10	10.00	10	Major											5	5										20	20
TOTAL REQUESTED:																											

NOTES:
YEAR 4 MARKET RATE UNITS AVAILABLE: 46
YEAR 4 AFFORDABLE UNITS AVAILABLE: 45
YEAR 4 TRANSIENT UNITS AVAILABLE: 10
In case of tie scores and insufficient available units, a drawing of lots will determine the awardee.

Handwritten signature/initials

**PLANNING BOARD
RESOLUTION NO. 2018-17**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD
APPROVING BUILDING PERMIT ALLOCATION SYSTEM
(BPAS) RANKINGS AND MAKING THE FINAL
DETERMINATION OF AWARD OF 5 AFFORDABLE AND 46
MARKET-RATE UNITS FROM YEAR 5 (JULY 1, 2017 –
JUNE 30, 2018) PURSUANT TO SECTIONS 86-9 AND 108-997
OF THE LAND DEVELOPMENT REGULATIONS OF THE
CODE OF ORDINANCES OF THE CITY OF KEY WEST,
FLORIDA; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City of Key West, Florida (the “City”) adopted Ordinance No. 13-19, which became effective on February 27, 2014, establishing a Building Permit Allocation System (“BPAS”) in order to limit the amount of new permanent and transient residential development in the City pursuant to Objective 1-1.16 of the Comprehensive Plan; and

WHEREAS, the BPAS is now codified in Chapter 108, Article X of the Land Development Regulations (“LDRs”) of the Code of Ordinances (the “Code”); and

WHEREAS, City Code Section 108-995 identifies the annual amount of residential development that may be allocated by housing type (affordable, market-rate, and transient) using the Equivalent Single-Family Unit (ESFU) Factors of City Code Section 108-994; and

WHEREAS, for Year 5 (July 1, 2017 – June 30, 2018), a maximum of 46 market-rate units (of which 10 may be transient) and a minimum of 45 affordable units are available for allocation; and

WHEREAS, City Code Section 86-9 provides that, upon ranking, in the event that two

applications are determined to have the same numerical ranking score, and units are not available to provide awards to both projects, a drawing of lots will determine the awardee; and

WHEREAS, on April 19, 2018, the Planning Board conducted a public hearing regarding the BPAS rankings and Final Determination of Award prepared by the Planning Director; and

WHEREAS, the Planning Board desires to approve the rankings and make the final determination of award for Year 5:

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE CITY OF KEY WEST, FLORIDA:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. The Planning Board approves the attached rankings and makes its Final Determination of Award of 46 market-rate units, 5 affordable units, and 0 transient units from BPAS Year 5:

Market-Rate:

- Four (4) units with a 1.00 ESFU to 3228 Flagler Avenue with 130 points;
- One (1) unit with a 1.00 ESFU to 1300 Angela Street with 120 points;
- Thirty-six (36) units with a 1.00 ESFU will be awarded to 1213 14th Street with 115 points; and
- Five (5) units with a 1.00 ESFU will be awarded to 638 United Street with 115 points

Affordable:

- Four (4) units with a 1.0 ESFU to 3228 Flagler Avenue with 130 points;
- One (1) unit with a 0.78 ESFU to 2907 Seidenberg Avenue with 5 points;

Transient:

- Zero (0) units with a 0.86 ESFU;

Section 3. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Board.

Section 4. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order shall be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for 45 days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the 45-day review period, the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regularly scheduled meeting held this 19th day of April
2018.

Authenticated by the Chairman of the Planning Board and the Planning Director.



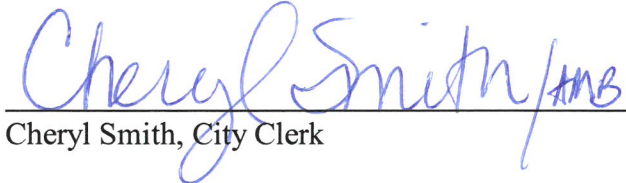
Sam Holland, Planning Board Chairman 4-24-18
Date

Attest:



Patrick Wright, Planning Director 4-23-18
Date

Filed with the Clerk:



Cheryl Smith, City Clerk 4-24-18
Date

**PLANNING BOARD
RESOLUTION NO. 2019- 025**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD APPROVING BUILDING PERMIT ALLOCATION SYSTEM (BPAS) RANKINGS AND MAKING THE FINAL DETERMINATION OF AWARD OF NINE (9) MARKET-RATE UNITS AND ONE-HUNDRED SIX (106) AFFORDABLE-RATE UNITS FROM YEAR 6 (JULY 1, 2018 TO JUNE 30, 2019) PURSUANT TO SECTIONS 86-9 AND 108-997 OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.


WHEREAS, the City of Key West, Florida, (the 'City') adopted Ordinance No. 13-19, which became effective on February 27, 2014, establishing a Building Permit Allocation System ("BPAS") in order to limit the amount of new permanent and transient residential development in the City pursuant to Objective 1-1.16 of the Comprehensive Plan; and


WHEREAS, the BPAS is now codified in Chapter 108, Article X of the Land Development Regulations ("LDRs") of the Code of Ordinances (the "Code"); and

WHEREAS, City Code Section 108-995 identifies the annual amount of residential development that may be allocated by housing type (affordable and market-rate) using the Equivalent Single-Family Unit (ESFU) Factors of City Code Section 108-994; and

WHEREAS, for Year 6 (July 1, 2018-June 30, 2019), a maximum of 46 market-rate units and a minimum of 45 affordable units are available for allocation; and

WHEREAS, City Code Section 86-9 provides that, upon ranking, in the event that two applications are determined to have the same numerical ranking score, and units are not available to provide awards to both projects, a drawing of lots will determine the awardee; and





Chairman
Planning Director

WHEREAS, on April 18, 2019, the Planning Board conducted a public hearing regarding the BPAS rankings and Final Determination of Award prepared by the Planning Director; and

WHEREAS, the Planning Board desires to approve the rankings and make the final determination of award for Year 6:

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE CITY OF KEY WEST, FLORIDA:

Section 1: That the above recitals are incorporated by reference as if fully set forth herein.


Section 2: The Planning Board approves the attached rankings and makes its Final Determination of Award of nine (9) market-rate units and one-hundred six (106) affordable-rate units from BPAS Year 6:

Market-Rate:


- One (1) unit with a 1.00 ESFU to 2303 Linda Avenue with 65 points
- One (1) unit with a 1.00 ESFU to 322 Amelia Street with 60 points
- Two (2) units with a 2.00 ESFU to 423 Front Street with 40 points
- Two (2) units with a 2.00 ESFU to 1319 William Street with 0 points
- Two (2) units with a 2.00 ESFU to 917 Duval Street with 0 points
- One (1) unit with a 1.00 ESFU to 524 Southard Street with 0 points

Affordable-Rate:

- One (1) unit with a 0.78 ESFU to 2303 Linda Avenue with 65 points
- One-hundred four (104) units with a 104.00 ESFU to 5220-5230 College Rd with 30 points
- One (1) unit with a 0.78 ESFU to 1721 Johnson Street with 5 points




Chairman




Planning Director

Section 3: This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Board.

Section 4: This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order shall be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for 45 days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the 45-day review period, the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.



Chairman



Planning Director

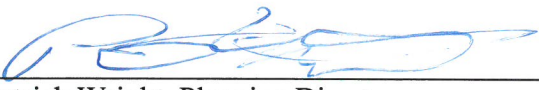
Read and passed on first reading at a regularly scheduled meeting held this 18th day of April 2019.

Authenticated by the Chairman of the Planning Board and the Planning Director;



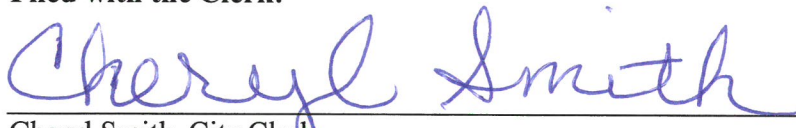
Sam Holland, Key West Planning Board Chairman 4-23-19
Date

Attest:





Patrick Wright, Planning Director 4-26-19
Date

Filed with the Clerk:



Cheryl Smith, City Clerk 4-26-19
Date



Chairman


Planning Director

**PLANNING BOARD
RESOLUTION NO. 2021-06**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD GRANTING APPROVAL FOR THE DETERMINATION OF AWARD FOR AN APPLICATION FOR 103 UNITS FROM THE BUILDING PERMIT ALLOCATION SYSTEM "AFFORDABLE - EARLY EVACUATION POOL" PURSUANT TO CHAPTER 108, ARTICLE XII, OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA.

WHEREAS, the subject property is located within the High-Density Residential College Road Zoning District (HDR-1); and

WHEREAS, pursuant to Objective 1-1.17 and associated policies in the Comprehensive Plan, and Sections 108-1152 – 108-1157 of the Land Development Regulations (the "LDRs") of the Code of Ordinances (the "Code") of the City of Key West, Florida (the "City"), the applicant filed an application for 103 Affordable Early Evacuation Pool Units at a parcel located at 5220 College Rd, 5224 College Rd, 5228 College Rd, 5230 College Rd ; and

WHEREAS, Comprehensive Plan Policy 1-1.17.2.1 outlines the specific standards and requirements for Affordable Early Evacuation Pool Units; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on April 22, 2021; and

WHEREAS, the Planning Board found that the determination of award complies with the criteria in Comprehensive Plan Policy 1-1.17.2.1 and Sections 108-1152 – 108-1157 of the Land Development Regulations; and

WHEREAS, the approval of the determination of award will be in harmony with the general


Chairman

 Planning Director

purpose and intent of the Comprehensive Plan and Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as fully set forth herein.


Section 2. That a determination of award, pursuant to Comprehensive Plan Policy 1-1.17.2.1 1 and Sections 108-1152 – 108-1157 of the Land Development Regulations of the City of Key West, Florida is hereby approved as follows: The Determination Of Award For An Application For 103 Units From The Building Permit Allocation System “Affordable - Early Evacuation Pool” Pursuant To Chapter 108, Article XII, Of The Land Development Regulations Of The Code Of Ordinances Of The City Of Key West, Florida. with the following conditions:

General conditions:

1. The proposed development maintains all conditions of approval stated in Planning Board Resolution No. 2019-47.
2. Per Ordinance No. 19-05 and Ordinance No. 19-06, evacuation compliance reports shall be available upon request
3. The project will be required to use the Workforce Initiative units should the city be successful in defending the appeal of DEO Final Order 20-032 Pending in the 3rd District Court of Appeals for the State of Florida in Case No. 3D20-1921. In which case the City, its heirs, successors, and assigns will be required to immediately surrender 103 of the Building Permit Allocation System units awarded in PB Resolution 2019-025, at the same Equivalent Single Family Unit value for return to the City’s unallocated BPAS pool.

Section 3. This resolution does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of


Chairman


Planning Director

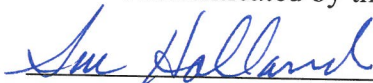
legal authority respecting the property.

Section 4. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 5. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for 45 days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the 45-day review period the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regularly scheduled meeting held this 22nd day of April 2021.


Authenticated by the Chair of the Planning Board and the Planning Director.



