

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



To: Chair and Planning Board Members

Through: Patrick Wright, Interim Planning Director

From: Ginny Haller, Planner II

Meeting Date: March 16, 2017

Agenda Item: **Text Amendment & Official Zoning Map Amendment – 281, 291, 301 Front Street (RE# 00000200-000102, RE# 00000200-000101, RE# 00072082-001800); 200 Greene Street (RE# 00001630-000300, RE# 0000163-000500); 310, 402, 410, 420 Wall Street (RE# 00072082-001300, RE# 00000170-000000, RE# 00072082-00170, RE# 00072082-003500, RE# 00072082-001200). 1 Whitehead Street (RE# 00072082-001900, RE# 00072082-001800); 205, 213 Whitehead Street (RE# 00001510-000000, RE# 00001530-000000) and other parcels with unassigned addresses (RE# 00072082-001400; RE# 00072082-001100; RE# 00072082-003700) – A request to amend the Land Development Regulations and the Official Zoning Map from Historic Public and Semipublic Services (HPS), Historic Residential/Office (HRO), and Historic Planned Redevelopment and Development (HPRD) to Historic Mallory Square District (HMS) located on the properties stated above pursuant to Chapter 90, Article VI, Division 2 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

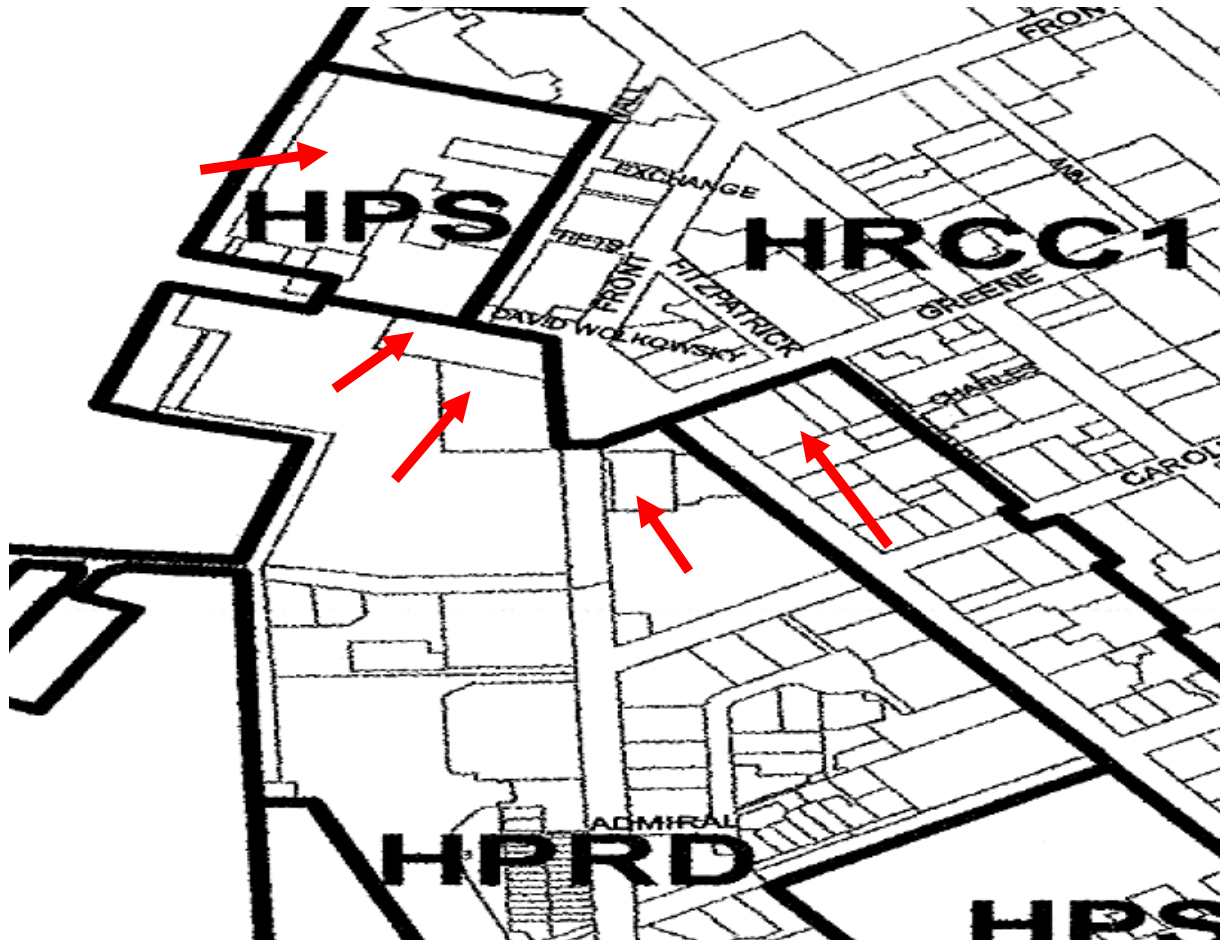
Request: A site-specific amendment to the Land Development Regulations and the Official Zoning Map from Historic Public Service (HPS), Historic Residential/Office (HRO), and Historic Planned Redevelopment and Development District (HPRD) to Historic Mallory Square District (HMS).

