

THE CITY OF KEY WEST
PLANNING BOARD
Staff Report



To: Chair and Planning Board Members

From: Ben Gagnon, Planner I

Through: Katie P. Halloran, Planning Director

Meeting Date: June 20, 2024

Agenda Item: Final Determination of Award for Year 11 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 11 (July 1, 2023 – June 30, 2024) BPAS applications for award of seventeen (17) market-rate housing units, and sixty-two (62) affordable-rate housing units.

Background:

The Year 11 BPAS cycle opened on July 1, 2023, and will run through June 30, 2024. Pursuant to Section 108-995 of the Land Development Regulations, after year ten (10), 75 percent of units shall be deed restricted affordable. As of the date of this report, there are 212.40 BPAS allocations available for Year 11.

The deadline to submit applications for Year 11 was November 3, 2023, by 3 PM EST. As of that date, the City received nineteen (19) BPAS applications requesting a total of ninety-eight (98) market-rate units and three hundred thirteen (313) affordable units. Two applicants withdrew before the hearing on June 20th, and one applicant modified from two market rate and one affordable rate to three market rate units. After final submittals in April, staff had eight (8) market rate applications requesting ninety-seven (97) units, and eight (8) affordable rate applications requesting two-hundred and seventy-nine (279) units.

The applications were evaluated by staff for completeness. Applicants were notified of any deficiencies within their application and were allowed approximately one month to resolve the deficiencies and improve their BPAS score.

The Year 11 Market Rate BPAS applications are summarized in the following table:

Year 11 Market Rate BPAS Applications	6450 College Road	1213 14 th Street	201 Front Street	638 United Street	1817 Staples Avenue	3228 Flagler Avenue	916 Pohalski Avenue	1409 United Street
Existing/Recognized Units	0	278 + 80 BPAS Units from Years 5, 8	0	0	0	0	0	0
New Market Rate Units	2	68	14	4	3	4	1	1
New Affordable Units		204				4		
Total Existing + Proposed Year 11 BPAS Units	2	358 (+ 272) requested)*	14	4	3	4 (+ 4 AF requested)	1	1
Zoning	Planned Redevelopment District (PRD)	Medium Density Residential (MDR)	Historic Planned Redevelopment (HPRD)	Historic Residential Office (HRO)	Limited Commercial (CL)	Limited Commercial (CL)	Historic High Density Residential (HHDR)	Historic Medium Density Residential (HMDR)
Maximum Density (du/acre)	8 du/acre	16 du/acre	22 du/acre	16 du/acre	16 du/acre	16 du/acre	22 du/acre	16 du/acre
Land Area (SF)	5,227,200	974,872.80	26,750	13,994	9,867	22,000	1,572.15	3,960
Land Area (AC)	120	22.38	0.61	0.32	0.23	0.51	0.04	0.09
Maximum Dwelling Units Allowed***	<u>0***</u>	358.08*	<u>4</u>	5.12	3.63	8.08	0.79	1.46

The Year 11 Affordable Rate BPAS applications are summarized in the following table:

Year 11 Affordable Rate BPAS Applications	2709 Staples Avenue	920 Virginia Street	3101 N Roosevelt Boulevard	3504 Duck Avenue	1110 Truman Avenue	3400 Duck Avenue
Existing/Recognized Units	1	0	81 (Transient +1 non-transient Houseboat)	1	1	209
New Affordable Rate Units	1 (0.78)	1	13	1 (0.78)	1	54
Total Existing + Proposed Year 11 BPAS Units	1.78	1	95	1.78	2	263
Zoning	Single Family (SF)	Historic Medium Density Residential (HMDR)	General Commercial (CG)	Single Family (SF)	Historic Neighborhood Commercial – 1 (HNC-1)	Medium Density Residential -1 (MDR-1)
Maximum Density (du/acre)	8 du/acre	16 du/acre	16 du/acre	8 du/acre	16 du/acre	16 du/acre
Land Area (SF)	9,059	10,027	105,975	6,000	2,583	940,896
Land Area (AC)	0.21	0.23	2.43	0.14	0.06	21.6
Maximum Dwelling Units Allowed	1.66	3.68	38.93*	2.2	0.95**	345.6

**Project is requesting units above allowable density and property is currently at maximum density.*

***Property is using Sec 108-998 Compact infill development for an additional affordable unit.*

****Math has been rounded to the hundredth decimal place. However, all final density calculations were done to the hundred thousandth decimal place or millionths, where applicable. Density is calculated not only by acreage of site x allowable du/acre, but also through any restrictions of leases, development plans, or other site restrictions.*

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).

The Planning Department recommends the following conditions be considered by the Planning Board for the seventeen (17) market rate units and the sixty-two (62) affordable-rate housing units recommended for award:

2709 Staples Avenue submitted for two levels of affordable housing but are only proposing one unit. The applicant has indicated that they are going to be deed restricting the unit to median affordability. Prior to a Certificate of Occupancy being given to the property, the applicant should resubmit Exhibits C and D to reflect the changes.

