



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

**To:** Chairman and Planning Board Members

**Through:** Patrick Wright, Planning Director

**From:** Ginny Haller, Planner II

**Meeting Date:** December 21, 2017

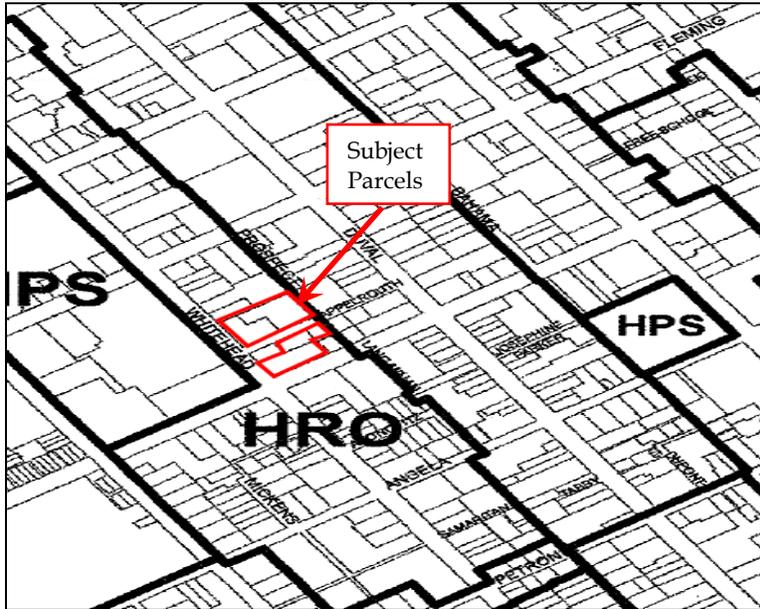
**Agenda Item:** **Comprehensive Plan Text Amendment - 402 Appelrouth Lane (RE# 00010000-000102 ; RE# 00010000-000103 ; RE# 00010000-000104 ; RE# 00010000-000105 ; RE# 00010000-000106), 409 Appelrouth Lane (RE# 00010020-000000), 416 Appelrouth Lane (RE# 00009980-000000), 517-519 Whitehead Street (RE#00009990-000000), 533 Whitehead Street (RE# 00010010-000000) – A resolution of the City of Key West Planning Board recommending an ordinance to the City Commission proposing an amendment to Table 1-1.1.5 of the Future Land Use Element of the Comprehensive Plan; providing for severability; providing for the repeal of inconsistent provisions; an effective date; and providing for the inclusion into the City of Key West Comprehensive Plan.**

**Request:** The applicant is requesting an amendment to the Comprehensive Plan specifically Table 1-1.1.5 for the HRO Zoning District Uses and Limitations.

**Applicant:** Trepanier & Associates, Inc.

**Property Owners:** Browning Family revocable Trust, James J. Sireci, Jr., Bone Island Properties Inc., Whitehead Trust LLC, Savage KW Properties, Inc.

**Location:** 402 Appelrouth Lane (RE# 00010000-000102 ; RE# 00010000-000103 ; RE# 00010000-000104 ; RE# 00010000-000105 ; RE# 00010000-000106), 409 Appelrouth Lane (RE# 00010020-000000), 416 Appelrouth Lane (RE# 00009980-000000), 517 Whitehead Street (RE#00009990-000000), 533 Whitehead Street (RE# 00010010-000000).



**Background**

The purpose of this Ordinance is to amend the City’s Comprehensive Plan in response to a submitted application for the proposed Comprehensive Plan text amendment. The properties are located at the southern end of Appelrouth Lane and Southard Street bound by Whitehead Street. The properties are located within the historic district and all of the buildings with the exception of 533 Whitehead Street are contributing structures according to the City’s 2011 Historic Resources Survey. Historic uses of the properties over the last 100 years includes residential dwellings, retail stores, a restaurant, a bakery, a tailor, and a grocery according to Sanborn maps from 1892 to 1962. The current use of the properties is outlined below according to City Licensing Department records:

<b>Property Address</b>	<b>Current Use</b>
402 Appelrouth Lane	Mixed Use Residential and Commercial
409 Appelrouth Lane	Transient Residential
416 Appelrouth Lane	Restaurant
517 Whitehead Street	Transient and Non-Transient Residential
533 Whitehead Street	Small Recreational Power Driven Equipment Rentals/ Commercial Retail

**Request**

The proposed text amendment to the Comprehensive Plan, specifically to Table 1-1.1.5 for the HRO Zoning District Uses and Limitations is as follows:

**Table 1-1.1.5: In order to prevent an inadvertent increase in maximum density or intensity that might result from combining multiple zoning districts into a single Future Land Use District, the maximum amount of dwelling units per acre and floor area are established as of January 1, 2012. Social service special needs and group homes shall be measured in FAR, not units per acre.**

<b>HISTORIC COMMERCIAL FUTURE LAND USE DISTRICT</b>			
<b>Zoning District</b>	<b>Density</b>	<b>Intensity</b>	<b>Uses &amp; Limitations</b>
(HRO) Historic Residential/Office	Maximum 16 dwelling units per acre	Maximum FAR of 1.0	Allowable non-residential uses are business and professional offices, existing grandfathered transient residential uses, and customary accessory uses and community facilities including public schools.  New transient uses are not permitted, <u>except where specifically allowed by the Land Development Regulations.</u> *

\*(Coding: Added language is underlined.)

