




MEMORANDUM

Date: March 14, 2024

To: Honorable Mayor and Commissioners

Via: Albert P. Childress 
City Manager

From: Katie P. Halloran
Planning Director

Subject: **23-4843 - Major Modification to a Major Development Plan - 638 United Street (RE# 00036600-000000)** - A request for a major modification to a major development plan approval for the development of four market rate residential units with a landscape waiver for a non-complying landscape buffer and on property located within the Historic Residential / Office (HRO) Zoning District with a proposed affordable work force housing linkage project located at 3228 Flagler Avenue pursuant to Chapter 108, Section 108-91, and Article III through IX; Chapter 122, Article IV, Division 10; and Chapter 122, Article V, Division 10 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Introduction

The applicant, Trepanier & Associates Inc, has proposed a major modification to a major development plan at 638 United Street. Proposed changes include a reduction to the number of homes from 5 to 4 and changes to dimensional regulations affecting the property, a reduction and relocation of pools, parking spaces, drives, buildings, and a landscape waiver for a noncompliant buffer. This item was recommended for approval by the City of Key West Planning Board at their hearing on December 12, 2023, under Resolution No. 2023-028.

It is important to note that this project includes a proposed and required workforce housing linkage project located at 3228 Flagler Avenue which has yet to be approved by the Planning Board. The applicant is in the process of modifying the proposed site design for the 3228 Flagler Avenue project in response to concerns from local residents. City affordable housing code states, "Written proof of the project linkage shall be supplied by the developer to the city commission at the time of the first site plan approval." For

this reason, staff recommends that the Commission consider postponement of this item until the required linkage project at 3228 Flagler is approved by the Planning Board.

Background

The property currently consists of a vacant commercial building. The applicant was awarded an allocation for five (5) market-rate BPAS units for the property at 638 United St on April 26th 2018. The applicant, through emergency order extensions, has extended the original two year permit deadline to August of 2026.

The applicant submitted the original Major Development Plan in 2016 to demolish the existing office building, eliminate all curb cuts along United Street, and construct 5 attached, townhouse style, residential dwelling units with detached garages. This project met the minimum requirements for affordable housing through a linkage project at 3228 Flagler Ave by Resolution 2018-52.

In 2018, the Planning Board granted MDP approval for the construction of 5 market rate residential units. Conditions of approval included: A CO must be obtained for the linkage property at 3228 Flagler Ave prior to issuance of a CO for this property, Tree Commission Approval, Obtain HARC Certificate of Appropriateness.

The 638 United Street project is proposed to link to a project at 3228 Flagler Ave to comply with the City's workforce housing ordinance.

- Section 122-1467(1)(a) "*Housing units. . . . Residential or mixed use projects of less than ten residential or mixed use units shall be required to develop or redevelop at least 30 percent of units of at least 400 square feet each as affordable (median income), but may contribute a fee in lieu for each unit to the affordable work force housing trust fund, if approved by the city commission.*
- Sec. 122-1467(1)(b) "*Linkage of projects. Two development or redevelopment projects may link to allow the affordable housing requirement of one development or redevelopment project to be built at the site of another project, so long as the affordable housing requirement of the latter development or redevelopment is fulfilled as well. . . .*"

The applicant has since submitted new applications for 638 United St, the subject property, and 3228 Flagler Avenue, the linkage project. For 638 United St, the applicant is now proposing 4 detached single family residential units at market rate. The applicant states that this 4-unit residential development is designed to achieve Gold-level green building certification with the homes being elevated at least 1.5 ft above current and future flood plain elevations. The applicant also provides that the project will meet the minimum requirements for affordable housing (project is linked to 3228 Flagler Ave by Res. No. 2018-52). Stormwater management will be brought into compliance and will include rainwater catchment systems and drainage swales. The project will feature light colored roof and non-roof materials and energy -rated appliances, lighting, and mechanical systems. Further, the applicant provides that the single-family residential development is designed to conform within the Historic District's residential corridors of United Street and Villa Mill Alley.

