



EXECUTIVE SUMMARY

To: Patti McLauchlin, City Manager

From: Katie P. Halloran, Planning Director

Meeting Date: May 3, 2022

Agenda Item: **Text Amendment of the Land Development Regulations**– An Ordinance of the City of Key West, Florida, amending Chapter 108 of the Land Development Regulations, entitled “Planning and Development”, Article X entitled, “Building Permit Allocation System”, Section 108-997, entitled “Period of allocation and ranking/review of applications”, to clarify existing and proposed provisions pursuant to Section 90-520 and 90-522; providing for concurrent and conditional adoption upon adoption of Comprehensive Plan amendments; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

Action Statement:

The purpose of this ordinance is to amend the City’s Land Development Regulations (the “LDRs”) to ensure consistency between Building Permit Allocation System (“BPAS”) provisions in the LDRs and the City of Key West Comprehensive Plan. The City of Key West previously approved text amendments to the Comprehensive Plan and LDRs to set aside Building Permit Allocation System units (permits) to facilitate the development of affordable housing at the property known as the “3.2” acres (RE# 00001630-000801) in Bahama Village.

In the Comprehensive Plan, new language states that units will not be surrendered after two years. This same language would also now be added to the BPAS allocation section of the LDRs.

Background:

The proposed ordinance is a follow-on action to implement previous text amendments that set aside BPAS units for the “3.2” acre project in Bahama Village. The initial text amendments set aside 128 BPAS units for the affordable housing project at the “3.2” acre site, including 89.6 affordable units and 38.4 market rate units.

The previous text amendment to the Comprehensive Plan included language to allow this project more than two years to reach the building permit stage. This project may require more than two years to reach building permit issuance, given the need to apply for public subsidies to construct the rental and homeownership units, and thus extra time is warranted. However, this same language was not added to the BPAS provisions in the LDRs, which was an oversight.

The Department of Economic Opportunity provided a Notice of Intent to approve the City’s 3.2 BPAS Comprehensive Plan text amendment on 3/1/22. For the 3.2 BPAS LDR amendment, the DEO issued a Final Order executed on 3/9/22. At this time, it is appropriate to adopt this minor text amendment to ensure

sufficient time for financial planning, design, and City Board and Commission review of the proposed affordable workforce housing development at the 3.2 acre site.

Request / Proposed Amendment: **Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.*

Sec. 108-997. – Period of allocation and ranking/review of applications.

{ . . . }

(e) *Recovered units.* Building permits shall be obtained within two years of the final award date. If a building permit is not issued 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.

(f) *Affordable unit allocations.*

(1) All units allocated as affordable are subject to subsections 122-1467(c), (d), (e), and (f) of the workforce housing ordinance.

(2) Applicant eligibility requirements are subject to subsections 122-1469(2) through (15) of the workforce housing ordinance.

(3) Affordable housing projects enabled by federal tax credit housing are not subject to [subsection] 122-1467(c).

(g) *Penalty.* For projects that fail to achieve the green building standard certification, as purported in the application for which the award was granted, final certificate of occupancy will not be awarded until such time that the applicant is able to establish that the green building standard has been achieved.

(Ord. No. 13-19, § 2, 11-6-2013; Ord. No. 18-01, § 1, 1-4-2018; Ord. No. 18-11, § 5, 6-5-2018; Ord. No. 19-18, § 2, 8-6-2019)

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

Land Development Regulations Text Amendment Process:

Planning Board:	January 20, 2022 (Planning Board Res. 2021-37)
City Commission:	May 3, 2022 (first reading)
Local Appeal Period:	30 Days
City Clerk renders to DEO:	10 working Days
DEO Review:	Up to 45 Days
DEO Final Order:	LDR amendment becomes effective when the final order is received

Analysis:

The purpose of Chapter 90, Article VI, Division 2 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 changing the text of the Land Development Regulations. 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 subdivision, the consistency of the proposed amendment with the intent of the Comprehensive Plan.

This Land Development Regulations amendment, together with the previously adopted BPAS set aside amendments for the 3.2 acres, will facilitate development of deed- restricted affordable workforce housing for families in need in Key West. A full planning staff analysis is available in the Planning Board staff report.

Other Matters:

N/A

Options / Advantages / Disadvantages:**Option 1:**

Approve the proposed text amendment to Chapter 108 of the Land Development Regulations, entitled “Planning and Development”, Article X entitled “Building Permit Allocation System”, Division 2 entitled “Building Permit Allocation System, Section 108-997 – Period of allocation and ranking/review of applications”, as recommended by the Planning Board through Resolution No. 2022-005.

- a. Financial Impact:
There will be no cost to the City if this request is approved.

Option 2:

Deny the proposed text amendment to Chapter 108 of the Land Development Regulations, entitled “Planning and Development”, Article X entitled “Building Permit Allocation System”, Division 2 entitled “Building Permit Allocation System, Section 108-997 – Period of allocation and ranking/review of applications.

- a. Financial Impact:
There will be no cost to the City if this request is denied.

Recommendation:

Staff supports Planning Board Resolution No. 2022-005, and further recommends approval of these amendments as stated in OPTION 1.