**Applicant/
Property Owner:** City of Key West

Location: 281, 291, 301 Front Street (RE# 00000200-000102; RE# 00000200-000101; RE# 00072082-001800); 200 Greene Street (RE# 00001630-000300; RE#0000163-000500); 310, 402, 410, 420 Wall Street (RE# 00072082-001300; RE# 00000170-000000; RE# 00072082-001700, RE# 00072082-003500, RE# 00072082-001200); 1 Whitehead Street (RE# 00072082-001900, RE# 00072082-001800); 205, 213 Whitehead Street

(RE# 00001510-000000, RE# 00001530-000000), and other parcels with unassigned addresses (RE# 00072082-001400; RE# 00072082-001100; RE# 00072082-003700)

CURRENT ZONING: HISTORIC PUBLIC & SEMIPUBLIC (HPS), HISTORIC PLANNED REDEVELOPMENT & DEVELOPMENT DISTRICT (HPRD) & HISTORIC RESIDENTIAL/OFFICE DISTRICT (HRO)



PROPOSED HISTORIC MALLORY SQUARE DISTRICT



Background:

The subject properties include Mallory Square, Clinton Square Market, Customs House, Audubon House and Mel Fisher Museum; and are located within the Historic Public Service (HPS), Historic Residential/Office (HRO), and Historic Planned Redevelopment and Development (HPRD) Zoning Districts.

A text amendment to rezone the Mel Fisher Museum located at 200 Greene Street from HRPD to HRCC-1, and to amend the future land use map (FLUM) from HR to HC was on the agenda of the July 2016 Planning Board meeting. After discussion, the Planning Board postponed the item to the November Planning Board meeting and staff was directed to meet with the applicants about the inclusion of Mel Fisher Museum in the rezoning of Mallory Square. The item was postponed to the December 2016 Planning Board meeting. The planning director and staff met with representatives of Clinton Market and Mel Fisher Museum on November 3, 2016 to discuss the proposed Historic Mallory Square zoning district. The response was positive and staff responded to their suggestions as to the intent and uses of the proposed Historic Mallory Square Zoning District.

Request / Proposed Map Amendment:

The applicant is requesting an amendment to the Land Development Regulations and the City’s Official Zoning Map for the subject properties. The current zoning of Mallory Square is Historic Public Service (HPS), the zoning of Clinton Market, Custom House and Mel Fisher Museum is Historic Planned Redevelopment and Development (HPRD), and the zoning of the Audubon House is Historic Residential/Office. The proposed zoning for the properties is Historic Mallory Square District (HMS). Concurrent with the text amendment, the applicant is also requesting an amendment to the City’s Comprehensive Plan Future Land Use Map (FLUM) for the subject properties. The current FLUM category is Public Service (PS), Historic Residential (HR), and Historic Commercial (HC). The proposed FLUM category is for the properties to be Public Service (HPS) on the FLUM.

