

**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 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 located at 301 White Street (RE# 00001780-000000 ); providing for the repeal of inconsistent provisions; providing for transmittal to the State Land Planning Agency; providing for the filing with the Secretary of State; providing for severability; providing for the inclusion in the City of Key West Comprehensive Plan; 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 affordable housing and public 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 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. RAD also gives owners of three HUD "legacy" program (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 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% units. 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.*

**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 (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. 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.

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.

*{new paragraph}*

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. During Year Eleven (11) (July 2023-2024), 60 of the affordable units to be allocated will be dedicated for use at the property currently known as the Lang Milian Apartments.

**Comprehensive Plan Amendment Process:**

|   |                                       |
|---|---------------------------------------|
| Planning Board Meeting:                               | November 16, 2023 <sup>1</sup>        |
| City Commission (1 <sup>st</sup> Reading):            | TBD                                   |
| 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 Comprehensive Plan map and text amendments consistent with Chapter 163 of the Florida Statutes (F.S.). 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.

Pursuant to Code Section 90-556(a), the Planning Board, regardless of the source of the proposed change in the Comprehensive Plan, shall hold a public hearing thereon with due public notice as described in Code Chapter 90, Article VI, Division 3. 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 in the Comprehensive Plan to the City Commission for official action. In its deliberations the Planning Board shall consider the criteria in Code Section 90-555.

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<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.

**Criteria for Approving Amendments to Comprehensive Plan pursuant to Code Section 90-554(6) and 90-555.** In evaluating proposed changes to the Comprehensive Plan, the City shall consider the following criteria:

**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 the Comprehensive Plan future land use map on the overall purpose of the Comprehensive Plan and consistency with applicable policies within 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, 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 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 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.

- 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 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 land use 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 Comprehensive Plan be **APPROVED**.