



THE CITY OF KEY WEST
PLANNING BOARD
Staff Report

To: Chairman and Planning Board Members

From: Katie P. Halloran, Planning Director

Meeting Date: September 15, 2022

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 Introduction, entitled "Introduction City of Key West Comprehensive Plan"; Chapter 1, entitled "Future Land Use Element", Section 1, entitled "Future Land Use Goals, Objectives, and Policies", Policy 1-1.16.1 entitled "Maintain a Building Permit Allocation Ordinance" and Policy 1-1.16.2, entitled "Building Permit Allocation Ordinance and Affordable Housing"; Chapter 2, entitled "Transportation Element", Section 1, entitled "Transportation Goals, Objectives, and Implementing Policies", Policy 2-1.6.4 entitled "Transportation Concurrency Exception Area"; and Chapter 3, entitled "Housing Element", Section 1, entitled "Housing Goals, Objectives, and Implementing Policies", Policy 3-1.1.4, entitled "Building Permit Allocation System" to provide for an extension of the Building Permit Allocation System award period to allow for the distribution of unallocated units after June 30, 2023; providing for transmittal to the State Land Planning Agency; providing for the filing with Secretary of State; providing for severability; providing for repeal of inconsistent provisions; providing for the inclusion in the City of Key West Comprehensive Plan; and providing for an effective date.

Request: The proposed ordinance would amend the City's Land Development Regulations to allow for the extension of the Building Permit Allocation System's ("BPAS") ten-year allocation schedule so that any units that remain unallocated after the conclusion of Year 10 may be allocated in subsequent years. The Planning Board is hearing this amendment to the Comprehensive Plan and associated text amendment to the Land Development Regulations ("LDRs") to delineate a process for continued allocations after the conclusion of Year 10.

Applicant: City of Key West

Background:

The City of Key West's Comprehensive Plan Policy 1-1.16.1 provides that the City shall allocate a total of 910 new residential Building Permit Allocation System units during a ten-year allocation period, starting in 2013 and concluding in 2023. Chapter 1: - Future Land Use Element Policy 1-1.16.1 states that, "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.”

Similarly, the City of Key West Land Development Regulations (“LDRs”) Sec. 108-995 delineates a ten-year allocation period divided into ‘application years’. In defining ‘application years’, Section 86-9 states that “The first application year is 2013, and shall continue until 2023 unless amended or extended by an appropriate action of the city commission.” Additionally, Sec. 108-1001 establishes that BPAS allocations will conclude by “2023, or when all BPAS units have been allocated, whichever comes last.”

The last day of the Year 10 application period is June 30, 2023. This amendment would delineate a process wherein BPAS unit allocations may extend beyond June 30, 2023, in the event that any units remain unallocated after the conclusion of Year 10.

This amendment proposes that the existing annual BPAS process shall continue in accordance with the existing application, review, ranking, and reporting requirements defined by Sections 108-986 through 108-1001, in the event that units remain after Year 10. Under this proposal, any units that remain unallocated after June 30, 2023, would be rolled over to a Year 11 application year, and would be administered consistent with the practices for Years 1 through 10. Likewise, any units that remain unallocated after June 20, 2024, would roll over to Year 12, and so on. During year 10, the City may not receive requests for all remaining permits. The City desires to memorialize its intent to utilize every available remaining residential building permit even after 2023 to help address the City’s extreme shortage of housing available for the workforce and local families. In addition, if building permits are not issued for allocated units within two years as specified in Section 108-997(e), they are recovered by the City; also for this reason, the BPAS should be extended to allow the City to re-allocate those units that may be recovered.

These proposed amendments would also provide the City with the capacity to continue the BPAS process should the City be awarded additional units from the State of Florida. For example, Monroe County has extended their Rate of Growth Ordinance (ROGO) allocation period in anticipation of updated hurricane evacuation models based on the 2020 Census. Hurricane evacuation models inform the State’s determination of the Florida Keys’ carrying capacity, so a change in the model may result in a change in the number of units authorized for Monroe County and Key West.

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

I. - Introduction City of Key West Comprehensive Plan: Other Planning Efforts

In addition to the EAR the City of Key West has been engaged in a number of major planning efforts, including the adoption of the Strategic Plan and the Climate Action Plan. These and other City plans, including the December 2011 Carrying Capacity Traffic Study, were also reviewed and are reflected in the updated Plan. Concurrently with the preparation of the updated plan, the City participated in the Monroe County Hurricane Evacuation Clearance Time Working Group. As a result of these meetings the City signed a Memorandum of Understanding that will provide for an allocation of 910 new residential building permits a year between 2013 and 2023 starting in 2013.

[...]

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~~ a period starting July 2013 and continuing until all units have been allocated. 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.~~ After year ten (10), 100 percent of residential building permit unit shall be deed restricted affordable, including any units which have reverted to the city which were previously allocated and unused within the timeframe specified below. 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.

