CITY OF KEY WEST:

REVIEW OF DEVELOPMENT PROCESS AND PROCEDURES

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INTRODUCTION

Local government is imperfect. Running a city requires citizens to elect leaders who create laws, and who in turn hire professional staff to administer to processes and procedures and enforce the laws. One of the most controversial systems that a local government oversees is the development review and permitting process. This can be made difficult in older cities with rich histories, as there are pressures from many constituent groups within a community who have varying interests. There are laws that may not be "up to date". While the laws need to be enforced or changed, the processes and procedures are less straight forward and often less formal. The debate about how to process development can often be complicated and pressurized, particularly in communities with finite resources, high levels of regulation, where development costs are high and the system competitive. The results of how development is processed are only seen over time in the resulting character and quality of life of the community. There is no one way to administer to these processes and procedures. The State of Florida provides guidelines for how to do it. We must have charters, we must have comprehensive plans, we must have land development regulations and zoning codes, and we must adhere to the States building code. While local amendment of building code is not allowed, cities have great latitude over their charters, comprehensive plans, land development regulations and zoning codes. Once these regulating plans or laws are set, they must be adhered to, as they are the laws.

Key West finds itself at an inflection point, where it is internally debating the laws themselves, as well as how to administer to the processes and procedures, particularly who is in charge of making final determinations in enforcing what laws, and which staff to use in to oversee these systems, and ultimately protect the public interests. It is hoped that this evaluation will shed some light on what is happening, why it's happening, and how a path forward may become more clear.

The City of Key West has desired to undertake an analysis of their Development Review Processes and Procedures. There is a feeling that the existing code may not provide sufficient clarity on how it should be interpreted in certain circumstances. Through interviews with city department leaders, elected and appointed officials and other concerned stakeholders a review of the existing codes, ordinances, and charter requirements and a comparison with best practices from similar cities, an evaluation of Key West processes and procedures has been made. The analysis task determined what processes are under the jurisdiction of the City and which are under the jurisdiction of the State or other agencies, including permit review timeframes. Similarly, which must be done, and which are discretionary. A review of the e-TRAKiT software was undertaken. Finally, an assessment and recommendations of the current system and processes have been made.

SUMMARY

Cities across the state and nation are grappling with ways to improve their development review and permitting processes. After a review of the City's existing conditions and comparing the city's codes, processes and procedures with those of other similar cities, it is the opinion of The Corradino Group, that, Key West's codes, processes, and procedures are essentially similar to any other local government in the State of Florida. Most of the issues found here are not unusual, new, or unique to Key West. The City has a Charter, a Comprehensive Plan, Land Development Regulations (LDRs) and is bound to implement the States Building Code. The Charter, Comprehensive Plan, Land Development Regulations and Zoning Code are created at the City's discretion. The Building Code is under the purview of the State of Florida.

Aspects of the system that are unusual are that the implementation or the administration of the processes and procedures, more specifically the assignment of the interpretation of the Land Development

Regulations is disputed, and in many cases said to be under the control of the building departmetn. Typically, planning directors are assigned this responsibility.

Also unusual is that when the building department receives an applicaton it does not automatically send those applicaton to be reviewed by or for zoning, historic preservation or landscaping. While it is not wrong that a planning department employ the staff that is reviewing the zoning, historic preservation and landscaping, it is wrong that many permits are not being reviewed or inspected for these issues, as things can be built that do not conform to the code or were not approved through the proper channels.

Finally, there is a disagreement over who should be participating in the code rewriting. Its highly unusual that a building official write land development reguations or zoning codes, as planners are educated, trained, certified, and assigned to do so, and building officials are educated, trained and assigned to administer to the Florida building code.

Subsequently, there is a professional conflict between the Planning and Building Departments over these points which is causing wide ranging discomfort. In this report these issues are discussed and dissected to a certain extent, and ultimately multiple recommendations are made which will help mitigate weaknesses in the system.

The City's Codes

There are many in the community that feel the City's Land Development Regulations and Zoning code are outdated, overly complicated and have requirements that many feel are unnecessary. The LDRs consist of 12 chapters, the last of which is Zoning. Zoning implements the Future Land Use Element of the Comprehensive Plan and is a set of local laws that govern how real property can and cannot be used. The LDRs and Zoning Code are set completely by the city and can be changed with ease.

There is significant dissatisfaction with the Key West Zoning Chapter. Mainly that it is too old, it was said to originally be taken from another city and adopted in Key West without regard to the uniqueness of Key West's already built environment. The code is also said to be too complicated. While this is disconcerting, it is not unusual, as many cities have outdated zoning codes. In nearly all cases this causes some internal complication and leads often to the code being "fixed" informally through the variance processes. That in turn leads to a feeling of randomness and potential inconsistency as applicants can't necessarily rely on the code as a consistent predictor of how the process may unfold.

Processes and Procedures

The Key West development review and building permitting processes and procedures are similar to most cities. It's critical to understand processes and procedures. Processes are "what" is to be done. Procedures are "how" those processes get done. It must be reiterated that the overall development process generally in nearly all cities is really the combination of at least two distinct processes. The first process is getting the permission to build, which occurs in planning departments, and is subject to the City's Land Development Regulations. The second is determining how to build what is allowed, and that occurs in building departments and is subject to the State's Building Code.

The first process of entitlements begins with potential developers, submitting a development application and having that evaluated for compatibility with the Comprehensive Plan and the Land Development Regulations, as well the Zoning and Historic Preservation codes. Applications that are not as of right and cannot be approved administratively, move through the Planning Board and eventually the City Commission for final approval if necessary. The time it takes to process these applications in Key West is not unusual.

Once the entitlements or permission to build is provided, the second process of building permitting and inspections and issuing approvals also functions normally, except for the issue that zoning, historic preservation and tree reviews and inspections may not be being performed as frequently as they should. The time it takes to permit and inspect is not unusual. The fact that a planning or building department gets complaints is not unusual. These departments are tasked with regulating the highly volatile industry of development. At times the process can be conflict oriented.

Implementation of Processes and Procedures

The implementation of these two processes (development review and building permitting and inspection) are unusual. This has caused an internal rift between the Planning Department and the Building Department and needs to be settled or interpreted and clear direction given. From this there are three main sources of conflict:

1. Disagreement on who should interpret the LDRs
2. Disagreement on who should review items as they pass through the building system
3. Disagreement on who should have the authority and input to contribute to the writing of new or revised LDR sections.

1. Disagreement on who should interpret the LDRs

This essential disagreement comes from the interpretation of parts of Chapter 90 (administration) of the Code.

Sec. 90-301. - Enforcement authority.
(a) The chief building official, under the supervision of the city manager, shall administer and enforce the land development regulations. The chief building official may be provided with the assistance of such other city officers and employees as the city manager may direct.

(b)The city planner shall have the administrative responsibility to interpret the land development regulations. Such interpretations shall be in writing and accompanied by review and written consent by the city attorney.

This section of code is currently interpreted by some to mean that the building official is the final say on the interpertation of the land development regulations. This is unusual. Typically, the planning director is incharge of the interpretation of the land development and zoning codes. The building official is usually in charge of the building code.

The Corradino Group believes this is a misinterpretation. This section of the code means (in paragraph "a") that the building official shall make sure the processes are followed and that the things that are built conform to the code. Paragraph "b" means that the planning director oversees the day to day processes and interprets the LDRs, and that interpretation should be reviewed by the city attorney.

This needs to be clarified and staff then needs to conform with the clarified interpretation.

Some have suggested that state law, specifically section 468.603, and city ordinance Sec. 14-36. give the building official the authority to be the chief administrator of the land development regulations and zoning code. This interpertation of these codes leads to the belief that the building official is charged with ensuring all rules, laws and ordinances pertaining to construction, erection, alteration, modification, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every public

and private building, structure or facility or floating residential structure, or any appurtenances connected or attached to such buildings, structures or facilities are enforced, and that includes land development reguations and zoning. This is a misinterpretation. These ordinances give the building official final say over the building code and construction. Nothing in state law gives a building official authority over a land development regulation or zoning code. Zoning is not construction. Excerpts of these references are provided below and highlighted.

Florida Statues ***468.603 Definitions.****—As used in this part:*

(1) "Board" means the Florida Building Code Administrators and Inspectors Board.

(2) "Building code administrator" or "building official" means any of those employees of municipal or county governments, or any person contracted, with building construction regulation responsibilities who are charged with the responsibility for direct regulatory administration or supervision of plan review, enforcement, or inspection of building construction, erection, repair, addition, remodeling, demolition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance. This term is synonymous with "building official" as used in the Florida Building Code. One person employed or contracted by each municipal or county government as a building code administrator or building official and who is so certified under this part may be authorized to perform any plan review or inspection for which certification is required by this part, including performing any plan review or inspection as a currently designated standard certified building official under an interagency service agreement with a jurisdiction having a population of 50,000 or less.

Key West City Code Sec. 14-36. - Chief building official's office created, duties.

(a) The office of the chief building official of the city is created.

(b) It shall be the duty of the chief building official to:

(1) Inspect all construction, mechanical, electric and plumbing that is under city jurisdiction.

(2) Enforce all of the laws, rules and regulations relating thereto.

(c) The duties and responsibilities of the building plans examiners, building inspectors and inspections required to be made by the building inspectors shall be as assigned by the chief building official.

(d) It shall be unlawful for any person to hinder or interfere with the chief building official in the discharge of his duties under this article

2. Disagreement on who should review items as they pass through the building system.

In municipal development review there are two distinct and separate sets of laws that must be followed.

- The land development code: A city-initiated code that is focused on how the land is used, the processes and procedures development must go through to be allowed to develop, and how a

building can sit on an individual site (zoning) including the height, setback, landscaping, open space, color, etc. of any development.

- The state building code. A state-initiated code that is focused on how the buildings are built and the safety of the occupants of those buildings.

Typically, a city's Planning Director is in charge of the administration and interpretation of the Land Development Code, and the city's Chief Building Official is in charge of the administration and interpretation of the State's Building Code.

The Land Development Regulations are City Ordinances, developed wholly by the City and can be changed by the City at its sole discretion. These can be as strict or relaxed as city leaders see fit. The State Building Code is the jurisdiction of the state, and the City cannot change it.

Applications for development in a city are subject to the LDRs through the planning process until an application is approved either administratively, by the Planning Board, or by the City Council, at which point the application has received its entitlements and is allowed to be built. Typically, this process begins with a pre-application meeting where an applicant informs the Planning Department of what it wants to do. Once understood an application type is selected. This can be one of many types including variances, site plans, conditional uses, special exceptions, etc.

Once an application is received it undergoes completeness review, an analysis, and comments are issued to the applicant. The goal is to get the applicant to conform to the city code or seek a variance from the city code. Applications that cannot be approved administratively, move with a staff report stating if the application conforms to the code and a recommendation to approve or deny to the Planning Board who, depending on the request, makes an advisory opinion or final decision. Then applications move to the City Commission for official action. Planning staff reports detail whether the application conforms or not to the city code. Once approved the development is entitled to be built and transfers jurisdiction to the Building Department.

Typically, the Building Department, led by the Chief Building Official is in charge of administering to and interpreting the State's Building Code. The State Building Code is a set of State Laws, that can be changed by the State of Florida, at its sole discretion. These have the intent of assuring for a single unified state building code and enforcement of said code, at a reasonable cost to the consumer. It pertains to the physical structure and safety/health conditions for occupants of those structures.

Once a project receives its entitlements from the Planning Department, it then has permission to be built. At which point the applicant submits formal plans which are reviewed until they conform with the building code, then they are given a permit and are allowed to begin construction. These plan reviews, in most places include a review for various trades related to the building code, (mechanical, electrical, plumbing, structural, and building) as well as zoning, historic preservation and others, like landscaping and utilities, to assure that the entitlements and conditions granted during the approval process are met. During construction, building inspectors provide periodic inspections to assure the buildings are constructed to the permitted plans. Once the construction is deemed complete the Building Official issues a Certificate of Use for a commercial structure or a Certificate of Occupancy for a residential structure. Nearly every permit should be reviewed during the building permitting process should go through some zoning, historic preservation or landscaping review. Similary most should be inspected by these fields. Zoning, historic preservation and landscaping are not part of the building review system. They are typically not regulated by the building official.

In Key West the aspects of a development granted in the entitlement process like land use, zoning, historic preservation landscaping and other conditions are not always reviewed as a development is permitted through the building department. Most cities would have nearly all permits undergo zoning

review and a Historic Preservation review prior to the building trades initiating permitting review. This is because the city needs to understand that what is being built is in the correct land use and zoning district and conforms to all site plan approvals, variances or other conditions. As a result, it's possible that developments are being built outside of planning approvals or not in conformance with the LDRs and zoning code.

Similarly, the e-TRAKiT system does not easily allow reviews of these entitlement and conditions granted to keep projects in conformance with the LDRs and Zoning Code. e-Trackit is evidently the 4th system in the last decade and a half.

The building department believes that only a small percentage of the permits reviewed by the department requre a zoning, historic preservation or landscape review. The building departmetn also believes that all plans need to be reviewed in the building department permitting process must be reviewed by licensed reviewers under the direction of the building official. It is the authors belief that most permits should be looked at by zoning, historic preservation and landscaping. This needs to be clarified and a list of permits that do or do not need to undergo this review, needs to be made. It is our belief that it is true that building plans reviews need to be done by licensed reviewers under the direction of the buildign official, but, the reviews of zoning, historic preservation and landscaping are not regulated by the Florida Building Code and therefore not necessicarily under the control of the building offiical, and therefore it is not a necessity that these aspects require a certified plans examiner. Similary, it is not typical that a certified plans examiner in the building trades is familiar with zoning, historic preservation or landscape codes. Quite the opposite, planning professionals, trained in these areas would be the best to review them. In general, the following types of permits would not need zoning, historic preservation or landscaping review and inspection a the time of building permits:

- Solar panels (except in historic preservation districts)
- Most Stand Alone Electrical, Mechanical and Plumbing
- Roofing
- Most Windows and doors (without modifications to the openings) (except in historic preservation districts)
- Most of the Shop Drawings
- Shutters
- Some Revisions (depending on the master and the scope of the revision)
- Some miscellaneous (depending of the scope of the revision)
- Fire Alarm
- Sprinkler System

As indicated by the city's permit tracking software, the number of zoning, historic preservation and landscaping (planning) reviews has dropped by 70% between 2021 – 2022 and 82% between 2021 – 2023. This year (2023 -2024), the planning department is on pace to receive 141 permit reviews out of about 4000 permit applicatons – an 86% drop from 2021. Permit reviews should be decided based on a formalized application type and scope of work.

3. Disagreement on who should have the authority and input to contribute to the writing of new or revised LDR sections.

Regardless of the side of the issue anyone is on, whether it be a very flexible interpretation of the code, or a strict interpretation of the code, it is clear that the best way to resolve disagreements it is to rewrite the code, relative to its zoning regulations, processes and procedures. This is a complex, time-consuming, and expensive process. It requires high level professionals like the ones currently on staff to present their cases as to what the new regulations would look like. Typically, clear instruction is needed from the City Commission on how to proceed. Often, city plannign staff would not have the time each day to efficiently rewrite codes. Planning and zoning consultants are often used. Draft code provisions would need to be vetted by the Planning Board and ultimately approved by the City Commission. Flexibility can be written into the code. The city needs to clearly specify who is in charge of the rewriting what is going on. Collaboration between technical professionals is important, but sometimes there are philosophical differences. In these cases, the decisionmakers need to decide. It is not typical that a building official would be incharge of a zoning code rewrite.

The Philosophical Rift

The issues that have come to light in this analysis are less technical than they are philosophical. Both the Planning Director and the Building Official, the two at the heart of the controversy are professionals who have strong opinions related to their positions. They are essentially proxies for a larger debate about how to process development in the city. These may stem from a fundamental internal philosophical disagreement amongst various factions within the city about how to process development.

There are extreme disagreements about by who, how, and with what stringency the Land Development Regulations is interpreted or enforced.

Key West's process, in practice, places the Building Official in charge of the Land Development Regulations (LDRs). This is highly unusual. Typically, Planning and Building Departments work very closely together to assure the entirety of the process flows smoothly. This is not the case in Key West. The two departments see the processes differently, and results in conflict and confusion in the Planning and Building Departments.

During the course of the stakeholders' meetings, accusations of inequity were leveled at both the planning department and the building department.

The planning department has been accused of being difficult to work with. It is said that their first response to many applicants is "no". They are said not to simply determine what does or does not conform to the code, but they are accused of bringing personal opinions about what they like and don't like about individual developments. Most importantly the planning department is accused of slowing applicants with arbitrary and subjective comments that do not conform to any aspect of the code. This should be simple to prove, by looking at any sample of staff reports where commetns outside of the code would be. When each person that made, this accusation was asked to provide examples of this behavior, none were produced. That being said, planning comments should be focused on sections of the code or comprehensive plan and not more.