Sam Holland, Planning Board Chair

5/12/21
Date

Attest:



Katie P. Halloran, Planning Director

5/6/2021
Date

Filed with the Clerk:



Cheryl Smith, City Clerk

5-12-2021
Date

 Chairman

 Planning Director

**PLANNING BOARD
RESOLUTION NO. 2021-20**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD APPROVING BUILDING PERMIT ALLOCATION SYSTEM (BPAS) RANKINGS AND MAKING THE FINAL DETERMINATION OF AWARD OF FORTY-THREE (43) MARKET-RATE UNITS AND THIRTY-TWO (32) AFFORDABLE-RATE UNITS FROM YEAR 8 (JULY 1, 2020 TO JUNE 30, 2021) PURSUANT TO SECTIONS 86-9 AND 108-997 OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Key West, Florida, (the ‘City’) adopted Ordinance No.13-19, which became effective on February 27, 2014, establishing a Building Permit Allocation System (“BPAS”) in order to limit the amount of new permanent and transient residential development in the City pursuant to Objective 1-1.16 of the Comprehensive Plan; and

WHEREAS, the BPAS is now codified in Chapter 108, article X of the Land Development Regulations (“LDRs”) of the Code of Ordinances (the “Code”); and

WHEREAS, City code Section 108-995 identifies the annual amount of residential development that may be allocated by housing type (affordable and market rate) using the Equivalent Single-Family Unit (ESFU) Factors of City Code Section 108-994; and

WHEREAS, for Year 8 (July 1, 2020-June 30,2021), 46 market-rate units and 45 affordable units are available for allocation; and

WHEREAS, City Code Section 86-9 provides that, upon ranking, in the event that two applications are determined to have the same numerical ranking score, and units are not available to provide awards to both projects, a drawing of lots will determine the awardee; and


Chairman


Planning Director

WHEREAS, on May 20, 2021, the Planning Board conducted a public hearing regarding the BPAS rankings and Final Determination of Award prepared by the Planning Director; and

WHEREAS, the Planning Board desires to approve the rankings and make the final determination of award for Year 8:

NOW, THEREFORE BE IT RESOLVED BY THE PLANNING BOARD OF THE CITY OF KEY WEST, FLORIDA:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. The Planning Board approves the attached rankings and makes its Final Determination of Award of forty-three (43) market-rate units and thirty-two (32) affordable-rate units from BPAS Year 7:

Market-Rate:

- One (1) unit with a 1.00 ESFU to 610 Duval Street with 50 points
- One (1) unit with a 1.00 ESFU to 3450 Duck Avenue with 10 points
- Two (2) units with a 2.00 ESFU to 1663 Dunlap Drive with 5 points
- Five (5) units with a 5.00 ESFU to 700 Duval Street with 0 points
- 34 (34) units with a 34.00 ESFU to 1213 14th Street with 0 points

Affordable-Rate:

- One (1) unit with a 0.78 ESFU to 610 Duval Street with 50 points
- Seven (7) units with a 5.46 ESFU to 2822 North Roosevelt BLVD with 10 points
- One (1) unit with a 0.78 ESFU to 3450 Duck Avenue with 10 points

- Five (5) units with a 3.90 ESFU to 500 White Street with 10 points
- One (1) unit with 0.78 ESFU to 1663 Dunlap Drive with 5 points
- Five (5) units with 3.9 ESFU to 601 Truman Avenue & 919 Simonton Street with 0 points
- Two (2) units with 1.56 ESFU to 700 Duval Street with 0 points
- Ten (10) units with 7.8 ESFU to 1213 14th Street with 0 points

Section 3. This resolution shall go into effect immediately upon the beginning of the appeal period.

Section 4. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations).

Read and passed on first reading at a regularly scheduled meeting held this 20th day of May 2021.

Authenticated by the Chairman of the Planning Board and the Planning Director;

Sam Holland 6/8/21
Sam Holland, Chairman, Key West Planning Board Date

Attest:

Katie P. Halloran June 7, 2021
Katie P. Halloran, Planning Director Date

Filed with the Clerk:

Cheryl Smith 6-8-21
Cheryl Smith, City Clerk Date

**PLANNING BOARD
RESOLUTION NO. 2022-027**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD APPROVING BUILDING PERMIT ALLOCATION SYSTEM (BPAS) RANKINGS AND MAKING THE FINAL DETERMINATION OF AWARD OF NINE (9) MARKET-RATE UNITS AND TWENTY-EIGHT (28) AFFORDABLE-RATE UNITS FROM YEAR 9 (JULY 1, 2021 TO JUNE 30, 2022) PURSUANT TO SECTIONS 86-9 AND 108-997 OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Key West, Florida, (the “City”) adopted Ordinance No.13-19, which became effective on February 27, 2014, establishing a Building Permit Allocation System (“BPAS”) in order to limit the amount of new permanent and transient residential development in the City pursuant to Objective 1-1.16 of the Comprehensive Plan; and

WHEREAS, the BPAS is now codified in Chapter 108, article X of the Land Development Regulations (“LDRs”) of the Code of Ordinances (the “Code”); and

WHEREAS, City code Section 108-995 identifies the annual amount of residential development that may be allocated by housing type (affordable and market rate) using the Equivalent Single-Family Unit (“ESFU”) Factors of City Code Section 108-994; and

WHEREAS, for Year 9 (July 1, 2021 - June 30, 2022), a maximum of 46 market-rate units and a minimum of 45 affordable units are available for allocation; and

WHEREAS, City Code Section 86-9 provides that, upon ranking, in the event that two applications are determined to have the same numerical ranking score, and units are not available to provide awards to both projects, a drawing of lots will determine the awardee; and





Chairman
City Manager

WHEREAS, the City of Key West drew lots to determine final allocation of market rate units and properties at 1905 Staples Avenue and 1110 Truman Avenue were not selected, however would receive units upon the contingency clause outlined below; and



WHEREAS, the affordable housing project on the Truman Waterfront 3.2 acres is critical public infrastructure, the Key West City Commission set aside 38.4 market-rate units from the Year-9 allocation to be used for the affordable housing project; the set aside created a deficit for the pending Year 9 BPAS applicants which results in two applicants being denied a market-rate BPAS award; the Sheriff's Trumbo Road Affordable Housing Project is awarded 24 units which shall be automatically returned to the City upon passage of CS/HB 1499; if the 24 units are returned, 2 affordable-rate housing units can be assigned to the 3.2 acre project which, upon written agreement from the 3.2 Lessee, will allow 2 market-rate units to be returned to the City and then awarded to the remaining Year-9 BPAS applicants who otherwise would not receive allocations, specifically, 1905 Staples Avenue and 1110 Truman Avenue; and

WHEREAS, on May 19th, 2022, the Planning Board conducted a public hearing regarding the BPAS rankings and Final Determination of Award prepared by the Planning Director; and

WHEREAS, the Planning Board desires to approve the rankings and make the Final Determination of Award for Year 9.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.


Chairman

City Manager

Section 2. The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board APPROVAL of the final Year 9 BPAS rankings, the award of nine (9) market-rate housing units and twenty-eight (28) affordable-rate housing units; and should CS/HB 1499 become law upon signature of the Governor, the 24 affordable BPAS allocations associated with 255 Trumbo Road will automatically revert back to the City of Key West and the City shall assign at least 2 of these units to the 3.2-acre project, whereby upon written agreement from the 3.2 Lessee, the City would recover at least 2 market-rate units, which will allow 1905 Staples Avenue and 1110 Truman Avenue to each be allocated 1 market-rate unit for the Year-9 allocation.

Section 3. The Planning Board approves the attached rankings and makes its Final Determination of Award of nine (9) market-rate housing units and twenty-eight (28) affordable-rate housing units from BPAS Year 9:

Market-Rate:

- **One (1) unit with a 1.00 ESFU to 1501 South Street with 25 points**
- **One (1) unit with a 1.00 ESFU to 913 White Street with 15 points**
- **Two (2) units with a 2.00 ESFU to 700 Front Street with 15 points**
- **One (1) unit with a 1.00 ESFU to 1307 1309 Whitehead Street with 10 points**
- **One (1) unit with a 1.00 ESFU to 317 Whitehead Street with 5 points**
- **One (1) unit with a 1.00 ESFU to 608 Duval Street with 0 points**
- **One (1) unit with a 1.00 ESFU to 704 Russell Lane with 0 points**
- **One (1) unit with a 1.00 ESFU to 630 Mickens Lane with 0 points**


Chairman

City Manager

Affordable-Rate:

- **Two (2) units with a 2.00 ESFU to 1618 N. Roosevelt Boulevard with 95 points**
- **One (1) unit with a .78 ESFU to 2719 Staples Ave with 35 points**
- **Twenty-four (24) units with a 24.00 ESFU to 255 Trumbo Road with 0 points**
- **One (1) unit with a 1.00 ESFU to 1020 Margaret Street with 0 points**

Section 3. This Resolution shall go into effect immediately upon the beginning of the appeal period.

Section 4. This Resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations).

General Conditions

1. For 255 Trumbo Road, should CS/HB 1499 be signed by the Governor, the 24 affordable BPAS allocations associated with 255 Trumbo Road will automatically revert back to the City of Key West and the City shall assign at least 2 of these units to the 3.2-acre project, whereby upon written agreement from the 3.2 Lessee, the City would recover at least 2 market-rate units, which will allow 1905 Staples Avenue and 1110 Truman Avenue to each be allocated 1 market-rate unit for the Year-9 allocation..

Read and passed on first reading at a regularly scheduled meeting held this 19th day of May 2022.

Authenticated by the Chairman of the Planning Board and the Planning Director;



Chairman

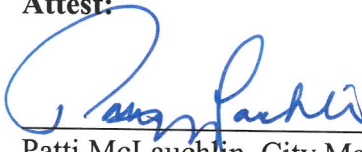


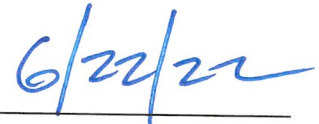
City Manager


Sam Holland, Planning Board Chair

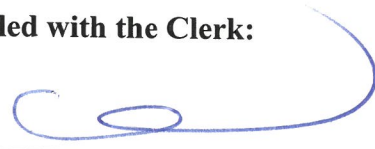

Date

Attest:




Patti McLaughlin, City Manager


Date

Filed with the Clerk:


Cheryl Smith, City Clerk
Date




Chairman

City Manager

THE CITY OF KEY WEST
PLANNING BOARD

Staff Report



To: Chair and Planning Board Members
From: Mario Duron, AICP, The Corradino Group
Through: Patti McLauchlin, City Manager
Meeting Date: May 19, 2022
Agenda Item: **Final Determination of Award for Year 9 Building Permit Allocation System (BPAS) Applications pursuant to Sections 108-995 and 108-997 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

Request: Approval of the final rankings of Year 9 (July 1, 2021 – June 30, 2022) BPAS applications for award of nine (9) market-rate housing units and twenty-eight (28) affordable-rate housing units.

Background:

BPAS Year 9 covers the application cycle between July 1, 2021 and June 30, 2022. For Year 9, a maximum of forty-six (46) market-rate units are available for allocation, by Code, and a minimum of forty-five (45) affordable units may be allocated.

A total of 38.4 market-rate units were set aside during Year 9 for development at the 3.2 acres through City Commission Ordinances No. 22-05 and No. 22-06, therefore only 7.6 (7) market-rate unit allocations remained. In May 2022, two market rate units allocated to the 3.2-acre project were surrendered back to the City of Key West; in sum a total of nine (9) market-rate BPAS permits are now available for award. As of the date of this report, the number of market-rate BPAS allocations available for Year 9 are nine (9) market-rate residential units. City of Key West Code Section 108-995 establishes that there is no limitation to the total number of affordable housing allocations on a year to year basis. For Year 9, the City has received applications for 27.78 Equivalent Single Family Units (28 building permit allocations).

The deadline to submit applications for Year 9 was November 5, 2021, by 3 PM EST. As of that date, the City received sixteen (16) BPAS applications requesting a total of thirteen (13) market-rate units and one hundred four (104) affordable units.

The applications were evaluated by staff for completeness. On December 17th, 2021, applicants were notified of any deficiencies and were allowed approximately one month to resolve the deficiencies and change their BPAS score. One application requesting seventy-six (76) affordable units was withdrawn on January 31, 2022 and one application requesting one (1) market-rate unit was withdrawn on January 3, 2022. One additional application reduced the number of market-rate units from two (2) to one (1) unit on May 3, 2022.