**Surrounding Zoning and Uses:**

**North:** HRCC-1, Tourist commercial entertainment thoroughfare

**South:** HPS, County courthouse facilities

**East:** HRO, Nonconforming commercial uses

**West:** HRO, Offices

**Land Development Regulations Amendment Process:**

Planning Board: December 21, 2017  
 Planning Board: November 16, 2017 (Postponed)  
 If denied, then appeal may be filed within 10 calendar days.  
 City Commission (1st Reading) Pending  
 City Commission (2nd Reading) Pending  
 Local Appeal Period: 30 days  
 Render to DEO 10 working days  
 DEO Review: Up to 45 days  
 DEO Notice of Intent (NOI)  
 Effective when NOI posted to DEO website

**Analysis:**

The purpose of Chapter 90, Article VI, Division 3 of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) is to provide a means for changing the text of the comprehensive plan. It is not intended to relieve particular hardships nor to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the city commission shall consider, in addition to the factors set forth in this

subdivision, the consistency of the proposed amendment with the intent of the comprehensive plan.

Pursuant to Code Section 90-554(6), the Planning Board, regardless of the source of the proposed change in the comprehensive plan, shall hold a public hearing thereon with due public notice. The Planning Board shall consider recommendations of the City Planner, City Attorney, Building Official and other information submitted at the scheduled public hearing. The Planning Board shall transmit a written report and recommendation concerning the proposed text amendment to the City Commission for official action. In its deliberations, the Planning Board shall consider the criteria in Code Section 90-554.

**Criteria for Approving Amendments to the Land Development Regulations pursuant to Code Section 90-554(6) and 90-555.** In evaluating proposed changes to the Comprehensive Plan, the City shall consider the following criteria:

**Sec. 90-554(6). Application and fee.**

**(6) Justification.** The need and justification for the proposed change. The evaluation shall address but shall not be limited to the following issues:

**a. Comprehensive plan consistency.** Identifying impacts of the proposed change in the comprehensive plan future land use map on the overall purpose of the comprehensive plan and consistency with applicable policies within the comprehensive plan.

The City's Comprehensive Plan (the "Plan") was developed in response to the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, Florida Statutes). The Plan and its updates are consistent with the State, Regional and County plans; and serves as the basis for all land development decisions within the City of Key West. In addition to fulfilling legislative requirements, the City's Plan:

- ❖ Protects and maintains its natural, historic and cultural resources;
- ❖ Preserves its community character and quality of life;
- ❖ Ensures public safety, and;
- ❖ Directs development and redevelopment in an appropriate manner.

The proposed Comprehensive Plan amendment would be inconsistent with the overall purpose of the Plan as it would allow for potential expansion of uses that are inconsistent with the prescribed development pattern established. Currently, the HRO zoning district has a number of existing nonconforming uses spread throughout the district.

**b. Impact on surrounding properties and infrastructure.** The effect of the change, if any, on the particular property and all surrounding properties. Identify potential land use incompatibility and impacts on infrastructure.

The proposed change could expand transient uses in an area where transient use is not a permitted use. That said, Table 1-1.1.5 of the Comprehensive Plan states existing grandfathered transient residential uses are allowed.

**c. Avoidance of special treatment.** The proposed change shall not:

1. Single out a small piece of land and confer special and privileged treatment not provided to abutting properties with similar characteristics and land use relationships; and
2. Provide for land use activities which are not in the overall public interest but only for the benefit of the landowner.

The proposed change to the Comprehensive Plan does not single out a small piece of land, and not only for the benefit for the landowners.

d. *Undeveloped land with similar comprehensive plan future land use map designation.*  
The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested shall be stated.

There is no undeveloped land within the area.

**Sec. 90-555. Criteria for approving amendments to comprehensive plan future land use map.**

In evaluating proposed changes to the comprehensive plan future land use map, the city shall consider the following criteria:

**(1) *Consistency with plan.* Whether the proposal is consistent with the overall purpose of the comprehensive plan and relevant policies within the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.**

*Consistency with the Comprehensive Plan*

The City's Comprehensive Plan (the "Plan") was developed in response to the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, Florida Statutes). The Plan and its updates are consistent with the State, Regional and County plans; and serves as the basis for all land development decisions within the City of Key West. In addition to fulfilling legislative requirements, the City's Plan:

- ❖ protects and maintains its natural, historic and cultural resources;
- ❖ preserves its community character and quality of life;
- ❖ ensures public safety, and;
- ❖ directs development and redevelopment in an appropriate manner.

The proposed land development regulation amendment would be inconsistent with Table 1-1.1.5 of the comprehensive plan, which outlines the uses and limitations of the HRO Zoning District and states in part "new transient uses are not permitted". The Table recognizes the existing grandfathered transient residential uses. The proposed amendment seeks to permit transient uses as of right specifically in the proposed Appelrouth Business Corridor.