The building department has been accused of cutting the zoning, historic preservation and urban forestry division reviewers out of the building review process. It is believed that the building department is concerned with the new state law governing the speed of the reviews and issuance of permits, and therefore wants no reviews by non-plans examiners. Because of this the building department is accused

of allowing things to be built that do not conform to the LDRs or the planning approvals or conditions approved by the planning department or city commission. When each person that made, those accusations was asked to provide examples of this, multiple examples were produced. These include email strings and staff reports, that show the building department ignoring the planning department recommendation that a variance was required at 1701 Ashby Street. The building department approving a variance that had been denied by the planning board, for a development at 3528 Eagle. The building department not requiring a development plan and subsequent review, contrary to the provisions of section 108-91 of the LDRs for a property at 419 Southard. The creation of residential units outside of BPAS approval creating 10 rooms for a development located at 534 Duval. While these are just a sample, it is recommended that a more detailed examination of this be undertaken. Nothing should be allowed to be built that do not conform with the code, or have not gone through the proper processes, procedures, and decision-making bodies that would allow them to be build without conformance with the code.

It seems as if there are two distinct elements at play, in regard to how the city should continue to develop. One is a more flexible approach, which focuses on having fewer rules and regulations, and interpreting those that exist with flexability. The other approach is focused on the application of the existing rules and regulations strictly and consistently.

This is seen in comments taken from the community, a sample of which are below.

As one stakeholder put it. *"the issue is a philosophical one, the building department has it right, residents come first, the code comes second….don't be a stickler for the code."*

Another put it…. *"if your philosophy is that the code is the holy book, you are wrong."*

Another stakeholder suggested that *"the job of the regulators is to enforce the laws. The LDRs, Zoning Code and Building Code are all laws. Who gets to decide which ones of these are to be ignored, changed and who gets to decide the persons who benefit from the administrative modification of the laws?"*

Finally, a stakeholder says *"We need equal application of the code. How we do this is important. It needs to be enforced equitably, old timers need to be enforced like new timers."*

Overall, most of the City of Key Wests development review and approval regulations, processes and procedures are typical and normal. Those that are not need to be reexamined to assure that ultimatly the city and states codes are being accurately implmented.

EXISTING CONDITIONS

The following section inventories the existing conditions and understanding of the development review, approval and monitoring process in the City of Key West. First, we look at the city documents that provide direction or include specific regulations for the development and permitting review processes.

REVIEW OF EXISTING LOCAL DOCUMENTS

Charter

A city's charter is the fundamental document that delineates the organization, police powers, functions, and essential procedures of a city government. In Florida, every city possesses a charter adopted and amended by its people through referendum. The charter serves to define the city's boundaries, establish qualifications for the mayor and commission, outline the city's civil service system for executive and administrative employees, and establish procedures for charter amendments.

Police powers refer to the authority granted to government entities, typically at the state or local level, to enforce laws, maintain public order, and ensure the safety and well-being of citizens. The City of Key West's current charter, adopted in 1984, outlines the city's police powers in Section 1.02, which include abating nuisances, enforcing sanitary laws and regulations, regulating zoning, and suppressing crime. The city is authorized to exercise these powers within its jurisdiction, extending six hundred (600) feet into the tidal waters adjacent to its corporate limits.

Unique to the City's charter are the height restrictions established in Section 1.05 and the establishment of the historical architectural review commission in Section 1.06 of the charter. Section 1.05 specifies that the Board of Adjustment reviews and renders the approval or denial for height variances requested for non-habitable structures, as well as variances for the reconstruction of involuntarily destroyed structures that do not conform in height. Section 1.06 outlines the duties of the city's Historic Architectural Review Commission through ordinance.

Comprehensive Plan

The comprehensive plan serves as a blueprint for future commercial and residential land uses, housing, conservation, cultural and recreational amenities. A critical aspect of the comprehensive plan is identifying the necessary new infrastructure and growth demands needed to support the community's future physical and economic development.

Florida law mandates that each county and municipal government adopt and maintain a local comprehensive plan consistent with state and regional plans. These plans are intended to:

- Guide future development
- Overcome existing problems and deal effectively with future problems that may result from the use and development of land
- Preserve, promote, protect, and enhance the public health, safety, comfort, and order
- Protect human, environmental, social, and economic resources

A community's comprehensive plan is one tool that elected officials use to establish their priorities, with costs for infrastructure included in the required Capital Improvements Element. The City of Key West's Comprehensive Plan is the overarching policy document guiding the City's approach to growth

management. Until adoption of the new Comprehensive Plan in March 2013, the last major rewrite of the Plan was in 1993.

Florida's land development regulations include a list of the local ordinances necessary to make the goals, objectives, and policies of the local comprehensive plan work. The State of Florida under section 163.3202 mandates that each municipality, within one year of adoption of a comprehensive plan, adopt and enforce land development regulations that are consistent with the municipality's adopted plan. The land development regulations shall contain at minimum: (1) regulations for land subdivision; (2) regulations for land use categories identified in the comprehensive plan; (3) regulations for protection of wellfields; (4) regulations for flooding, drainage, and stormwater management; (5) regulations for protection of environmentally sensitive lands identified in the comprehensive plan; (6) regulations for signage; (7) regulations for development and the provision of public facilities and services established in the Capital Improvements element; (8) regulations for traffic flow and vehicle parking; (9) regulations for density of residential uses outside of coastal high hazard areas; and (10) regulations for the incorporation of certain preexisting development orders.

The local ordinances serve as the governing laws for implementing the local comprehensive plan. Land development regulations must align with the local comprehensive plan and not contradict the State Comprehensive Plan or supporting documents like the Regional Water Supply Plan.

Land Development Regulations

Under the City's Land Development Regulations (LDRs) Sec. 86-3, the code states the intent of the LDRs are to "carry out comprehensive plan policies concerned with land use; transportation; housing; parks; recreation and open space; conservation; public facilities including water, wastewater and drainage system improvements; fiscal management; and intergovernmental coordination", and pursuant to Sec. 86-5, "shall apply to all development, including redevelopment or changes in land use throughout the city."

The guidelines for the enforcement of the LDRs are provided in Sec. 90-301, which outlines the Chief Building Official is responsible for enforcing and ensuring development is in compliance with the adopted LDRs and may be supported by other city officers and employees as directed by the City Manager. In tandem, the City Planner is responsible for providing administrative interpretations of the LDRs, clarifying their meaning and application when there is uncertainty. Interpretations by the City Planner undergo a review process and written consent from the City Attorney. In short, the Chief Building Official is focused on the execution and enforcement of land development regulations, while the City Planner is primarily responsible for interpreting these regulations, ensuring clarity and compliance through documentation and legal validation. The roles complement each other in the overall governance and management of land development regulations within a city.

The city's land development regulations and ordinances are located in Subpart B- Land Development Regulations of the city's Code of Ordinances. Pursuant to Florida Statute 163.3202, the land development regulations adopted by the city are required to be consistent with and help to implement the goals of the city's comprehensive plan. The land development regulations apply to all development, including redevelopment or changes in land use throughout the city. No development or change in land use may be undertaken without prior authorization pursuant to subpart B of the code. Under Section 86-9, development is defined by the city as "*the carrying out of any building activity or excavation, including the making of any material change in the use or appearance of any structure or land, or the dividing of land into two or more parcels"* and includes*:*

- Reconstruction, alteration of the size, or material change in the external appearance of a structure on land.
- Change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land.
- Alteration of a shore, stream, lake, pond, or canal, including any coastal construction as defined in F.S. § 161.021.
- Commencement of drilling (except to obtain soil samples or excavation on a parcel of land).
- Demolition of a structure.
- Clearing of land as an adjunct of construction.
- Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

Pertinent chapters included in the Land Development Regulations are:

Chapter 90 – Administration, that provides for the ordinances establishing the city's development review committee, local planning agency, board of adjustment, historic architectural review commission, and tree commission. As well as providing for the local regulations and procedures related to building permits, variances, certificates of occupancy, and comprehensive plan amendments.

Chapter 94 – Concurrency Management, which includes the standards and procedures to provide a systematic process for the review and evaluation of all proposed development in the City, for its impact on concurrency facilities and services, as required by the Local Government Comprehensive Planning and Land Development Regulations Act.

Chapter 102 – Historic Preservation, and particularly Section 102-2 Protection of historic resources, which states "Within any historic preservation district or other designated historic site or resource, prior to obtaining a building permit, an applicant for development shall comply with the city's historic architectural review commission's Design Guidelines in Key West's Historic District, as well as the U.S. Secretary of the Interior's Standards for Rehabilitation pursuant to procedures stipulated in this chapter." The chapter also includes the provisions for issuance of a certificate of appropriateness.

Chapter 108 – Planning and Development, provides guidance for the development review process. It stipulates the intent in Sec. 108-31, to set forth uniform procedures, well-defined application processes and information requirements for the development review process. To ensure: development of individual sites within the city is consistent with all applicable development standards; approval of such development is based upon the provision and availability of adequate public facilities and services coincident with the impact of the development; and to provide for development that is compatible and coordinated with existing and anticipated development surrounding the site. This chapter also includes the provisions for *landscaping, parking, utilities, building permit allocation system, transfer of development rights, and workforce-affordable housing initiative guidelines.*

Chapter 122 – Zoning, that includes the city's regulations for land development that help implement the comprehensive plan. They are intended to assist in managing comprehensive planning issues surrounding the use and/or development of specific lots, parcels, and tracts of land or any combination thereof, within the city. The zoning chapter includes the official zoning map, interpretation of the zoning districts, and the intent, uses and dimension requirements for properties within the established districts. Compliance with the zoning chapter is required pursuant to Section 122-95: *No building or structure shall be erected, reconstructed or structurally altered, nor shall any building, land or water be used for any purpose other than a use permitted in the district in which such building, land or water is located. No building or land shall be used so as to produce greater heights, smaller yards, less unoccupied area, or*

higher density or intensity than is prescribed for such building or land within the district regulations in which the building or land is located.

Florida Building Code

In 1974, the State of Florida enacted a state-wide minimum building code law mandating that all local governments adopt and enforce a building code to ensure minimum standards for public health and safety. Four model codes were made available for local governments to consider and adopt, with the state's role limited to adopting new editions of these codes or their relevant parts. Local governments had the autonomy to amend and enforce their codes as needed.

However, the devastating impact of Hurricane Andrew in 1992 exposed the shortcomings of Florida's established building code and enforcement processes. Andrew caused unprecedented insurance losses and led to Florida's worst insurance crisis. It became evident that building codes and their administration and enforcement were not just local issues but had statewide implications. Non-compliance or weak enforcement in one county could affect homeowners, developers, and businesses across the state.

To address these concerns, the Florida Building Code Study Commission was established in 1996 to review the system of local codes created by the 1974 law and propose modernization recommendations. The Legislature adopted the Study Commission's recommendations in 1998 and amended Chapter 553 – Building Construction Standards, of the Florida Statutes to establish a single statewide minimum building code enforced by local governments.

Effective March 1, 2002, the Florida Building Code, developed and maintained by the Florida Building Commission, replaced all local building codes. The Florida Building Code is updated every three years and may incorporate annual amendments for interpretations and clarifications.

Local governments may only amend local requirements of the State Building Code to be more restrictive than the statewide Code under specific conditions. Any proposed local technical amendments must adhere to strict criteria outlined in section 553.73 of the Florida Statutes and cannot discriminate against materials, products, or construction techniques with demonstrated capabilities. Proposed local amendments undergo State Commission review and adoption or repeal during the triennial update process.

A review of the applicability of the State's building code on development in Key West was completed. Below are pertinent sections of the Building Code in relation to local regulations.

Section 102.1.1 – Applicability, General: The Florida Building Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements, land use requirements and owner specifications or programmatic requirements which do not pertain to and govern the design, construction, erection, alteration, modification, repair or demolition of public or private buildings, structures or facilities or to programmatic requirements that do not pertain to enforcement of the Florida Building Code. Additionally, a local code enforcement agency may not administer or enforce the Florida Building Code, Building to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities, as provided by law.

Section 102.2 Applicability, Building: The provisions of the Florida Building Code shall apply to the construction, erection, alteration, modification, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every public and private building, structure or facility or floating residential structure, or any appurtenances connected or attached to such buildings, structures or

facilities. Additions, alterations, repairs and changes of use or occupancy group in all buildings and structures shall comply with the provisions provided in the Florida Building Code, Existing Building.

The city's local regulations under Subpart A- General Ordinances, provides for the following code sections related to applicability of the state building code in Key West:

Section 14-31. - Adopted construction codes: The most current editions as adopted by the State of Florida Building Commission of the Florida Building Code, Building; the Florida Building Code, Plumbing; the Florida Building Code, Mechanical; the Florida Building Code, Fuel Gas; the Florida Building Code, Existing Building; the Florida Building Code, Residential, NFPA 70, the National Electrical Code; the Florida Building Code, Energy Conservation, and the Florida Building Code, Accessibility are hereby adopted and made a part of the Code of Ordinances.

Section 14-32. – Conflicts: If any conflict occurs between the provisions of the building codes adopted in section 14-31 and the applicable provisions of this Code of Ordinances, state law or city ordinances, rules or regulations, the more strict code shall prevail and be controlling.

DEVELOPMENT APPLICATIONS

There are two application types processed in the City of Key West, building permit applications and planning development applications. Essentially, planning development applications provide any necessary entitlements for an applicant to proceed with a building permit.

Planning development applications provide entitlements. The city's planning department provides for the management and processing of the following application types.

PLANNING DEVELOPMENT APPLICATIONS

Building Permit Allocation Systems (BPAS)

As required by Florida's Area of Critical State Concern (ACSC), Key West has employed the Building Permit Allocation System since 1993, to regulate new residential development growth in the City. This program is sometimes referred to as ROGO or the Rate of Growth Ordinance and has helped to establish the minimum baseline standards for all new residential dwelling units in the City by assuring sustainability, environmental responsibility, human health, and safety. BPAS also helps ensure the City's infrastructure can accommodate the new residential growth while maintaining or improving the 24-hour hurricane evacuation time for permanent residents.

An audit completed in 2009 by the City of Key West Planning Department discovered that out of the 1,093 residential BPAS units initially allocated to the City by the State in 1993, around 80 to 100 units remained. Since then, with the exception of limited affordable housing and beneficial use allocations and redevelopment of existing units, no new residential or transient development has occurred in Key West. In 2013, the City of Key West was granted 91 new residential dwellings, units-including market-rate, affordable, and transient housing, for allocation annually through July 2023. This was the result of a 2010 Evacuation Clearance Time Model, that determined that there was available capacity in the evacuation time to allow limited new residential growth, resulting in the allocation of new residential units throughout Monroe County.

In March 2013, the Key West City Commission adopted amendments to the City's Comprehensive Plan that included goals, objectives, and policies for how the new dwelling units will be awarded through the BPAS (City Ordinance No. 13-04). In November 2013, the City Commission adopted amendments to the Land Development Regulations (LDRs) (City Ordinance No. 13-19). The amended LDRs implement the new BPAS application procedures and construction requirements, emphasizing green building,

sustainable development, and anticipating climate change. Key West is the first local government in the Florida Keys to adopt such policies in its BPAS.

Section 108-986 through Section 108-1002 provide the regulations for the Building Permit Allocation Systems. The city's annual BPAS allocation and application system applies for all new permanent and transient residential units in the city and runs from July 1st to June 30th the following year. Applications are typically accepted until November. Accepted applications are reviewed by staff from the Planning Department for completeness. Once all completed applications are submitted, by early January, they receive an initial ranking, and a comment letter is sent to applicants to address any comments or submit any additional information. Applicants have a month to address comments. By May, at a publicly noticed Planning Board meeting the final rankings and final determinations for units are awarded.

Applications are ranked by an established point system outlined in Section 108-997(c), which include criteria for building elevation 1-2 feet above base flood, exceeding affordable housing requirements, green building compliance, green building design standards, and contributions to sustainability and open space recreation funds.

Any and all necessary City development approvals and building permits must be obtained within two years of a final determination of award from the BPAS. If building permits are not obtained within the two-year period, the awarded units revert back to the City. A new BPAS application would have to be submitted to restart the process.

Major and Minor Development Plans

Sections 108-91 through 108-96 provide the regulations for the applicability and filing procedures of major and minor development plan applications within the City of Key West from pre-application to presentation of the item at the Development Review Committee.

A **major development plan** application is required for development within or outside the historic district that consists of the following:

- Permanent residential and transient residential development: addition or reconstruction of five or more units within a historic district, or eleven or more units outside the historic district.
- Nonresidential floor area: addition or reconstruction of equal to or greater than 2,500 square feet of gross floor area within a historic district, or 5,000 square feet of gross floor area outside the historic district.
- Commercial land use: addition of outdoor commercial activity consisting of restaurant seating, outdoor commercial storage, active recreation, outdoor sales area or similar activities equal to or greater than 2,500 square feet within the historic district, or greater than 5,000 square feet for properties outside the historic district.
- Any development located within tidal waters extending 600 feet seaward of the corporate city limits.
- A port facility expansion proposed in the Truman Waterfront Parcel.

