

**THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report**



**To:** Chairman and Planning Board Members

**Through:** Katie Halloran, Planning Director

**From:** Nicholas Perez-Alvarez, AICP, Stantec

**Meeting Date:** November 16, 2023

**Agenda Item:** **Text Amendment of the Land Development Regulations** – A resolution of the City of Key West Planning Board recommending an ordinance to the City Commission to amend Chapter 108 of the Land Development Regulations, entitled “Planning and Development”, Article X entitled “Building Permit Allocation System”, Division 2 entitled “Building Permit Allocation System”, Section 108-995 – Reporting requirements and residential allocation schedule; to provide for building permit allocation system units for the property at 301 White Street (RE# 00001780-000000); providing for concurrent and conditional adoption upon adoption of Comprehensive Plan amendments; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

**Request:** The proposed ordinance to amend the City’s Land Development Regulations (the “LDRs”) is an essential part of an effort to encourage the redevelopment of affordable housing and public housing. The Planning Board is hearing this LDR text amendment and the associated text amendment to the Comprehensive Plan in order to set aside Building Permit Allocations (BPAS) for the Key West Housing Authority-owned parcel known as the Lang Milian Apartments (RE# 00001780-000000).

**Applicant:** City of Key West

**Location:** 301 White Street, Key West, Florida  
(RE # 00001780-000000)

## **Background:**

The proposed ordinance to amend the City's Comprehensive Plan is an essential part of an effort to promote the redevelopment of affordable housing and public housing on a property owned by the Housing Authority of the City of Key West, Florida (KWHHA). The property contains eighteen buildings, with a total of 136 residential dwelling units. All the units are public housing, limited to residency by low-income families and individuals.

The construction of the 136 units began in December 1940, over 80 years ago, and the structures have far exceeded their useful life. Currently, the KWHHA is plagued by high maintenance and repair costs, and those expenses continue to grow. The Housing Authority has determined that the best path forward for the property is to demolish the structures and replace them through Section 18 of the US Housing Act of 1937 (as amended in 1998), or a combination of Section 18 and the US Department of Housing and Urban Development's Rental Assistance Demonstration (RAD) program. RAD was created in order to give public housing authorities (PHAs) a powerful tool to preserve and improve public housing properties and address the \$26 billion dollar nationwide backlog of deferred maintenance. The RAD program also gives owners of three HUD "legacy" programs (Rent Supplement, Rental Assistance Payment, and Section 8 Moderate Rehabilitation) the opportunity to enter into long-term contracts that facilitate the financing of improvements. Preserving affordable housing, particularly in Key West, is crucial.

In January 2023, the City Commission passed and adopted Ordinances 23-05 and 23-06, which changed the future land use and zoning of the subject property to High Density Residential (HDR), which allows for a maximum density of 22 dwelling units per acre. This allows for a maximum 196 dwelling units on the 8.91-acre parcel, an increase of 60 units from what exists currently.

According to the KWHHA, all new and redeveloped units will be deed restricted for affordable housing with maximum income to qualify ranging from 120% of Area Median Income (AMI), up to possibly 140% of AMI. The KWHHA will also have units at 30% of AMI, along with 50%, 80%, and 100% AMI units. The Section 122-1467(1)(c) of the City's Land Development Regulations (LDRs) defines affordable workforce housing below:

*The maximum total rental and/or sales price for all affordable work force housing units in a single development shall be based on each unit being affordable housing (moderate income). The rental and/or sales price may be mixed among affordable housing (low income), (median income), (middle income) and (moderate income) in order that the total value of rental and/or sales does not exceed ten percent of the rental and/or sales of all the units at affordable housing (moderate income).*

Section 122-1466 of the LDRs defines affordable housing (moderate income) as follows:

*Affordable housing (moderate income) for a rental dwelling unit shall mean a dwelling unit whose monthly rent, not including utilities, does not exceed 25 percent of that amount which represents 120 percent of the monthly median household income (adjusted for family size) for Monroe County. For an owner-occupied dwelling unit, affordable housing (moderate income) shall mean a dwelling unit whose sales price shall not exceed five times the annual median household income (adjusted for family size) for Monroe County, in accordance with section 122-1472.*

The proposed redevelopment must meet the criteria indicated above in order to qualify as an affordable BPAS unit set aside.