*Consistent with the adopted infrastructure minimum LOS standards and concurrency*

The result of changing the permitted and conditional uses for these properties could potentially increase the demand on potable water, sewage and solid waste.

**(2) *Conformance with ordinances.* Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.**

The conformity of the proposed Land Development Regulations amendment with all applicable requirements of the City Code is being evaluated herein. The submitted application contains all of the information requirement by Code Section 90-520 for zoning map amendments.

**(3) *Changed conditions.* Whether, and the extent to which, land use and development conditions have changed since the comprehensive plan's effective date and whether such conditions support or work against the proposed change.**

The existing LDRs were adopted on July 3, 1997 through Ordinance No. 97-10 following adoption of the 1994 Comprehensive Plan. Over the last 18 years, the Comprehensive Plan and LDRs have been amended from time-to-time. A new Comprehensive Plan was adopted on March 5, 2013 and became effective on May 2, 2013. Since the adoption of the new Comprehensive Plan, the LDRs and the Official Zoning Map have not been significantly amended, with the exception of the Building Permit Allocation System (BPAS) ordinance.

The properties have been located within the HRO Zoning District since the adoption of the 1994 Comprehensive Plan and the 1997 Land Development Regulations. After the adoption of the 1994 Comprehensive Plan subsequent LDRs in 1997; The following uses became existing nonconforming: hotel, motel and transient lodging, restaurants, retail and small recreational power-driven equipment rental. These nonconforming uses are permitted to be continued per Section 122-27 which states in part: "The intent of this article is to permit a nonconforming use and a noncomplying structure or building to be continued, to be reconstructed or replaced, or to be repaired or maintained under certain conditions, but not to encourage their expansion". Overall there has been minimal change in conditions since the adoption of the 1994 Comprehensive Plan and the 1997 LDRs with respect to the HRO Zoning District. The Future Land Use Map of 1994 and the subsequent adoption of the official zoning map most likely intended many of the nonconforming uses to change or be abandoned over time. This was not the case as the HRO zoning district as a whole contains a large number of longstanding nonconforming uses.

**(4) *Land use compatibility.* Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.**

The properties are currently mixed use commercial, including transient residential, commercial retail, restaurant, scooter and electric car rental as well as permitted by right office uses. The proposed text amendment would bring into conformance many of the nonconforming uses that exist currently. That being said these nonconforming uses are permitted to be continued per Section 122-27. Given the longstanding existence of these uses as well as the proximity to the HRCC-1 zoning district and multiple nonconforming uses within the HRO district surrounding the property, the proposed text amendment would not create incompatible uses.

**(5) Adequate public facilities.** Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services. Approval of a plan amendment does not constitute a concurrency determination, and the applicant will be required to a concurrency determination pursuant to Code Chapter 94.

The demand for some public facilities would increase and some would not change. The properties given their current uses are not putting additional strain on the current LOS standards. However, the result of changing the permitted and conditional uses for these properties could potentially increase the demand on potable water, sewage and solid waste.

**(6) Natural environment.** Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

The property does not contain any wetlands or groundwater aquifers. Any impacts on vegetative communities would be reviewed and mitigated at the time of a proposed development. The proposed text amendment is not expected to result in adverse impacts on the natural environment.

**(7) Economic effects.** Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.

The taxable values of properties is expected to have minimal or no effect as the existing uses are considered for tax purposes. The proposed text amendment is not expected to adversely affect the property values in the area or the general welfare.

**(8) Orderly development.** Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.

The proposal maintains the existing land use patterns for the identified properties. The negative impact is that the proposal is inconsistent with the Comprehensive Plan Table 1-1.1.5, which details the HRO uses and limitations, states in part “*New transient uses are not permitted.*” Currently, the HRO zoning district has a number of existing nonconforming uses spread throughout the district.

Therefore staff finds that orderly development will not be achieved through the proposed zoning amendment.

**(9) *Public interest; enabling act.* Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this subpart B and its enabling legislation.**

The proposed text amendment adds new permitted and conditional uses on these specific properties within the HRO Zoning District. The new permitted uses proposed would be hotel, motel and transient lodging, restaurants and retail. New conditional uses proposed would be larger retail (+5,000 sq. ft.) and small recreational power-driven equipment rentals. This would not be in conflict with the public interest, and would be in harmony with the purpose and interest of the LDRs.

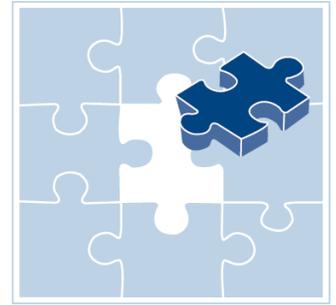
**(10) *Other matters.* Other matters which the planning board and the city commission may deem appropriate.**

The Comprehensive Plan Table 1-1.1.5 for HRO uses and limitations states in part that “existing grandfathered transient residential uses” are allowable, as well as stating no new transient uses are allowed. Therefore the proposed amendment could create new transient uses.