Similarly, a **minor development plan** application is required for development within or outside the city's historic districts that consists of the following:

- Permanent residential and transient residential development: addition or reconstruction of three or four units within the historic district, or five to ten more units for development outside the historic district.

- Nonresidential floor area: addition or reconstruction of 500 to 2,499 square feet of gross floor area within the historic district, or 1,000 to 4,999 square feet of gross floor area outside the historic district.
- Commercial land use: addition of outdoor commercial activity consisting of restaurant seating, outdoor commercial storage, active recreation, outdoor sales area or similar activities of 500 to 2,499 square feet within the historic district, and 1,000 to 4,999 square feet for development outside of the historic district.

Major and minor development plan applications allow for an optional pre-application meeting with staff to discuss conceptual development and determine applicable public policy and regulatory procedures. A complete development plan application shall include an analysis of existing conditions, plans for the proposed development, and a solution statement. The development plan application submittal is also required to address the criteria in Sec. 108-226 through Sec. 108-232, which includes: a scope; title block; identification of key persons; project description; other project information like phasing, mitigation plans, or building specifications; residential development characteristics; and intergovernmental coordination information.

Once a submitted application is deemed complete by the Planning Department, planning staff prepare and route the request to the city's Development Review Committee. The city planner and the DRC review each application for compliance with the city's land development regulations. After the application is presented at the DRC meeting and all pending issues have been resolved, the item moves to the Planning Board.

Pursuant to Section 108-196, the item and staff's recommendation are reviewed by the board at a noticed public hearing. The planning board is required to act on the item by resolution to approve, approve with conditions, or disapprove it based on specific development review criteria contained in the land development regulations and the intent of the land development regulations and comprehensive plan. The planning board's decision on major development plans or a minor development plan for a property in the historic district are advisory to the city commission. The planning board's decision on a minor development outside the historic district shall be final unless appealed, as noted in Section 90-427.

The final stage of the development application is presentation and review of the major development plan or minor development plan within a historic district by the City Commission. The Commission reviews and approves with or without conditions or disapproves the development plan based on specific development review criteria contained in the land development regulations and based on the intent of the land development regulations and comprehensive plan.

Pursuant to Sec. 108-201, upon the approval of a development plan, a building permit may be issued by the building official if construction plans have been found to meet all building code requirements. No building permit shall be issued until the building official has received demonstrated evidence that all conditions of the development plan approval have been satisfied. Development plan approval involving residential units shall be consistent with the city's building permit allocation system. If no construction has been started, a development plan approval expires twelve months after final approval.

Variances

A variance is a form of administrative relief from zoning regulations. It allows for the construction of or change to a structure or land that is prohibited by a zoning ordinance. A variance is granted to render justice where the strict application of a zoning ordinance results in a hardship for a property owner. A hardship arises when highly unusual circumstances prevent a property owner from securing a

reasonable return from or making reasonable use of their property. Oddly shaped or sloping lots, for example, may make it difficult for a property owner to meet setback or height requirements.

The city's Land Development Regulations (LDRs) allow property owners or an authorized agent to request a variance from the land development regulations, as provided in *Division 3 – Variances*. The planning board has the quasi-judicial power necessary to grant such variances that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the land development regulations would result in unnecessary hardship. Typically, variances are requested from Chapter 122 – Zoning, Article IV – Districts. 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. A variance from the terms of the land development regulations shall not be granted by the planning board unless and until the requirements of *Division 3* are met. Section 90-391 to Section 90-399 outline the procedures for a variance application and hearings.

Prior to submitting a variance request application, an applicant shall meet with Planning Department staff to review the request and modify as necessary. Once submitted, the application is reviewed by staff and a report is prepared for presentation at a scheduled Planning Board meeting. Any modifications to an application within eight days of a Planning Board hearing may result in the item being postposed to the following Planning Board meeting.

Included in the applicant's submittal shall be the applicant's responses to the standards for considering variances found in *Section 90-395 – Standards, findings;* and summarized below:

1. Existence of special conditions or circumstances.
2. Conditions not created by applicant.
3. Special privileges not conferred.
4. Hardship conditions exist.
5. Only minimum variance granted.
6. Not injurious to the public welfare.
7. Existing nonconforming uses of other property not the basis for approval.

The city's LDRs also advise the planning board shall find that the variance application:

1. Satisfies the standards listed above (Sec. 90-395(a)1-7).
2. That the applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by neighbors.

A completed variance request application is then provided to the city's Planning Department. Variance applications do not appear before the Development Review Committee, rather, completed applications are directly scheduled for public hearing at a noticed Planning Board meeting. At the hearing, staff presents the findings from the variance request to the board, and the applicant may also offer a presentation on the item and provide rebuttal statements. At the end of presentations for the request, the Planning Board votes to determine the action of the request. Pursuant to Section 90-394, the Planning Board may deny, or grant in whole or in part, with conditions (as appropriate) the request for a variance from the LDRs.

Upon entry of an order granting a variance, the administrative official shall not issue any development order for the subject property unless and until all of the conditions and requirements of the order granting the variance are met. Violation of those conditions and safeguards, when made a part of the

terms under which the variance is granted, shall be deemed a violation of the land development regulations and shall render the variances revoked.

Variances for Nonhabitable Structures

Variance requests for nonhabitiable structures have similar criteria for evaluation on variances for habitable structures, but do not appear before the planning board, rather they are presented to the Board of Adjustment (BoA). The city's Commission serves as the BoA, and pursuant to Section 90-97, may authorize in specific cases a variance from the maximum height requirements of the land development regulations and Charter Section 1.05 – Height Restriction, which regulates building heights for nonhabitlabe structures and for buildback of involuntarily destroyed structures which are nonconforming in their height. Appeals to the decisions of the BoA can be made to the county circuit court in the 16th judicial circuit within 30 days after the rendition of the final decision by the board.

Administrative Variances

The city's Planning Department also offers applications for administrative variances that specifically relate to the following, and as noted in Section 90-398 of the LDRs:

- Reduction of front yard, rear year, and non-shoreline setbacks by no more than 10 feet, and side yard setbacks by no more than 20%.
- Reduction in street and landscape buffer-yard width requirements by no more than 10%.
- Reduction in the total area of the landscaping required for off-street parking and loading areas by no more than 10%.
- Reduction of any yard setback requirement to accommodate an elevator or wheelchair access to a residential unit.

Administrative variance applications are submitted to the Planning Department and are routed by staff to the Development Review Committee. Within three weeks of the DRC meeting, the Planning Department staff shall review the application to ensure the standards in Section 90-395 have been met by the applicant, and render a decision to approve, approve with conditions, or deny the administrative request. The decision by the Planning Department shall be vetted and concurrent with the city manager. Once a decision is made, the Planning Department provides written notice of the proposed decision and allows thirty working days for a public hearing request. If no public hearing is requested, the City Planner issues the final decision to the applicant. If a public hearing is requested, the Planning Board will review the application request according to the procedures for a regular variance.

Once a final decision approving a variance request is made, the order granting the variance is only applicable to the parcel or property for which the request was granted. The property owner may then proceed to request a building permit to carry-out the development approved under the variance request. Building permits and the material approved under the entitlement request shall be consistent with the approvals by the boards.

Conditional Uses

Conditional uses are a means of providing flexibility in the uses permitted in a particular zoning district. The technique has several names, including special permit, special use, and special exception, all of which mean the assignment of conditions to the approval of a use. Local governments establish conditional uses as a technique in the zoning ordinance for flexibility and because special standards are sometimes required for desirable uses. There are often uses that would be welcome within the zoning district if additional standards could prevent them from undermining the purpose and intent of the district.

In Key West, a conditional use request undergoes processing through the city's Planning Department. Article III - Conditional Uses within Chapter 122 - Zoning of the city's Land Development Regulations (LDRs) governs the procedures for these types of requests. Specifically, Section 122-63 provides guidance on how conditional use requests are reviewed and enforced. According to the code, the request must be submitted to the city's Planning Department, which will assess whether the application is complete and includes all required attachments. Upon receipt of a complete submittal, the Planning Department forwards the request to the Development Review Committee (DRC) for a public meeting to provide comments.

Once the Planning staff has collected all comments from the DRC, they are required to prepare a report with recommendations for the Planning Board. Subsequently, the Planning Board considers the items at its regularly scheduled public meeting, where they will either approve, approve with conditions, or deny a proposed conditional use.

The decisions made by the Planning Board on conditional use requests shall be final, except in the case of major development applications. Major development plans are decided upon during a noticed and regularly scheduled commission meeting. In the case of a major development plan, the Planning Board's decision regarding conditional use approval is advisory only. The final decision is rendered by the city commission when the major development plan is considered by them

BUSINESS LICENSES

The Licensing Division within the Code Compliance Department plays a pivotal role in ensuring business compliance with local and state regulations, thereby facilitating various business activities within the city. Unlike conducting reviews of building permits or development plans, the division's focus lies on other critical aspects of regulatory adherence.

In collaboration with the Planning Department, the Licensing Division provides zoning verification letters to ensure proposed uses align with the designated locations before businesses apply for licenses.

Moreover, the division meticulously reviews business license applications, assessing them against both state and local regulations. A significant area of focus for the division revolves around transient and non-transient rentals, especially short-term rentals, which fall under the purview of code enforcement.

With authority to initiate Code Enforcement actions, the Licensing Division addresses various scenarios, including expired legal unit determinations, violations related to recreational rental vehicles or custom wearing apparel, and instances of unlicensed businesses or illegal rentals based on advertisements.

The Lawful Unit Determination (LUD) Process, introduced in 2009, is a structured mechanism aimed at recognizing existing housing units that were not accounted for in prior development regulations. This process, starting with the State DEO and progressing through various departments including (planning and utilities) allows for the lawful recognition of the unaccounted units through inspections conducted by the chief building official.

BUILDING PERMIT APPLICATIONS

Building permit applications are processed through the building department, following state guidelines for permitting procedures. While distinct from the growth management and planning development process, permitting plays a crucial role in determining the scope of development.

Planning involves considering the 'big picture' and assessing the suitability of a project type within a specific area of the community. Permitting, on the other hand, focuses on determining whether a

particular project, already permitted under planning regulations, can meet additional requirements concerning pollution, stormwater runoff, natural resource protection, and similar factors. It involves a more site-specific assessment of a project's impacts.

In the City of Key West, building permits are required before commencing any work or construction—permanent or temporary—that exceeds $1,000 in value, inclusive of materials and labor, at the discretion of the building official. Section 90-356. - Building permits required, advises that no building or other structure may be erected, demolished, moved, added to, or structurally altered without a building permit issued by the chief building official. Pursuant to the code, all building permits issued shall be in conformity with the provisions of the fire codes, the building codes, and the land development regulations, except after written order in the form of an administrative review or a variance from the board of adjustment as provided for in the land development regulations. No building permit shall be issued until concurrency management program requirements are met.

Building permit applications are required to be accompanied by a development plan (if applicable). When a development plan is required, the approved plan shall be included as part of the building permit application submittal. Section 90-357 expands on the requirements for the application for building permit. If no development plan is required, the application for a building permit shall include:

- A certified survey of the property
- An existing condition plan sheet showing the exact sizes and locations on the lots of buildings already existing, if any.
- A proposed plan sheet showing the location and dimensions of the proposed building or alteration.
- When applicable, the required parking spaces, loading and unloading spaces, maneuvering space and openings for ingress and egress.
- When applicable, grading and drainage plans to be reviewed and approved by the city engineer.
- Written documentation demonstrating the respective public facilities have sufficient existing capacity to supply the proposed development or that capacity will exist upon completion of the proposed development.
- Any other information required by the city planner, city engineer or chief building official, including but not limited to the following:
    - Existing or proposed building construction or alteration.
    - Existing or proposed uses of the building and land.
    - The number of families, housekeeping units, or rental units the building is designed to accommodate.
    - Conditions existing on the lot.
    - Any other matters as may be necessary to determine conformance with the land development regulations.

According to section 90-358. - Building permit time limitations, after a building permit has been issued, the permittee must commence construction within 90 days following issuance of the permit. A building permit shall expire if construction activity is dormant for a period of six months. Similarly, a building permit shall expire if the developer fails to call for and achieve approved inspections within planned 120-day intervals as shall be evidenced in a construction schedule. Ultimately, no building permit shall be valid for a period longer than two years.

In order to close a building permit, a certificate of occupancy must be issued. Section 90-363 of the land development regulations stipulates that no land or building—whether new or altered—can be utilized

until the chief building official has issued a certificate of occupancy, confirming conformity with the provisions of the land development regulations.

The chief building official is responsible for conducting a final inspection of the building or premises. If the completed work conforms to the land development regulations, a certificate of occupancy is issued. In cases where the certificate is refused, the official must provide a written statement explaining the refusal and its cause.

Failure to obtain a certificate of occupancy is considered a violation of the land development regulations. Additional restrictions are provided in Section 90-364, which state that building permits or certificates of occupancy issued based on approved plans and applications by the chief building official authorize only the specific use, arrangements, and construction detailed in the approved plans and application. Engaging in unauthorized use, arrangement, or construction activities is considered a violation of the land development regulations."

BOARDS

The following sections highlight the city boards and committees typically involved in the development review process.

HISTORIC PRESERVATION BOARD

Historic preservation is mandated by the city's charter under Section 1.06, which establishes the Historic Architectural Review Commission (HARC). The HARC process is facilitated by staff from the Historic Preservation division within the Planning Department. Its purpose is to ensure that new developments or redevelopments in Key West preserve the architectural heritage of the historic districts.

To achieve this objective, the city's local ordinances include Section 14-40, which outlines the procedures for permits in historic districts. According to the regulations, no building or work permit required by the Code for work in the historic zoning districts or in tidal waters contiguous to and within 600 feet of the historic zoning districts shall be issued until a certificate of appropriateness has been granted by a vote of the HARC. The LDR also adds in Section 102-152, that a Certificate of Appropriateness is required for the construction of any new structure, building, fence, deck or sign or the painting, repainting, repair, alteration, remodeling, landscaping, or demolition of the exterior of any existing building, structure, fence, deck, sign, landscape, or lot.

A Certificate of Appropriateness (COA) is a document issued by the Historic Preservation Division that attests the proposed work is appropriate for the historic district and satisfies the regulations of the United States Secretary of Interior's Standards and Guidelines and the Historic Architectural Design Guidelines. Certificates of Appropriateness (COA) are tied to the City's building permit reviews and are required for any exterior changes or alterations of buildings, structures, or sites located within historic zoning districts, regardless of whether the proposed work is visible from the public right-of-way. They also apply to any buildings or structures listed as contributing historic resources outside of the established historic districts

Applications that follow the HARC Guidelines approved by Ordinance 13-06, and that do not propose certain demolitions, additions, or major changes to a building may be approved administratively by staff during the building permit review process. Approximately 95% of applications submitted are approved at the staff level. Larger projects, or projects that do not comply with the Guidelines and Ordinances, may need to be scheduled for a HARC meeting.

The Historic Architecture Review Committee (HARC) meets every 4th Tuesday of the month. It consists of seven residents typically with experience in the fields of architecture, history, architectural history, planning, archaeology, or other related disciplines such as urban planning, American studies, American civilization, cultural geography, or cultural anthropology.

Section 90-139 authorizes HARC to approve or disapprove work completed in the city by evaluating whether the proposed work augments or preserves the character and appearance of the historic districts. If approved, the Certificate of Appropriateness is issued by the signature of the presiding member of the Historic Architectural Review Commission. If disapproved, the applicant may modify and resubmit the application according to the Historic Architectural Review Commission regulations or may appeal.

Once an applicant receives entitlements from HARC, the applicant may proceed with the building permit application. All building permits applications must be identical in scope, description and elevation views of the HARC approved project. If not, the Chief Building Official is authorized to post a signed and dated notice to stop work that is being performed in violation of the city laws and regulations, or of HARC.

Yearly, the City reports to the Department of State Division of Historical Resources the number of certificates of appropriateness that are reviewed and a count of those that receive approvals.

Development Review Committee (DRC)

The Development Review Committee (DRC) is established in accordance with Section 108-61, "Establishment and Membership," in the City's Land Development Regulations. According to this code section, the DRC shall be comprised of the following city staff:

1. City planner
2. Recreation director
3. Fire chief
4. Engineering services director
5. City engineer
6. Police chief
7. Building official
8. Landscape coordinator
9. HARC planner
10. Utilities director
11. ADA/bicycle-pedestrian coordinator
12. Any other staff designated by the city manager

The DRC is responsible for reviewing applications for annexations, subdivisions, development plans, conditional uses, requests for vacation of rights-of-way or easements, planned development projects, developments of regional impact, and other applications referred to the committee by the city planner or other members. As part of the review, the DRC has the authority to consider:

- Whether an application/plan is consistent with the City's comprehensive plan
- Whether public facilities and services necessary to serve the proposed use shall be available concurrent with the actual impact of the use in question
- Whether the established level of service of public facilities necessary to serve the development will be adversely impacted by the proposed use or activity
- Whether the proposed development satisfies the development review criteria and other applicable requirements of the land development regulations

The DRC facilitates and coordinates technical comments by city staff and those received from the public. DRC meetings are held on the 4th Thursday of each month and are open to the public. Public comments must be received by one week prior to the meeting date in order to be read into the record by city staff during the meeting.