*WST
6/21/22*

The remaining Year 9 BPAS applications are summarized in the following table:

Year 9 BPAS Applications	2719 Staples Ave	1618 N Roosevelt Boulevard	250 Trumbo Road (vacant)	1020 Margaret Street	913 White Street	1501 South Street (vacant)	700 Front Street	1307 1309 Whitehead Street	317 Whitehead Street	608 Duval Street	630 Mickens Lane (vacant)	1905 Staples Avenue (vacant)	704 Russell Lane (vacant)	1110 Truman Avenue
Existing/Reorganized Units	1 (MR)	0	0	5 (MR)	1 (MR)	0	0	8 (MR)	0	0	0	0	0	0
New Market Rate Units					1	1	2**	1	1	1**	1	1	1	1**
New Affordable Units	1*	2**	24	1										
Total Existing + Proposed Year 9 BPAS Units	2	2	24	6	2	1	2	9	1	1	1	1	1	1
Zoning	Single Family	General Commercial	Historic Residential Commercial Core - 2	Historic Medium Density Residential	Historic Medium Density Residential & Historic Neighborhood Commercial - 1	Single Family	Historic Residential Commercial Core - 2	Historic High Density Residential	Historic Residential / Office	Historic Residential Commercial Core - 1	Historic Residential / Office	Limited Commercial	Historic Medium Density Residential	Historic Neighborhood Commercial - 1
Maximum Density (du/acre)	8 du/acre	Affordable Housing: 40 du/acre	Workforce Affordable Housing: 40 du/acre	16 du/acre	16 du/acre	8 du/acre	8 du/acre	22 du/acre	16 du/acre	22 du/acre	16 du/acre	16 du/acre	16 du/acre	16 du/acre
Land Area (SF)	9,059	119,995	49,500	17,512	11,642	4694.8	57,193	18786.25	6537	2479	4470 X	2550	5184 X	2583
Land Area (AC)	0.21	2.76	1.14	0.40	0.27	0.11	1.31	0.43	0.15	0.06	0.10	0.06	0.12	0.06
Proposed Density (du/acre)	9.5 du/acre	0.7 du/acre	21 du/acre	15 du/acre	7.4 du/acre	9.1 du/acre	1.5 du/acre	20.9 du/acre	6.6 du/acre	16.7 du/acre	20 du/acre	16.6 du/acre	8.3 du/acre	16.6 du/acre
Maximum Dwelling Units Allowed	1.6	110.4	45.6	6.4	4.3	0.9	10.5	9.5	2.4	1.3	1.6	0.9	1.9	0.9

**Section 122-233 (a) (10): "Density shall be calculated based only upon the number of principal units on a site." This application is for an accessory unit.*

***Section 108-998. – Compact infill development and mixed-use development incentives. This application is for additional density allowed based on commercial floor area.*

(MR): Market Rate

Analysis:

Staff evaluated, scored, and ranked the final BPAS applications according to the prerequisites and criteria outlined in City Code Section 108-997 (b) and (c).

A total of ten (10) applicants were competing for the nine (9) available market-rate units. One market-rate applicant is applying for two units. Staff is recommending allocation of the first six (6) market-rate units to the five (5) applicants receiving the top scores. The remaining five market-rate applicants tied with zero points after ranking.

As required in Code Section 108-997, a drawing was performed by the City Clerk on May 10, 2022 to allocate the remaining three available market-rate units.

Applicants with properties listed below were selected during the drawing:

- 608 Duval Street – 1 market-rate unit
- 704 Russell Lane – 1 market-rate unit
- 630 Mickens Lane – 1 market-rate unit

The City of Key West is not able to allocate market-rate permits for properties at 1905 Staples Avenue and 1110 Truman Avenue during the Year 9 BPAS cycle.

Attached are the resulting scores and final rankings. Staff's evaluation of the final applications is summarized in the score review sheet, which is attached to the application package.

Pursuant to City Code Section 108-995, a maximum of forty-six (46) market-rate units are available for Year 9 (July 1, 2021– June 30, 2022) of the BPAS. The following market-rate projects are recommended for award:

YEAR 9 MARKET-RATE BPAS APPLICATIONS – RECOMMENDED FOR AWARD						
Rank	Project	Units Requested	ESFU Factor	ESFUs Requested	Major/Minor Renovation	Score
1	1501 South Street	1	1.00	1	Major	25
Tied	913 White Street	1	1.00	1	Minor	15
Tied	700 Front Street	2	1.00	2	Minor	15
3	1307 1309 Whitehead Street	1	1.00	1	Major	10
4	317 Whitehead Street	1	1.00	1	Major	5
Tied	608 Duval Street	1	1.00	1	Minor	0
Tied	704 Russell Lane	1	1.00	1	Major	0
Tied	630 Mickens Lane	1	1.00	1	Major	0

Pursuant to City Code Section 108-995, a minimum of forty-five (45) affordable units are available for Year 9 (July 1, 2021 – June 30, 2022) of the BPAS. The following affordable projects are recommended for award:

YEAR 9 AFFORDABLE-RATE BPAS APPLICATIONS - RECOMMENDED FOR AWARD						
Rank	Project	Units Requested	ESFU Factor	ESFUs Requested	Major/Minor Renovation	Score
1	1618 N Roosevelt Boulevard	2	1.00	2	Major	95
2	2719 Staples Ave	1	0.78	0.78	Major	35
Tied	255 Trumbo Road	24	1.00	24	Major	0
Tied	1020 Margaret Street	1	1.00	1	Major	0

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board **APPROVAL** of the final Year 9 BPAS rankings, the award of nine (9) market-rate housing units and twenty-eight (28) affordable-rate housing units.

Units Requested	Equivalent Single-Family Unit (ESFU) Factor	Total ESFUs	Major/Minor Renovation	Building more than 1.5' higher than the BFE (+5)	Exceeding the minimum required percentage of affordable housing (+30)	Voluntarily providing affordable housing which exceeds the requirements of sec 122-1467 at median income classification (+40)	Voluntarily providing affordable housing which exceeds the requirements of sec 122-1467 at low income classification (+60)	GBC Upgrade 1 (+20)	GBC Upgrade 2 (+27)	GBC Upgrade 3 (+40)	Voluntary contribution to the ALPP or Tree Fund in the amount of \$2500 or more (+5)	Providing electrical high voltage sized conduit for future EC charging station near parking area (+5)	Using light colored, high reflectivity materials for all non-roof/areas with a SRI of at least 29 (+5)	Providing on-site recreational amenities or exceeding the open space requirements of sec 108-346(b) (+10)	BPAS Points: Claimed	BPAS Points Verified	VERIFIED Final BPAS Score	Notes
1	1.00	1	Major	5	0	0	0	20	0	0	0	0	0	0	25	25	25	Proposed Site Plan will need Variances from Dimensional Requirements: - Front Setback Variance - Non-Conforming Lot Size
1	1.00	1	Minor	0	0	0	0	0	0	0	0	0	5	10	15	15	15	Proposed Site Plan will need a Variance from Dimensional Requirement: - Side Setback
1	1.00	1	Major	5	0	0	0	0	0	0	5	0	0	0	10	10	10	None.
1	1.00	1	Major	5	0	0	0	0	0	0	0	0	0	0	32	5	5	Proposed Site Plan will require HARC meeting
1	1.00	1	Minor	0	0	0	0	0	0	0	0	0	0	0	0	0	0	None.
1	1.00	1	Major	0	0	0	0	0	0	0	0	0	0	0	0	0	0	None.
2	1.00	2	Minor	5	0	0	0	0	0	0	0	0	0	10	15	15	15	None.
1	1.00	1	Major	0	0	0	0	0	0	0	0	0	0	0	0	0	0	Proposed Site Plan will need Variances from Dimensional Requirements: - Exceeding building coverage - Exceeding FAR - Front and Rear Setback Variances
1	1.00	1	Major	0	0	0	0	0	0	0	0	0	0	0	0	0	0	Proposed Site Plan will require HARC meeting
1	1.00	1	Minor	0	0	0	0	0	0	0	0	0	0	0	0	0	0	Proposed Site Plan will require HARC meeting
11	10.00	11.00																TOTAL REQUESTED:

YEAR 9 MARKET-RATE BPAS APPLICATIONS

MARKET-RATE PROJECTS

YEAR 9 AFFORDABLE-RATE BPAS APPLICATIONS																			
AFFORDABLE-RATE PROJECTS																			
	2	1.00	2	Major	5	30	40	0	0	0	0	0	0	0	0	0	95	95	
1618 N Roosevelt Boulevard																	None.		
255 Trumbo Road	24	1.00	24	Major	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
1020 Margaret Street	1	1.00	1	Major	0	0	0	0	20	0	0	0	0	0	0	0	0	0	0
2719 Staples Ave	1	0.78	0.78	Major	5	0	0	0	20	0	0	0	0	0	0	5*	0	40	35
TOTAL REQUESTED:	28	3.78	27.78																

Proposed Site Plan requires:
 - HARC meeting
 - Major Development Plan approval
 - Should CS/HB 1499 be signed by the Governor, the 24 affordable BPAS allocations associated with 255 Trumbo Road will revert back to the City of Key West as recovered units for allocation during the sequential award year.
 Proposed Site Plan will require HARC meeting
 Previous approvals:
 - Variances approved PB 2021-25
 - Minor Development Site Plan approved PB 2021-30
 Previous approvals:
 - Variances approved PB2021-65
 Proposed Site Plan will require:
 - Tree Commission meeting

NOTES:

- YEAR 9 MARKET-RATE UNITS AVAILABLE: 46 MAXIMUM
- YEAR 9 AFFORDABLE-RATE UNITS AVAILABLE: 45 MINIMUM
- In the event that two applications are determined to have the same numerical ranking score, and units are not available to provide awards to both projects, a drawing of lots will determine the awardee.
- All new units must be constructed with a rainwater catchment system (unless exempt). Final site plans must include roof and corresponding cistern size for permitting and CO.
- All new units shall be constructed in compliance with and obtain a baseline green building certification.
- The Year 9 document, "Exhibit C- Applicant's Estimated Score Sheet BPAS Application" erroneously included an allocation of +5 points for "Using light-colored, high-reflectivity materials...". This feature is not reflected in City of Key West Code, therefore no bonus points can be allocated.
- All proposed site plans underwent a preliminary development review.
- All final BPAS application are pending development review.
- All final BPAS applications are pending final density/zoning review.
- All Affordable-Rate Projects shall provide a deed restriction running with the land and binding on owners, for at least 50 years demonstrating continuing affordability for the applicable income designation, and provide an annual report to the City Manager ensuring continued compliance with affordability criteria.

ORDINANCE NO. 17-13

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 1 OF THE COMPREHENSIVE PLAN ENTITLED "FUTURE LAND USE ELEMENT" BY AMENDING POLICY 1-1.16.1, ENTITLED "MAINTAIN A BUILDING PERMIT ALLOCATION ORDINANCE," AMENDING POLICY 1-1.16.2, ENTITLED "BUILDING PERMIT ALLOCATION ORDINANCE AND AFFORDABLE HOUSING," AMENDING POLICY 1-1.16.3, ENTITLED "PERMIT ALLOCATION SYSTEM RATIO BY STRUCTURE TYPE," AND BY ADDING POLICY 1-1.16.5 ENTITLED "TRANSFER OF BUILDING PERMIT ALLOCATIONS;" BY AMENDING CHAPTER 2 ENTITLED "TRANSPORTATION ELEMENT," BY AMENDING POLICY 2.16.4 TO PROPERLY REFLECT AS POLICY 2-1.6.4, AND REVISING THE REFERENCE TO THE NUMBER OF ALLOCATED UNITS; AMENDING CHAPTER 3 OF THE COMPREHENSIVE PLAN ENTITLED "HOUSING," BY AMENDING POLICY 3-1.1.4, ENTITLED "BUILDING PERMIT ALLOCATION SYSTEM;" PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission has passed numerous resolutions aimed at increasing the availability of affordable and workforce housing in the City of Key West; and

WHEREAS, development of any housing is strictly controlled by the State of Florida, which has designated the City of Key West as a State Area of Critical Concern; and

WHEREAS, this state regulation has resulted in a specified number of new building permits that may be granted each year under what is known as the Building Permit Allocation System (BPAS); and

WHEREAS, based on recommendations by the Department of Economic Opportunity, changes to the City's Comprehensive Plan were requested; and

WHEREAS, the City Commission finds that it is in the best interest of the City that there exists a method to transfer Building Permit Allocations not utilized within the City to Lower Keys areas of Monroe County, for beneficial use purposes and/or affordable housing that will directly benefit the City of Key West as determined by the City Commission; and

WHEREAS, Chapter 1, entitled "Future Land Use Element" and Chapter 3, entitled "Housing" are to be amended through ordinance in response to the Department of Economic Opportunity; and

WHEREAS, the Planning Board ("Board") held a noticed public hearing on May 18, 2017, where based on the consideration of recommendations by the city planner, city attorney, building official and other information, the Board recommended approval of the proposed amendments set forth in Planning Board Resolution 2017-21; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA;

Section 1: That Chapter 1 of the Comprehensive Plan is hereby amended as follows*:

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 not exceed 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 1-1.16.3. The annual allocation limitation shall not apply to affordable housing allocations. 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

*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)

allocated shall be affordable. Between years four (4) and 10 (2016 - 2023), a minimum of 50% of the total allocations 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.~~ Between years four (4) and 10, no more than 10 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.

