



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

To: Chairman and Planning Board Members

Through: Thaddeus Cohen, Planning Director

From: Patrick Wright, Senior Planner II

Meeting Date: December 15, 2016

Agenda Item: A resolution of the City of Key West recommending 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 Building Permit Allocation Ordinance and Policy 1-1.16.2, entitled Building Permit Allocation Ordinance and Affordable Housing, existing Policy 1-1.16.3, entitled Permit Allocation System Ratio by Structure Type 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.

Action Item / Background

The purpose of this Ordinance is to amend the City's Comprehensive Plan in response to a Final Order issued by the State Department of Economic Opportunity (DEO) rejecting City Commission Ordinance 16-16. The intent of Ordinance 16-16 was to establish that the 91 new residential units to be allocated in year four (4) from July 1, 2016 to June 30, 2017 shall be deemed affordable units. In order to clear the objection issued by the DEO through a Final Order, changes to language in the City's Comprehensive Plan were requested.

Additionally the Planning Department has suggested the removal of limiting language that references the ability of the city to only allocate 91 units in a given allocation cycle, as well as added language to allow the City to allocate affordable units to itself.

The proposed amendments are 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 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.~~ 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% 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. 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. A building permit allocation system shall be established.~~ 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 back 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 (50%) be affordable between July 1, 2016 and July 1, 2023.

Policy 1-1.16.3: Permit Allocation System Ratios by Structure Type. The permit allocation system shall be sensitive to differing trip generating characteristics of permanent and transient residential units as well as single-family units, accessory apartment units and multi-family residential units. ~~The annual allocation shall be ninety-one units (91) single family units based on the Transportation Interface for Modeling Evacuations (TIME) Model.~~ The permit allocation system shall incorporate a series of equivalent single-family unit (ESFU) values in applying the ~~annual~~ permit allocation threshold established in the building permit allocation ordinance as hereinafter explained.

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 on (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 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.~~ 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% 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 in the transfer of Peary Court from military to private sector housing, which leaves 43 units to be allocated from the first allocation pool.

PROCESS

After the Planning Board recommends changes to the City Commission, the ordinance will require two City Commission readings for adoption.

RECOMMENDATION

The Planning Department recommends that the Planning Board recommends **approval** of the draft amendments to the Comprehensive Plan.

Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 1 OF THE COMPREHENSIVE PLAN ENTITLED FUTURE LAND USE ELEMENT BY AMENDING EXISTING POLICY 1-1.16.1, ENTITLED MAINTAIN A BUILDING PERMIT ALLOCATION ORDINANCE, EXISTING POLICY 1-1.16.2, ENTITLED BUILDING PERMIT ALLOCATION ORDINANCE AND AFFORDABLE HOUSING, EXISTING POLICY 1-1.16.3, ENTITLED PERMIT ALLOCATION SYSTEM RATIO BY STRUCTURE TYPE 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.

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, On April 5, 2016 the City Commission passed Resolution 2016-116 setting aside all building permit allocations during the next application period exclusively for affordable housing; and

WHEREAS, On August 16, 2016 the City Commission adopted Ordinance 16-16 amending Chapter 108 of the Code of Ordinances, entitled Planning and Development by amending existing Section 108-995 to set aside all available Building Permit Allocations during the July 1, 2016 – June 30, 2017 period exclusively for affordable housing; and

WHEREAS, On November 4, 2016 the Department of Economic Opportunity (DEO) issued a Final Order rejecting City Commission Ordinance 16-16 ; and

WHEREAS, Based on recommendations by the Department of Economic Opportunity changes to the City's Comprehensive plan were requested; 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 December 15, 2016, 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 through Planning Board Resolution 16-____; and

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

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 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.~~ 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% 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. 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.~~ A building permit allocation system shall be established. 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 back 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 (50%) be affordable between July 1, 2016 and July 1, 2023.

Policy 1-1.16.3: Permit Allocation System Ratios by Structure Type.

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

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 on (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)

Chapter 3: Housing: 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. 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% 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 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 : If any section, provision, clause, phase, 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 deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

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

Section [redacted]: 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.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2016.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2016.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2016.

Filed with the Clerk _____, 2016.

Craig Cates, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

Draft Resolution

**PLANNING BOARD
RESOLUTION NO. 2016-**

A RESOLUTION OF THE CITY OF KEY WEST RECOMMENDING 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 BUILDING PERMIT ALLOCATION ORDINANCE, EXISTING POLICY 1-1.16.2, ENTITLED BUILDING PERMIT ALLOCATION ORDINANCE AND AFFORDABLE HOUSING, EXISTING POLICY 1-1.16.3, ENTITLED PERMIT ALLOCATION SYSTEM RATIO BY STRUCTURE TYPE 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.

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, On April 5, 2016 the City Commission passed Resolution 2016-116 setting aside all building permit allocations during the next application period exclusively for affordable housing; and

_____ Chairman

_____ Planning Director

WHEREAS, On August 16, 2016 the City Commission adopted Ordinance 16-16 amending Chapter 108 of the Code of Ordinances, entitled Planning and Development by amending existing Section 108-995 to set aside all available Building Permit Allocations during the July 1, 2016 - June 30, 2017 period exclusively for affordable housing; and

WHEREAS, On November 4, 2016 the Department of Economic Opportunity (DEO) issued a Final Order rejecting City Commission Ordinance 16-16 ; and

WHEREAS, Based on recommendations by the Department of Economic Opportunity changes to the City's Comprehensive plan were requested; 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 December 15, 2016, 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; and

WHEREAS, the planning board determined that the proposed amendments: are consistent with the Comprehensive Plan; in

_____ Chairman

_____ Planning Director

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 BUILDING PERMIT ALLOCATION ORDINANCE, EXISTING POLICY 1-1.16.2, ENTITLED BUILDING PERMIT ALLOCATION ORDINANCE AND AFFORDABLE HOUSING, EXISTING POLICY 1-1.16.3, ENTITLED PERMIT ALLOCATION SYSTEM RATIO BY STRUCTURE TYPE AS WELL AS AMENDING CHAPTER 3 OF**

_____ Chairman

_____ Planning Director

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.

Read and passed on first reading at a regular meeting held this 15th day of December 2016.

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

_____ Chairman
_____ Planning Director

Sam Holland Jr., Planning Board Chairman

Date

Attest:

Thaddeus Cohen, Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

Date

_____ Chairman

_____ Planning Director