



**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**

To: Chairman and Planning Board Members

Through: Thaddeus Cohen, Planning Director

From: Patrick Wright, Planner II, Ginny Haller, Planner II

Meeting Date: June 16, 2016

Agenda Item: A resolution of the City of Key West recommending an ordinance to the City Commission amending Chapter 108 of the Code of Ordinances, entitled Planning and Development by amending existing Section 108-995 to set aside all available Building Permit Allocations during the July 1, 2016 – June 29, 2017 period exclusively for affordable housing; providing for severability; providing for repeal of inconsistent provisions, providing for an effective date.

Attachments

1. Proposed BPAS Ordinance amendments

Action Item

The purpose of this Ordinance amendment is to update the existing Building Permit Allocation System regulations in response to City Commission Resolution No. 16-116. On April 5, 2016 the City Commission passed Resolution 2016-116 setting aside all building permit allocations during the next application period exclusively for affordable housing; directing the City manager and City Attorney to develop regulations to ensure future allocations are used for affordable housing. In summary, the proposed amendments establish that the 91 new residential units to be allocated in year four (4) from July 1, 2016 to June 30, 2017 shall be deemed affordable units.

Background

The Building Permit Allocation System (BPAS), commonly known as the Rate of Growth Ordinance, or “ROGO”, was originally adopted in response to the City’s 1993 Comprehensive Plan and required by a subsequent stipulated settlement agreement between the City and the Florida Department of Community Affairs in 1996. The purpose of the BPAS is to ensure that residential growth, including transient growth, does not exceed the hurricane evacuation capacity of the roadways in the Florida Keys. For

purposes of the BPAS *residential growth* and *residential unit allocation* means both transient and non-transient units.

In 2010 a Statewide Regional Hurricane Evacuation Study update was initiated using the 2010 US population Census information. In 2011 and 2012 numerous workshops were held and county wide coordination was conducted between Monroe County and its municipalities, the Department of Transportation, Emergency Management and the Department of Economic Opportunity (DEO). Relying on the 2010 census population counts, the TIME Model that was used to determine evacuation times under distinct phased evacuation scenarios, determined that current conditions would allow for a safe 24 hour permanent population evacuation, but that additionally, the Keys could support restricted residential growth and still maintain a compliant 24 hour permanent population evacuation time. As a result, the entities entered into a Memorandum of Understanding (HEM MOU), executed on August 2, 2012, that updated and reestablished the entire county's residential unit allocation system. In the 2013 legislative session the new allocation of 91 new units a year allotted to the City of Key West was ratified.

The proposed amendments are as follows:

Sec. 108-995. Reporting requirements and residential allocation schedule.

The City of Key West building 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, with the exception of the beneficial use permit allocations that have been reserved separately to address property rights claims. The annual allocation will be ninety-one (91) single-family units or an equivalent combination of residential and transient types based on the equivalency factors established in policy 1-1.15.3 of the comprehensive plan.

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. In year four (4), July 1, 2016 – June 29, 2016, 100% of the available units shall be affordable. Between years ~~four (4)~~ five (5) and ten (10) (~~2016-7—2023~~), 50 percent shall be affordable. Between years ~~four (4)~~ five (5) and ten (10), 80 percent of remaining (non-affordability restricted) units shall be permanent, and 20 percent may be transient. During year one (1) (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, and shall meet the prerequisite standards for obtaining BPAS awards. Table 2.0 below identifies the number of units that may be allocated at a rate of 1.0 ESFU's by housing type and by year for the period from July 2013 to July 2023.

Table 2.0									
July 1, 2013 - June 30, 2014	July 1, 2014 - June 30, 2015	July 1, 2015 - June 30, 2016	July 1, 2016 - June 30, 2017	July 1, 2017 - June 30, 2018	July 1, 2018 - June 30, 2019	July 1, 2019 - June 30, 2020	July 1, 2020 - June 30, 2021	July 1, 2021 - June 30, 2022	July 1, 2022 - June 30, 2023
48 affordable units to be allocated for Peary Court development. Minimum of 7 affordable units. Maximum of 36 market rate units.	Minimum of 55 affordable units. Maximum of 36 market rate units.	Minimum of 55 affordable units. Maximum of 36 market rate units.	Minimum of 91 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.	Minimum of 45 affordable units. Maximum of 46 market rate units, of which a maximum of ten (10) units may be transient.

The city planner will provide an annual report to the planning board and the state land planning agency identifying any remaining or unused allocations, and the number of permits by building type by September 1 of each year as stipulated in the 2012 Hurricane Evacuation Clearance Time Memorandum of Understanding. The first report will be published in 2014.

PROCESS

After the Planning Board recommends changes to the City Commission, the ordinance will require two City Commission readings for adoption. Absent any appeals, the ordinance will be rendered to the DEO, who will have 60 days to issue an order which determines consistency with Florida Statutes 380.0552 and the City’s Comprehensive Plan.

RECOMMENDATION

The Planning Department recommends that the Planning Board recommends **approval** of the draft amendments to the Building Permit Allocation Ordinance.