The former and current applications for 638 United Street are for market rate units only. As noted above the City of Key West requires new housing developments of less than ten residential units to develop at least 30% of those units as affordable. The previously approved unit allocation for 638 United Street was for 5 market rate units, and the 30% affordable requirement would be fulfilled at a linkage project at 3228 Flagler Ave, which was approved for 8 BPAS units also in 2018. The allocation was for 4 affordable and 4 market rate units, bringing the approval totals to the below allocations:

	Previously Approved			New Proposed		
	Affordable	Market	Total	Affordable	Market	Total
Flagler	4	4	8	5	3	8
United	0	5	5	0	4	4
Total units	4	9	13	5	7	12
Total %	31%	69%	100%	42%	58%	100%

Request:

The applicant has now proposed to decrease the total number of market rate units at United Street from five to four. At 3228 Flagler Avenue, the applicant has proposed to return their BPAS allocations and has applied for 5 market rate and 3 affordable units during the Year 11 BPAS cycle, with a decrease of one affordable unit and an increase of one market rate unit, which would have left the affordable unit percentage at 25%, below the 30% requirement. However, the applicant has since submitted revised plans for 3228 Flagler, decreasing the number of market rate units from 5 to 3 and increasing the number of affordable units from 3 to 5. **Now with a combined 42% of affordable units between 638 United and 3228 Flagler, a sufficient number of affordable units are now being provided to meet the City’s 30% requirement.**

Analysis:

Staff determined the proposal is in compliance with the Major Development Review criteria listed under Section 108-91.A.2. Planning staff and the Planning Board, as required by Chapter 108 of the City Code, reviewed the request for compliance with the Land Development Regulations and the Comprehensive Plan as detailed in the attached Planning Board staff report. The proposed major modification to the major development plan was reviewed before the Planning Board on December 12, 2023, where they recommended approval with conditions through Resolution No. 2023-028.

As noted previously, the linkage project at 3228 Flagler Avenue has yet to be approved by the Planning Board. The applicant is in the process of revising the proposed plan in response to concerns expressed by local residents. Sec. 122-1467 (b) states:

Linkage of projects. Two development or redevelopment projects may link to allow the affordable housing requirement of one development or redevelopment project to be built at the site of another project, so long as the affordable housing requirement of the latter development or redevelopment is fulfilled as well. Written proof of the project linkage shall be supplied by the developer to the city commission at the time of the first site plan approval. The project containing the affordable units must be built or rebuilt either before or simultaneously with the project without, or with fewer than, the required affordable units. In addition, if a developer builds or rebuilds more than the required number of affordable units at a development site, this development or redevelopment project may be linked with a subsequent development or redevelopment project to allow compliance with the subsequent development's affordable unit requirement. Written proof of the linkage must be supplied by the developer to the city commission at the time of the subsequent development's site plan approval. Linkage shall not be available if either development is entirely or in part to be constructed by public funds. Finally, all linkages under this subsection may occur within the city or on a site within the city and on a site on Stock Island in the unincorporated part of the county.

In addition, Chapter 108 (Planning and Development) establishes timelines for individual development plans. Sec. 108-203 (a) specifically states in part:

“The development plan approval shall expire 12 months after final approval, if construction has not been started as evidenced by steady and continuous progress, including the pouring of footings by the termination date.”

In this instance, the linkage project has not received approval from the Planning Board which raises concerns that the United Street project permit may expire before construction of the Flagler Avenue site is completed. More significantly, since the linkage project at Flagler Avenue has not received approval from the Planning Board to date, the 638 United Street project lacks written proof that the affordable housing linkage has been approved.

A full planning staff analysis is available in the Planning Board staff report.

Other Matters:

N/A

Options / Advantages / Disadvantages:

Option 1:

Approve the major modification to the major development plan as recommended by the Planning Board through Resolution No. 2023-028.

Option 2:

Postpone this item until the linked project at 3228 Flager is approved as a Minor Development Plan at the Planning Board, in accordance with the City’s Workforce Housing Ordinance, Section 122-1467(b).

Option 3:

Deny the major modification to the major development plan.

Recommendation:

As per Planning Board Resolution No. 2023-028, the Planning Board recommended to the City Commission **Option 1** for the approval of the major modification to the major development plan. Planning Department staff support Planning Board Resolution No. 2023-028 but recommend **Option 2**, to reserve decision on 638 United Street until the application can be considered in conjunction with the linkage project at 3228 Flager Avenue.