3400 Duck Ave has requested 54 affordable rate units and shall deed restrict thirteen (13) units at median affordable income level and forty-one (41) units at moderate affordable income level as stated in their certification.

Staff has outlined significant concerns with the following projects that would restrict immediate approval of development given conflicts with city code, or prior lease agreements or applicable development plan provisions: 3101 North Roosevelt Boulevard, 1213 14th Street, 6450 College Road, and 201 Front Street. Section 108-990 reads, *“Nothing in this article shall relieve the owner of property from complying with other applicable sections of the city land development regulations for development on the property”* Because of this, staff believes projects with significant regulatory obstacles should first seek to address these constraints and then return in next year’s cycle to compete for units.

3101 North Roosevelt Boulevard: The property has non-conforming density of 81 units; the zoning district density for this lot is for 39 units. The project is captured under the city’s current Zoning in Progress doctrine and would need to conform with any significant code changes in the workforce affordable housing section. The General Commercial zoning district includes a density bonus up to 40 units an acre, but the market/affordable mix would not be achieved through the ratio currently requested by the applicant. The market to affordable ratio requested by the applicant also would not comply with the City’s existing workforce housing ordinance which requires a minimum of 30% deed restriction for all unit redevelopment projects. (Section 122-1467(a). 30% of workforce affordable housing, however the 13 requested units is just more than 50% of the 24 units they need to comply with the 30% rule. The applicant would need City Commission for any waivers to the workforce affordable housing code. Planning Department staff recommend that the Planning Board postpone BPAS allocations for this project at this time.

1213 14th Street: The property is already at maximum density of 358 units with the amount of currently recognized units and the addition of 80 previous BPAS allocations. The City’s Land Development Regulations do not allow variances on density and in a competitive BPAS cycle conditioning allocations on potential future rezoning inhibits BPAS application projects with lower barriers. In addition, the City Legal Department has confirmed this project does not qualify for Live Local Act density bonuses. Thus, the project is not eligible for additional units unless and until they are approved for a zoning change. The property could seek a zoning change this year to High Density Residential (HDR) and if a rezoning is approved, they could apply next year under 22 units per acre allowing up to 492.36 units on site. Planning Department staff recommend that the Planning Board postpone BPAS allocations for this project until such a time as the applicant requests and City Commission approves a rezoning.

6450 College Road: the 99 year lease agreement signed between the City of Key West, the property owners, and the tenants stated that the *“Permitted Uses” shall mean a golf course and country club open to the public ... and all other uses related or incidental thereto, including without limitation tennis*

courts, handball courts, swimming pools, saunas, and other recreational and health facilities, restaurants, bars (serving both alcoholic and non-alcoholic beverages), rental and management services, sales offices for residential units constructed on the Adjacent Land, central advertising and promotion activities, and central switchboard services for residential unit owners, all as determined from time to time by Lessee.” Planning Department staff recommend that the Planning Board postpone BPAS allocations for this site until such a time as the applicant requests and City Commission approves a lease amendment to permit residential units on the Golf Course.

201 Front Street: the property is under the Truman Annex development agreement approved through Resolution 95-278 and amended for the 12th time in 1995. Staff believes there are 268 residential units constructed at Truman Annex today. In 1995 the 12th amendment of the resolution limited the total number of residential units in Truman Annex to 272. While the development agreement had a timeline of five years, the City Legal Department has advised staff that the applicant cannot develop more units without first going back to City Commission. The property does not possess an entitlement to develop units above the allowable 272 at this time, therefore 201 Front Street can only be awarded 4 units at this time, as it is within the amendment agreement and would not surpass 272 residential units. Planning Department staff recommend that the Planning Board postpone any more than four (4) units for BPAS allocations until such a time as the applicant requests and City Commission approves a development agreement amendment to permit additional residential units in Truman Annex.

Sec. 107-9. - Truman Annex and Fuel Tank Island.

The planned redevelopment and development (PRD) ordinance existing at the time of the Truman Annex development agreement and the development agreement approving Truman Annex and Fuel Tank Island development executed by Resolution No. 86-267, dated December 8, 1986, and as amended shall govern proposed changes, additions and continuing maintenance activities associated with the Truman Annex and Fuel Tank Island as defined in the cited development agreement which is filed in the office of the city clerk.

Below are the resulting scores and final rankings for the Year 11 BPAS. The Planning Department staff’s evaluation of each final application is summarized in the score review sheet, which is attached to each application package. Pursuant to City Code Section 108-995, a maximum of 25% of units awarded may be market-rate units for Year 11 (July 1, 2023– June 30, 2024) of the BPAS cycle.

SCENARIO 1:

The following allocation breakdown would be based on points only. As mentioned above, some applications involve projects with significant regulatory obstacles.