Draft Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,
AMENDING CHAPTER 108 OF THE CODE OF
ORDINANCES ENTITLED PLANNING AND
DEVELOPMENT BY AMENDING EXISTING SECTION
108-995 TO SET ASIDE ALL AVAILABLE BUILDING
PERMIT ALLOCATIONS DURING THE JULY 1, 2016 –
JUNE 29, 2017 ALLOCATION PERIOD EXCLUSIVELY
FOR AFFORDABLE HOUSING; PROVIDING FOR
SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City Commission has passed numerous resolutions aimed at increasing the availability of affordable and workforce housing in the City of Key West; and

WHEREAS, development of any housing is strictly controlled by virtue of the fact that the State of Florida has designated the City of Key West as a State area of Critical Concern; and

WHEREAS, this state regulation has resulted in a specified number of new building permits that may be granted each year under what is known as the Building Permit Allocation System (BPAS); and

WHEREAS, Chapter 108, Article 10 of the Key West Code of Ordinances specifies the manner and types of building permits allocated over a 10 year period; and

WHEREAS, Code of Ordinances section 108-995 specifies in pertinent part that during the July 1, 2016 – June 29, 2017 allocation period there shall be a “Minimum of 45 affordable units;” and

WHEREAS, On April 5, 2016 the City Commission passed Resolution 2016-116 setting aside all building permit allocations during the next application period exclusively for affordable housing

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA;

Section 108-995: That Section 108-995 of the Code of Ordinances is hereby amended as follows:

Sec. 108-995. Reporting requirements and residential allocation schedule.

The City of Key West building 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, with the exception of the beneficial use permit allocations that have been reserved separately to address property rights claims. The annual allocation will be ninety-one (91) single-family units or an equivalent combination of residential and transient types based on the equivalency factors established in policy 1-1.15.3 of the comprehensive plan.

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. In year four (4), July 1, 2016 – June 29, 2016, 100% of the available units shall be affordable. Between years ~~four (4)~~ five (5) and ten (10) (2016 7—2023), 50 percent shall be affordable. Between years ~~four (4)~~ five (5)

and ten (10), 80 percent of remaining (non-affordability restricted) units shall be permanent, and 20 percent may be transient. During year one (1) (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, and shall meet the prerequisite standards for obtaining BPAS awards. Table 2.0 below identifies the number of units that may be allocated at a rate of 1.0 ESFU's by housing type and by year for the period from July 2013 to July 2023.

July 1, 2013 - June 30, 2014	July 1, 2014 - June 30, 2015	July 1, 2015 - June 30, 2016	July 1, 2016 - June 30, 2017	July 1, 2017 - June 30, 2018	July 1, 2018 - June 30, 2019	July 1, 2019 - June 30, 2020	July 1, 2020 - June 30, 2021	July 1, 2021 - June 30, 2022	July 1, 2022 - June 30, 2023
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The city planner will provide an annual report to the planning board and the state land planning agency identifying any remaining or unused allocations, and the number of permits by building type by September 1 of each year as stipulated in the 2012 Hurricane Evacuation Clearance Time Memorandum of Understanding. The first report will be published in 2014.

Section 2.01: If any section, provision, clause, phase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the

remaining provisions of this Ordinance shall deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section []: All Ordinances or parts of Ordinances of said City in conflict with the provisions of the Ordinance are hereby superseded to the extent of such conflict.

Section []: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and Clerk of the Commission.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2016.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2016.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2016.

Filed with the Clerk _____, 2016.

Craig Cates, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

City Commission Resolution 16-116

RESOLUTION NO. 16-116

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, SETTING ASIDE ALL BUILDING PERMIT ALLOCATIONS DURING THE NEXT APPLICATION PERIOD EXCLUSIVELY FOR AFFORDABLE HOUSING; DIRECTING THE CITY MANAGER AND THE CITY ATTORNEY TO DEVELOP REGULATIONS TO ENSURE FUTURE ALLOCATIONS ARE USED FOR AFFORDABLE HOUSING; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Commission has passed numerous resolutions aimed at increasing the availability of affordable and workforce housing in the City of Key West; and

WHEREAS, development of any housing is strictly controlled by virtue of the fact that the State of Florida has designated the City of Key West as a State Area of Critical Control; and

WHEREAS, this state regulation has resulted in a specified number of new building permits that may be granted each year under what is known as the Building Permit Allocation System (BPAS); and

WHEREAS, Chapter 108, Article 10 of the Key West Code of Ordinances specifies the manner and types of building permits allocated over a 10 year period; and

WHEREAS, Code of Ordinances section 108-995 specifies in pertinent part that during the next application and allocation period there shall be a "Minimum of 45 affordable units;" and

WHEREAS, the Key West City Commission believes affordable housing should be a greater priority in the allocation process;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the entire yearly building permit allocation for the next application period shall be devoted exclusively to affordable units.

Section 2: That the City Manager and the City Attorney are directed to develop changes to the land development regulations and code of ordinances to ensure that all future building permit allocations are used for affordable housing, while maintaining sufficient allocations for any valid beneficial use claims.

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held
this 5th day of April, 2016.

Authenticated by the Presiding Officer and Clerk of the
Commission on 6th day of April, 2016.


Filed with the Clerk on April 6, 2016.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Clayton Lopez	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>No</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK