

SMITH / HAWKS
ATTORNEYS AT LAW

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VIA HAND DELIVERY

November 22, 2024

Keri O'Brien, CMC, City Clerk
City of Key West
1300 White Street
Key West, FL 33040
Email: KOBrien@CityofKeyWest-FL.Gov

**Re: Notice of Appeal of Planning Director's Determination – Regarding 1213 14th Street
- Year 11 BPAS Award**

Dear Cheri,

Please allow this correspondence to serve as a Notice of Appeal of the determination of the City of Key West Planning Director concerning the Building Permit Allocation System Award Letter concerning 1213 14th Street ("Applicant"). The Planning Director's written determination was issued to the Applicant November 14, 2024, attached hereto **Exhibit A**. Pursuant to City of Key West Code of Ordinances, an applicant may appeal a decision of the Planning Director by providing the City Clerk notice of appeal within ten (10) calendar days following the decision of the Planning Director. Check number 9040 in the amount of \$2,552.56 is enclosed for payment of the fee for the appeal to the City Commission/Board of Adjustment.

Please contact me regarding coordinating the appeal. Thank you for your consideration and assistance, and please do not hesitate to contact me with any questions.

Sincerely,


Barton W. Smith

BWS/bg

Attachment

From: Dan Gulizio <dan.gulizio@cityofkeywest-fl.gov>
Sent: Thursday, November 14, 2024 8:42 AM
To: Owen Trepanier <owen@owentrepanier.com>
Cc: Benjamin Gagnon <benjamin.gagnon@cityofkeywest-fl.gov>
Subject: BPAS Co-signed Letters

Owen,

Attached please find follow-up letters related to this past Building Permit Allocation System (BPAS) cycle. Our apologies for the delay in getting these letters out but it took several discussions with the City Attorney's Office and City Manager's Office to address everyone's concerns. Please let us know if you have any questions.

Respectfully,

Dan Gulizio

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EXHIBIT A



THE CITY OF KEY WEST
Post Office Box 3109 Key West FL 33041-1009 (305) 854-3300

October 4, 2024

VIA ELECTRONIC MAIL

Owen Trepanier
Trepanier and Associates, Inc.
1421 First Street #101
Key West, Florida, 33040

RE: 1213 14th Street, Key West, Florida (RE #00065030-000000)
Building Permit Allocation System (BPAS) Award Letter

Dear Mr. Trepanier,

We are writing in connection with the above-referenced site which was recently the subject of a Building Permit Allocation System (BPAS) award involving twenty-four (24) market rate units and eighty-four (84) affordable rate units (Please see attached). Specifically, based on the information contained below, we are writing to advise you that building permits for these allocations may not be issued unless and until the property owner has secured approval from the City to increase existing development density.

The subject property is located within the Medium Density Residential (MDR) zoning district. Pursuant to Section 122-270 (1) the maximum permitted density within the MDR zoning district is sixteen (16) dwelling units per acre (16/du/acre). The subject property maintains a lot area of 22.38 acres and is currently improved with 279 units. In addition, eighty (80) additional units were previously awarded through BPAS Years five (5) and eight (8). Taken together, the total number of units associated with the site is 359 or the equivalent of 16 dwelling units per acre. The additional BPAS units awarded in Year 11 would increase development density on site above the maximum permitted density with the MDR zoning district.

City Code Section 86-9 limits variances to "*height, area, size of structure, or size of yards and open spaces.*" In addition, Chapter 90 (Administration), Division 3 (Variances) Section 90-394 (Action) states "*No variance shall be granted that increases or has the effect of increasing density or intensity of a use beyond that permitted by the comprehensive plan or these LDRs.*"

Based upon the above, the property already maintains the maximum permitted density within the MDR zoning district, and the City Code specifically prohibits variances to the maximum permitted density standards contained in the MDR zoning district.

As a result, please be advised that building permits for BPAS Year eleven (11) may not be issued unless and until the property owner has secured approval from the City Commission to increase development density on site.

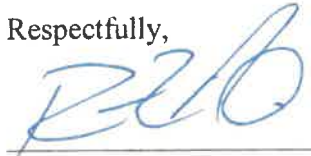


THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

Please feel free to contact us should you have any questions related to the above.

Respectfully,



Ronald J. Ramsingh, City Attorney



Katie P. Halloran, City Planner

Date: Nov. 12, 2024

Date: Oct 12, 2024