Surrounding FLUM and Uses:

- North:** HRCC-1
- South:** HRRD
- East:** HRCC-1
- West:** Waterfront

Text Amendment and Official Zoning Map Amendment Process:

Planning Board:	January 19, 2017
If denied, then appeal may be filed within 10 calendar days.	
City Commission (1st Reading)	TBD
City Commission (2nd Reading)	After DEO review of FLUM amendment
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 2 of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) is to provide a means for amending the Land Development Regulations and changing the boundaries of the Official Zoning Map. 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 90-522(a), the Planning Board, regardless of the source of the proposed change in the LDRs, 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 change of zoning to the City Commission for official action. In its deliberations, the Planning Board shall consider the criteria in Code Section 90-521 and 90-522.

Sec. 90-522. Planning Board review of proposed changes in land development regulations.

(a) The planning board, regardless of the source of the proposed change in the land development regulations, 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 change of zoning to the city commission for official action. In its deliberations the planning board shall consider the criteria stated in section 90-521.

The City Planner has worked closely with city staff to research and review the proposed Land Development Regulations for the new zoning district HMSAC. The Planning Board will hold a public meeting on January 19, 2017 in order to review proposed changes to the Land Development Regulations and the FLUM.

Criteria for Approving Amendments to Official Zoning Map pursuant to Code Section 90-521. In evaluating proposed changes to the Official Zoning Map, the City shall consider the following criteria:

(1) *Consistency with plan.* Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Consistency with the overall purpose of 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 resources;

- Preserves its community character and quality of life;
- Ensures public safety; and
- Directs development and redevelopment in an appropriate manner.

The proposed FLUM amendment would not be inconsistent with the overall purpose of the Plan.

Consistency with relevant policies within the Comprehensive Plan

The proposed text and zoning map amendments would be consistent with the following relevant policies within the Comprehensive Plan:

- Policy 1-1.1.1: Planning Horizons.
- Policy 1-1.1.6: Historic Preservation Areas.
- Policy 1-1.1.10: Allowed Uses in Historic Public and Semi-Public.
- Policy 1-1.2.2: Promote Orderly Land Use Transition.

Consistent with the adopted infrastructure minimum LOS standards and concurrency

The projected impacts of the land uses allowed by the proposed text and zoning map amendments are not anticipated to generate public facility needs that would trigger capital improvements.

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

The conformity of the proposed text and zoning map amendment with all applicable requirements of the City Code is being evaluated herein.

(3) Changed conditions. Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed rezoning.

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 were amended from time-to-time. More recently, 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 new Building Permit Allocation System (BPAS) ordinance. Although an overhaul of the LDRs is planned for the next year, the current LDRs and zoning map originate from the 1994 Comprehensive Plan.

Mallory Square has been located with the HPS zoning district, Audubon House has been located in the HRO district, and Mel Fisher Museum, Clinton Market and the Customs House has been located in the HPRD zoning since the 1994 Comprehensive Plan and the 1997 Land Development Regulations. Before that in 1985, Mallory Square was zoned M-1 (Military), Audubon House was zoned HP-2, and the other properties were in the proposed PRD district. While land use and development conditions have not changed since the effective date of the 2013 Comprehensive Plan, the Plan does have policies that support historic preservation and the expansion of opportunities for a range of allowed uses in the HPS district.

(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.

Mallory Square has been located with the HPS Zoning District and Mel Fisher Museum, Clinton Market and the Customs House has been located in the HPRD zoning since the 1994 Comprehensive Plan and the 1997 Land Development Regulations. Before that Mallory Square was zoned M-1 (Military), Audubon House was zoned HP-2, and the other properties in 1985 were zoning in the proposed PRD district. While land use and development conditions have not changed since the effective date of the 2013 Comprehensive Plan, the Plan does have policies that support historic preservation and the expansion of opportunities for a range of allowed uses in the HPS district.