Planning Board (PB)

The Planning Board consists of seven members, each appointed by a City Commissioner. Pursuant to Sec. 90-51, the Planning Board (PB) shall have the authority and responsibility to review land use in the city and evaluate planning and regulatory techniques for resolving physical, economic, social, environmental, and fiscal issues. The PB typically meets every 3rd Thursday of the month. Depending on the application type, the PB either makes final determinations subject to appeals or serves as an advisory board making recommendations to the City Commission. The table below summarizes the functions and powers of the Planning Board established in Section 90-55.

FUNCTION	FINAL DETERMINATION	ADVISORY CAPACITY
Preparation and review of the comprehensive plan.		X
Monitor and oversee the effectiveness and status of the comprehensive plan, review any proposed amendments to the comprehensive plan, and prepare periodic reports required pursuant to F.S. § 163.3191.		X
Review proposed land development regulations and amendments and ensure consistency with comprehensive plan.		X
Review major development plans.		X
Review minor development plans.		X
Review conditional uses part of a major development plan.		X
Review conditional uses (all other)	X	
Review variances from the terms of the land development regulations where the requirements of section 90-394 are met.	X	
Review subdivision proposals, street dedications and reconfiguration proposals		X
Pursuant to F.S. § 163.3174(4)(d), perform any other duties which are assigned to the planning board by the city commission or by general or special law.		

Historic Architecture Review Committee (HARC)

The Historic Architecture Review Committee (HARC) meets every 4th Tuesday of the month. It consists of seven residents of the city or a person who has a business, employment, or profession located in the city and resides in the lower keys from Key West to Big Coppitt Key. The mayor and each city commissioner appoint one member of the Historic Architectural Review Commission. One member is appointed by the mayor and is required to be a US registered architect, preferably retired and not working in the city. Three members, in addition to the mayor's architectural appointment, shall be professionals in historic preservation-related disciplines. Pursuant to Section 90-127, professional members shall be from historic preservation-related disciplines such as architecture, history, architectural history, planning, archaeology, or other related disciplines such as urban planning, American studies, American civilization, cultural geography, or cultural anthropology. Additionally, the mayor designates a liaison to the Historic Architectural Review Commission from among the city commissioners.

Section 90-139 authorizes HARC to approve or disapprove work completed in the city by evaluating whether the proposed work augments or preserves the character and appearance of the historic districts. If approved, the certificate of appropriateness shall be issued by the signature of the presiding member of the Historic Architectural Review Commission. If disapproved, the applicant may modify and resubmit the application according to the Historic Architectural Review Commission regulations or may appeal.

Tree Commission (TC)

The City's Tree Commission meetings are held on the first Tuesday of every month. Public input can be provided in person, or public comments should be sent twenty-four hours before the Tree Commission meeting when the item will be heard. The Tree Commission was created in 1970 with the purpose and intent to serve the health and economic welfare of the citizens of Key West through the protection of the health and growth of the trees and through the encouragement of additional tree plantings on the island. The mayor and each city commissioner appoint one member of the Tree Commission.

Pursuant to Section 108-411, the planning board shall not review a major or minor development plan until the plan has been reviewed by the Tree Commission, unless the city landscape coordinator renders a finding that the subject development plan is compliant with all criteria of this article and article VI of chapter 110. If city landscape staff finds the landscape plan compliant, the development plan may be reviewed by the planning board prior to review by the Tree Commission; however, in such cases, any development plan approval by the planning board shall be conditioned on approval by the Tree Commission.

ENGAGEMENT

As part of the audit of city procedures, the Corradino Group interviewed staff from the Building Department, Utilities Department, Code Compliance Department and the Planning Department.

PLANNING DEPARTMENT

The Key West Planning Department falls under the purview of the Assistant City Manager. In 2013, the then-City Manager initiated a reorganization of the City's departments. This reorganization led to the creation of the Community Development Services department, which encompassed Planning Services, Building Services, Special Projects and Support Services, and Code Compliance Services. However, in 2014, the City underwent another reorganization, resulting in the dissolution of the Community Development Services department. Instead, the departments reverted to being under the administration of the Assistant City Manager, as they were in previous years. This organizational structure remains in place today.

The Planning Department reviews and processes land development applications for:

- Major & Minor Development Plans
- Land Development Regulation Zoning Variances
- Conditional Uses
- Zoning Amendments
- Future Land Use Map Amendments

In addition, the Planning Department also manages and processes the following:

- Zoning Verification Letters
- Lawful Unit Determinations

- Build Backs
- Beneficial Use Determinations
- Transfer of Transient Licenses
- Alcohol Sales Exceptions
- Easements & Subdivisions
- Applications for the city's Building Permit Allocation System

As part of its departmental responsibilities, Planning participates in the building permit review process as necessary. The Building Department's Plan Review Division assesses the site data and setback information included in the building permit application and determines whether Planning review is required.

The Planning Department is further bolstered by the support of the Historic Preservation (HP) Division, the Urban Forestry Division, and, most recently, the Community Redevelopment Agency. In total, the Planning Department comprises eleven (11) employees.

Additionally, the Planning Department staff provides support for various city boards, including the Development Review Committee (DRC), Planning Board (PB), Historic Architecture Review Committee (HARC), and the Tree Commission (TC).

Historic Preservation Division

The HP division under the Planning Department serves as the bridge between the Building Department and the Planning. The Preservation Architect Inspector is required, by code Sec. 102-153, to inspect the Building Permit work to issue the Certificate of Appropriateness, which is embedded within the permit.

The Historic Preservation (HP) Division operates under the Planning Department and currently has a staff of two, including a Historic Preservation Planner and a Historic Architectural Review Commission (HARC) Inspector. The Historic Preservation Division works with the citizens of Key West to preserve the architectural heritage of the island's historic districts. This is accomplished through HARC and through the issuance of Certificates of Appropriateness (COA) by HARC staff.

Urban Forestry Division

The City's Urban Forestry division, under the Planning Department, works to educate the public, preserve and manage the city's tree canopy and landscaping. The Urban Forestry Division staff is required to review any building permit related to trees or impacting landscaping. However, the division noted a drop in building permit reviews. Between 2018 and 2021, the division averaged 899 building permits reviewed. In 2023, this number dropped significantly to only 108 building permits.

The Land Development Regulations (LDRs) authorize staff to inspect all landscaping and irrigation plans approved by a development plan and subsequently a building permit. No certificate of approval and occupancy by the Building Department can be issued until the landscaping and irrigation inspections are completed and approved. Additionally, the Urban Forestry division processes administrative permits for do-it-yourself tree cuttings or palm removals, transplants, and pruning.

The Division also assists in reviewing development applications pursuant to Sec. 108-411. Landscape plans with a major or minor development component are required to be presented before the Tree Commission. The Urban Forestry Manager also serves as the staff for the Tree Commission. Typically, applications begin at the Development Review Committee (DRC), proceed to the Tree Commission, then the Planning Board, followed by the Historic Architectural Review Commission (HARC). An

administrative review of any significant changes is completed as necessary before the development request is presented at the City Commission.

BUILDING DEPARTMENT

The Building Services Department consists of four divisions, and include:

1. Permitting
2. Plan Review
3. Inspections
4. Floodplain Management.

The Building Services Department operates under the governance of the Florida Statutes, the Florida Building Codes, and local ordinances. Currently, five permit technicians are employed to assist with permit intake and review processes. During intake, permit technicians assess the scope and site data to route permit plans to the appropriate disciplines for review.

The Building's Plan Review and Inspections division comprises building, electrical, mechanical, plumbing, and gas services. Building permits are accepted in person at the Building Department from Monday to Friday, 7:30 AM to 4 PM, or through the online portal, E-Track It. Upon intake processing by the Permitting Division, applications are digitized if submitted electronically and are routed to reviewers in both digital and paper formats.

Building inspections are conducted by Building Department staff, excluding permits requiring HARC approval or a Certificate of Occupancy.

The City's Floodplain Management Division typically reviews Electrical and Mechanical Building Permits to ensure compliance with base flood elevation requirements. Additionally, they assess whether additional development permits can be acquired by the property and review if proposed work exceeds 50% of the building's cost, considering it a substantial improvement. Community Rating System inspections for building permits are conducted by Building staff. Previously, a Floodplain Management Division staff member was a part of the Development Review Committee (DRC) for development applications; however, the Chief Building Official now represents the division.

CODE COMPLIANCE DEPARTMENT

The Code Compliance Department is composed of twelve (12) employees and includes the Business Licensing Division. Under Section 2-678, the city authorizes code compliance officers to issue citations when, upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a city code provision or ordinance. In 2023, the Department received 1,502 complaints, of which 1,218 were investigated and closed. The most common complaints investigated were illegal dumping and spills (214 cases), delinquent business tax receipts (203 cases), violation of building ordinances (164 cases), unlicensed businesses (144 cases), and right-of-way violations with 132 cases.

While the Code Compliance Department is not directly involved in the development review or building permit review process, it assist the Building and Planning Departments. They follow up on complaints to determine if conditions of approval in a redevelopment application have been satisfied, and they also

assist the Building Department in investigating work that may be unpermitted or contrary to building ordinances.

Business Licensing Division

The City of Key West Licensing Division operates under the city's Code Compliance Department and is comprised of two staff members responsible for managing and issuing regulatory licenses and permits. Licenses and permits issued include Business Tax Receipts, Transient and Non-Transient Property Rental Licenses, and Sidewalk Café Permits. General Service and Non-Transient licenses account for approximately 50% of the Business Tax Receipts issued by the division.

Since the City is essentially built-out, new businesses without any prior existing uses on a property are very rare in Key West. However, if there is any concern about whether the use is permitted at a particular location or if there are no previous uses at the location, a business license applicant can complete a Zoning Verification Form to be verified by the Planning Department. The Planning Department and Licensing Division also collaborate on Conditional Use Applications, which require a public hearing and City Commission approval.

Lawful Unit Determination (LUD), or the process to legalize housing units established prior to the 2010 Census, are also issued through the Licensing Division in coordination with the Building, Planning, and Utilities departments. A LUD request is submitted to Planning and routed to Utilities to confirm the type of utility services and the number of meters for the unit. A building inspection is required to issue a Certificate of Occupancy before sending the request to the State Department of Commerce, culminating in an Occupational License issued for the transient lawfully determined unit.

The Licensing Division, under the umbrella of the Code Enforcement Department, can initiate code enforcement actions against unlicensed businesses, illegal rental units (based on advertisements), and violations of code conditions, which, if unresolved, move to the Special Magistrate for resolution.

UTILITIES DEPARTMENT

The Utilities or General Services Department encompasses Wastewater, Storm Water, Solid Waste Management, and the Geographic Information Systems (GIS) Division. As of 2023, it was composed of ten (10) city staff. Staff from the Utilities Department are members of the Development Review Committee (DRC) and when applicable review building permits.

The Engineering building permit review is completed by Utilities Department (UD) staff, for permits with projects that may impact solid waste, wastewater, or stormwater. During the DRC review and building permit review process, UD staff evaluate the anticipated demands on public facilities to ensure they are concurrent with adopted service standards and that there is sufficient capacity in the systems.

The GIS Division within the Utilities Department manages property records on the island through geospatial management, overseeing both transient and non-transient properties. They maintain an inventory of residential units allocated to each applicable property in the City and aid residents and staff in coordinating utility demands with property unit counts. The GIS Division supports other Departments with this type of record management support.

INTERVIEWS

The following is a summary of the topics and concerns expressed during the interviews.

Historic Preservation

- The HARC and staff can be too subjective with their recommendations and appears to be done on a case-by-case basis.
- Concern the city may be facilitating the benign neglect of historic structures by not enforcing historic standards.
- Concern between historic preservation regulations and allowing installation of modern energy-efficient equipment.
- Separate HARC review from the building permit review process.
- The Florida Building Code does not govern workmanship or aesthetics so should be unable to sign-off on historic preservation inspections for building permits.

Land Development Regulations

- The Zoning Code was formulated in such a way that the existing land conditions frequently do not comply with the adopted Land Development Regulations (LDRs).
- Applicants rarely fully meet the criteria for variance review standards, largely due to the numerous noncompliance issues created by the zoning code when it was adopted.
- There is concern that the development community is influencing or manipulating the creation of new ordinances and regulations without input from the Planning Department and Historic Preservation division.

Housing

- Legal Unit Determinations (LUD) properties are impacting the projected facilities and evacuation times mandated by the City and State.
- Manipulation of transient rentals, including increasing the number of units and remodeling
- The Land Development Regulations (LDRs) define a family, and consequently a single-family home, as a household with a maximum of four unrelated adults. This interpretation limits transient properties to a maximum of 4-bedroom homes. One Building Permit Allocation System (BPAS) unit represents one household, as mandated by state regulations for evacuation purposes.
- Solid waste flow and impact fees calculated by bedroom, leading to changes in metering.
- Private plumbing is not regulated; instead, utilities are impacted by changes in usage characteristics of housing.

Building Permits

- It is recommended that the initial building permit review be conducted by the Planning Department.
- There has been a noticeable decline in the involvement of the Planning Department and other historically involved departments in the building permit review process.
- The current review process lacks efficiency and streamlining.
- Other disciplines must generate a report to determine if there are permits awaiting their review.
- Building Plan Reviewers refer plans to zoning for review when a variance is assumed to be necessary.
- Concerns have been raised about the development community's influence on the creation of new ordinances and regulations without adequate input from the Planning Department and Historic Preservation division.
- There is pressure to expedite building permit reviews stemming from the development community.
- There are concerns that permits requiring review by the Planning Department are not consistently routed to Planning to ensure project conditions are met.

- There is apprehension that the Planning Department and Historic Preservation division may be overly involved in the building permit review process, potentially reviewing permits outside their scope or unrelated to historic districts.
- Non-compliant ADA buildings are being constructed under the guise of emergency repairs.

Development Review Committee (DRC)

- DRC members noted the need for more time to review applications.
- DRC comments are not cross-referenced with other reviewing disciplines.
- A sanitary sewer and drainage system analysis should be required for larger developments as part of the DRC to ensure public facilities are accurately accounted for.
- A checklist and intake person should review applications and perform a completeness review of the application before routing to DRC members.
- The DRC shall require a sign-off for each department once they completed their review and consider the application satisfactory to move to public hearing.
- More communication and transparency between departments during DRC process and post.

Inspections

- The number of building permits requiring inspection by the Historic Preservation division and Urban Forestry Division has significantly decreased compared to previous years.
- The Code Enforcement Department becomes involved when prompted by the Building or Planning Department regarding specific issues such as building without permits, exceeding permit scope, or encountering zoning problems.
- An implementation phase should be established to confirm that conditions have been satisfied.

Cultural concerns

- There is a lack of communication and harmony among different City departments, including the Utilities Department, Planning Department, and Building Department.
- Other divisions and departments have expressed feeling marginalized by the Building Department.
- Gender-related issues have been observed by staff.
- There are concerns about turnover in the Planning Department, particularly since other departments have had consistent leadership for over five years.
- There is a perceived rift between staff and ongoing development activities.

PAST DEVELOPMENT ORDERS & PERMITTING EXAMPLES

The following section serves to highlight the concerns that exist between a development application and building permit application. The review consists of five development applications that underwent the public hearing process and subsequently processed a building permit. Findings show potential disconnects between the two application types.

Ashby Street

On June 2nd, 2022, the City accepted a building permit for the construction of a new pool and new pool equipment at an existing single-family home. Planning was included in the building permit review for zoning requirements. As part of the review comments, Planning noted the property was non-compliant with the impervious area requirements for the zoning district, which allows a maximum 50% impervious surface per Sec. 122-238. The Ashby Street application noted the existing impervious area at 54.1%, and after the proposed installation at 54%, resulting in a reduction of 0.1%.

However, on June 6th, 2022, the Planning review was voided by the Chief Building Official with the note "…no variance required for increase nonconformity". As a result, on June 16, 2022, building permit BLD 2022-1611 was approved and issued. The building permit inspection was finaled on August 15, 2022.

On August 16th, 2022 the City adopted Ordinance No. 22-25, to amend the land development regulations in Sec. 122-32(a) to clarify "… a structure or site improvement may be altered without the need for a variance if the alteration decreases respective noncompliance".

Based on the timeline, the permit was approved, issued, and finaled with a noncomplying impervious area prior to adoption of the LDR amendment. Another concern is the Chief Building Official may have made an interpretation of the code contrary to Sec. 90-301, which states the CBO administer and enforces the LDRs, while the city planner interprets the LDRs. Moreover, new regulation may be abused by development community as noncomplying conditions are remaining on properties, and building permits, which provide any reduction in nonconformity are being permitted. It is our recommendation the City revisit the policy to provide parameters.