The proposed ordinance to amend the City's Land Development Regulations is an effort to more effectively implement the 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 the City may no longer be authorized to issue permits for new residential units when all BPAS units have been allocated.

**Request/Proposed Text Amendment:**

*Proposed new language is underlined below and deleted language is ~~struck through~~ at first reading.*

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

The City of Key West building permit allocation system shall limit the number of permits issued for new permanent development to 910 units, with the exception of the beneficial use permit allocations that have been reserved separately to address property rights claims. The Building Permit Allocation System shall operate on an annual basis in accordance with Section 108-997. The first allocation cycle is July 2013 through June 2014. Annual allocation cycles shall continue until all units have been allocated. Additionally, the Building Permit Allocation System shall be utilized in the event of an increase in available Building Permit Allocation System units. The annual allocation will not exceed ninety-one (91) single-family units or equivalent types of units based on the equivalency factors established in policy 1-1.16.3 of the comprehensive plan. The annual allocation limitation shall not apply to affordable housing allocations. No transient allocations will be made subsequent to the closure of the 2017-2018 allocation period.

In order to address the ongoing affordable housing shortage and affordable housing deed restrictions expected to expire, during the first three years (July 2013-July 2016) 60 percent of the units allocated shall be affordable. Between years four (4) and ten (10) (2016-2023), a minimum of 50 percent of the total allocations shall be affordable. Between years four (4) and ten (10), 80 percent of remaining (non-affordability restricted) units shall be permanent, and 20 percent may be transient. Between years six (6) and ten (10), 100 percent of the units shall be permanent. After year ten (10), 75 percent of units shall be deed restricted affordable, including any units recovered by the City due to failure to obtain building permits within two years of a BPAS award, per [Section 108-997\(e\)](#), or otherwise voluntarily released to the City. During year one (1) (July 2013-2014), 48 of the affordable units to be allocated will be dedicated for use at the Peary Court Housing complex property, being transferred from military to private sector housing, and shall meet the prerequisite standards for obtaining BPAS awards.

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

During year eleven (11) (July 2023-2024), 60 of the units to be allocated will be dedicated for use at the property currently known as the Lang Milian Apartments and shall meet the prerequisite standards for obtaining BPAS awards.

Table 2.0 below identifies allocated units at a rate of 1.0 ESFU's for the period from July 2013 to July 2024. As noted above, allocations shall continue after July 2023 but only 25% of units allocated during any one BPAS cycle year can be market rate. Deed restricted affordable allocations shall not have maximum annual allocation limits.

Table 2.0

July 1, 2013 - June 30, 2014	July 1, 2014 - June 30, 2015	July 1, 2015 - June 30, 2016	July 1, 2016 - June 30, 2017	July 1, 2017 - June 30, 2018	July 1, 2018 - June 30, 2019	July 1, 2019 - June 30, 2020	July 1, 2020 - June 30, 2021	July 1, 2021 - June 30, 2022	July 1, 2022 - June 30, 2023	July 1, 2023 - June 30, 2024
48 affordable units to be allocated for Peary Court development. Minimum of 7 affordable units. Maximum of 36 market rate units.	Minimum of 55 affordable units. Maximum of 36 market rate units.	Minimum of 55 affordable units. Maximum of 36 market rate units.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units.	Minimum of 45 affordable units. Maximum of 46 market rate units.	Minimum of 45 affordable units. Maximum of 46 market rate units.	38.4 market rate units and 89.6 affordable units shall be allocated to the property currently known as the 3.2 development in Bahama Village. Maximum of 7.6 market rate units.	Minimum of 0.4 affordable units. Maximum of 46 market rate units.	<u>60 affordable units shall be allocated to the property currently known as Lang Milian Apartments.</u>

**Land Development Regulations Text Amendment Process:**

Planning Board Meeting:	November 16, 2023 <sup>1</sup>
City Commission (1 <sup>st</sup> Reading):	TBD 2023
Dept. of Commerce (1 <sup>st</sup> Review):	Up to 60 days
City Commission (2 <sup>nd</sup> Reading / Adoption):	TBD
Local Appeal Period:	30 days
Dept. of Commerce Review (2 <sup>nd</sup> Reading):	Up to 45 days
Dept. of Commerce Notice of Intent (NOI):	Effective when NOI posted to DOC site

**Staff 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 provide a means for changing the text of the Land Development Regulations. It 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.