The annual building permit allocation period will begin on July 1 of each year and shall end on the 30th of June of the following year. ~~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 obtained within two years of the development approval date. If a building permit is not obtained within that timeframe the allocated units will revert to the City for reallocation ~~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 3-1.1.7 and 3-1.1.8 between July 1, 2013 and July 1, 2016, and that a minimum of fifty percent (50%) of the total allocations 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.

Table 1-1.16.3

Residential Structure Type	Equivalent Single-Family Unit Value (ESFU) ⁽¹⁾
Single Family	1.00 ^(a)
Accessory Apt./SRO	.78 ^(b)
Multi Family	1.00 ^(c)
Transient Unit	.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 1-1.16.5: Transfer of Building Permit Allocations

By resolution the City of Key West may transfer building permit allocations to areas beyond the City limits for the development of Affordable Workforce Housing in close proximity to the City of Key West such that the anticipated residents could reasonably be expected to contribute to the workforce of the City of Key West.

Upon adoption of this Comprehensive Plan Amendment the City of Key West shall transfer 104 previously unallocated units to the Affordable Housing Development described as "THE QUARRY" located in the Big Coppitt Mixed Use Area 1, at approximate mile marker 9, Monroe County Florida. This shall be done pursuant to an ~~Interlocal~~ Agreement between the City of Key West, The Department of Economic Opportunity, ~~and~~ Monroe County and appropriate local governments with the concurrence of Quarry Partners LLC, the owner of the property. The Agreement shall be prepared pursuant to Section 380 Florida Statutes. ~~shall require, and~~ Quarry Partners LLC shall

provide, recorded Declarations of Affordable Housing Restrictions for these units acceptable to the City of Key West and Monroe County prior to the issuance of certificates of occupancy by Monroe County. In the event building permits to construct "The Quarry" affordable housing project are not issued on or before June 30, 2019 these units shall be released to Monroe County and shall only be re-allocated for Affordable Housing purposes south of Mile Marker 26 on U.S. 1.

The units transferred under this policy shall be considered as contributing to the 50% minimum affordable housing allocation of Policy 1-1.16.1.

Section 2: That Chapter 2 of the Comprehensive Plan is hereby amended as follows

* * * * *

Policy 2-16.4 2-1.6.4 Transportation Concurrency Exception Area.

~~As a result of the State mandated hurricane evacuation modeling workshops and amendments to the Comprehensive Plan, the City will be allocated 91 new PBAS units annually starting in 2013.~~

Between years 2013 and 2023 The City of Key West shall allocate a total of 910 BPAS units. Due to the City's exception from transportation concurrency, the development or redevelopment

of these units shall not be subject to roadway concurrency requirements.

* * * * *

Section 3: That Chapter 3 of the Comprehensive Plan is hereby amended as follows:

* * * * *

Policy 3-1.1.4: Building Permit Allocation System.

The City of Key West shall ~~annually allocate 91 building permits per year between 2013 and 2023, for~~ a total of 910 permits between years 2013 and 2023. 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), a minimum of 50% of the total allocations 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.~~ Between years four (4) and ten (10), no more than 10 percent may be transient. During Year One (1) (July 2013 - 2014), 48 of the affordable units to be allocated will be in the transfer of Peary Court from military to private sector housing, which leaves 43 units to be allocated from the first allocation pool.

* * * * *

Section 4: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 5: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 6: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and Clerk of the Commission and approval by the Florida Department of Economic Opportunity, pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this 6 day of June, 2017.

Read and passed on final reading at a regular meeting held this 17 day of October, 2017.

Authenticated by the presiding officer and Clerk of the
Commission on 18 day of October, 2017.

Filed with the Clerk October 18, 2017.

Mayor Craig Cates	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Clayton Lopez	<u>Absent</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Absent</u>


CRAIG CATES, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK



**THE CITY OF KEY WEST
CITY ATTORNEY'S OFFICE
Report**

To: Chairman and Planning Board Members

From: George B. Wallace, Assistant City Attorney

Sponsor: James Scholl, City Manager

Meeting Date: May 18, 2017

Agenda Item: AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 1 OF THE COMPREHENSIVE PLAN ENTITLED "FUTURE LAND USE ELEMENT" BY AMENDING POLICY 1-1.16.1, ENTITLED "MAINTAIN A BUILDING PERMIT ALLOCATION ORDINANCE," AMENDING POLICY 1-1.16.2, ENTITLED "BUILDING PERMIT ALLOCATION ORDINANCE AND AFFORDABLE HOUSING," AMENDING POLICY 1-1.16.3, ENTITLED "PERMIT ALLOCATION SYSTEM RATIO BY STRUCTURE TYPE," AND BY ADDING POLICY 1-1.16.5 ENTITLED "TRANSFER OF BUILDING PERMIT ALLOCATIONS;" BY AMENDING CHAPTER 2 ENTITLED "TRANSPORTATION ELEMENT," BY AMENDING POLICY 2.16.4 TO PROPERLY REFLECT AS POLICY 2-1.6.4, AND REVISING THE REFERENCE TO THE NUMBER OF ALLOCATED UNITS; AMENDING CHAPTER 3 OF THE COMPREHENSIVE PLAN ENTITLED "HOUSING," BY AMENDING POLICY 3-1.1.4, ENTITLED "BUILDING PERMIT ALLOCATION SYSTEM;" PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

Action Item / Background

The current Comprehensive Plan for the City of Key West was approved in 2013. Subsequent to the approval of the current Comprehensive Plan the need for the City to be able to award BPAS units beyond the City limits in order to promote affordable housing projects which would directly benefit the workforce of the City has become apparent.

Currently the only mechanism in place which authorizes the City to distribute its BPAS units beyond the City limits is restricted to units which are awarded but for which no building permit is issued within two years of the date of the award. Under the current Land Development Regulations and Comprehensive Plan these units are then recovered by the City for re-allocation the next BPAS allocation year. In the event the recovered units are not re-allocated the next BPAS year the units are to be returned to the Department of Economic Opportunity for redistribution.

The proposed Amendments to Policies 1-1.16.1, 2-1.6.4, 1-1.16.3 and 3-1.1.4 eliminate the requirement that the City allocate 91 units annually and authorize the city to allocate its cumulative total approved allocations over the planning horizon which expires on July 1, 2023. This in turn will allow the City to better plan for affordable housing projects within the City such as the proposed development of college road and other projects. The amendment to Policy 3-1.1.4 reduces the percentage of transient unit allocations to ten (10%) of all allocations through July 1, 2013.

The proposed Amendment to Policy 1-1.16.2 would require that a minimum of fifty (50%) of all BPAS units awarded through July 1, 2023 be for affordable housing.

The proposed Comprehensive Plan amendment creating Policy 1-1.16.5 would create a mechanism for the City to transfer BPAS units beyond the City limits by Commission Resolution. The amendment would also operate as a one-time transfer of 104 previously un-allocated BPAS units to Monroe County for allocation and use at the workforce housing project known as "The Quarry" located on Rockland Key. These units would revert to the City if no building permit or permits are obtained to construct the project by June 30, 2018.

The City Attorney's office recommends that the Planning Board recommend **approval** of the draft amendment to Policies 1-1.16.1, 1-1.16.2, 1-1.16.3, 2.16.4, 3-1.1.4, and adding 1-1.16.5 titled "Transfer of Building Permit Allocations.

ORDINANCE NO. 22-05

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING COMPREHENSIVE PLAN CHAPTER 1, FUTURE LAND USE, POLICY 1-1.16.1, ENTITLED, "MAINTAIN A BUILDING PERMIT ALLOCATION ORDINANCE", AND BY AMENDING CHAPTER 3, HOUSING, POLICY 3-1.1.4, ENTITLED "BUILDING ALLOCATION SYSTEM", TO PROVIDE FOR BUILDING PERMIT ALLOCATION SYSTEM UNITS FOR THE PROPERTY KNOWN AS THE 3.2 (RE# 00001630-000801); PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING FOR THE FILING WITH SECRETARY OF STATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR THE INCLUSION IN THE CITY OF KEY WEST COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Key West finds that it is necessary to amend Chapter 1 entitled 'Future Land Use Element', specifically existing Policy 1-1.16.1 entitled "Maintain a Building Permit Allocation Ordinance" and Chapter 3 entitled 'Housing', specifically Policy 3-1.1.4, entitled "Building Allocation System; and

WHEREAS, the City Commission has passed numerous resolutions aimed at increasing the availability of affordable and workforce housing in the City of Key West; and

WHEREAS, development of any housing is strictly controlled by virtue of the fact that the State of Florida has designated the City of Key West as a State area of Critical Concern; and

WHEREAS, this state regulation has resulted in a specified number of new building permits that may be granted each year under what is known as the Building Permit Allocation System (BPAS); and

WHEREAS the new building permits have a finite amount available for use in the City of Key West; and

WHEREAS, 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; and

WHEREAS, the proposed ordinance to amend the City's Comprehensive Plan is an essential part of an effort to promote the Bahama Village community, encourage the redevelopment of vacant City-owned properties, and encourage and ensure affordable housing in the Bahama Village community; and

WHEREAS, Chapter 1 entitled Future Land Use Element and Chapter 3 entitled Housing are to be amended through ordinance in response to the Department of Economic Opportunity; and

WHEREAS, the planning board held a noticed public hearing on

August 19, 2021, where based on the consideration of recommendations by the city planner, city attorney and other information, the board recommended approval of the proposed amendments through Planning Board Resolution 2021-36; and

WHEREAS, the City has held various workshops and public meetings regarding the needs for affordable housing; and

WHEREAS, the City has held various workshops and public meetings regarding the use of the City-owned parcel currently known as the 3.2 in Bahama Village; and

WHEREAS, the City has prepared an amendment to the Comprehensive Plan that considers the recommendations by staff, the public, and the Planning Board; and

WHEREAS, the City Commission has determined that the proposed amendment is consistent with the Comprehensive Plan; is in conformance with all applicable requirements of the Code of Ordinances; is not stimulated by changed conditions after the effective date of the Comprehensive Plan; will promote land use compatibility; will not negatively affect property values in the area or general welfare; and is not in conflict with public interest; and

WHEREAS, these amendments to the City of Key West's Comprehensive Plan will promote the health, safety and welfare of the citizens and visitors of the City of Key West.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST,
FLORIDA:

Section 1: Chapter 1: Future Land Use Element-That
Chapter 1 of the Comprehensive Plan is hereby amended as follows*:

**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 not exceed 91 single-family units or an equivalent combination of residential and transient types based on the equivalency factors established in Policy 1-1.16.3. The annual allocation limitation shall not apply to affordable housing allocations. 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 and ten (2016-2023), a minimum of 50 percent of the total allocations shall be affordable. Between years four and ten, no more than ten percent may be transient. During Year One (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. 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.

[...]

*(Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading. Added language is double underlined and ~~double struck through~~ at second reading.)

Building permits shall be obtained within two years of the development approval date. If a building permit is not obtained 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.

Section 2: **Chapter 3: Housing-** That Chapter 3 of the Comprehensive Plan is hereby amended as follows*:

Policy 3-1.1.4 - Building Permit Allocation System.

[...]

Between years four and ten, no more than ten percent may be transient. During Year One (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, which leaves 43 units to be allocated from the first allocation pool. During Year Nine (July 2021–2022), 89.6 of the affordable units to be allocated will be dedicated to the development known as the 3.2 located in Bahama Village, 38.4 of the market-rate units to be allocated will be dedicated to the property currently known as the 3.2 development located in Bahama Village, which leaves 7.6 market-rate units to be allocated from the Year Nine allocation pool.

Section 3: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 4: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 5: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission and approval by the Florida Department of Economic Opportunity, pursuant to Chapter 380, Florida Statutes.

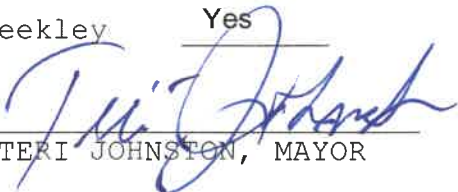
Read and passed on first reading at a regular meeting held this 14th day of September, 2021.

Read and passed on final reading at a regular meeting held this 15th day of February, 2022.

Authenticated by the presiding officer and Clerk of the Commission on 16th day of February, 2022.