Eagle Avenue

A building permit application for an accessory structure was approved under building permit #2018-00000505, for a property on Eagle Avenue. The accessory structure was approved with a setback of 6 feet from the rear property line, one foot more than required by Sec. 122-1181. The building permit was finaled June 6, 2018.

A new survey of the property was completed in December 2018, and it showed the accessory structure was installed 3.5 feet from the rear property line, and not 6 feet as noted on the approved 2018 permit. The following year, in 2019 Code Case CC2019-01646 was issued for the property, citing an illegal dwelling unit. Code officers witnessed and corroborated with the property owner that the accessory structure was now being converted to a dwelling unit. The property owner stopped work and in 2020, the property owner was granted a BPAS unit, to convert the accessory structure into an accessory workforce housing unit.

In 2021, a planning variance application was presented to the Planning Board, requesting a building coverage variance of 336 square feet over what is permitted per Sec. 122-238(4), and a 5-foot rear setback variance, where a 25 feet setback would be required for an accessory workforce housing unit per Sections 122-232 and 122-238(6). The requested variances were both denied at a Planning Board public meeting held September 16th, 2021.

Subsequently, in April 2022, the property owner applied for and was issued a building permit under BLD2022-1173 to move the existing accessory structure out of the setback and elevate the structure 1-foot above base flood elevation.

In an email, the Planning Department noted the building permit submittal did not include plans or an updated site data table to accurately reflect the new scope of work and subsequently denied the permit. However, the Planning Department's review was noted as "No Review Required" and plans were finaled. In June 2022, code case CC2019-01646 was closed with a status of compliance after notice.

During our review of the permit history, we found the following issue to be concerning. Initially, the final inspection under the original building permit indicated compliance with the approved plans. However, it was only after an updated survey of the property was conducted that a setback error came to light.

It's worth noting that the Planning staff are not typically involved in zoning inspections. Rather than excluding the Planning Department from the permit review process, we suggest allowing them to

provide a 'Not Applicable' (N/A) review status. Additionally, it may be beneficial to consider allowing Planning Department staff to conduct zoning inspections.

Olivia Street

The Olivia Street item began as a planning development application for a major development plan, with related request for conditional uses, variances, and waivers to construct a new community center in the HNC-3 District. The application history is as follows:

January 2022

- At their January meeting, the Planning Board passed Resolution No. 2022-001 approving variances for exceeding building coverage maximums, exceeding maximum impervious surface, and from rear setback requirements.
- The city's Historic Architectural Review Commission unanimously approved the design component of the project on January 25, 2002, allowing the applicant to apply for necessary permits to redevelop the site.

March 2022

- In March, the city's Urban Forestry Manager approved with conditions the final landscape plan review.

April 2022

- The major development plan, conditional use, and landscape waiver portion of the request was approved with conditions at the April 7th Commission meeting under Resolution No. 22-09

August 2023

- Planning and HARC completed and approved their building permit reviews for BLD2023-1390 for construction of the approved community center.

October 2023

- Building Permit BLD2023-1390 was approved with conditions and issued October 5th, 2023. .

No significant concerns were raised during the review of the permit history for the Olivia Street project. In fact, this project exemplifies the coordination and precision that the city can achieve as development applications progress through the planning process and subsequently through the building department. Conditions for approval were clearly outlined in the building permit reviews. Documentation history, including approvals from HARC and the Tree Commission, was diligently prepared and kept up-to-date as the project progressed through the entitlement process and onto permitting.

Southard Street

A building permit for an interior renovation of a commercial property on Southard Street was applied for on July 25th, 2023 under BLD 2023-2159. The scope of the interior renovation, included:

- 1st floor: Commercial use, ice cream parlor (741 square feet)
- 2nd floor: Three (3) bedrooms, one (1) bathroom, and one (1) kitchen and dining area.
- 3rd floor: Two (2) additional bedrooms, one (1) bathroom, and storage.

The property is zoned Historic Residential Commercial Core -1 and based on the nonresidential floor area proposed requires a minor development plan application from the Planning Department per Sec.

108-91. Moreover, the proposed 2nd and 3rd floor renovations included 5 bedrooms and 1 kitchen facility.

In Section 86-9, the city defines a dwelling one-family, or single-family as a dwelling unit containing only one dwelling unit and occupied exclusively by one family as a single unit. The same section provides the definition for family as either: one person or a group of two or more persons related by blood, marriage, adoption, or foster care occupying a dwelling unit as a separate, independent, not-for-profit housekeeping unit with a single kitchen and set of culinary facilities. Such family may also include up to two unrelated persons who serve as servants or caretakers for the housekeeping unit; or up to four unrelated persons occupying a dwelling unit as a separate, independent, not-for-profit housekeeping unit with a single kitchen and set of culinary facilities.

Historically, the city has interpreted this definition to limit single-family homes to a four-bedroom maximum. The additional room then creates a new unit on the property, with only one-bedroom. A total of two residential unit allocations are thus required.

At time of building permit review, only Building and Fire were assigned to review and HARC was noted as not required for review. On November 3, 2023, the building permit with the described interior renovation was approved and issued. HARC review and sign-off were completed by the Chief Building Official according to the permit records.

This item presented several conflicts. First, there was no public hearing held for the minor development plan required for the first floor's nonresidential development. Secondly, the modified residential resulted in 2 residential units, when the City only has record of 1 residential unit allocation for the property. Third, both the residential use and new commercial use were not appropriately vetted for demands on the city's public facilities. And finally, the required parking for the proposed uses was not provided as required per Sec. 108-573(b) for the new nonresidential floor area and new residential unit proposed.

Based on the review of the permit documentation, HARC staff was omitted from the review even though the permit was for a property within a historic district. The construction was also allowed to proceed without a development order approved by the Planning Board. We strongly recommend including the Planning Department in all permits undergoing the building permit review process and assign Planning as the first discipline to review. Planning shall have the option to provide a "Not Applicable (N/A)" sign-off. And while the Building Official may sign-off on building permits in the historic district, we recommend ensuring HARC staff reviews and provides the sign-off on all building permit reviews and inspection within historic districts.

Duval Street

The building permit request for Duval Street was for an interior renovation of a residential property within the historic district. The scope under permit BLD2022-1677 included interior renovations of the existing property to provide ten (10) bedrooms, three (3) baths, and one (1) kitchen within the three-story structure.

Both HARC and Planning were included in the building permit review and issued a comment status of "Corrections Needed". Planning and HARC were concerned the property lacked the allocation of residential units for the proposed ten units. Confirmation with the GIS division indicates the property has only one recognized residential unit. Pursuant to the definition of a single-family dwelling, a maximum of four (4) bedrooms are allowed for each recognized residential unit. The 10 bedrooms result in the need of 3 residential unit allocations, in order to complete the interior remodel at the property.

The additional need for BPAS units was relayed to the Chief Building Official and the applicant subsequently canceled BLD2022-1677 to modify the plans. A new building permit was applied for under BLD2022-3375, for an interior renovation at the property. The review workflow for the new building permit only included the Building Department, and the permit was issued November 2022.

A comparison of the two permits demonstrates the cancelled building permit and new permit request share the same scope of work and contained similar plans to those previously submitted under the cancelled permit. This raises concerns with the City's:

- Residential Unit Allocations: additional units are being created and are not being inventoried or accounted for under the city's allocation system.
- Public Facility Demands: because residential allocations are not being correctly documented, projected demands for public facilities like water, sewer, schools, and even evacuation times, may not be calculated correctly, and may have a larger impact on the city's facilities.
- Parking Needs: due to the unaccounted additional units proposed, parking requirements are not being accurately satisfied.

Based on the course of action observed through the permit history, it also appears Planning and HARC are intentionally being omitted from the building permit review process. Alternatively, it may be a lack of communication and coordination between departments. It is our recommendation that rather than omitting reviewers from the permit review process, allow them to provide a "Not Applicable (N/A)" review status.

KEY WEST DEVELOPMENT REVIEW PROCESS

In Key West, permits are accepted online and in person at the Building Department. To be processed, a permit must be complete, otherwise the permit application is returned to the applicant. It must contain the complete scope of work and the cost of the work.

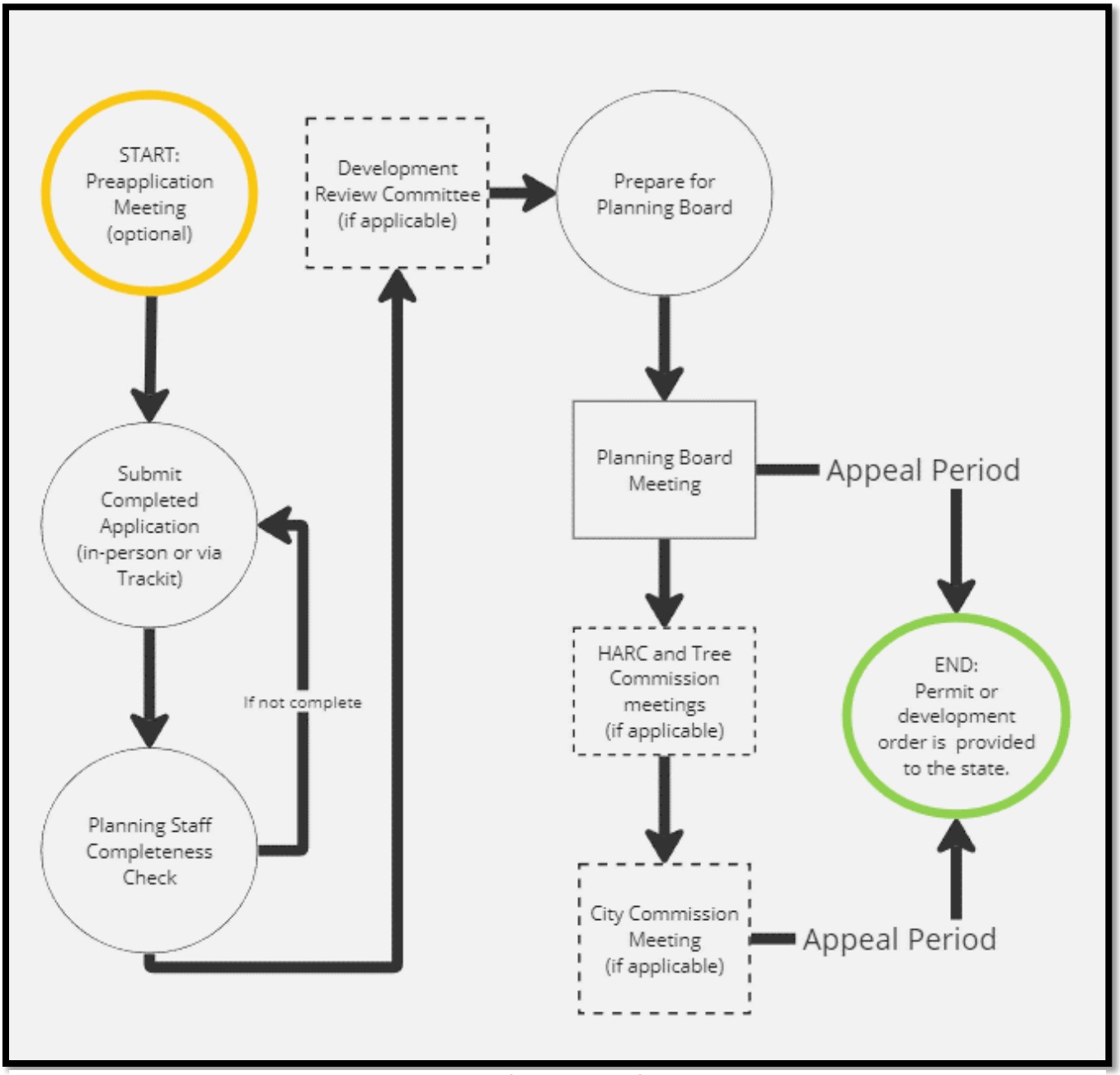
Based on the analysis of existing procedures, the planning development process can be summarized as follows:

1. **Pre-Application Meeting:** Applicant may choose to meet with Planning staff to address application requirements.
2. **Submit Completed Application:** Applicant submits a completed application (determined by Planning staff) either in-person or electronically via e-TRAKiT.
3. **Development Review Committee (DRC) Preparation:** Planner assigned prepares the item for the Development Review Committee if applicable.
4. **DRC Meeting:** Public DRC meeting held where various disciplines provide review comments.
5. **Address Pending Items:** Planning staff works with the applicant to address pending items based on DRC review comments.
6. **Prepare for Planning Board:** Staff prepares the item to move on to the Planning Board upon receipt of a completed application, updated and complete application addressing DRC comments, or an application not requiring DRC review (e.g., variance).
7. **Planning Board Meeting:** Staff prepares a report with a recommendation for the Planning Board. Request is presented at noticed and regularly scheduled Planning Board meeting. Planning Board renders a decision (approve, approve with conditions, or deny) or a recommendation to the Commission when applicable.
8. **Pending Meetings Completion:** Any pending HARC and Tree Commission meetings are typically completed prior to the item appearing before the City Commission.

9. **City Commission Meeting:** Application, including the Planning Board's recommendation, is presented to the City Commission. City Commission renders the final decision (approve, approve with conditions, or deny) on major development plans and any related conditional uses.
10. **Appeal Period:** The resolution is subject to the appeal periods provided by the City's LDRs. After the City appeal period has expired, the permit or development order is provided to the state.

Once the applicant has the entitlement from the board or commission, as applicable, they can begin the building permit review process with the City's building department.

The following is a flowchart visually representing the planning development application procedure described above.



1. Planning development application procedures for the City of Key West.

COMPARISON OF PROCESSES OF OTHER LOCAL GOVERNMENTS

DEVELOPMENT REVIEW PROCESS

In Key West, the typical progression for a planning development application review process is as follows:

1. **Pre-Application Meeting**
2. **Submit Completed Application**
3. **Development Review Committee (DRC) Preparation**
4. **DRC Meeting**
5. **Address Pending Items**
6. **Prepare for Planning Board**
7. **Planning Board Meeting**
8. **Pending Meetings Completion**
9. **City Commission Meeting**
10. **Appeal Period**
11. **Proceed to Building Permits**

Coral Gables

In the City of Coral Gables, the development review process mirrors that of Key West. Initially, all applicants must schedule and attend a pre-application meeting with the Planning Division Staff. At this meeting, the applicant receives guidance on the necessary submittals and any additional review boards the request may encounter. Next, the applicant is required to submit a complete application to the Planning Division via the EnerGov permitting system.

Upon receiving an application, the Planning Division will determine whether it is complete and adequate for review or insufficient for review. If deemed complete, the item progresses to the Development Review Committee (DRC) for application comments. Before the DRC meeting, there is an optional conceptual review by the Board of Architects. Review comments are then uploaded to EnerGov. If necessary, Staff may request a meeting with the applicant to discuss the comments, involving other Departments as needed, depending on the complexity of the comments. The DRC convenes every last Friday of the month. Following the DRC staff review comments, the applicant revises the application and submits an updated application submittal.

All development applications require a public information meeting at least two (2) weeks before the item is scheduled for the Planning and Zoning Board (PZB) meeting. Prior to the public information meeting, the applicant is required to notify surrounding property owners within a 1,000-foot radius of the subject property about the request. The radius for noticing land use changes is 1,500 feet. The public information meeting is typically conducted at the subject property, or in a location convenient to surrounding property owners. These mandatory meetings ensure City review comments are part of the information provided to interested parties.

Following the public information meeting, the applicant must post a sign on the property, clearly identifying the request, and provide public notice to adjacent property owners at least thirteen (13) days before the PZB meeting. Additionally, at least ten (10) days before the meeting, the applicant must supply both hard copies and digital copies via EnerGov for staff to include in the staff report provided to the PZB.

At the PZB meeting, the applicant presents their case, followed by staff providing a recommendation. Subsequently, there is a period for public comment and PZB discussion. Finally, the Planning Board makes a recommendation to the City Commission. After the PZB meeting, the application typically moves to the first City Commission meeting of the following month. City Commission meetings are held on the second and fourth Tuesday of each month. During the City Commission meeting, a final decision regarding the request is made. The applicant must obtain a copy of the final approval, which may be provided in the form of a letter, ordinance, or resolution. The Planning Division then forwards this approval to the appropriate departments to ensure future implementation relative to the issuance of applicable permits and/or approvals.

After the entitlements are secured, the applicant may begin the building permit process through the City's Building Division. Below is a general overview of key "Steps" and general information regarding the Planning development review process for the City of Coral Gables.

Step 1. Preapplication meeting. All applicants are required to schedule an appointment for a preapplication conference with Planning Division Staff prior to the submittal date of an application. The purpose of this conference is to review the application requirements and supporting information as provided for in Section 10. Staff suggests that preliminary site plans, landscape plans, elevations, etc. be provided at this meeting to assist staff in determining the application submittal requirements. Includes discussion of other City reviews necessary including Development Review Committee, Board of Architects, Board of Adjustment, Historic Preservation Board, etc.