#### **RECOMMENDATION**

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request to amend the Comprehensive Plan be **APPROVED**.

# Application



Addendum 10/17/17

# Text Amendment to the Comprehensive Plan

Pursuant to Chapter 90, Article VI, Division 3  
 City of Key West Land Development Regulations.

## Executive Summary:

The following is an analysis of the proposed Comprehensive Plan Text Amendment based on the criteria contained in Chapter 90.

The analysis demonstrates the proposed Text Amendment is not inconsistent with the Comprehensive Plan and the Future Land Use Map.

## Proposed Amendment:

Amend Table 1-1.1.5 of the Comprehensive Plan, as follows (amendment is **underlined**):

HISTORIC COMMERCIAL FUTURE LAND USE DISTRICT			
Zoning District	Density	Intensity	Uses & Limitations
(HRO) Historic Residential/ Office	Maximum 16 dwelling units per acre	Maximum FAR of 1.0	Allowable non-residential uses are business and professional offices, existing grandfathered transient residential uses, and customary accessory uses and community facilities including public schools.  New transient uses are not permitted, <b><u>except where specifically allowed by the Land Development Regulations.</u></b>

## Analysis:

Consistency with Sec. Sec. 90-554(6)

### a. Comprehensive plan consistency.

The proposed change is consistent with applicable policies within the plan by bringing both the existing and historic land uses into harmony with the regulatory framework relieving non-conforming status of approved uses within the HRO

zoning district. Additionally, Consistency with specific Goal, Objectives, Policies are demonstrated below:

Comprehensive Plan Goal, Objectives, Policy	Consistency
<p><b>GOAL 1-1:</b> ENSURE THAT THE CHARACTER AND LOCATION OF LAND USES INCORPORATE BEST MANAGEMENT PRACTICES AND PRINCIPLES OF RESOURCE CONSERVATION; ENHANCE COMMUNITY APPEARANCES; PROMOTE ORDERLY LAND USE TRANSITION, AND; MINIMIZE THREATS TO HEALTH, SAFETY, AND WELFARE WHICH MAY BE CAUSED BY INCOMPATIBLE LAND USES, ENVIRONMENTAL DEGRADATION, HAZARDS AND NUISANCES.</p>	<p>The proposed amendment ensures the character and location of certain historical and current land uses abide by performance standards (best management practices) within a regulatory framework which enhances community appearance, orderly transition and promotion of public health and welfare.</p>
<p><b>OBJECTIVE 1-1.1:</b> FUTURE LAND USE MAP. The Future Land Use Map depicts the City's vision for its current and future development through the provision and location of specific future land use districts. All development and redevelopment in the City shall be in accordance with the Map, as it may be amended from time to time.</p>	<p>The proposed amendment respects the City's vision for development and redevelopment in accordance with the intention of amended future land use maps.</p>
<p><b>Policy 1-1.1.6:</b> Historic Preservation Areas: Areas delineated on the Future Land Use Map for historic preservation shall be planned and managed using a regulatory framework designed to preserve the form, function, image, and ambiance of the Historic Preservation Districts. Dependent upon the size and scope of development proposals, either the City's Historic Architectural Review Commission (HARC) and/or Historic Preservation Planner, in addition to the Planning Board and/or staff, shall review all development proposals within the City's designated historic districts. Any development plans for these areas shall be subject to site plan review and shall be designed in a manner compatible with historic structures within the vicinity.</p>	<p>The proposed amendment supports a regulatory framework that promotes performance standards to preserve the form, function, image, and ambiance of the Historic Preservation District by recognizing vintage commercial rights in specific areas of Old Town.</p>
<p><b>Policy 1-1.3.1:</b> Designate Various Types of Mixed Use Commercial Nodes to Accommodate Diverse Commercial Uses.</p>	<p>Approval of the request will more adequately ensure availability of a mixed use commercial node at the intersections of Appelrouth Lane, Whitehead Street and Southard Street because the uses will no longer be nonconforming.</p>
<p><b>Policy 1-1.3.2:</b> Designate Various Types of Mixed Use Commercial Nodes to Accommodate Diverse Commercial Uses. A variety of commercial development designations shall be provided in order to adequately ensure availability of sites that accommodate the varied site and spatial requirements for such activities as: professional and business offices, limited commercial activities, and general retail sales and services.</p>	<p>The proposed amendment recognizes and manages characteristics and impacts of respective commercial activities through adoption and implementation of qualitative and quantitative performance standards, thus ensuring continued sustainability, compatibility and adaptation for vintage neighborhood commercial uses in certain areas of Old Town.</p>
<p><b>Policy 1-1.5.1:</b> Reinforce and Enhance the City's Community Appearance. Major attributes shall be preserved through application of design review standards and management of signs, landscaping, open space, tree protection, and other urban design</p>	<p>The proposed amendment recognizes existing vintage neighborhood commercial uses as urban design amenities that, if preserved through performance standards, will continue to improve and enhance the character of the man-made</p>