On points alone, the following market rate projects would be awarded:

YEAR 11 MARKET-RATE BPAS APPLICATIONS – RECOMMENDED FOR AWARD						
Rank	Project	Units Awarded/ Requested	ESFU Factor	ESFUs Requested	Major/Minor Renovation	Score
1	201 Front Street	14/14	1.00	4.00	Major	100
Tied	638 United Street	4/4	1.00	4.00	Major	87

Tied	1817 Staples Avenue	3/3	1.00	3.00	Major	87
Tied	3228 Flagler Avenue	4/4	1.00	4.00	Major	87
3	1213 14 th Street	*28/68	1.00	68.00	Major	80
4	1409 United Street	0/1	1.00	1.00	Major	45
5	916 Pohalski Avenue	0/1	1.00	1.00	Minor	25
6	6450 College Road	0/2	1.00	2.00	Minor	15
	Total Market	53				

*This is the maximum number of market rate units this project can receive to keep the total allocations for year 11 at 75% affordable and 25% market rate.

On points alone, the following affordable rate projects would be awarded:

YEAR 11 AFFORDABLE-RATE BPAS APPLICATIONS – RECOMMENDED FOR AWARD						
Rank	Project	Units Awarded/ Requested	ESFU Factor	ESFUs Requested	Major/Minor Renovation	Score
1	3400 Duck Avenue	54/54	1.00	54.00	Major	105
2	3101 N Roosevelt Boulevard	13/13	1.00	13.00	Major	95
3	3228 Flagler Avenue	4/4	1.00	4.00	Major	87
4	1213 14 th Street	88/204	1.00	204.00	Major	80
5	2709 Staples Avenue	0/1	0.78	0.78	Major	55
6	3504 Duck Avenue	0/1	0.78	0.78	Major	45
7	1110 Truman Avenue	0/1	1.00	1.00	Minor	30
Tied	920 Virginia Street	0/1	1.00	1.00	Minor	5
	Total Affordable	159				

This breakdown of BPAS allocations would result in a final ratio of affordable to market rate at 75% affordable and 25% market rate in accordance with Section 108-995. With 53 market rate and 159 affordable rate units, a total of 212 units allocated

SCENARIO 2:

Staff recommends that Planning Board consider Scenario 2 to postpone allocation of units for those projects with existing regulatory obstacles. Market-rate project allocation for Year 11 would exclude those applications depicted below in grey shading:

YEAR 11 MARKET-RATE BPAS APPLICATIONS – RECOMMENDED FOR AWARD						
Rank	Project	Units Awarded/ Requested	ESFU Factor	ESFUs Requested	Major/Minor Renovation	Score
1	201 Front Street	4/14	1.00	4.00	Major	100
Tied	638 United Street	4/4	1.00	4.00	Major	87
Tied	1817 Staples Avenue	3/3	1.00	3.00	Major	87
Tied	3228 Flagler Avenue	4/4	1.00	4.00	Major	87
3	1213 14 th Street	0/68	1.00	68.00	Major	80
4	1409 United Street	1/1	1.00	1.00	Major	45
5	916 Pohalski Avenue	1/1	1.00	1.00	Minor	25
6	6450 College Road	0/2	1.00	2.00	Minor	15
	TOTAL MARKET:	17				

The following affordable projects are recommended for award except for those ranked projects depicted below in grey shading:

YEAR 11 AFFORDABLE-RATE BPAS APPLICATIONS – RECOMMENDED FOR AWARD						
Rank	Project	Units Awarded/ Requested	ESFU Factor	ESFUs Requested	Major/Minor Renovation	Score
1	3400 Duck Avenue	54/54	1.00	54.00	Major	105
2	3101 N Roosevelt Boulevard	0/13	1.00	13.00	Major	95
3	3228 Flagler Avenue	4/4	1.00	4.00	Major	87
4	1213 14 th Street	0/204	1.00	204.00	Major	80
5	2709 Staples Avenue	1/1	0.78	0.78	Major	55
6	3504 Duck Avenue	1/1	0.78	0.78	Major	45
7	1110 Truman Avenue	1/1	1.00	1.00	Minor	30
Tied	920 Virginia Street	1/1	1.00	1.00	Minor	5
	Total Affordable	62				

Scenario 2 recommended BPAS allocations would result in a final ratio of affordable to market rate at 78.48% affordable and 21.52% market rate. With 17 Market rate units and 62 Affordable rate units awarded, a total of 79 units.

Recommendation:

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, The Planning Department recommends to the Planning Board **APPROVAL of Scenario 2 WITH CONDITIONS** for the final Year 11 BPAS rankings, approving the award of seventeen (17) market-rate housing units, and sixty-two (62) affordable-rate housing units contingent on the following conditions:

1. 2709 Staples Avenue submitted for two levels of affordable housing but are only proposing one unit. The applicant has indicated that they are going to be deed restricting the unit to median affordability.
2. 3400 Duck Ave has requested 54 affordable rate units and shall deed restrict thirteen (13) units at median affordable income level and forty-one (41) units at moderate affordable income level as stated in their certification.