Step 2. Application submittal and application completeness review. Planning Division Staff reviews application to determine if all required supporting information are provided following the preapplication meeting. A digital copy of the entire application shall be submitted, including all the items identified in the preapplication meeting, on EnerGov under Planning and Zoning and Development Review Committee. The deadline for this application is the first Friday of the month.

Step 3. Determination of Application completeness and sufficiency. Planning Staff determines if the application is generally complete. If the application is complete and the required application review/supplemental fees are paid, a receipt will be issued. Upon receipt of a complete application, the Planning Division will indicate if the application is either sufficient for review or insufficient for review. Once the application is scheduled, the applicant is required to post the notice to adjacent property owners at least 10 days prior to the Planning and Zoning Board public hearing.

Step 4. Application comments. Planning Division Staff reviews application in conjunction with City Departments (Fire, Historical Resources, Parking, Parks & Recreation, Police, Public Service and Public Works). Upon receipt of comments, Staff will forward all comments received to the applicant on EnerGov. When necessary, Staff may request a meeting with the applicant to review the comments along with other Departments, depending upon the complexity of the comments.

Step 5. Revised application. The applicant revises application materials and resubmits requested information. These revisions must be addressed prior to scheduling for another public review, such as BOA.

Step 6. Public information meeting (mandatory). Staff requires that all applications complete a required public information meeting a minimum of two (2) weeks prior to Planning and Zoning Board public hearing to advise and allow input of adjacent property owners, neighborhood associations and interested parties of the proposed development. The process for completing a public information meeting is provided in Section 3.0.

Step 7. Public notice. Applicant provides public notice to adjacent property owners at least 13 days prior to the Planning and Zoning Board public hearing. Applicant posts property with signage to identify request.

Step 8. Planning and Zoning Board (PZB) and City Commission back up materials. A minimum of ten (10) calendar days prior to consideration of an application for review, the applicant is required to provide ten (10) hard copies in 11" x 17" format/size and two (2) digital copies to EnerGov DRL1 plan.

Staff will forward these materials to the PZB as part of the staff report. Failure to provide these documents will result in postponement of the application for consideration by the Board.

Step 9. PUBLIC HEARINGS: Planning and Zoning Board (PZB). The PZB meets on the second Wednesday of each month 6:00 p.m. - 9:00 p.m. in the City Commission Chambers (2nd floor) within City Hall, 405 Biltmore Way. Staff reports are available to the applicant, public and interested parties at 4:00 p.m. on the Friday before the scheduled Planning and Zoning Board meeting on the City web page at www.coralgables.com. Applicants are requested to be prepared to present the application before the PZB and City Commission. The order of business at the public hearings are as follows: 1) Applicant presents the application; 2) Staff presents its recommendation(s); 3) Public comment and testimony are heard; 4)The PZB discusses and/or asks questions of the applicant or staff to formulate a recommendation; and, 5) The PZB provides one of the following recommendations: approval subject with staff recommendation; approval subject to staff recommendations with modifications or additions; denial or postponement of the application. City Commission. After PZB review and recommendation, the application is typically forwarded to the first City Commission meeting of the next month. Generally, this is within three to four weeks of the PZB's consideration of an application. City Commission meetings are the second and fourth Tuesday of each month at 9:00 a.m. within the City Commission Chambers. All scheduled meetings are subject to change. A copy of the final approval in the form of a letter, ordinance, resolution etc. should be secured by the applicant. This approval information will be forwarded by the Planning Division to the appropriate Departments to insure future implementation relative to the issuance of applicable permits and/or approvals.

Step 10. Building permit process. To begin the building permit process, contact the Building Division at 305.460.5245 or DevelopmentServices@coralgables.com. Approval implementation includes: 1) Restrictive covenant; 2) Final plans for certification; 3) Building process; and, 4) Other requirements for compliance.

Sarasota

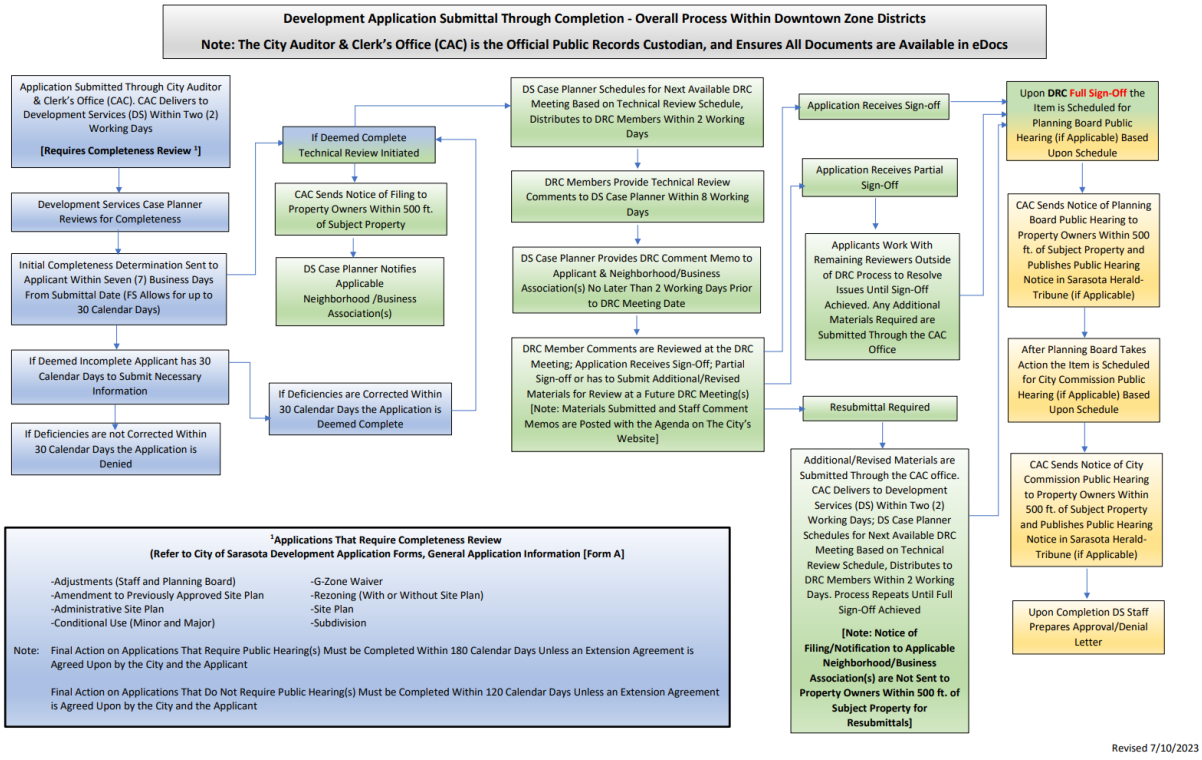
The development application process begins when an applicant submits an application to the City's Auditor and Clerk's Office (CAC). The CAC delivers the application to the Development Services Department within two (2) days to a Case Planner to review for completeness. Within seven (7) days, the Case Planner prepares and sends an initial completion determination letter to the applicant. Complete applications move to the Technical Review phase.

Prior to the Development Review Committee (DRC) meeting, the CAC sends a filing notice of the request to property owners within 500 feet of the subject property. The Case Planner is responsible for notifying applicable neighborhood and business associations. The Case Planner then schedules the request for the next available DRC meeting distributes application to DRC members within 2 days. The DRC must provide comments to Case Planner within eight (8) days. No later than 2 days prior to the meeting the Case Planner provides the DRC comments to the applicant and adjacent neighborhood/business associations. At the DRC meeting, staff comments are reviewed with the applicant and the request is either signed-off by DRC members, partially signed-off, or the DRC advises that additional material is needed, or submittal needs to be revised. If an application receives full DRC sign-off the application is schedule for the Planning Board (PB) public hearing. The CAC sends out notices for the public hearing to property owners within 500 feet of the subject property and publishes an advertisement in the local newspaper. The Planning Board provides a recommendation for the application to the City Commission. The CAC completes similar noticing for the City Commission meeting. Upon final action by the Commission, staff from the Development Services Department prepares a letter for the application file indicating approval or denial of the request.

In Sarasota, the development application and process for site plan review is distinguished by those within the Downtown Zone Districts and those outside the Downtown Zone Districts. For site plan

reviews for properties outside of the Downtown Zone Districts a public hearing (planning board and commission meeting) is required. While those applications for properties within a Downtown Zone including Downtown: Neighborhood (DTN), Neighborhood Edge (DTNE), Edge (DTE), Core (DTC), and Bayfront (DTB), are reviewed and approved administratively. At the time of approval or denial, within 10 days, the decision rendered can be appealed.

The flowchart below highlights the development application process from submittal through completion.



2. Development Review Process for the City of Sarasota.

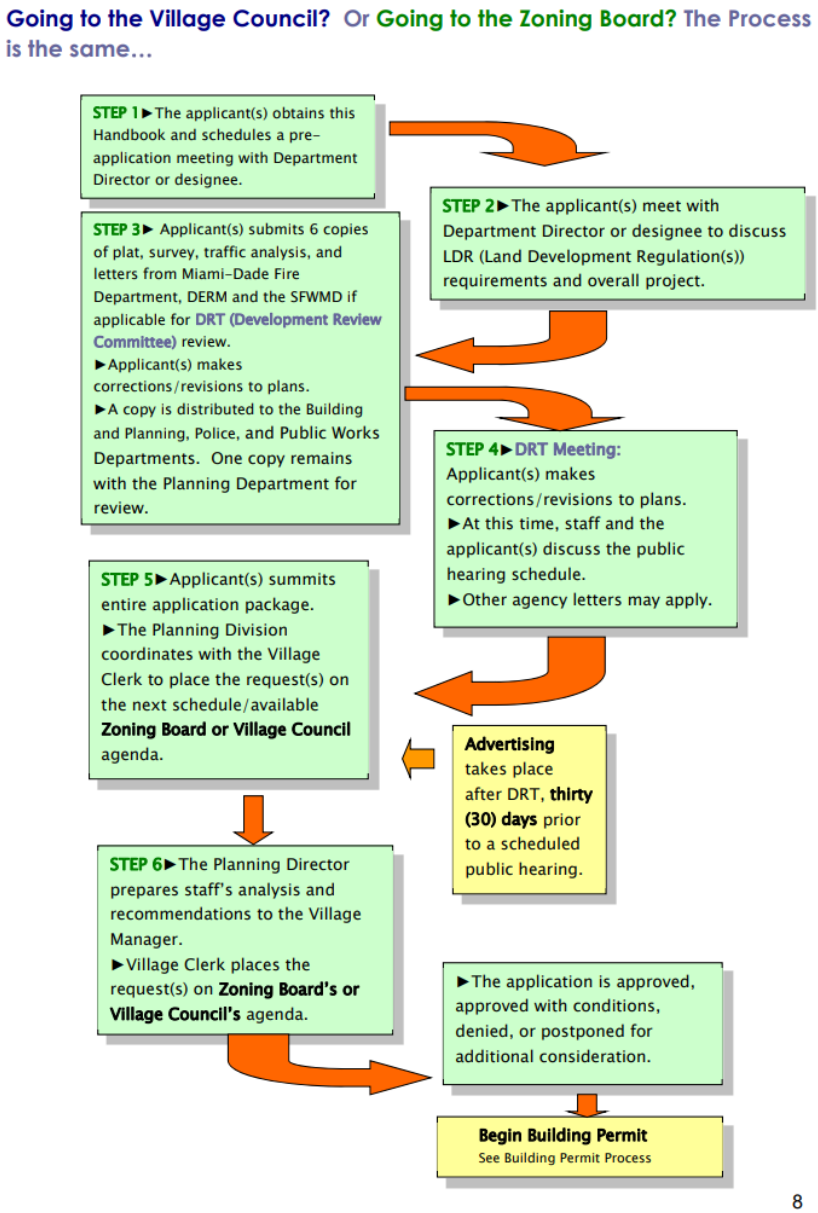
Pinecrest

In the Village of Pinecrest, applications that undergo the development review process fall under the purview of the Planning Division. These include, rezoning, comprehensive plan amendments, conditional uses, variances, site plan and ordinance amendments.

The process begins with the applicant obtaining the Development Review Process Handbook and scheduling a required pre-application with a department director or designee to present an overview of the project and discuss the submittal requirements. The applicant is required to provides six (6) copies of the submittal package for the Development Review Team (DRT). The DRT is an informal meeting with department heads to go over the application request and the developmental issues that may affect building, police, and public works. After the DRT meeting, the applicant should have an understanding of the corrections/revisions needed to be made for the application to move forward, and the public hearing schedule for the request.

Once the applicant prepares and submits the updated package, Planning staff does a completeness check. Only a complete formal submittal can be processed to move to the Planning and Zoning Board

or the Village Council. Noticing for the public hearing shall be completed thirty (30) days prior to the next regularly scheduled meeting. The Planning Director prepares a staff analysis and recommendation to the Village Manager prior to the meeting. The Planning and Zoning Board makes a final decision on all variances, except those related to off-street parking and flood regulations, which appear before the Village Council. Once an application is approved the applicant may proceed with the building permit process. The flowchart below was developed by the Village to advise applications of public hearings for development application.



3. Development Review Process for the Village of Pinecrest.

BUILDING PERMIT REVIEW PROCESS

The Building Department and Planning Department utilize the e-TRAKiT system for accepting submittals for building permits and planning development applications. The Planning Department commenced accepting development applications through e-TRAKiT during the COVID-19 restrictions. However, applicants are more inclined to submit in-person or via email.

A review of the city's e-TRAKiT systems was initiated; nonetheless, the City began exploring other options for its electronic permit and license management system. Instead of analyzing a system that was being phased out, we supplemented the report with an examination of the permitting procedures in other communities. The analysis comparing the building permitting procedures with the practices in other cities in South Florida is provided in the tables below. The following topics were compared in the review procedures:

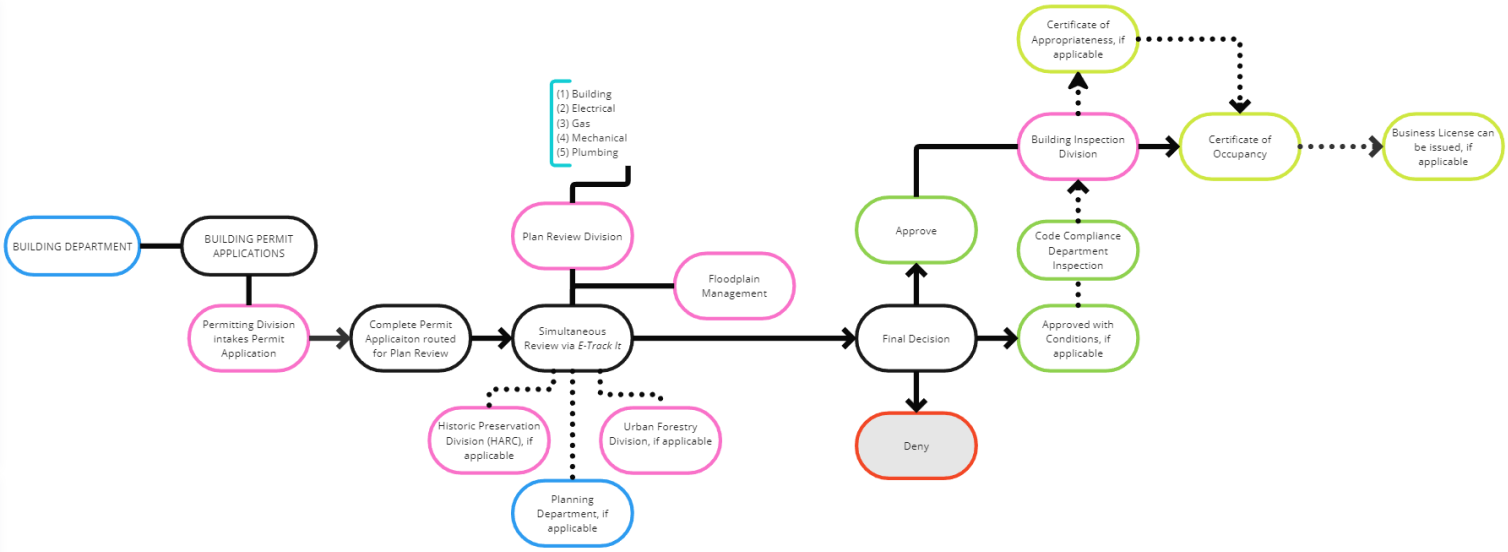
- Intake: This assesses the routing systems used, whether permits can be submitted online and in person.
- Routing: This examines the staff member responsible for the intake of the permit and determining its completeness, as well as routing to the reviewing disciplines.
- Review: This section looks at the typical review times, identifies any particular staff members or disciplines responsible for zoning reviews.
- Inspections: This advises on which departments complete the inspections for the building permits.
- Sign-off: This clarifies which departments are required to sign off on certificates of occupancy (CO).