<p>amenities. Special emphasis shall be placed on preserving and/or improving the character of major natural and man-made corridors, including the waterfront shoreline, scenic views of the waterfront and tidal waters, wetlands, major drainage corridors, and major transportation corridors which serve as a focal point for the motoring public.</p>	<p>environment, specifically the area along Appelrouth Lane and its abutting properties.</p>
<p><b>Policy 1-1.9.2:</b> Comprehensive Plan Implementation and Land Development Regulations. The City shall continue to ensure that during the development review process the City shall enforce qualitative and quantitative performance criteria consistent with the Comprehensive Plan policies governing the preservation of environmentally sensitive lands, including wetlands; stormwater; convenient on-site traffic flow and vehicle parking; and all other requisite infrastructure both on- and off-site as stipulated within the Comprehensive Plan. Furthermore, the City shall require maintenance and continuing adherence to these standards. The City's existing Land Development Regulations governing zoning; subdivision; signage; landscaping and tree protection; sustainability; and surface water management shall be enforced and shall be revised as needed in order to: 1) effectively regulate future land use activities and natural resources identified on the Future Land Use Map; 2) adequately protect property rights; and 3) implement the goals, objectives, and policies stipulated in the Comprehensive Plan.</p>	<p>The proposed amendment adopts and implements qualitative and quantitative performance criteria consistent with Comprehensive Plan policies governing requisite infrastructure; specifically, neighborhood commercial intensity standards.</p> <p>Furthermore, the proposed amendment ensures Land Development Regulations are revised in order to effectively regulate future land use activities, adequately protect property rights; and implement the goals, objectives, and policies in the Comprehensive Plan.</p>
<p><b>Policy 1.1.9.5:</b> Land Use Consistency and Compatibility. The City of Key West shall continue to enforce Land Development Regulations which ensure that future land uses shall be compatible with the Future Land Use Map, hurricane evacuation plans, and other applicable laws, ordinances, and administrative rules regulating land and water resource management.</p>	<p>The proposed amendment adopts regulations that protect private property rights while simultaneously ensuring land use compatibility through qualitative and quantitative performance standards which recognize and manage characteristics and impacts of respective vintage neighborhood commercial uses to ensure continued sustainability, compatibility and adaptation best management practices.</p>
<p><b>Policy 2-1.1.3:</b> Dense Urban Land Area. The City of Key West is a substantially developed dense urban land area and is thereby exempted from transportation concurrency requirements for roadways. The City recognizes that its development characteristics make substantive expansion of capacity of the roadway system prohibitive. The City will therefore prioritize improving the safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development) as its primary strategies for addressing current and projected transportation needs.</p>	<p>The proposed amendment recognizes the development characteristics of Old Town as a historically mixed-use area that relies on sustainable support mechanisms for permanent and seasonal residents. By recognizing existing vintage neighborhood-oriented cafes and restaurants that are supportive of residents and visitors alike in a dense, walkable, pedestrian-oriented, mixed use environment, this amendment addresses the primary strategic focus away from auto-centric development patterns.</p>

**b. Impact on surrounding properties and infrastructure.**

The proposed change does not effect changes or impacts on any surrounding properties. The change recognizes existing land uses within the sub-district and

does not create, or allow, new, or incompatible, impacts on surrounding infrastructure.

The existing and historic use of the subject properties and surrounding properties has been mixed use commercial for at least half a century. The proposed text amendment is not anticipated to result in any significant impacts to surrounding properties and infrastructure because the historic and existing mixed use commercial character of the surrounding area is not anticipated to change.

Surrounding Properties:

Adjacency	Existing Use	Future Land Use	Zoning
North	Mixed Use Commercial	Historic Commercial	HRO
South	Mixed Use Commercial	Historic Commercial	HRCC-1 & HRO
East	Mixed Use Commercial	Historic Commercial	HRCC-1
West	Government	Historic Public Semipublic	HPS

**c. Avoidance of special treatment.**

The proposed change shall not:

1. The proposed change does not single out a small piece of land or confer special and privileged treatment not provided to abutting properties with similar characteristics and land use relationships. This is demonstrated by the fact that the change only recognizes existing uses already present in the sub-district previously approved, but nonconforming today.
2. Recognition of the existing land use activities are in the overall public interest as demonstrated by the fact that all the existing uses have been approved by the City in the past. As mentioned above, the proposed change will not allow any new uses, not already present, in the sub-district.

**d. Undeveloped land with similar comprehensive plan future land use map designation.**

There is no undeveloped land in the general area or in the city with the same zoning classification as that requested.

**Consistency with Sec. 90-555**

- (1) Consistency with plan. Whether the proposal is consistent with the overall purpose of the comprehensive plan and relevant policies within the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Consistency analysis pursuant to Sec. 90-551, above, demonstrates compliance and consistency with the Plan.

Consistency with adopted infrastructure minimum levels of service standards

The text amendment proposes to recognize existing uses and legitimize the historical and current LDR intensity of 1.0 for HMDR properties. Therefore, no additional impact on surrounding properties or infrastructure is currently anticipated or modelled.

