

## EXECUTIVE SUMMARY



**To:** Patti McLauchlin, City Manager  
**From:** Jordan Mannix-Lachner, Planner I  
**Through:** Katie P. Halloran, Planning Director  
**Meeting Date:** October 19, 2022

**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 Introduction, entitled "Introduction City of Key West Comprehensive Plan"; Chapter 1, entitled "Future Land Use Element", Section 1, entitled "Future Land Use Goals, Objectives, and Policies", 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"; Chapter 2, entitled "Transportation Element", Section 1, entitled "Transportation Goals, Objectives, and Implementing Policies", Policy 2-1.6.4 entitled "Transportation Concurrency Exception Area"; and Chapter 3, entitled "Housing Element", Section 1, entitled "Housing Goals, Objectives, and Implementing Policies", Policy 3-1.1.4, entitled "Building Permit Allocation System" to provide for an extension of the Building Permit Allocation System award period to allow for the distribution of unallocated units after June 30, 2023; 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.

**Action Statement:** The proposed ordinance would amend the City's Land Development Regulations to allow for the extension of the Building Permit Allocation System's ("BPAS") ten-year allocation schedule so that any units that remain unallocated after the conclusion of Year 10 may be allocated in subsequent years. The Planning Board is hearing this amendment to the Comprehensive Plan and associated text amendment to the Land Development Regulations ("LDRs") to delineate a process for continued allocations after the conclusion of Year 10.

**Background:**

City of Key West Land Development Regulations (LDRs) provide a ten-year allocation schedule

for the Building Permit Allocation System (BPAS). Code states that BPAS will conclude by “2023, or when all BPAS units have been allocated, whichever comes last.” (Sec. 108-1001). The last day of the Year 10 allocation period is June 30, 2023.

The proposed amendments would allow the City to administer subsequent BPAS allocation cycles if any units remain or become available after June 30, 2023. This is important because it’s possible, if unlikely, that the City will not receive applications for all available units in Year 10. More likely is that units will become available after reverting to the City due to failure to obtain building permits within two years of the award, or if units are voluntarily relinquished post-award.

Under this proposal, BPAS would continue to be administered in accordance with the existing application, review, ranking, and reporting requirements defined by Code. This includes a BPAS allocation year starting on July 1 and concluding on June 30.

If BPAS units are available in a given year, BPAS applications will open on July 1. If no BPAS units are available, there will be no BPAS cycle for that year.

Planning staff also proposed that any BPAS allocations awarded after Year 10 shall be deed-restricted affordable to help address the City’s extreme shortage of housing available for the workforce and local families.

Planning Board Resolution 2022-048 further refined and approved this proposal with the condition that 75 percent of units allocated after Year 10 will be deed-restricted affordable, and 25 percent of units will be market-rate. Planning Board members stated that this condition would create financial incentives for developers, who may desire market-rate units to subsidize the cost of constructing affordable units.

### **Request / Proposed Amendment:**

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

### **I. - Introduction City of Key West Comprehensive Plan: Other Planning Efforts**

In addition to the EAR the City of Key West has been engaged in a number of major planning efforts, including the adoption of the Strategic Plan and the Climate Action Plan. These and other City plans, including the December 2011 Carrying Capacity Traffic Study, were also reviewed and are reflected in the updated Plan. Concurrently with the preparation of the updated plan, the City participated in the Monroe County Hurricane Evacuation Clearance Time Working Group. As a result of these meetings the City signed a Memorandum of Understanding that will provide for an allocation of 91 new residential building permits ~~a year between 2013 and 2023~~ starting in 2013.

[ . . . ]

### **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~~ a period starting July 2013 and continuing until all units have been allocated. 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.~~ After year ten (10), 75 percent of residential building permit units shall be deed restricted affordable, including any units which have reverted to the city which were previously allocated and unused within the timeframe specified below. 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. 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. 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.

(Ord. No. 17-13, § 1, 10-17-2017)

**Policy 1-1.16.2: - Building Permit Allocation Ordinance and Affordable Housing.**

The City permit allocation system shall require that 60 percent 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 50 percent of the total allocations be affordable between July 1, 2016 and July 1, 2023. After year ten (10), 75 percent of unit allocations shall be deed restricted affordable.

(Ord. No. 17-13, § 1, 10-17-2017)

[...]

**Policy 2-1.6.4: - Transportation Concurrency Exception Area.**

~~Between years 2013 and 2023~~ The City of Key West shall allocate a total of 910 BPAS units starting in the year 2013. Due to the City's exception from transportation concurrency, the development or redevelopment of these units shall not be subject to roadway concurrency requirements.