KEY WEST

1. **Intake**: Building permits are submitted to the city in-person or on-line via the e-TRAKiT system. A complete application is routed for review.
2. **Routing**: Permits are routed based on the Building Permit Clerk's review of the scope and are accordingly routed to each discipline. Typically, when a permit appears to require a variance or the site data table presents a noncomplying development standard, the permit application is routed to the Planning Department for review. Permits that are within a historic district or impact a historically contributing structure are identified and routed for review to the Historic Preservation Division. A building permit that may impact a tree or the city's protected flora is routed to the Urban Forestry Division.
3. **Review**: The Building Department staff reviews building permits for all disciplines including Building, Electric, Gas, Mechanical, Plumbing, Floodplain Management and Zoning. However, if the application appears to require a planning development application or may result in non-compliant development the item is routed to the Planning Department for Zoning review. All permits within a historic district or for a contributing structure are reviewed by the Historic Preservation staff. Staff from the Urban Forestry Division review applicable permits. If a permit is approved, it is issued to the applicant and the applicant may start work.
4. **Inspections**: Building permit inspections are all completed by Building Department staff except for permits related to a historic property. In those cases, pursuant to the city's code, HARC inspections are required to be completed by the HARC inspector. Any permits reviewed by the Urban Forestry Division require a subsequent inspection.
5. **Sign-off:** Permits and inspections undergo approval from the city's Chief Building Official, ultimately culminating in the closure of the permit or the issuance of a Certificate of Occupancy. In instances where a permit is granted with conditions, Code Compliance staff conduct inspections to ensure

compliance with these conditions. Permits that are reviewed by Historic Preservation staff and the Historic Architectural Review Commission (HARC) are granted a Certificate of Appropriateness (COA) following an inspection, provided that the work has been executed in accordance with the approved permit plans. To issue a certificate of occupancy, a COA inspections needs to be completed. A CO cannot be issued without Tree Commission sign-off on the landscaping inspections, as applicable.

The process workflow below summarizes the building permit review procedures identified for the city Key West based on our review of existing conditions.



4. Building Permit application review process for the City of Key West.

The building permit application review process, from intake to sign-off, is summarized in the following section, incorporating practices observed in other communities in Florida.

TOWN OF CUTLER BAY

Intake: Eden Software, and permit are accepted online and in-person.
Routing: The Building Permit Clerk is responsible for identifying the disciplines required to review the building permits. Permit clerks review the scope of work and submitted plans to determine which trades need to be added or removed. Physical Copies are then routed accordingly. In cases where a review is required after the initial submission, the permit clerk is responsible for adding the necessary disciplines for review.
Review: Zoning staff reviews building department permits. The Zoning staff conducts reviews of building department permits, excluding electrical, plumbing, or roof permits. Typically, the zoning review process takes 2-3 days. During the review, staff members have the option to mark items as "N/A" or add comments, such as "Zoning review/inspection is required," if necessary, when disciplines are missing from the review workflow.
Inspections: Building inspector completes the zoning inspection.

Sign-off: Zoning does not sign-off certificate of occupancy.

CITY OF SUNNY ISLES BEACH

Intake: The city's building department utilizes SmartGov for completing permit reviews. Intake is accepted either in-person or online.
Routing: Once a permit application is generated, SmartGov automatically generates trades in the workflow for review and inspection based on the permit type.
Review: Planning staff completes permit reviews for zoning.
Inspections: Panning staff completes zoning inspections.
Sign-off: Planning staff signs-off on the Certificate of Occupancy.

CITY OF NORTH MIAMI BEACH

Intake: North Miami Beach uses EnerGov for its building permit reviews and to schedule inspections.
Routing: Building permits are submitted to the Building Department for routing. The building permit clerk utilizes the review workflow established in EnerGov to route permits. These workflows were developed by various city departments as part of the implementation of the EnerGov system. The permit clerk verifies the automatically populated workflow and supplements it by adding trades to the reviews as required.
Review: Building permit reviews are completed by Building Department staff, while zoning reviews are completed by Planning Department staff.
Inspections: The city's Building Department oversees inspections. Each discipline responsible for reviewing the plans is also tasked with conducting the follow-up inspection. However, while zoning reviews roof permits, they do not complete inspections for roofs.
Sign-off: Planning staff signs-off of on the certificate of occupancy in order to close a permit.

CITY OF HOMESTEAD

Intake: The City of Homestead utilizes the Community Plus system, which exclusively accepts electronic submittals. However, applicants have the alternative option to email permits to the Building Department's general inbox for staff to process them into the Community Plus system.
Routing: Plan routing review requirements are integrated into Community Plus through template permit types developed by the city. For example, a pool permit automatically initiates the workflow for reviews from zoning, plumbing, electrical, and building departments. Each permit type specifies the required disciplines for review. Since these disciplines are embedded within the permit type templates, they cannot be omitted. Only key personnel, such as system administrators like Information Technology Services, Building Official, and Department Director, have the authority to modify disciplines.
Review: Zoning reviews can be conducted by either Building Department or Planning Department staff. However, it's more effective for zoning reviews to be handled by planning staff due to the clearer integration between the two departments, which helps bridge any gaps. If a review is skipped or entered incorrectly by another discipline, the reviewer's name is identified next to the review through user access credentials. This information is also captured via the audit trail in the system. Furthermore, as an additional fail-safe measure, Information Technology Services has additional capabilities on the back end of the system, including added security measures.
Inspections: Similar to building permit reviews, zoning inspections can be completed by either staff from the building department or the planning department.
Sign-off: Planning signs off on the final zoning inspection as part of the certificate of occupancy permit sign-off procedures.

TOWN OF MEDLEY

Intake: Permits applications are submitted electronically through the Town's permitting system BS&A.
Routing: Applications are routed and distributed through the system's workflow. Each reviewer's personal dashboard populates with the list of plan reviews required for completion.
Review: The Town outsources Zoning permit reviews to a private contractor, however, these reviews fall under the Building and Zoning Department.
Inspections: Building and Zoning Department staff complete all inspections, including Zoning.
Sign-off: Building and Zoning Department staff sign-off. Chief building official signs-off on certificates of occupancy.

CITY OF MIAMI BEACH

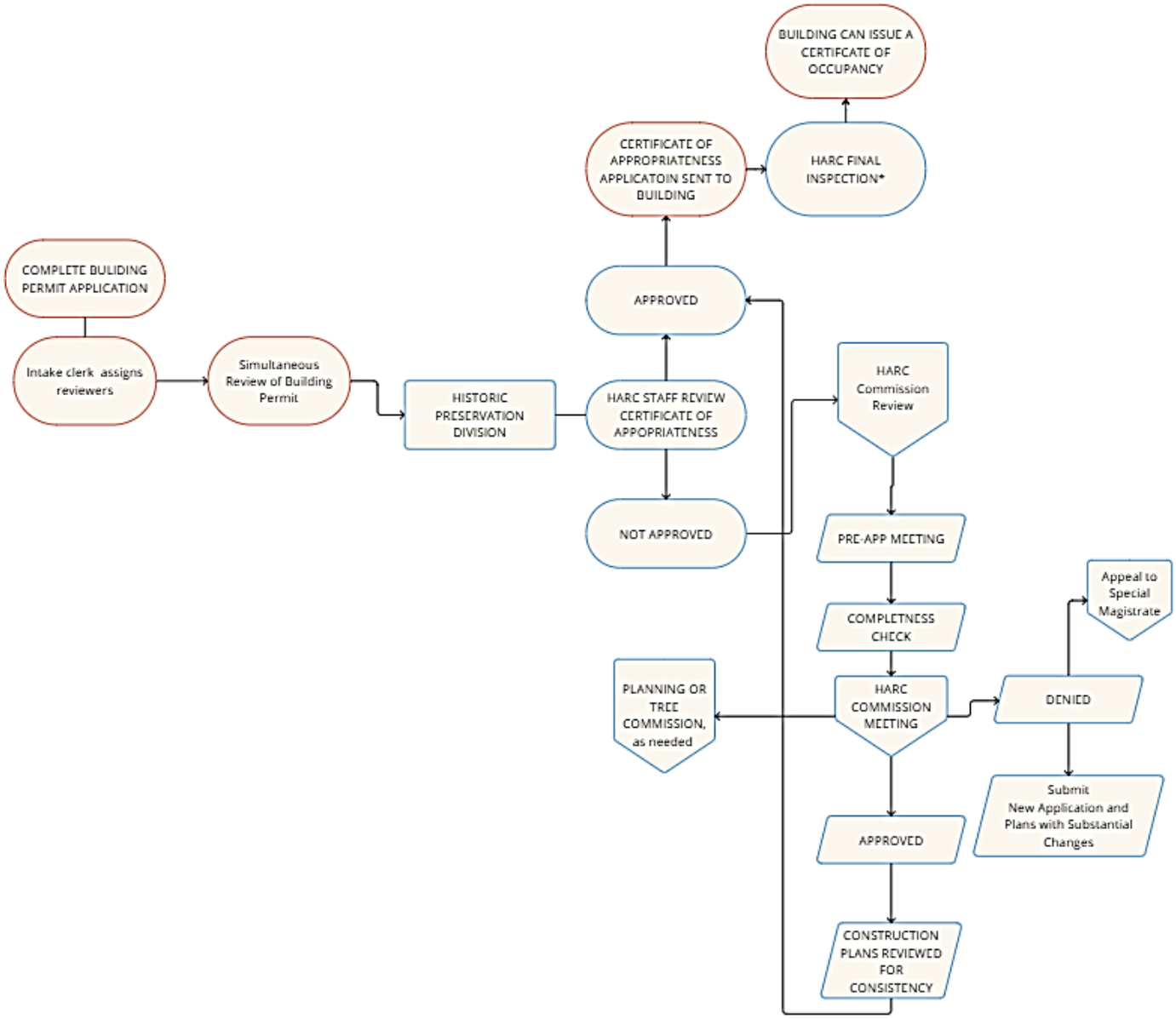
Intake: The city uses EnerGov for intake and to process its building permits.
Routing: The Permit Clerk initiates the permit intake process, and the workflow is automatically directed to the appropriate discipline. The Clerk or reviewer has the ability to include additional reviewers, and those who are added but deemed not applicable can indicate their status by adding a "not applicable" designation to their review.
Review: Planning staff completes review.
Inspections: Building Department staff completes the permit inspections.
Sign-off: Planning staff does not sign-off on certificate of occupancy.

As evident from the building permit procedures, practices in Key West do not differ significantly from the various procedures in place elsewhere. While in some cases, zoning conducts inspections and provides sign-offs on certificates of occupancy, this practice may not be consistent across all communities.

CERTIFICATE OF APPROPRIATENESS

In Key West, a Certificate of Appropriateness (COA) request is linked to the City's building permit reviews. Typically, a COA is necessary for any exterior changes or alterations to buildings, structures, or sites within historic zoning districts, regardless of whether these changes are visible from public rights-of-way. Additionally, they are required for buildings or structures listed as contributing historic resources outside established historic districts. The Historic Preservation (HP) Division has issued over 24,000 COAs to date. If HP staff cannot administratively approve a building permit, the applicant must present the application to the HARC Commission. Upon approval by the HARC Commission, the applicant can proceed with the building permit, and HARC staff will review the permit plans to ensure consistency with the Commission's approval. Pursuant to code Section 102-153, the Preservation Architect Inspector is required to inspect the work covered by the Building Permit in order to issue the Certificate of Appropriateness prior to closing the permit. The process is visually represented in the simplified flowchart provided below.

COA applications that do not involve demolitions, additions, or significant alterations to a building may receive approval from staff. Approximately 95% of submitted applications are approved at this level. The following section provides an analysis of the administrative issuance of a Certificate of Appropriateness for other cities in Florida.



5. Process for obtaining a Certificate of Appropriateness in Key West.

City of Miami

In Miami, a Certificate of Appropriateness (COA) is necessary for any modifications that would alter the exterior appearance of a designated historic property. This encompasses alterations, additions, new construction, or demolition. Minor improvements, such as painting or window replacement, can be approved by City staff upon submission of a COA application. However, more extensive work requires review by the Historic and Environmental Preservation Board (HEPB). This review ensures that proposed changes align with the character of the specific property or historic district. Below is a summary of the process for obtaining a standard Certificate of Appropriateness. Recently, there has been an update to the intake system, which now allows building permits to embed the COA application within the building permit application.

Step 1. Contact a Staff Member to Discuss Your Project: Determine whether the application needs to go to the HEPB board.
Step 2. Collect Documents: Compile required documents and any additional ones identified during pre-application meetings, such as letters of intent, material samples, photos, and site plans.
Step 3. Prepare Documents for Upload: Follow standard naming conventions for document preparation.
Step 4. Apply for COA Online: Use the Eplan system to submit your COA application.
Step 5. Upload Documents: Once notified via email, the applicant uploads documents through the Eplan system.
Step 6. Modify Plans and Documents, if Necessary: Applicant address any comments received via email and resubmit or revise your application. Applications inactive for 6 months are considered abandoned.
Step 7. Await Response: If approved, the certificate will be added to the applicants Eplan account. If approved with conditions, these will be outlined in your account. The applicant will need to make any necessary changes and re-submit plans if required.
Step 8. Continue Your Permitting Process: A COA is not a Building permit; it's only part of the permitting process. Most applications still need a Building permit, except for painting.

City of Coral Gables

A Certificate of Appropriateness (COA) from the Historical Resources and Cultural Arts Department of the City of Coral Gables is required before most exterior work begins, before issuing a building permit, and before granting any variances. However, some maintenance proposals may not require COA review. To evaluate requests, the city employs national guidelines called the Secretary of the Interior's Standards for Rehabilitation. Subsequently, a COA is issued for all approved design proposals.

The City of Coral Gables issues two types of Certificates of Appropriateness: Standard and Special.

- A Standard Certificate of Appropriateness is necessary for actions that adhere to specific guidelines and standards officially adopted by the Historic Preservation Board. These certificates are authorized by the board's staff upon confirming compliance with these guidelines.

- On the other hand, a Special Certificate of Appropriateness is applicable to actions involving demolition, removal, reconstruction, alteration, or new construction at an individual site or in a district. These actions require determination by the Historic Preservation Board before the certificate can be issued.

Properties listed in the Coral Gables Register are subject to either Historic Preservation Board review or Historic Preservation Division staff review before building permits may be issued for exterior alterations.

City of Fort Lauderdale

In Fort Lauderdale, a Certificate of Appropriateness (COA) is required for any alterations that would affect the exterior appearance of a designated historic property. This encompasses alterations (additions), new construction, demolition, and relocation.

The COA application is reviewed by the Historic Preservation Board (HPB) during their monthly meetings. The HPB assesses applications based on criteria specified in the historic preservation sections of the City's Unified Land Development Regulations to ensure compatibility with the character and design of the property or historic district.

To apply for a COA, the property owner must complete the City's application form and provide detailed information, including a narrative, drawings, sketches, photographs, a survey, proof of ownership, and possibly product approvals or brochures for certain building features undergoing modification. Staff assistance is available to ensure all necessary information is included. Additionally, the applicant or their representative must attend the HPB meeting to address any queries or concerns.

Projects involving general maintenance, repair, or in-kind replacement of existing features may undergo administrative review by the Historic Preservation Planner. When seeking a permit, applicants must first submit their application to the Development Services Department, Urban Design and Planning Counter for review by Historic Preservation planner. The Certificate of Appropriateness Administrative Review Form shall be completed by the applicant and is used to outline the project and provide required materials. After review by the Historic Preservation Planner, approved building permit applications proceed to the Building Division for permit review by all pertinent disciplines.

City of Orlando

In Orlando, a Certificate of Appropriateness for Minor Review is necessary for making minor changes to a historic property. This requirement aims to safeguard the city's historic districts and landmarks. The city's Historic Preservation Board offers guidance to facilitate the acquisition of a Certificate of Appropriateness and the necessary permits.

Minor review projects typically encompass: Fences and gates, awnings, small accessory structures less than 100 square feet, doors and garage doors, foundation skirting and stabilization, exterior lighting, solar installations, etc. For more extensive projects, applicants must apply for a Certificate of Appropriateness for Major Review. The steps for a minor review are summarized below:

Step 1. Verify Location: Ensure that the property is situated in a historic district or is designated as a local historic landmark.
Step 2. Complete the Application: The application must be filled out by the property owner or an authorized agent. There is no fee for a minor review.
Step 3. Submit the Form: Complete the form and submit it.
Step 4. Await Contact from the City: Within five days, the city will contact the applicant with a project number and instructions on how to upload your plans.
Step 5. Upload Project Plans: The applicant will receive an email containing a link to ProjectDox and a temporary password to log in.
Step 6. Submit Plans: The applicant will then submit their plans through the ProjectDox platform.
Step 7. Staff Review of Plans
Step 8. Obtain s Certificate of Appropriateness: If the plans are approved, the applicant will be notified, and the certificate will be available in the "approved" folder in ProjectDox. In case of denial or disagreement with the decision, a $250 fee is required for a full Historic Preservation Board review.
Step 9. Obtain Permits: Once the Certificate of Appropriateness is approved and available in ProjectDox, the applicant may proceed to apply for the necessary building permits.