Based on the LOS evaluation criteria, the impacts of the proposed changes are generally summarized as follows:

- The proposed change is not expected to alter demand on the surrounding transportation system.
- The proposed change is not expected to alter demand for Potable Water
- The proposed change is not expected to alter Wastewater supply
- The proposed change is not expected to alter Solid Waste supply
- The proposed change is not expected to alter Stormwater LOS.
- The proposed change is not expected to alter Recreation LOS.

As demonstrated in Section 90-521(5) (below) adequate public facilities are available to provide service to the development and the request is consistent with adopted infrastructure minimum levels of service standards.

Concurrency management program.

The request is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application.

- (2) Conformance with ordinances.** Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.

The proposal is in conformance with the procedures for amending the Land Development Regulations as demonstrated herein.

Dimensional Requirements Comparison	Section 122-930 HRO	Section 122-930 HRO
Maximum density (dwelling units per acre)	16	<b>No Change</b>
Maximum floor area ratio	1.0	<b>No Change</b>
Maximum height (feet)	30	<b>No Change</b>
Maximum lot coverage		<b>No Change</b>
Maximum building coverage	50%	<b>No Change</b>
Maximum impervious surface ratio	60%	<b>No Change</b>
Minimum lot size (square feet.)	5,000	<b>No Change</b>
Minimum lot width (feet)	50	<b>No Change</b>
Minimum lot depth (feet)	100	<b>No Change</b>
Minimum setbacks (feet)		<b>No Change</b>
Front	5	<b>No Change</b>
Side	5	<b>No Change</b>
Rear	10	<b>No Change</b>
Street side	5	<b>No Change</b>

- (3) Changed conditions.** Whether, and the extent to which, land use and development conditions have changed since the comprehensive plan's effective date and whether such conditions support or work against the proposed change.

The effective date of the Land Development Regulations is July 3, 1997. The recently adopted, 2030 Comprehensive Plan was adopted on March 5, 2013. Both the Comprehensive Plan and the LDRs are “Living Documents” that are, by their very nature, designed to evolve and change with the community’s goals. This amendment seeks to recognize long standing neighborhood commercial uses which predate the effective dates of the land development regulations and the comprehensive plan.

- (4) Land use compatibility. Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.

The proposal will result in reduction of nonconforming uses within the future land use designation and no incompatible land uses are anticipated from the proposal. The proposal requests recognition of existing neighborhood-oriented cafe and restaurant uses under specific circumstances. The request proposes compatibility performance criteria for specific, pre-existing vintage commercial uses to ensure compatibility with abutting properties in a geographically limited context.

Land Use Compatibility Analysis	HRO (Existing)	HRO (Proposed)
Single-family and two-family residential dwellings.	Permitted	Permitted
Multiple-family residential dwellings.	Permitted	Permitted
Foster homes/Group homes with less than or equal to six residents (section 122-1246).	Permitted	Permitted
Places of worship.	Permitted	Permitted
Business and professional offices.	Permitted	Permitted
Commercial retail low and medium intensity less than or equal to 5,000 square feet, as provided in division 11 of article V of this chapter	Nonconforming	Permitted <sup>1</sup>
Commercial retail high intensity less than or equal to 2,500 square feet, as provided in division 11 of article V of this chapter,	Nonconforming	Permitted <sup>1</sup>
Hotels, motels, and transient	Nonconforming	Permitted <sup>1</sup>
Restaurants, excluding drive-through	Nonconforming	Permitted <sup>1</sup>
Medical services.	Permitted	Permitted
Parking lots and facilities.	Permitted	Permitted
Veterinary medical services, without outside kennels.	Permitted	Permitted
Parks and recreation, active and passive on the Truman Waterfront parcel, only	Conditional	Conditional
Bars and Lounges	Nonconforming	Permitted <sup>1</sup>
Restaurants, excluding drive-through.	Nonconforming	Permitted <sup>1</sup>
Group homes with seven to 14 residents (section 122-1246).	Conditional	Conditional
Cultural and civic activities.	Conditional	Conditional
Educational institutions and day care.	Conditional	Conditional
Nursing homes/rest homes and convalescent homes.	Conditional	Conditional
Parks and recreation active and passive.	Conditional	Conditional
Commercial low and medium intensity greater than 5,000 square feet as provided in division 11 of article V of this chapter	Nonconforming	Conditional
Commercial retail high intensity greater than 2,500 square feet as provided in division 11 of article V of this chapter	Nonconforming	Conditional
Small recreational power-driven equipment rentals	Nonconforming	Conditional
Places of worship.	Conditional	No Change
Protective services.	Conditional	No Change
Public and private utilities.	Conditional	No Change
Parking lots and facilities.	Conditional	No Change

Furthermore, compatibility is addressed via Policy 1-1.2.1, Policy 1-1.2.2 and Policy 1-1.9.5, which addresses existing instances of commercial abutting residential throughout the City. Therefore, the proposal will serve to bolster compatibility requirements within the existing regulatory framework in the Land Development Regulations through additional application of qualitative and quantitative performance standards (best management practices).

- (5) Adequate public facilities.** Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including

Comprehensive Plan Policy 2-1.1.1 - Transportation

Policy 2-1.1.3 effectively eliminates the transportation concurrency requirement in favor of a prioritization of safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, and mixed-use development).