(Ord. No. 17-13, § 2, 10-17-2017)

[...]

**Policy 3-1.1.4: Building Permit Allocation System.**

The City of Key West shall allocate a total of 910 permits ~~between years 2013 and 2023.~~ during annual allocation periods starting in the year 2013. These annual allocation periods 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.

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. After Year 10, 75 percent of unit allocations shall be deed restricted affordable, including: any units which have reverted to the City pursuant to Policy 1-1.16.1.

~~Between years four and ten, no more than ten percent may be transient. The City no longer allocates residential building permits for transient units.~~ During Year One (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.

(Ord. No. 17-13, § 3, 10-17-2017)

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### **Comprehensive Plan Text Amendment Process:**

Planning Board Meeting:	September 15, 2022 (Planning Board Res. 2022-048)
City Commission (1st Reading):	October 19, 2022
Local Appeal Period:	30 days
DEO Review (1st Reading):	Up to 60 days
City Commission (2nd Reading/Adoption):	TBD
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.*”

The proposed Comprehensive Plan text amendment shall be reviewed as per the criteria of Section 90-554(6) below:

***90-554 (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 amendments are justified given that the City of Key West possesses building permits for residential units but existing Comprehensive Plan language suggests that the BPAS system terminates in 2023. It is in the best interest of the City's residents, particularly families and individual members of the workforce, to utilize every available remaining residential building permit to create housing attainable at all income levels.

In addition, the proposed amendment is consistent with and further implements the Comprehensive Plan objectives and policies below:

- Objective 2-1.7: - Transportation and hurricane evacuation.
- Objective 3-1.1: - Provide quality affordable housing and adequate sites for low and moderate income housing.
- Goal 4-1: Needed public facilities
- Objective 4-1.1: - Ensure that infrastructure improvement needs shall be met and that use of existing public facilities is maximized.
- Objective 5-1.6: - Hurricane Evacuation.

**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 proposed amendment does not apply to any specific parcel of land. It is compatible with the Comprehensive Plan goals, objectives and policies, including but not limited to:

- Objective 2-1.7: - Transportation and hurricane evacuation.
- Objective 3-1.1: - Provide quality affordable housing and adequate sites for low and moderate income housing.
- Goal 4-1: Needed public facilities
- Objective 4-1.1: - Ensure that infrastructure improvement needs shall be met and that use of existing public facilities is maximized.
- Objective 5-1.6: - Hurricane Evacuation.

In particular, this proposal is consistent with Goal 4-1, which seeks to “Ensure availability of needed public facilities in a manner which protects investments in existing facilities and promotes orderly, compact growth.” BPAS is a tool for regulating growth to ensure the availability of public facilities and infrastructure.

For the same reasons, this proposal is consistent with Objectives 2-1.7 and 5-1.6, in that the system is designed to limit residential development to maintain hurricane evacuation clearance times in accordance with executed the Memorandum of Understanding between the City and the State of Florida Department of Economic Development.

**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 does not apply to any specific parcel of land or allow for privileged treatment of any parcel of land. It also does not provide for land use activities which are not in the overall public interest but only for the benefit of the landowner.

***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.*

The proposed amendment does not apply to any specific parcel of land and shall not impact future land use map designations.

### **Options / Advantages / Disadvantages:**

**Option 1:** Approve the proposed text amendments to the Comprehensive Plan with language as proposed in Planning Board Res. 2022-048, to extend the Building Permit Allocation System and to require that after Year 10 of the BPAS, 75 percent of unit allocations will be deed-restricted affordable, and 25 percent of units could be market-rate.

#### Advantages:

- The City would have an avenue to allocate unallocated BPAS units after 2023, which would help alleviate the current housing shortage and allow the City to utilize all available BPAS units.
- Seventy five percent of all remaining unallocated units will be reserved for affordable housing, which helps address the Strategic Plan priority and a critical community need.
- Developers and property owners may utilize 25 percent of remaining BPAS permits as market rate to allow for mixed income developments.

#### Disadvantages:

- None identified.

**Option 2:** Deny the proposed text amendments to the LDRs.

#### Advantages:

- None identified.

#### Disadvantages:

- The City would not be able to utilize all available BPAS units, which would not support City Comprehensive and Strategic Plan goals to increase the stock of affordable housing.

### **Recommendation:**

Staff recommends approval of these amendments as stated in OPTION 1.

#### Advantages:

- None identified.

Disadvantages:

- The City would not be able to utilize all available BPAS units, which would not support City Comprehensive and Strategic Plan goals to increase the stock of affordable housing.

**Recommendation:**

Staff recommends approval of these amendments as stated in OPTION 1.