Filed with the Clerk February 16, 2022.

Mayor Teri Johnston	<u>Yes</u>
Vice Mayor Sam Kaufman	<u>Yes</u>
Commissioner Gregory Davila	<u>Yes</u>
Commissioner Mary Lou Hoover	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Absent</u>
Commissioner Jimmy Weekley	<u>Yes</u>



TERI JOHNSTON, MAYOR

ATTEST:



KERI O'BRIEN, SENIOR DEPUTY CITY CLERK



EXECUTIVE SUMMARY

To: Patti McLauchlin, City Manager

From: Katie P. Halloran, Planning Director

Meeting Date: September 14, 2021

Agenda Item: **Text Amendment of the Comprehensive Plan**

Action Statement:

The purpose of this ordinance is to amend the City’s Comprehensive Plan to set aside Building Permit Allocation System units to facilitate an affordable housing project at the property known as the “3.2” acres (RE# 00001630-000801).

Background:

The proposed ordinance to amend the City’s Comprehensive Plan 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 Comprehensive Plan is an effort to more effectively implement Comprehensive Plan Goals, Objectives, and Policies of the City of Key West, especially those related to the provision of affordable housing. 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.

This amendment is being proposed together with amendments to the Land Development Regulations. Both amendments specify that 89.6 affordable BPAS units shall be set aside and 38.4 market rate units shall be set aside as part of Year Nine of the City of Key West Building Permit Allocation System. The City’s affordable housing goals at the 3.2 acre site are more specifically outlined in the City’s Request for Proposals document. The City’s overall goal for this development is to maximize the number of affordable units on this site.

Request / Proposed Text Amendment: *Proposed new language is underlined below and deleted language is ~~struck through~~ at first reading.*

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 not exceed 91 single-family units or an equivalent combination of residential and transient types based on the equivalency factors established in Policy 1-1.16.3. The annual allocation limitation shall not apply to affordable housing allocations. 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 and ten (2016—2023), a minimum of 50 percent of the total allocations shall be affordable. Between years four and ten, no more than ten percent may be transient. During Year One (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. 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.

[. . .]

Building permits shall be obtained within two years of the development approval date. If a building permit is not obtained 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.

Policy 3-1.1.4 – Building Permit Allocation System.

[. . .]

Between years four and ten, no more than ten percent may be transient. During Year One (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, which leaves 43 units to be allocated from the first allocation pool. During Year Nine (July 2021—2022), 89.6 of the affordable units to be allocated will be dedicated to the development known as the 3.2 located in Bahama Village, 38.4 of the market-rate units to be allocated will be dedicated to the property currently known as the 3.2 development located in Bahama Village, which leaves 7.6 market-rate units to be allocated from the Year Nine allocation pool.

Comprehensive Plan Amendment Process:

Planning Board:	August 19, 2021 (Planning Board Res. 2021-36)
City Commission:	September 14, 2021 (first reading)
City Clerk renders to DEO:	Up to 60 days
City Commission:	TBD (second reading)
Local Appeal Period:	30 Days
City Clerk renders to DEO:	10 working Days
DEO Review:	TBD
DEO Final Order:	Comprehensive Plan amendment becomes effective when the final order is received

Analysis:

Staff has determined that this proposed Comprehensive Plan amendment complies with Chapter 90, Article VI, Division 3 of the Land Development Regulations (the "LDRs") of the Code of Ordinances (the "Code") of the City of Key West, Florida (the "City") which provides criteria for Comprehensive Plan map and text amendments.

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 Comprehensive Plan 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.

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 predominantly workforce affordable, with at least 70% of the units deed restricted affordable.

A full planning staff analysis is available in the planning board staff report.

Other Matters:

Market rate BPAS units can be used to construct affordable units and the City endeavors to ensure most if not all on-site units are deed-restricted affordable workforce housing.

Options / Advantages / Disadvantages:

Option 1:

Approve the proposed Comprehensive Plan text amendment to Policy 1-1.16.1 and Policy 3-1.1.4 as recommended by the Planning Board through Resolution No. 2021-36.

- a. Financial Impact:
There will be no cost to the City if this request is approved.

Option 2:

Deny the proposed Comprehensive Plan text amendment to Policy 1-1.16.1 and Policy 3-1.1.

- a. Financial Impact:
There will be no cost to the City if this request is denied.

Recommendation:

As per Resolution No. 2021-36, the Planning Board recommended to the City Commission Option 1 for approval of the text amendments to the Comprehensive Plan. Staff supports Planning Board Resolution No. 2021-36, and also recommends approval of Option 1.

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

March 1, 2022

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 comprehensive plan amendment for the City of Key West adopted by Ordinance No. 22-05 on February 15, 2022 (Amendment No. 22-02ACSC), which was received and determined complete on February 18, 2022. We have reviewed the amendment in accordance with the state coordinated review process set forth in Sections 163.3184(2) and (4), Florida Statutes (F.S.), and have determined that the adopted amendment meets the requirements of Chapter 163, Part II, F.S., for compliance, as defined in Section 163.3184(1)(b), F.S. The Department is therefore issuing a Notice of Intent to find the comprehensive plan amendment “In Compliance.” A copy of the Notice of Intent is enclosed and will be posted on the Department’s Internet website. You may access the Notice of Intent at: <http://floridajobs.force.com/orc>.

The Department’s Notice of Intent to find a plan amendment “In Compliance” is deemed to be a final order if no timely petition challenging the amendment has been filed. If this plan amendment is challenged by an affected person, the amendment will not become effective until the Department or the Administration Commission enters a final order determining the amendment to be “In Compliance.”

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.

The Honorable Teri Johnston, Mayor

March 1, 2022

Page 2 of 2

If you have any questions concerning this review, please contact Scott Rogers, Regional Planning Administrator, by telephone at (850) 717-8510 or by email at scott.rogers@deo.myflorida.com.

Sincerely,



Scott Rogers, Regional Planning Administrator
Bureau of Community Planning and Growth

SR

Enclosure: Notice of Intent

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

STATE OF FLORIDA
DEPARTMENT OF ECONOMIC OPPORTUNITY
THE STATE LAND PLANNING AGENCY
NOTICE OF INTENT TO FIND THE
CITY OF KEY WEST
COMPREHENSIVE PLAN AMENDMENT
IN COMPLIANCE
DOCKET NO. 22-02ACSC-NOI-4403-(A)-(I)

The Department gives notice of its intent to find the Amendment to the Comprehensive Plan for the City of Key West, adopted by Ordinance No. 22-05 on February 15, 2022, IN COMPLIANCE, pursuant to Section 163.3184(4), F.S.

If a timely petition challenging the Amendment is not filed within thirty (30) days after the local government adopted the Amendment, the Amendment become effective upon the posting of this Notice of Intent on the Department's Internet Website. If a timely petition is filed, the Amendment does not become effective until the Department or the Administration Commission enters a final order determining that the Amendment is in compliance.



James D. Stansbury, Chief
Bureau of Community Planning and Growth
Division of Community Development
Department of Economic Opportunity
107 East Madison Street
Tallahassee, Florida 32399

Ron DeSantis
GOVERNOR



Dane Eagle
SECRETARY

February 18, 2022

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

Dear Ms. Halloran:

Thank you for submitting copies of the City of Key West's Comprehensive Plan Amendment No. 22-02ACSC (proposed with Key West 21-03ACSC), adopted by Ordinance No. 22-05 on February 15, 2022, for our review.

We have conducted a preliminary inventory of the plan amendment package to verify the inclusion of all required materials. The submission package appears to be complete and your adopted plan amendment will be reviewed pursuant to Section 163.3184(4), Florida Statutes. Once the review is underway, you may be asked to provide additional supporting documentation by the review team to ensure a thorough review. The State Land Planning Agency will conduct a compliance review and issue a Notice of Intent regarding the adopted comprehensive plan amendment on or about April 4, 2022.

Please be advised pursuant to Section 163.3184(4)(e)4., Florida Statutes, the State Land Planning Agency's Notice of Intent shall become effective upon posting on the agency's internet website unless challenged by an Affected Party.

If you have any questions, please contact Scott Rogers, Regional Planning Administrator, for region 10, who will be assigning the adopted plan amendment for review at (850)717-8510.

Sincerely,

D. Ray Eubanks, Administrator
Plan Review and Processing

DRE/cb

cc: External Agencies

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

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**THE CITY OF KEY WEST
CITY CLERK'S OFFICE**

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3835; E-mail: csmith@cityofkeywest-fl.gov

February 17, 2022

Department of Economic Opportunity, Bureau of Comprehensive Planning
Attention: Ray Eubanks, Plan Processing Administrator
State Land Planning Agency
Caldwell Building
107 East Madison – MSC 160
Tallahassee, FL 32399-4120

Re: Key West 21-03ACSC
Adopted Ordinance 22-05 (Comp Plan Amendment) and related Adopted Ordinance
22-06 (LDR Text Amendment)

Dear Mr. Eubanks:

Pursuant to Chapter 163.3184(4), Florida Statutes, the City of Key West City Commission, acting within the jurisdiction of the Florida Keys Area of Critical State Concern (designated pursuant to Section 380.05, F.S.), hereby transmits two (2) Adopted Ordinances 22-05 and 22-06, amendments to our Comprehensive Plan and Land Development Regulation respectively.

These amendments are subject to State Coordinated Review Process, Section 163.3184(4), Florida Statutes, and the City requests the State Land Planning Agency to formally review the adopted Comprehensive Plan amendment and adopted Land Development Regulation amendment. Both amendments were heard and passed by the Key West Planning Board at a regular meeting held August 19, 2021 and were passed on 1st Reading at a regular meeting of the City Commission on September 14, 2021 and adopted at 2nd Reading – Public Hearing at a regular meeting of the City Commission on February 15, 2022. I am also including the original transmittal letter dated October 14, 2021 when the Comp Plan amendment was initially submitted after 1st Reading together with our property rights element at your agency's request.

Key to the Caribbean average yearly temperature 77 ° Fahrenheit.



**THE CITY OF KEY WEST
CITY CLERK'S OFFICE**

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3835; E-mail: csmith@cityofkeywest-fl.gov

Amendment Description/Name:

Ordinance #1 21-03ACSC – Comp Plan Amendment 3.2 BPAS KW 22-05

An Ordinance of the City of Key West, Florida, amending Comprehensive Plan Chapter 1, Future Land Use, Policy 1-1.16.1, entitled, "Maintain A Building Permit Allocation Ordinance," and by amending Chapter 3, Housing, Policy 3-1.1.4, entitled "Building Allocation System", to provide for building permit allocation system units for the property known as the 3.2 (RE# 00001630-000801); Providing for transmittal to the state land planning agency; Providing for the filing with secretary of state; Providing for severability; Providing for repeal of inconsistent provisions; Providing for the inclusion in the City of Key West Comprehensive Plan; and Providing for an effective date.

Ordinance #2 – LDR Text Amendment 3.2 BPAS KW 22-06

An Ordinance of the City of Key West, Florida, amending Chapter 108 of the Land Development Regulations, Article X " Building Permit Allocation System", Section 108-995, to provide 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.

The City of Key West respectfully requests that the Department provide any feasible assistance to prioritize and expedite the compliance review of these companion text amendments to the City of Key West Comprehensive Plan and Land Development Regulations. **These finalized amendments are needed to allow the City and its development partner to meet a March 2022 Request for Application (RFA) deadline with the Florida Housing Finance Corporation.** The subsidy associated with this RFA would allow the City and its partner to construct critically important affordable workforce housing on the City-owned parcel known as the "3.2 acres" in historic Bahama Village.

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**THE CITY OF KEY WEST
CITY CLERK'S OFFICE**

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3835; E-mail: csmith@cityofkeywest-fl.gov

Thank you in advance for your timely review of these materials. Should you have any questions about the proposed Comprehensive Plan Amendment Ordinance, please contact Katie Halloran, Director of Planning at (305) 809-3746 and katie.halloran@cityofkeywest-fl.gov. After your review please include City Clerk Cheryl Smith in your response at Csmith@cityofkeywest-fl.gov.

Sincerely,

A handwritten signature in black ink that reads "Cheryl Smith".

Cheryl Smith, CPM, MMC
City Clerk

Enclosures
CS/ko

Cc: Scott Rogers, Regional Planning Administrator
Cristin Beshears, Plan Processor

Key to the Caribbean average yearly temperature 77 ° Fahrenheit.