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.

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.

(Ord. No. 17-13, § 1, 10-17-2017)

Policy 1-1.16.2: - Building Permit Allocation Ordinance and Affordable Housing.

The City permit allocation system shall require that 60 percent of all new permanent residential units be affordable units based on definitions and criteria contained in Policy 3-1.1.7 and 3-1.1.8 between July 1, 2013 and July 1, 2016, and that a minimum of 50 percent of the total allocations be affordable between July 1, 2016 and July 1, 2023. After year ten (10), 100 percent of unit allocation shall be deed restricted affordable.

(Ord. No. 17-13, § 1, 10-17-2017)

[...]

Policy 2-1.6.4: - Transportation Concurrency Exception Area.

~~Between years 2013 and 2023~~ The City of Key West shall allocate a total of 910 BPAS units starting in the year 2013. Due to the City's exception from transportation concurrency, the development or redevelopment of these units shall not be subject to roadway concurrency requirements.

(Ord. No. 17-13, § 2, 10-17-2017)

[...]

Policy 3-1.1.4: Building Permit Allocation System.

The City of Key West shall allocate a total of 910 permits ~~between years 2013 and 2023~~ during annual allocation periods starting in the year 2013. These annual allocation periods shall continue until all units have been allocated. Additionally, the Building Permit Allocation System shall be utilized in the event of an increase in available Building Permit Allocation System units.

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. After Year 10, 100 percent of unit allocations shall be deed restricted affordable, including: any units which have reverted to the City pursuant to Policy 1-1.16.1.

~~Between years four and ten, no more than ten percent may be transient. The City no longer allocates residential building permits for transient units.~~ During Year One (July 2013—2014), 48 of the affordable units to be allocated will be in the transfer of Peary Court from military to private sector housing, which leaves 43 units to be allocated from the first allocation pool.

(Ord. No. 17-13, § 3, 10-17-2017)

Comprehensive Plan Amendment Process:

Planning Board Meeting:	September 15, 2022
City Commission (1st Reading):	TBD
Local Appeal Period:	30 days
DEO Review (1st Reading):	Up to 60 days
City Commission (2nd Reading / Adoption):	TBD
Local Appeal Period:	30 days
DEO Review (2nd Reading):	Up to 45 days
DEO Notice of Intent (NOI):	Effective when NOI posted to DEO site

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 allow for Comprehensive Plan map and text amendments. The Section 90-551 states that the purpose of these amendments, “... 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.”

The proposed Comprehensive Plan text amendment shall be reviewed as per the criteria of Section 90-554(6) below:

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 zoning on the Comprehensive Plan. The zoning should be consistent with the Comprehensive Plan.*

The proposed amendments are justified given that the City of Key West possesses building permits for residential units but existing Comprehensive Plan language suggests that the BPAS system terminates in 2023. It is in the best interest of the City's residents, particularly families and individual members of the workforce, to utilize every available remaining residential building permit to create housing attainable at all income levels.

In addition, the proposed amendment is consistent with and further implements the Comprehensive Plan objectives and policies below:

- Objective 2-1.7: - Transportation and hurricane evacuation.
- Objective 3-1.1: - Provide quality affordable housing and adequate sites for low and moderate income housing.
- Goal 4-1: Needed public facilities
- Objective 4-1.1: - Ensure that infrastructure improvement needs shall be met and that use of existing public facilities is maximized.
- Objective 5-1.6: - Hurricane Evacuation.

*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 proposed amendment does not apply to any specific parcel of land. It is compatible with the Comprehensive Plan goals, objectives and policies, including but not limited to:

- Objective 2-1.7: - Transportation and hurricane evacuation.
- Objective 3-1.1: - Provide quality affordable housing and adequate sites for low and moderate income housing.
- Goal 4-1: Needed public facilities
- Objective 4-1.1: - Ensure that infrastructure improvement needs shall be met and that use of existing public facilities is maximized.
- Objective 5-1.6: - Hurricane Evacuation.

In particular, this proposal is consistent with Goal 4-1, which seeks to "Ensure availability of needed public facilities in a manner which protects investments in existing facilities and promotes orderly, compact growth." BPAS is a tool for regulating growth to ensure the availability of public facilities and infrastructure.

For the same reasons, this proposal is consistent with Objectives 2-1.7 and 5-1.6, in that the system is designed to limit residential development to maintain hurricane evacuation clearance times in accordance with executed the Memorandum of Understanding between the City and the State of Florida Department of Economic Development.

*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 does not apply to any specific parcel of land or allow for privileged treatment of any parcel of land. It also does not provide for land use activities which are not in the overall public interest but only for the benefit of the landowner.

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.

The proposed amendment does not apply to any specific parcel of land and shall not impact future land use map designations.

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**.