This amendment is impact neutral on public facilities. It does not allow new restaurants or retail; it only recognizes existing.

Policy 2-1.1.3: Dense Urban Land Area.

The City of Key West is a substantially developed dense urban land area and is thereby exempted from transportation concurrency requirements for roadways. The City recognizes that its development characteristics make substantive expansion of capacity of the roadway system prohibitive. The City will therefore prioritize improving the safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development) as its primary strategies for addressing current and projected transportation needs.

The proposal is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed changes.

Policy 4-1.1.2.C – Potable Water

Based on the City of Key West adopted level of service plan pursuant to Policy 4-1.1.2.C, the potable water LOS for residential and nonresidential development is 100 gal/acre/day. The proposed change is not expected to alter demand for potable water and it is not expected that the proposal will result in excess capacity on this public facility.

The proposal is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed

as part of this application. At this time, no system improvements are anticipated as a result of the proposed changes.

Potable water to the City of Key West is provided by the Florida Keys Aqueduct Authority (FKAA). The FKAA has the capacity to provide 23 million gallons per day to Monroe County as a result of the South Florida Water Management District's issuance of Water Use Permit #13-0005, which allocates 17 million gallons per day in the dry season; 17.79 million gallons per day which can be withdrawn from the Biscayne Aquifer; and six million gallons per day provided by a reverse osmosis treatment plant in Florida City.

As documented above, the City is meeting its Level of Service Standard for Potable Water. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development during short and long range planning periods, so the current capacity should remain adequate. Ongoing capital improvements will be necessary to maintain and improve standards and service delivery.

#### Policy 4-1.1.2. A- Sanitary Sewage

Based on the City of Key West adopted level of service plan pursuant to Policy 4-1.1.2. A, the sanitary sewer LOS for nonresidential development is 660 gal/capita/day and the sanitary sewer LOS for residential development is 100 gal/capita/day. The proposed change is not expected to alter demand for sanitary sewer and it is not expected that the proposal will result in excess capacity on this public facility.

The City contracts out the operation of the Richard A. Heyman Environmental Pollution Control Facility, its wastewater treatment plant (Plant), and the associated collection system to Operations Management International, Inc. (OMI). The Plant currently has the capacity to treat 10 million gallons per day, exceeding the capacity required to achieve the existing Level of Service Standard by approximately seven million gallons per day. Actual daily flow is 4.5 million gallons per day. This is a reduction from eight (8) million gallons per day due to a 67-million-dollar capital improvement to the City's wastewater treatment during the past short term planning period, including \$56 million for collection system rehabilitation.

As documented above, the City is exceeding its Level of Service Standard for Wastewater. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long range planning periods, so the current capacity should remain adequate. Ongoing capital improvements and continuing conservation efforts will continue to maintain and improve service delivery.<sup>1</sup>

The proposal is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed

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<sup>1</sup> City of Key West Comprehensive Plan Data and Analysis, Pg. A-16

as part of this application. At this time, no system improvements are anticipated as a result of the proposed changes.

#### Policy 4-1.1.2. D - Solid Waste

Based on the City of Key West adopted level of service plan pursuant to Policy 4-1.1.2.D, the solid waste LOS for nonresidential development is 6.37 lbs/capita/day and the solid waste LOS for residential development is 2.66 lbs/capita/day. The proposed change is not expected to alter demand for solid waste and it is not expected that the proposal will result in excess capacity on this public facility.

The City currently contracts with Waste Management of Florida, Inc. to collect, transfer and dispose of solid waste and residential recyclables. Commercial recyclables and other non-franchised collection services such as construction and demolition debris and yard waste are available on the open market to all licensed haulers. The City owns and operates a solid waste transfer station on Rockland Key that received 45,402.10 tons of solid waste for disposal and 3,607 tons of recyclables in 2009/10. Waste Management disposes of the solid waste collected in Monroe County, including the City of Key West, at its Central Sanitary Landfill in Broward County. In 2009 Waste Management Inc. reported a reserve capacity of 17 years at this facility. There is therefore an estimated reserve capacity of 15 years as of the date of this report.

As documented above, the City is meeting its Level of Service Standard for solid waste. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long range planning periods, and the current capacity should remain adequate. Ongoing capital improvements will be necessary to improve standards and service delivery.<sup>2</sup>

The proposal is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed as part of this application. At this time, no system improvements are anticipated as a result of the proposed changes.

#### Policy 4-1.1.2. D - Recyclable Waste Generation Level of Service

Based on the City of Key West adopted level of service pursuant to Policy 4-1.1.2.D, the recyclable waste LOS for nonresidential development is 0.25 lbs/capita/day) and the recyclable waste LOS for residential development is 0.50 lbs/capita/day. The proposed change is not expected to alter demand for recyclables and it is not expected that the proposal will result in excess capacity on this public facility.

The proposal is consistent with the concurrency management program of Objective 9-1.5. Specific concurrency applications in accordance with Section 94-32 may be required for specific future development plans. No Plans are proposed

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<sup>2</sup> City of Key West Comprehensive Plan Data and Analysis, Pg. A-17

as part of this application. At this time, no system improvements are anticipated as a result of the proposed changes.