THE CITY OF KEY WEST
CITY CLERK'S OFFICE

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3835; E-mail: csmith@cityofkeywest-fl.gov

February 17, 2022

Department of Economic Opportunity, Bureau of Comprehensive Planning
Attention: Ray Eubanks, Plan Processing Administrator
State Land Planning Agency
Caldwell Building
107 East Madison – MSC 160
Tallahassee, FL 32399-4120

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22-06 (LDR Text Amendment)

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Key to the Caribbean – average yearly temperature 77 ° Fahrenheit.



THE CITY OF KEY WEST
CITY CLERK'S OFFICE

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3835; E-mail: csmith@cityofkeywest-fl.gov

Amendment Description/Name:

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The City of Key West respectfully requests that the Department provide any feasible assistance to prioritize and expedite the compliance review of these companion text amendments to the City of Key West Comprehensive Plan and Land Development Regulations. **These finalized amendments are needed to allow the City and its development partner to meet a March 2022 Request for Application (RFA) deadline with the Florida Housing Finance Corporation.** The subsidy associated with this RFA would allow the City and its partner to construct critically important affordable workforce housing on the City-owned parcel known as the "3.2 acres" in historic Bahama Village.



THE CITY OF KEY WEST
CITY CLERK'S OFFICE

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3835; E-mail: csmith@cityofkeywest-fl.gov

Thank you in advance for your timely review of these materials. Should you have any questions about the proposed Comprehensive Plan Amendment Ordinance, please contact Katie Halloran, Director of Planning at (305) 809-3746 and katie.halloran@cityofkeywest-fl.gov. After your review please include City Clerk Cheryl Smith in your response at Csmith@cityofkeywest-fl.gov.

Sincerely,

A handwritten signature in black ink that reads "Cheryl Smith".

Cheryl Smith, CPM, MMC
City Clerk

Enclosures
CS/ko

Cc: Scott Rogers, Regional Planning Administrator
Cristin Beshears, Plan Processor



COPY

THE CITY OF KEY WEST
CITY CLERK'S OFFICE

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3835; E-mail: csmith@cityofkeywest-fl.gov

October 14, 2021

Department of Economic Opportunity, Bureau of Comprehensive Planning
Attention: Ray Eubanks, Plan Processing Administrator
State Land Planning Agency
Caldwell Building
107 East Madison – MSC 160
Tallahassee, FL 32399-4120

COPY

Re: State Coordinated Review for City of Key West Comprehensive Plan
Amendments – Key West 21-03ACSC

Dear Mr. Eubanks:

Pursuant to Chapter 163.3184(4), Florida Statutes, the City of Key West City Commission, acting within the jurisdiction of the Florida Keys Area of Critical State Concern (designated pursuant to Section 380.05, F.S.), hereby transmits two (2) proposed amendments to the Comprehensive Land Use Plan. These amendments were previously rendered on October 14, 2021 and were given reference numbers Key West (KW) 21-01ACSC and 21-02ACSC respectively. It is our understanding that these amendments should have been rendered together and combined. Therefore, we hereby request to withdraw KW 21-01ACSC and KW 21-02ACSC and resubmit both proposed amendments as one combined rendering. It is our understanding that this joint rendering will be given the reference number of KW 21-03ACSC.

These amendments are subject to State Coordinated Review Process, Section 163.3184(4), Florida Statutes, and the City requests the State Land Planning Agency to formally review the proposed Comprehensive Plan amendment. Both amendments were heard and passed by the Key West Planning Board at a regular meeting held August 19, 2021 and were passed on 1st Reading at a regular meeting of the City Commission on September 14, 2021.

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THE CITY OF KEY WEST
CITY CLERK'S OFFICE

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3835; E-mail: csmith@cityofkeywest-fl.gov

Amendment Description/Name:

Ordinance #1 (formerly 21-02ACSC):

The purpose of this ordinance is to amend the City's Comprehensive Plan to create a new Comprehensive Plan Element entitled, "**Chapter 10, Property Rights Element**" to comply with recently adopted State of Florida Statutes Section 163.3177(6)(i)1. (Chapter 2021-195, Laws of Florida). The title of this ordinance is as follows:

An Ordinance of the City of Key West, Florida, to create a new Comprehensive Plan Element entitled, "Chapter 10, Property Rights Element", and Goal 10-1, Objective 10-1.1, and Policies 10-1.1.1 - 10.1.1.4 to comply with State of Florida Statutes Section 163.3177(6)(i)1.; Providing for transmittal to the State Land Planning Agency; Providing for filing with the Secretary of State; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date; and providing for inclusion into the City of Key West Comprehensive Plan.

Ordinance #2 (formerly 21-01ACSC):

This amendment is being proposed together with amendments to the City's Land Development Regulations. Both amendments specify that 89.6 affordable Building Permit Allocation System units shall be set aside and 38.4 market rate units shall be set aside as part of Year Nine of the City of Key West Building Permit Allocation System. These amendments assist to implement the City's affordable housing goals at the site known as the 3.2 acres. The title for ordinance #2 is as follows:

An Ordinance of the City of Key West, Florida, amending Comprehensive Plan Chapter 1, Future Land Use, Policy 1-1.16.1, entitled, "Maintain A Building Permit Allocation Ordinance," and by amending Chapter 3, Housing, Policy 3-1.1.4, entitled "Building Allocation System", to provide for building permit allocation system units for the property known as the 3.2 (RE# 00001630-000801); Providing for transmittal to the state land planning agency; Providing for the filing with Secretary of State; Providing for severability; Providing for repeal of inconsistent provisions; Providing for the inclusion in the City of Key West Comprehensive Plan; and Providing for an effective date.

Thank you in advance for your timely review of these materials. Should you have any questions about the proposed Comprehensive Plan Amendment Ordinance, please contact Katie Halloran, Director of Planning at (305) 809-3746 and katie.halloran@cityofkeywest-fl.gov. After your review please include City Clerk Cheryl Smith in your response at Csmith@cityofkeywest-fl.gov.



**THE CITY OF KEY WEST
CITY CLERK'S OFFICE**

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3835; E-mail: csmith@cityofkeywest-fl.gov

Sincerely,

Cheryl Smith, CPM, MMC
City Clerk

Enclosures
CS/ko

Cc: Plan Review, Florida Department of Environmental Protection
Compliance Permits, Florida Department of State
Shereen Yee Fong, Florida Department of Transportation
Terry Manning, South Florida Water Management District
Karen Taporco, Naval Air Station KW-PWD
Mark Weigly, Florida Department of Education
Isabel Cosio Carballo, South Florida Regional Planning Council
Mayte Santamaria, Monroe County Planning & Environmental Resources

Ordinance #1

**PLANNING BOARD
RESOLUTION NO. 2021-36**

TEXT AMENDMENT OF THE COMPREHENSIVE PLAN
- A RESOLUTION OF THE CITY OF KEY WEST
PLANNING BOARD RECOMMENDING AN ORDINANCE
TO THE CITY COMMISSION AMENDING
COMPREHENSIVE PLAN CHAPTER 1, FUTURE
LAND USE, POLICY 1-1.16.1, ENTITLED,
"MAINTAIN A BUILDING PERMIT ALLOCATION
ORDINANCE", AND BY AMENDING CHAPTER 3,
HOUSING, POLICY 3-1.1.4, ENTITLED
"BUILDING ALLOCATION SYSTEM", TO PROVIDE
FOR BUILDING PERMIT ALLOCATION SYSTEM
UNITS FOR THE PROPERTY KNOWN AS THE 3.2
(RE# 00001630-000801); PROVIDING FOR
TRANSMITTAL TO THE STATE LAND PLANNING
AGENCY; PROVIDING FOR THE FILING WITH
SECRETARY OF STATE; PROVIDING FOR
SEVERABILITY; PROVIDING FOR REPEAL OF
INCONSISTENT PROVISIONS; PROVIDING FOR
THE INCLUSION IN THE CITY OF KEY WEST
COMPREHENSIVE PLAN; AND PROVIDING FOR AN
EFFECTIVE DATE.

WHEREAS, development of any housing is strictly controlled by
virtue of the fact that the State of Florida has designated the
City of Key West as a State area of Critical Concern; and

WHEREAS, this state regulation has resulted in a specified
number of new building permits that may be granted each year under
what is known as the Building Permit Allocation System (BPAS); and

WHEREAS, the proposed ordinance to amend the City's
Comprehensive Plan is an essential part of an effort to promote

 Chairman

 Planning Director

the Bahama Village community, encourage the redevelopment of vacant City-owned properties, and encourage and ensure affordable housing in the Bahama Village community; and

WHEREAS, 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; and

WHEREAS, it is in the best interest of the City to set aside building permit allocations during the next application period for the 3.2 acre development; and

WHEREAS, Chapter 1 entitled 'Future Land Use Element' and Chapter 3 entitled 'Housing' are to be amended through ordinance; and

WHEREAS, the planning board held a noticed public hearing on August 19, 2021, where based on the consideration of recommendations by the city planner, city attorney, and other information, the board recommended approval of the proposed


Chairman


Planning Director

amendments; and

WHEREAS, the planning board determined that the proposed amendments: are consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the effective date of the existing regulation; will promote land use compatibility; will not result in additional demand on public facilities; will have no impact on the natural environment; will not negatively impact property values or the general welfare; will result in more orderly and compatible land use patterns; and are in the public interest.

NOW, THEREFORE, BE IT RESOLVED, BY THE PLANNING BOARD OF THE CITY OF KEY WEST, FLORIDA:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. That an ordinance to the City Commission amending chapter 1 of the comprehensive plan entitled Future Land Use element by amending existing policy 1-1.16.1, entitled Maintain a


Chairman


Planning Director

Building Permit Allocation Ordinance, as well as amending chapter 3 of the comprehensive plan entitled Housing by amending existing policy 3-1.1.4, entitled Building Permit Allocation System; providing for severability; providing for repeal of inconsistent provisions, providing for an effective date, is hereby recommended for approval. A copy of the draft ordinance is attached.

Section 3. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the city clerk.

USA Chairman

KPT Planning Director

Read and passed on first reading at a regular meeting held this 19th day of August, 2021.

Authenticated by the Chairman of the Planning Board and the Planning Director.

Sam Holland Jr. 8/19/21
Sam Holland Jr., Planning Board Chairman Date

Attest:

Katie Halloran Aug 27, 2021
Katie Halloran, Planning Director Date

Filed with the Clerk:

Cheryl Smith 8-27-21
Cheryl Smith, City Clerk Date

WSD Chairman

KPH Planning Director



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 Comprehensive Plan** - A Resolution of the City of Key West Planning Board recommending an Ordinance to the City Commission amending Comprehensive Plan Chapter 1, Future Land Use, Policy 1-1.16.1, entitled, "Maintain A Building Permit Allocation Ordinance", and by amending Chapter 3, Housing, Policy 3-1.1.4, entitled "Building Allocation System", to provide for building permit allocation system units for the property known as the 3.2 (re# 00001630-000801); providing for transmittal to the state land planning agency; providing for the filing with Secretary of State; providing for severability; providing for repeal of inconsistent provisions; providing for the inclusion in the City of Key West Comprehensive Plan; and providing for an effective date.

Request: The proposed ordinance to amend the City's Comprehensive Plan 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 Comprehensive Plan text amendment and the associated text amendment to the Land Development Regulations (the "LDRs") 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 Comprehensive Plan 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, especially those related to the provision of affordable housing. 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 Text Amendment: *Proposed new language is underlined below and deleted language is ~~struck through~~ at first reading.*

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 not exceed 91 single-family units or an equivalent combination of residential and transient types based on the equivalency factors established in Policy 1-1.16.3. The annual allocation limitation shall not apply to affordable housing allocations. 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 and ten (2016—2023), a minimum of 50 percent of the total allocations shall be affordable. Between years four and ten, no more than ten percent may be transient. During Year One (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. 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.

[...]

Building permits shall be obtained within two years of the development approval date. If a building permit is not obtained 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.

Policy 3-1.1.4 – Building Permit Allocation System.

[...]