City of Jacksonville

In Jacksonville, FL, all exterior work within a historic district or pertaining to a local landmark necessitates an approved Certificate of Appropriateness (COA) application. This includes repairs, alterations, window replacements, additions, new constructions, demolitions, and relocations. Even tasks related to the site, such as repairing or installing new sidewalks and driveways, require an approved COA.

An approved COA application ensures that the proposed work complies with the appropriate design regulations and historic preservation standards. Most tasks can receive administrative approval from the Historic Preservation Section of the Jacksonville Planning and Development Department. However, certain activities, such as street-visible additions, new constructions, window replacements, demolitions, and relocations, require review and action by the Jacksonville Historic Preservation Commission. A valid COA is necessary before a building permit can be issued.

City of Vero Beach

For the City of Vero Beach, the Planning and Development Department oversees the issuance of a Certificate of Appropriateness (COA). A COA serves to affirm that the proposed work is suitable for the locally designated historic building or site and adheres to local code criteria. It encompasses categories such as alterations (including additions), new construction, and demolition.

The Standard Certificate of Appropriateness is applicable when the proposed action concerning a designated historic structure constitutes a minor alteration requiring a building permit and is determined to have minimal impact on the historic site. Additionally, it applies when the proposed work involves routine maintenance or in-kind replacement, which necessitates a building permit. In such cases, the Planning and Development Director has the authority to approve, approve with conditions, or deny the application.

ANALYSIS

STATE LAW

Development Permits and Orders

Florida Statute 166.033 titled Development permits and orders, provides the guidance for the approval of development permits and development orders. The Community Planning Act, definitions under FS 163.3164 provides the following:

- "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.
- "Development order" means any order granting, denying, or granting with conditions an application for a development permit.

When an applicant submits a request for a development permit or order, a city is required to process the request only if the application is deemed complete. Following a review of the submittal, the city must issue a letter confirming the application is complete, or a letter precisely identifying any deficiencies and granting the applicant thirty days to rectify them. Within 120 days after the city deems the application complete, or within 180 days for applications necessitating final action via a quasi-judicial or public hearing, the city is required to either approve, approve with conditions, or deny the application.

After the initial thirty (30) days given for the applicant to respond to any deficiency comments, the city is allotted an additional 30 days for review. If the city finds the application deficient, a letter is issued, and the applicant is granted 30 days to reply. Upon receiving the applicant's response, the city has 10 days to review and determine if the submission is complete or if further information is required. In the event that additional information is needed for a third time, a meeting shall be offered to the applicant prior to the third request for supplementary information. If further information is requested, the applicant is given 30 days to respond, and the municipality must, within 10 days, either deem the application complete or proceed with the request if it's administrative.

The city cannot make more than three (3) requests for additional information.

Building Permits

In Florida Statute 553.79 Permits; applications; issuance; inspections, the state provides the legislation regulating building permits governed by the Florida Building Code, particularly in FS 553.792 Building permit application to local government, summarized below.

Within 10 days of an applicant submitting a building permit application to the city, the city must inform the applicant of any necessary information needed to deem the application properly completed, in accordance with the filing requirements published by the city. After receiving a completed application, the city has an extra 45 days to notify the applicant if additional information is necessary to assess the sufficiency of the application. The notification must specify the additional information required. Failure by the local government to provide written notice indicating that the applicant has not submitted a properly completed application will result in the application being automatically deemed properly completed and accepted.
The applicant is required to submit the additional information to the city or request that the city proceed without it. During the period in which the applicant responds to the request for additional information, the 120-day review period for the permit is paused or "tolled." Both the applicant and the city have the option to agree to a reasonable extension of time if needed.

The city is required to make a decision—approve, approve with conditions, or deny—regarding the application within 120 days after receiving a completed application. During this timeframe, the city may not request additional information from the applicant more than three times, unless the applicant waives such limitation.

If the city requests additional information from an applicant and the applicant submits the requested additional information to the local government within 30 days after receiving the request, the local government must take action within a specified time frame. Within 15 days after receiving such information for the first time, or within 10 days after receiving it a second time, the local government must:

- Determine if the application is properly completed;
- Approve the application;
- Approve the application with conditions;
- Deny the application; or
- Advise the applicant of any additional information needed to deem the application properly completed or to assess its sufficiency.

Before a third request for additional information may be made, the applicant must be given an opportunity to meet with the city to attempt to resolve any outstanding issues. If a third request for additional information is made and the applicant submits the requested additional information to the city within 30 days after receiving the request, the city must act promptly. Within 10 days after receiving

such information, unless the applicant has waived the limitation in writing, the city must determine that the application is complete and:

- Approve the application;
- Approve the application with conditions; or
- Deny the application.

If the city fails to meet the deadlines provided, it must reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline. Each 10-percent reduction shall be based on the original amount of the building permit fee unless the parties agree to an extension of time.

The procedures above outlined apply to various building permit applications, including but not limited to: accessory structure; alarm permit; nonresidential buildings less than 25,000 square feet; electric; irrigation permit; landscaping; mechanical; plumbing; residential units other than a single-family unit; multifamily residential not exceeding 50 units; roofing; signs; site-plan approvals and subdivision plats not requiring public hearings or public notice; and lot grading and site alteration associated with the permit application set listed.

However, these procedures do not apply to permits for any wireless communications facilities or instances where a law, agency rule, or local ordinance specifies different timeframes for the review of local building permit applications. If a local government has different timeframes for reviewing building permit applications than those set by the state, it must adhere to the deadlines established by local ordinance. Failure to meet an established deadline to approve, approve with conditions, or deny an application obligates the local government to reduce the building permit fee by 10 percent for each business day that it fails to meet the deadline.

CERTIFIED LOCAL GOVERNMENTS

Historic preservation laws represent a variation of the land use laws frequently utilized by local governments. Unlike typical zoning regulations which focus on density or usage, the primary objective of a historic preservation ordinance is to uphold the appearance of historic structures and the visual integrity of historic districts. In this regard, they resemble aesthetic zoning practices, such as the regulation of signs. Nevertheless, they are regarded by the courts as a form of zoning or land use ordinance and are subject to the same legal constraints.

The National Historic Preservation Act (NHPA) establishes the National Register of Historic Places and authorizes the Secretary of Interior to designate properties as historic landmarks, and to set forth criteria for landmark designation. The Act requires individual states to take on more responsibility for historic sites in their jurisdictions, and each State is required to have historic preservation office and to complete an inventory of important sites.

The State efforts are led by the State Historic Preservation Officer (SHPO) designated by the Governor to act as liaison for purposes of administering historic preservation programs within that States. The SHPO identifies and nominates properties to the National Register of Historic Places and maintains an inventory of historic sites. In Florida, the Bureau of Historical Resources is responsible for the state's preservation policy and cooperates and assists local governments with preservation efforts. The Bureau of Historical Resources also works with the National Park Service to run the Certified Local Government Program in Florida.

The Certified Local Government (CLG) Program established under the National Historic Preservation Act is administered jointly by the National Park Service and state preservation offices (Florida Bureau of

Historical Resources). Under the NHPA, local governments which have established historic preservation programs may participate in the CLG program. Benefits of participation include eligibility for special grants, technical assistance and training, and participation in the National Register nomination process for local properties. In Florida, every CLG may apply to the Bureau of Historic Resources for grants from the state's annual apportionment from the federal Historic Preservation Fund. Federal law requires that at least ten percent of the amount transferred annually to the State of Florida under the NHPA be distributed to certified local governments.

Participating in the Certified Local Government (CLG) program offers numerous benefits to local governments. Through this program, municipalities can access technical assistance and training opportunities provided by the Bureau of Historic Preservation. Additionally, CLGs hold a formal role in commenting on National Register nominations for properties within their jurisdiction.

CLGs in good standing are also eligible to compete for subgrants funded by the Historic Preservation Fund, which the Division receives annually from the National Park Service. These federal CLG subgrants can be utilized for various purposes, including surveying, planning, and National Register nomination projects. Moreover, CLGs in good standing, whether state or federally funded, may qualify for match waivers for Small Matching Grants.

On a broader scale, participation in the CLG program facilitates connections with a statewide and national network of other CLG communities. This network allows for the sharing of ideas, resources, and support among participants, enhancing collaborative efforts in historic preservation endeavors.

Per the guidelines outlined by the Florida Certified Local Government (CLG) program, CLGs are mandated to uphold certain standards. These include maintaining a historic preservation ordinance, convening for meetings at least four times per year, and submitting minutes and agendas for each meeting to the State Historic Preservation Officer (SHPO). Additionally, CLGs are required to complete an annual report detailing their activities.

In the event that a CLG is not in good standing, they will receive notification and a specific timeframe to rectify any deficiencies. If improvements are not made within the stipulated timeframe, the SHPO may request that the National Park Service de-certify the community from the CLG program. This underscores the importance of adherence to the program's guidelines to maintain active participation and eligibility for its benefits.

The federal government, despite its limited role, plays a crucial part at the local level. Its contribution can be understood in two main ways: firstly, through federal statutes such as the National Historic Preservation Act, which establish national policies on historic preservation and regulate the impact of federal projects on historically significant properties. Secondly, specific federal agencies, notably the National Park Service, administer certain historic resources and coordinate historic programs. Moreover, federal income tax policy is leveraged to support historic preservation and rehabilitation efforts. However, it's important to note that local government ordinances remain fundamental in preserving historic resources.

While local historic preservation ordinances may vary significantly, there are some consistent elements that are typically present. Most historic preservation ordinances typically include ten fundamental components:

1. A statement outlining the purpose of the ordinance.
2. A delineation of powers and authorities granted.
3. Establishment of a historic preservation commission.

4. Criteria for the designation of landmarks and/or historic districts.
5. Procedures and criteria governing the nomination and designation of landmarks.
6. Specification of the types of actions subject to review by the preservation commission and the legal implications of such reviews.
7. The criteria utilized by the commission when assessing reviewed actions.
8. Consideration of the economic impact of designation or review of an action.
9. Procedures for filing appeals from decisions made by the preservation commission.
10. Stipulations regarding fines and penalties for violations of ordinance provisions.

These guidelines also outline requirements relevant to the historic preservation commissions established by local ordinances. They specify that a duly appointed commission should consist of a minimum of five members possessing expertise in architecture, history, architectural history, planning, archaeology, urban planning, or other fields related to historic preservation. These commissions are entrusted with reviewing proposed alterations or demolitions, as well as nominations to the National Register within defined timeframes. As per the guidelines, it is essential that the commissions are adequately staffed to facilitate their tasks.

Any comprehensive historic preservation ordinance should also include provisions for a permitting process regarding the alteration or modification of listed properties within its jurisdiction. This permitting process should be closely coordinated with other local authorities to ensure that other permits are only granted once the local preservation board has issued a "Certificate of Appropriateness," indicating its approval of the proposed action. Additionally, a similar procedure should be in place for the preservation board to review requests for the demolition of listed historic properties and contributing structures, both within and outside of historic districts. Ideally, the preservation board should possess the authority to prevent, rather than merely delay, the demolition of such properties.

Furthermore, a well-drafted historic preservation ordinance should prohibit owners from allowing protected structures to deteriorate to the extent that they endanger the building or have a detrimental impact on the surrounding historic district. The concept of "demolition by neglect" must be addressed, wherein a landowner intentionally neglects a protected structure with the aim of obtaining a demolition permit once the structure has deteriorated to a point where it poses a threat to public safety.

RECOMMENDATIONS

The following is a catalog of recommendations. It includes the subject for the recommendation, the items for consideration, and anticipated outcome of implementation of the recommendation.

SUBJECT	RECOMMENDATION	ANTICIPATED OUTCOME
Staff	Clarify Roles	Clarification of who is in charge of the interpretation of the land development regulations.
	Supplement staff by continuing to utilize the cost recovery system	Will assure the process is as fast as possible. Cost recovery provides staff as needed at little no cost to the City

SUBJECT	RECOMMENDATION	ANTICIPATED OUTCOME
Building Permit Review	No building permit number until zoning and LDR review. Include planning and historic preservation in plan review then subsequent inspection when construction is complete as part of every building permit More planning department staff. Ensure that Planning Staff are involved in all zoning reviews for building permits. Create list of permits that should be reviewed by planning, (zoning, HARC, tree)	Avoid after the fact construction errors. More staff will facilitate the expeditious review of building permits.
Departments	Create a Development Services Department to oversee the planning, building and licensing aspects of development review Revaluate and benchmark building and planning fees Coordinate Planning Dept. reviews with land use attorney. More communication between Building and Planning Departments. Expand staff in the Licensing Division, Consider a staff member to lead inspections for license compliance, and guide code compliance inspections for licensing.	A Development Services director will ensure that communication is occurring between the Building and Planning Departments.
Zoning Code	Rewrite zoning code. Consider revising the variance criteria. Create summaries of the zoning enforcement process so applicants and residents know what to expect.	Rewrite of the code to simplify and create a code that better reflects the needs and development practices of the city. Variance criteria can be onerous for applicants to satisfy. By making the criteria more subjective, it can be written to impart more flexibility.

SUBJECT	RECOMMENDATION	ANTICIPATED OUTCOME
Development Project Review	Create a Development Review Process Handbook Created an expedited review process specific for larger and separately for smaller projects. Assign a concierge on behalf of the city to liaison with the applicant for development applications. Have project meetings between reviewers. Streamline Processes and procedures and review submittal application materials requirement. Assure that all cost recovery accounts are paid in full prior to issuing approvals	Provide clarity and consistency for the process from entitlements to building permits. Applications for larger or more critical projects as well as smaller more simple ones can be expedited for applicants that can meet certain criteria or performance measures (to be developed). Weekly project meetings between all levels of reviewers could be held to ensure communications across the spectrum, and monthly reporting to the City Manager and elected officials would be beneficial to assure accountability. Remove duplicative or unnecessary requirements.
Development Board Meetings (includes Planning Board, DRC, Tree Commission, and HARC)	Provide a virtual option all board meetings through an online meeting platform like Zoom. Collaborate with board members to create a system allowing virtual attendance for board members, while ensuring a physical quorum is maintained. Providing training to local board members in the roles and responsibilities Clarify Signoff Process by each board. Consolidate review board meetings Mandate an informational meeting at the subject property prior to the public	Online meetings facilitate attendance by the public and enhance engagement with the community. More training and standardization of procedures can help avoid deviation from the processes and adherence to local codes. The recommended Development Review Process Handbook should include a schedule outlining meetings and submission requirements concerning DRC sign-off, public meetings such as those with Historic Preservation, Planning and Zoning, and the City Commission. The aim is to clarify procedures for applicants and establish standards for staff. Consolidate review board meetings will ensure less overlap

SUBJECT	RECOMMENDATION	ANTICIPATED OUTCOME
	hearing for any public hearing requests. See Coral Gables.	of comments and help streamline the process.
Historic Development Review	Have a forensic analysis of HARC projects to insure compliance with the code. Digitize and organize the historic records. Staff from the Historic Preservation department should conduct inspections for HARC (Historic Architectural Review Commission) review of building permits. Consider implementing standard and special Certificate of Appropriateness applications.	A baseline needs to be determined to understand what is being built outside of zoning code or the LDR. As communities strive to utilize Artificial Intelligence in the administration of processes, the need for well-organized databases is a prerequisite. Differentiating the applications that can be approved administratively and those that require a public hearing.
Outreach	Provide regular outreach to the development community related to the development review and approval system administered to by the planning and building department Monthly meet and greets, or workshops or informal meetings Presentations at community events, (chamber of commerce). Hold regular industry training sessions for development professionals, developers, architects, planners or contractors that want to do business with the city. Create an informal advisory board of industry professionals to make annual recommendations for how to improve processes and procedures. Report a monthly application status report for the city manager, and all boards.	Outreach with the development community and the city will help clarify the expectations for development standards and applicant requirements.
Customer Service	Service training for all staff that interacts with the public. Create customer feedback and evaluation process	This recommendation will help in the review and to quantify issues on a regular basis

SUBJECT	RECOMMENDATION	ANTICIPATED OUTCOME
	Create a list of best management practices Create a development review processes handbook page on the city's website summarizing the planning, building and licensing processes, procedures and timelines, included listing of applications, forms methodologies and guiding sections of code. Consider assigning a front desk staff member to answer planning inquiries and be accessible to the general public for any planning-related questions.	
Development Review	Multiple changes to the applicant's submittal during the development review process frequently result in new concerns presented that may not be accounted by staff outside of Planning, rendering previous analysis by other departments, like Utilities, outdated. Improve communication or provide a central repository system viewable to DRC staff that will send a notification of submittal changes during the development review process, Improve monitoring of public facility demands proposed by projects as well as the number of units being developed. Improve the completeness check review process. Provide an updated list of required submittal items. Planning staff is recommended to inspect and confirm conditions of approval are followed during the building permitting process, Allow for partial sign-off by DRC members but require final sign-off prior to the first public hearing.	A more streamlined review process for the applicant and staff.