<sup>1</sup> This item was originally scheduled to go before the Planning Board at their 10/19/23 hearing but the applicant requested postponement.

Pursuant to Code Section 90-522 (a), the Planning Board, regardless of the source of the proposed change in the land development regulations, shall hold a public hearing thereon with due public notice. The Planning Board shall consider recommendations of the City Planner, City Attorney, Building Official and other information submitted at the scheduled public hearing. The Planning Board shall transmit a written report and recommendation concerning the proposed change of zoning to the City Commission for official action. In its deliberations, the Planning Board shall consider the criteria stated in section 90-521.

**90-520 (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.

***Objective 3-1.1: Provide Quality Affordable Housing and Adequate Sites for Low and Moderate Income Housing.*** The City shall implement 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 further implements Objective 3-1.1., above, given it will allow for the redevelopment and affordable housing and increase in affordable housing units.

***Policy 3-1.1.3: Ratio of Affordable Housing to Be Made Available City-Wide.*** At least 30 percent of the aggregate of all residential units constructed each year in the City shall be affordable as herein defined in accordance with the adopted Workforce Housing Ordinance. Residential or mixed-use projects of less than ten residential units shall be required to either develop 30 percent of the units as affordable units on- or off-site, or contribute a fee in lieu thereof. However, residential projects of ten units or more shall provide affordable units on- or off-site and will not have the option of fees in lieu of construction. Commercial developments shall be required to provide affordable housing units or fees in lieu thereof based on provisions included in the updated Land Development Regulations.

All 60 proposed units shall be affordable; therefore, and the proposed development meets the required minimum 30% affordable units.

Through the proposed amendment the City will directly facilitate the development of sixty (60) affordable housing units at the subject property by reserving the right to sixty (60) necessary building permit allocations.

*Appendix A, The City's Chapter 1. – Affordable Housing Needs Analysis: The 2005 EAR listed "Affordable Housing" as one of the issues to be addressed during the updates to the Comprehensive Plan. 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.*

*(...)*

*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 amendment to the Land Development Regulations and Comprehensive Plan will permit redevelopment and increase in affordable housing units.

- 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 effect of this amendment permits sixty (60) affordable housing units to be awarded to property at 301 White Street (RE# 00001780-000000). The proposed units meet the permitted residential density within the High Density Residential (HDR) zoning district. The 60 proposed new units and redevelopment of 136 existing units will be developed in compliance with the City of Key West Land Development Regulations, which include limitations on building height, setbacks, and other site features. Therefore, surrounding properties will be afforded the same protections as any other property within this zoning district.

- c. *Avoidance of spot zoning.*** The proposed change shall not constitute a spot zone change. Spot zoning occurs when: 1. A small parcel of land is singled out for special and privileged treatment; 2. The singling out is not in the public interest but only for the benefit of the landowner; and 3. The action is not consistent with the adopted comprehensive plan.

The proposed amendment will allow for redevelopment and increase in affordable housing units, which is a critical need of the community. The implementation of sixty (60) units is in the public interest and is consistent with the Comprehensive Plan.

- d. *Undeveloped land with similar zoning.*** The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested.

Undeveloped land and vacant properties are subject to unit allocations from the Beneficial Use pool. The proposed change involves allocation of new building permits at a property where the majority of surrounding landowners are governmental entities, such as the US Naval Air Station and the District School Board of Monroe County. Owners of land with similar zoning designations may apply for BPAS or Beneficial Use units, as permissible.

**RECOMMENDATION:**

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request to amend the Land Development Regulations be **APPROVED**.