Between years four and ten, no more than ten percent may be transient. During Year One (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, which leaves 43 units to be allocated from the first allocation pool. During Year Nine (July 2021—2022), 89.6 of the affordable units to be allocated will be dedicated to the development known as the 3.2 located in Bahama Village, 38.4 of the market-rate units to be allocated will be dedicated to the property currently known as the 3.2 development located in Bahama Village, which leaves 7.6 market-rate units to be allocated from the Year Nine allocation pool.

Comprehensive Plan 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 3 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 allow for Comprehensive Plan map and text amendments. The Section 90-551 states that the purpose of these amendments, “... is not intended to relieve particular hardships nor to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the city commission shall consider, in addition to the factors set forth in this division, the consistency of the proposed amendment with the intent of the comprehensive plan.”

Changed conditions are present in this instance: the City of Key West acquired this and other parcels as part of a federal Base Realignment and Closure process. The transfer of this property from the federal government was intended to provide an opportunity for new affordable housing development together with the provision of other community amenities, many of which have been realized through the construction of the Truman Waterfront Park and athletic fields. This proposed amendment does not confer special privileges or rights; the City of Key West Building Permit Allocation System is available to all property owners within the city limits.

90-5554 (6) Justification. The need and justification for the proposed change. 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 should be consistent with the Comprehensive Plan.*

The proposed amendment is consistent with and further implements the Comprehensive Plan objectives and policies 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 Comprehensive Plan 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 predominantly 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 Comprehensive Plan 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 Comprehensive Plan states that the City of Key West shall continue to 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.

The City intends identify a partner to develop affordable housing in this location. The City shall also support local community members to utilize Monroe County resources to acquire homeownership assistance (through State and Federal subsidy).

Policy 3-1.1.13: South Florida Regional Planning Council Initiatives.

The Comprehensive Plan states that 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 Comprehensive Plan also states that in drafting updated Land Development Regulations, 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.”

Through this amendment, the City will directly assist the private sector to facilitate the development of affordable workforce housing at this site by reserving needed building permits.

Appendix A, The City’s Chapter 1. – Affordable Housing Needs Analysis . . . Some of the contributing factors to the need for affordable housing included lower wage tourism based jobs; loss of military families that lived in housing subsidized by the government; increased demand for second homes; government limitations on growth; the loss of housing due to conversion to guesthouses; and the lack of available vacant land.

(...)

Policy 3-1.1.3 of the City's Comprehensive Plan requires that 30 percent of units constructed each year be affordable. At the time of the 2005 EAR, it was noted that this policy has been successful, however at that time there was still a recognized shortage of affordable units.

(...)

In addition to requiring private developers to provide a percentage of affordable units, the City has historically taken a proactive approach in providing affordable units. The City has worked within the limits of the BPAS policies and, while being mindful of evacuation planning, has signed agreements with the State and with private developers to allow more affordable units.

The provision of decent, safe, sanitary and affordable housing to all residents continues to be one of the most daunting challenges that the City of Key West faces. The City's scarcity of land for new development, growth in the second home market, high quality of life and desirability, and unique and historic housing stock all contribute to property and housing values that are among the highest in the State. The City's economy is largely based on

tourism and service industries, which generally pay lower wages than many other industries. ..

Additionally, the City's Chapter 3: - Housing Element of the Comprehensive Plan addresses the City's goal to allocate land area to accommodate a supply of housing that is responsive to the diverse housing needs of the existing and projected future populations.

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 redevelopment areas in Key West were originally established through a Finding of Necessity in 1992. One of the two areas is Bahama Village. F.S. 163.335 details the findings and declarations of necessity for areas that qualify for redevelopment. One such declaration states that "[i]t is further found and declared that there exists in counties and municipalities of the state a severe shortage of housing affordable to residents of low or moderate income, including the elderly; that the existence of such condition affects the health, safety, and welfare of the residents of such counties and municipalities and retards their growth and economic and social development; and that the elimination or improvement of such condition is a proper matter of state policy and state concern and is for a valid and desirable public purpose."

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.

*c. **Avoidance of special treatment.** The proposed change shall not: 1. Single out a small piece of land and confer special and privileged treatment not provided to abutting properties with similar characteristics and land use relationships; and 2. Provide for land use activities which are not in the overall public interest but only for the benefit of the landowner.*

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. This large parcel is owned by the City of Key West and is distinct from surrounding parcels; the redevelopment in this location will have direct benefit to the public and is in the overall public interest.

*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 zoning district where the landowners are mostly governmental entities. Most of the surrounding property is protected, i.e. Fort

Zachary Taylor State Park, or has been developed for public use, i.e. Truman Waterfront Park. Owners of undeveloped land with similar land use designations 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 Comprehensive Plan be **APPROVED**.

ENROLLED

CS/HB 1499

2022 Legislature

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An act relating to City of Key West, Monroe County; authorizing a certain number and type of affordable housing units to be constructed for certain public sector governmental and essential services personnel under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Notwithstanding general law or any rule, ordinance, or other law to the contrary, 50 units of housing that are affordable, as defined in s. 420.0004, may be constructed for employees of the Monroe County Sheriff's Office, as well as essential services personnel, as defined in s. 420.503, without regard to any building permit allocation system provided that:

(1) The construction is otherwise consistent with the comprehensive plan; and

(2) The sheriff's office has a hurricane evacuation plan that requires all occupants required to evacuate to be evacuated 48 hours in advance of tropical force winds.

Section 2. This act shall take effect upon becoming a law.

Third District Court of Appeal

State of Florida

Opinion filed August 3, 2022.

Not final until disposition of timely filed motion for rehearing.

No. 3D20-1921
Lower Tribunal No. 20-032

Cecilia Mattino, et al.,
Appellants,

vs.

City of Marathon, Florida, et al.,
Appellees.

An Appeal from the State of Florida, Department of Economic Opportunity.

Richard Grosso, P.A., and Richard Grosso (Plantation), for appellants.

Shawn D. Smith, Key West City Attorney, and George B. Wallace, Assistant City Attorney; Smith Hawks, PL, and Barton W. Smith, Nikki Pappas and Christopher B. Deem, for appellees.

Before EMAS, MILLER and LOBREE, JJ.

EMAS, J.

I. INTRODUCTION

Appellants Cecilia Mattino, Naja Girard and Catherine Bosworth, permanent residents of the Florida Keys, appeal from a final order of the Department of Economic Opportunity (DEO), which determined that the Comprehensive Plan Amendments adopted by the City of Key West, City of Marathon and City of Islamorada (collectively the Cities) are in compliance with Florida law. While appellants raise several claims,¹ we write to address only the contention that the Comprehensive Plan Amendments fail to maintain a hurricane evacuation clearance time for permanent residents of no more than 24 hours, as required by section 380.0552(9)(a)2., Florida Statutes (2020). We agree and, for the reasons that follow, we reverse the order as to the City of Marathon and City of Islamorada. However, we affirm the order as it relates to the City of Key West.²

¹ We affirm without further discussion as to the additional claims raised by appellants, which include: (1) the amendments violate the “internal consistency” requirement in section 163.3177, Florida Statutes; (2) the two-phase evacuation plan violates section 163.3177(1)(f)1., Florida Statutes, because it is not supported by relevant and appropriate data and analysis; and (3) the Agency erred in interpreting section 380.0552(7), Florida Statutes, to allow the general “Principles for Guiding Development” to justify non-compliance with the specific 24-hour evacuation time development cap in section 380.0552(9)(a)(2).

² The cities of Marathon and Islamorada are located within the statutorily designated “Florida Keys Area of Critical State Concern.” In 1984, the City of Key West was designated an Area of Critical State Concern, pursuant to

II. FACTUAL AND PROCEDURAL BACKGROUND

A. The Florida Keys Area Protection Act and the 24-Hour Hurricane Evacuation Clearance Time Requirement

Section 380.0552, Florida Statutes (2020), is known as the “Florida Keys Area Protection Act.” First enacted in 1979, the Act designates the Florida Keys as an Area of Critical State Concern, and expresses a legislative intent to establish a land use management plan to protect the Florida Keys environment, preserve the Keys’ unique character, promote orderly and balanced growth, and protect and improve water quality. Importantly for our purposes, the Legislature also expressed, through this Act, its intent to:

Provide affordable housing in close proximity to places of employment in the Florida Keys.

Ensure that the population of the Florida Keys can be safely evacuated.

§ 380.0552(2)(d) and (j).

In 2006, the Florida Legislature revised the Act, adding a provision that all amendments to the comprehensive plans in the Florida Keys Area must

Chapter 28-36, Florida Administrative Code. As a result, Marathon and Islamorada are subject to the requirements of section 380.0552(9)(a)2., while Key West is not. Key West is instead subject to the Principles for Guiding Development contained in Florida Administrative Code, Rule 28-36.003.

be reviewed for compliance with the “[g]oals, objectives and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation **clearance time for permanent residents of no more than 24 hours.**” § 380.0552(4)(e)2.,³ Fla. Stat. (2006) (emphasis added). The statute further provides this evacuation clearance time “shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency.” Id.

B. The Cities’ Current Comprehensive Plans

Each City’s current comprehensive plan includes a DEO work program designed to address certain categories of concern. Relevant to this appeal, the work program included a list of requirements that had to be satisfied by July 1, 2012. Significant among them was a requirement that local governments within the Florida Keys Area of Critical State Concern (Islamorada and Marathon, but not Key West) enter into a memorandum of understanding with DEO, the Division of Emergency Management and each of the other Keys local governments to stipulate to “input variables and assumptions, including regional considerations, for utilizing the Florida Keys

³ The language of this provision has remained unchanged since its adoption in 2006, but in 2010 was renumbered to section 380.0552(9)(a)2.

Hurricane Evacuation Model or other models acceptable to the Department to accurately depict evacuation clearance times for the population of the Florida Keys.” Fla. Admin. Code R. 28-20.140. Further, the model had to be run so as “to complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints.” Id.

In 2012, the DEO created the Hurricane Evacuation Clearance Time Workgroup (the Evacuation Workgroup), which held a series of public workshops. The Evacuation Workgroup ultimately presented its findings and selected a hurricane model (the Transportation Interface for Modeling Evacuations, “TIME”) to accurately depict evacuation clearance times for the population of the Keys Area of Critical State Concern and the Key West Area of Critical State Concern. The selected scenario included the continuation of then-existing annual building permit allocations and produced an evacuation clearance time of 24 hours, with a future allocation of 3,500 new residential building permits to be distributed over a ten-year period from 2013 to 2023. Each local government would be allotted their share of residential building permits from the 3,500 additional units accounted for in the TIME model.

This evacuation scenario assumed a two-phase evacuation plan, with Phase I (the “first” 24-hour evacuation period) consisting of non-residents, visitors, recreational vehicles, travel trailers, live-aboards (transient and non-transient), military personnel, mobile home residents, special needs residents, and hospital and nursing home patients. The Phase I evacuation was further divided into two groups with military personnel, tourists, and other non-residents ordered to evacuate approximately 48 hours in advance of predicted arrival of tropical storm force winds; and mobile home residents, special needs residents, and hospital and nursing home patients ordered to evacuate approximately 36 hours in advance of predicted arrival of tropical storm force winds.

Phase II (the “second” 24-hour evacuation period) consisted of Florida Keys permanent residents living in site-built homes (as opposed to prefabricated units such as mobile homes). These permanent residents were to be evacuated approximately 30 hours in advance of the predicted arrival of tropical force storm winds.

In 2012, Monroe County and the Cities entered into a memorandum of understanding with DEO, agreeing to use the TIME model described above. The memorandum of understanding memorialized the staged evacuation procedure ultimately adopted by the local governments:

- Approximately 48 hours in advance of tropical storm winds, a mandatory evacuation of non-residents, visitors, RVs, travel trailers, live-aboards (transient and non-transient), and military personnel from the Keys must be initiated.
- Approximately 36 hours in advance of tropical storm winds, a mandatory evacuation of mobile home residents, special needs residents, and hospital and nursing home patients from the Keys shall be initiated.
- Approximately 30 hours in advance of tropical storm winds, a mandatory phased evacuation of permanent residents by evacuation zone . . . shall be initiated.

C. The Cities' Amendments to the Comprehensive Plans

The recent effort to address affordable housing in the Florida Keys began in 2017, when DEO determined amendments to the comprehensive plans were needed because the current regulatory structure did not allow for adequate building permits to create affordable workforce housing for Florida Keys residents. To address the issue, DEO developed The Keys Workforce Housing Initiative (the Housing Initiative).