#### Comprehensive Plan Policy 4-1.1.2. E- Drainage

Summary Response: Stormwater concurrency will be insured as part of any future development orders in accordance with Chapter 94.

Policy 4-1.1.2. E- Drainage Facilities Level of Service has not changed with the adoption of the new Comprehensive Plan.

The Drainage level of service standard below will be applicable to all types of development. Where two or more standards impact a specific development, the most restrictive standard shall apply:

1. Post development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with a 24-hour duration.
2. Stormwater treatment and disposal facilities shall be designed to meet the design and performance standards established in Chapter 62-25 Section 25.025, Florida Administrative Code, with treatment of the runoff from the first one inch of rainfall on-site to meet the water quality standards required by Chapter 62-302, Florida Administrative Code. Stormwater facilities which directly discharge into "Outstanding Florida Waters" (OFW) shall provide an additional treatment pursuant to Section 62-25.025 (9), Florida Administrative Code.
3. Stormwater facilities must be designed so as to not degrade the receiving water body below the minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 62-302 Florida Administrative Code.

#### Recreation

Policy 7-1.1.9- The proposed change will not have any adverse effect on availability of recreation services.

#### Education

No level of service currently exists in Comprehensive Plan but the proposed change will not have an adverse effect on availability of education services.

#### Emergency services

No level of service currently exists in Comprehensive Plan for emergency services but the proposed change is not expected to have an adverse on availability of emergency services.

#### Similar necessary facilities and services

No level of service currently exists in Comprehensive Plan for similar or necessary facilities but the proposed change will not have an adverse effect on availability of other services.

- (6) **Natural environment.** Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.

The proposed change will not have an adverse impact on the natural environment.

- (7) **Economic effects.** Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.

Assuming that conforming use properties have a higher median sales value than non-conforming use properties in the general area, no foreseeable adverse impacts on property values would be expected as part of this request. Increased potential for conforming uses associated with the request would result in increased appraisal values for affected properties; this should not adversely affect surrounding property values. Typically, properties with higher value yield more in tax revenue. In addition, the applicant is coordinating with the Monroe County Property Appraiser on this matter.

- (8) **Orderly development.** Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.

The proposed text amendment would serve to recognize historic and existing commercial uses and intensities while recognizing viable trends in the urban fabric; the proposed performance standards respond to the historic and current order and compatibility of the land use pattern in HRO. Finally, these performance standards are scalable in order to respond to future land use patterns in an orderly and compatible manner.

The current and proposed land use pattern is therefore substantially similar and spatially consistent in pattern and scope and is compatible with current (and historic) surrounding patterns of urban land use. For these reasons, no negative effects on the land use pattern have been identified.

- (9) **Public interest; enabling act.** Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of this subpart B and its enabling legislation.

The proposal is not in conflict with the public interest and is in harmony with the purpose and intent of the Land Development Regulations and the Comprehensive Plan as demonstrated in the above findings of the criteria for approval. Moreover, the request is hypothesized to provide increased opportunity for the Historic Downtown: restoring the historic rights of property while providing for sustainable development opportunities as promoted by the Comprehensive Plan.

**(10) Other matters.** Other matters which the planning board and the city commission may deem appropriate.

At the time of application submittal, no other matters are deemed appropriate.

**Consistency with Florida Statutes Chapter 163.3177(6)(a)2**

The future land use plan and plan amendments shall be based upon surveys, studies, and data regarding the area, as applicable, including:

a. The amount of land required to accommodate anticipated growth.

NA – All land within the affected areas are currently developed. No undeveloped land shall be impacted by the proposed amendment.<sup>3</sup>

b. The projected permanent and seasonal population of the area.

No change to the permanent or seasonal population of the area is anticipated. All land within the affected areas are currently developed. No undeveloped land shall be impacted by the proposed amendment.

c. The character of undeveloped land.

All land within the affected areas are currently developed. No undeveloped land shall be impacted by the proposed amendment.

d. The availability of water supplies, public facilities, and services.

The affected area is developed and fully supplied with water, public facilities, and services.

e. The need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community.

The intent of this amendment is to eliminate nonconforming uses as demonstrated in the main application package.

f. The compatibility of uses on lands adjacent to or closely proximate to military installations.

NA – affected area is not adjacent or closely proximate to military installations.

g. The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.

NA – affected area is not adjacent or closely proximate to an airport.

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<sup>3</sup> As demonstrated by the MCPA Property Record Cards (Attachment \_\_)

- h. The discouragement of urban sprawl.

The affected area is fully developed and fully supplied with water, public facilities, and services. The amendment will have no impact on urban sprawl.

- i. The need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy.

The affected area consists of a significant number of nonconforming uses, all previously approved by the community. The amendment will eliminate the nonconforming aspects of the uses, which will encourage capital investment, and economic development that will strengthen and diversify the community's economy.

- j. The need to modify land uses and development patterns within antiquated subdivisions.

NA – there is no need to modify land uses and development patterns within antiquated subdivisions.