The Housing Initiative allows for up to 1,300 new building permit allocations for “workforce-affordable housing” throughout the Keys. The Initiative’s stated goal is to support the Cities’ “workforce by alleviating constraints on affordable housing,” and to “require new construction or repurposed structures that participate[] to commit to evacuating renters in the 48-24-hour window of evacuation.” This initiative includes a requirement

that these new units be deed-restricted to ensure that “tenants evacuate during the period in which transient units are required to evacuate.”

Nevertheless, any amendments to a comprehensive plan must comply with the statutory requirement of “maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours.” § 380.0552(9)(a)2., Fla. Stat. (2020). In other words, the additional development of affordable housing (and the accompaniment of additional permanent residents) is legislatively capped to ensure that all permanent residents can still safely evacuate the Florida Keys within a 24-hour period.

As previously described, the current comprehensive plans rely upon a two-phase evacuation plan in the event of a hurricane, and identify several categories of people (e.g., visitors, tourists, permanent residents, etc.) for evacuation over a combined 48-hour period. This 48-hour period is divided into two separate 24-hour phases (Phase I and Phase II).

The Comprehensive Plan Amendments (the Amendments) would add those permanent residents living in the 1,300 new housing units to the categories of people designated for Phase I evacuation (i.e., the “first” 24 hours). This would mean that permanent residents would be evacuated during both Phase I and Phase II, and therefore the Cities would be

evacuating permanent residents of the Keys over a two-phase, 48-hour period:

▶ Phase I (the first 24-hour evacuation period) provides for mandatory evacuation of non-residents, visitors, recreational vehicles, travel trailers, live-aboards (transient and non-transient), military personnel, mobile home residents, special needs residents, hospital and nursing home patients, and **permanent residents of the 1,300 affordable housing units approved for construction by the Amendments.**

▶ Phase II (the second 24-hour evacuation period) provides for mandatory evacuation of all permanent residents living in site-built homes.

The Cities thereafter adopted the Comprehensive Plan Amendments, which allow new residential units to be built in Key West (300 to 700 units), Islamorada (300 units) and Marathon (300 units). The Plan Amendments are virtually identical in all material respects. Consistent with the Housing Initiative, the Comprehensive Plan Amendments require that the additional units be deed-restricted for workforce affordable housing and—critically for our purposes—that the new permanent residents of these 1,300 permanent residential units evacuate in Phase I of the two-phase evacuation plan.

In 2018, appellants filed petitions for a formal administrative hearing with DOAH, asserting that the Cities' Comprehensive Plan Amendments are inconsistent with and violate the statutory requirement of maintaining a 24-hour evacuation clearance time for permanent residents. The administrative law judge conducted a final hearing in December 2019, at which the parties presented numerous witnesses and experts in support of their respective positions. The administrative law judge issued a recommended order (and later, a recommended order on remand following a hearing on exceptions raised to the original order). DEO later issued its Final Order, adopting the administrative law judge's recommended order on remand, and determining that the Comprehensive Plan Amendments do not violate section 380.0552(9)(a)2., and are otherwise in compliance with Florida law. This appeal followed.

III. STANDARD OF REVIEW

The Agency's findings of fact are reviewed for competent substantial evidence, while questions of law, including interpretation and construction of statutory provisions, are reviewed de novo. Safirstein v. Dep't of Health, 271 So. 3d 1178, 1180 (Fla. 3d DCA 2019) ("Our standard of review of an agency's interpretation of a statute is de novo. The standard of review of the agency's findings of fact is that of competent, substantial evidence")

(quotation omitted). “[A] reviewing court may set aside agency action when it finds that the action is dependent on findings of fact that are not supported by substantial competent evidence in the record, there are material errors in procedure, incorrect interpretations of law, or the agency abused its discretion.” Galvan v. Dep’t of Health, 285 So. 3d 975, 979 (Fla. 3d DCA 2019) (citing § 120.68, Fla. Stat. (2018)).

IV. DISCUSSION AND ANALYSIS

Section 380.0552(9)(a)2. provides in relevant part:

9) Modification to plans and regulations.--

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. **Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:**

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by **maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours.** The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency.

(Emphasis added).

We examine the statute, and construe its provisions, within the framework established by longstanding principles of statutory construction:

Legislative intent is the polestar that guides a court's statutory construction analysis, and “[t]o discern legislative intent, a court must look first and foremost at the actual language used in the statute.” Larimore v. State, 2 So. 3d 101, 106 (Fla. 2008). “It is a fundamental principle of statutory construction that where the language of a statute is plain and unambiguous there is no occasion for judicial interpretation.” Forsythe v. Longboat Key Beach Erosion Control Dist., 604 So. 2d 452, 454 (Fla. 1992).

DMB Inv. Tr. v. Islamorada, Vill. of Islands, 225 So. 3d 312, 317 (Fla. 3d DCA 2017).

A court's determination of the meaning of a statute begins with the language of the statute. If that language is clear, the statute is given its plain meaning, and the court does not look behind the statute's plain language for legislative intent or resort to rules of statutory construction.”

Halifax Hosp. Med. Ctr. v. State, 278 So. 3d 545, 547 (Fla. 2019) (citations and quotations omitted).

Under the Comprehensive Plan Amendments of Marathon and Islamorada, the permanent residents of the newly added affordable housing units must evacuate “in the 48 to 24-hour window of evacuation,” described by the Cities as the “Phase I clearance window of evacuation.”

However, the mandatory evacuation of these permanent residents in Phase I of a 48-hour, two-phase evacuation plan means that permanent

residents will be evacuating in both Phase I (the first 24-hour period) and in Phase II (the second 24-hour period), resulting in a hurricane evacuation clearance time for permanent residents of **more than** 24 hours. This violates section 380.0552(9)(a)2., which unambiguously requires that amendments to the comprehensive plan “maintain[] a hurricane evacuation clearance time for permanent residents **of no more than** 24 hours.” (Emphasis added).

Marathon and Islamorada counter that the statutory 24-hour evacuation requirement can be met if evacuation of the permanent residents living in these additional units can be completed within the **first** 24 hours of a 48-hour evacuation scenario. But the statute does not contemplate, much less permit, a “first” 24-hour or “Head Start” scenario for evacuation of some of Florida Keys’ permanent residents, followed by an evacuation of the remaining permanent residents in a second 24-hour period. Instead, it provides for a single, 24-hour evacuation clearance time for all permanent residents.⁴

⁴ Marathon and Islamorada do not dispute that, under the Amendments, permanent residents are evacuated over a period of more than 24 hours. Instead, they contend that their existing comprehensive plans already provide for the evacuation of certain permanent residents in one 24-hour period (e.g., mobile home residents) before the evacuation of permanent residents in a second 24-hour period (e.g., residents of site-built homes), that such plans were previously administratively deemed to be in compliance, and that we should defer to such an administrative determination. We do not agree. First, the validity of the current comprehensive plans is not before

Were we to hold that the Amendments—which provide for mandatory evacuation of permanent residents over a two-phase, 48-hour period—comply with section 380.0552(9)(a)2., so too would a three-phase (72-hour), four-phase (96-hour), or five-phase (120-hour) evacuation plan, all of which would simply be different in degree—but not different in kind—than the two-phase evacuation plan under the Comprehensive Plan Amendments.

us, and is beyond our scope of review, which is limited to whether “[a]mendments to local comprehensive plans in the Florida Keys Area” comply with the required “hurricane evacuation clearance time for permanent residents of no more than 24 hours.” § 380.0552(9)(a)2., Fla. Stat.

Additionally, while we recognize Florida courts have historically accorded great deference to an administrative agency’s own interpretation of a statute or rule it was charged with administering, see, e.g., United Grand Condo. Owners Inc. v. Grand Condo. Ass’n, Inc., 929 So. 2d 24, 25 (Fla. 3d DCA 2006) (noting: “An administrative agency’s interpretation of a statute which it is legislatively charged with administering is entitled to great weight and should not be overturned unless clearly erroneous”), Florida voters in 2018 adopted Article V, § 21 of the Florida Constitution, prohibiting such deference:

In interpreting a state statute or rule, a state court or an officer hearing an administrative action pursuant to general law may not defer to an administrative agency’s interpretation of such statute or rule, and must instead interpret such statute or rule de novo.

Finally, we note that even before adoption of this constitutional amendment, Florida law provided that “a court need not defer to an agency’s construction or application of a statute if special agency expertise is not required, or if the agency’s interpretation conflicts with the plain and ordinary meaning of the statute.” Hous. Opportunities Project v. SPV Realty, LC, 212 So. 3d 419, 426 n. 9 (Fla. 3d DCA 2016) (quoting Fla. Hosp. v. Fla. Agency for Health Care Admin., 823 So. 2d 844, 848 (Fla. 2d DCA 2002)).

Marathon and Islamorada cannot avoid the plain and unambiguous language of the statute merely by creating discrete “categories” of permanent residents, each assigned a different 24-hour timeframe within which to evacuate those permanent residents using the very same and solitary roadway leading out of the Keys.⁵

The 24-hour hurricane evacuation clearance time mandate is in furtherance of the Florida Keys Area Protection Act’s goal of ensuring “that the population of the Florida Keys can be safely evacuated.”⁶ It serves as the counterpoint to the Act’s other stated goal of providing affordable housing to Florida Keys permanent residents. The Act permits the development of additional affordable workforce housing, but only to the extent that the well-

⁵ To be clear, our holding does not prohibit a staggered evacuation of permanent residents by geographical zones, categories, or phases. It simply means that all permanent residents evacuating under any such plan must do so within 24 hours as required by the statute.

⁶ Martin Senterfitt, Monroe County’s Director of Emergency Management, testified at the hearing that, while rapid intensification storms are not a “common occurrence,” they are possible and require that permanent residents be able to evacuate in a 24-hour period:

A rapid intensification storm is a storm that—just as its name implies. It rapidly grows over a period of 24 hours, much—much faster than a normal storm would grow.

* * *

We may have less than 48 hours, and so I’ve challenged all of our citizens in the community to ask themselves, if you only had 24-hour notice, how would that impact your planning?

being of its permanent residents can be maintained by ensuring that such increased housing does not threaten their safe evacuation in the event of a natural disaster. The two-phase evacuation plan contained in Marathon and Islamorada's Comprehensive Plan Amendments fails to meet the statute's mandate, and the Department of Economic Opportunity (DEO) erred in concluding that the Comprehensive Plan Amendments by Marathon and Islamorada were in compliance with the applicable requirements of Florida law.

We are keenly aware of the well-intended objectives and meritorious goals embodied within the Comprehensive Plan Amendments of Marathon and Islamorada. We further acknowledge the substantial challenge those cities face in attempting to balance the competing interests at stake. Nevertheless, we “do not have the authority to ignore plain and unambiguous language under the guise of interpretation.” Housing Opportunities Project v. SPV Realty, LC, 212 So. 3d 419, 421 (Fla. 3d DCA 2016) (quoting 2A Sutherland Statutory Construction § 46:4 (7th ed.) (November 2016 Update)).

Indeed, “unambiguous language is not subject to judicial construction, however wise it may seem to alter the plain language.” State v. Jett, 626 So. 2d 691, 693 (Fla. 1993). If the plain language of the statutory text does not

properly reflect the legislative intent, it falls upon that body, and not this court, to amend the statute to reflect that intent. See Crosby v. Nat'l Foreign Trade Council, 530 U.S. 363, 390-91 (2000) (Scalia, J., concurring) (“The only reliable indication of that [legislative] intent—the only thing we know for sure can be attributed to all of them—is the words of the bill that they voted to make law”); Fla. Convalescent Ctrs. v. Somberg, 840 So. 2d 998, 1001 (Fla. 2003) (“Logically, if the Legislature had intended for the Nursing Home Act to be limited by the Wrongful Death Act, it would have said so, rather than broadly providing not only for damages but also for a personal representative to claim those damages”).

V. CONCLUSION

We reverse the final order as to the cities of Marathon and Islamorada because their Comprehensive Plan Amendments violate section 380.0552(9)(a)2., Florida Statutes (2020), which requires that “[a]mendments to local comprehensive plans in the Florida Keys . . . maintain[] a hurricane evacuation clearance time for permanent residents of no more than 24 hours.” We affirm the final order in all other respects, and affirm en toto as to the City of Key West. The cause is remanded for further proceedings consistent with this opinion.