Allowed uses within the proposed HPS Zoning District are listed in Code Sections 122-957 and 122-958; HRO are listed in Code Sections 122-657 and 122-658; HPRD are listed in Code Sections 122-987 and 122-988. The following table summarizes the differences in allowed uses between the current HPS and HPRD and the proposed HMS Zoning Districts. P = Permitted; C = Conditional Use; A = Accessory Use.

	Existing HRO	Existing HPS	Existing HPRD	Proposed HMS
Residential Uses				
Single-family and two-family residential dwellings	P		P	
Multiple-family residential dwellings	P		P	
Group homes with less than or equal to six residents	P		P	
Community Facilities				
Art and tourism uses: antique shop, architect studio/office, art gallery, artist materials/supply sales, art school, artist studios/offices, arts, crafts, handicraft creation, fabrication, manufacture, display and sale, including but not limited to ceramics, clothing, toys, glass blowers, which may include the use of kilns fired by electricity.				P
Alcohol sales conducted within the community and cultural facilities				
Book or stationery store				P
Business and professional offices	C	P	C	
Places of worship	C	P	C	
Public and private utilities	C	C	C	
Hotels, motels, and transient lodging			C	
Community centers, clubs and lodges	C	P	C	P
Commercial retail low, medium, high intensity			C	
Commercial retail low and medium intensity	C			P
Commercial retail high intensity				C
Civic activities				P
Cultural activities, museums including light processing and metal fabrication, assembly and distribution functions, electronics, research and				P

	Existing HRO	Existing HPS	Existing HPRD	Proposed HMS
development, education, and similar uses, theaters and performance venues, public performances				
Dockage at the Mallory Pier				P
Educational institutions and day care facilities	C	P	C	
Educational institutions				P
Gift shop				P
Group homes with seven to 14 residents as provided in section 122-1246	C			
Hospitals and extensive care		P		
Restaurants, including but not limited, with outdoor seating, outdoor entertainment and alcohol sales, excluding drive-through				P
Nursing homes, rest homes and convalescent homes	C	P	C	
Parks and recreation, active and passive	C	P	C	P
Protective services	C	C	C	C
Medical services	C	P	C	
Parking lots and vehicular storage facilities	C	P	C	P
Veterinary medical services without outside kennels	C		C	
Cemeteries		P & C		
Funeral homes			C	
Cultural and civic activities, inclusive of museums, theatres		C	C	
Cultural and civic activities	C			
Marinas.		C		

- (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. Rezoning does not constitute a concurrency determination, and the applicant will be required to obtain a concurrency determination pursuant to Code Chapter 94.

The projected impacts of the land uses allowed by the proposed text, zoning map and FLUM amendments are not anticipated to generate public facility needs that would trigger capital improvements. Any new development proposed after adoption of the LDRs must demonstrate concurrency by analysis prior to any construction approval.

- (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 zoning map 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 new LDRs and Comprehensive Plan designation will have a significant and positive effect by increasing the assessed value subject to City, School and Special District and County taxation levies. The property is regulated by the policies and LDRs which limit density and prevent transient uses, hence the effects on surrounding property values will be positive.

(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 and zoning map amendment would create a new zoning district and would result in an orderly and compatible land use pattern.

(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 the land development regulations in this subpart B and the enabling legislation.*

The proposed text and zoning map amendment 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 main result of the proposed text and zoning map amendment would be to accommodate the mixed use district that allows for a limited scale retail sales, artist studios, galleries, restaurant, and arts and craft uses while conserving the architectural quality of the area with cultural and historic significance, and to further facilitate the development of new structures in a manner compatible with existing structures.

In summary, see Attachment A for the proposed Intent, Permitted Uses, Conditional Uses, Accessory Uses and Prohibited Uses; and the following Dimensional Requirements for the proposed HMS zoning regulations contained in the proposed Ordinance are as follows:

Density	Not applicable
FAR	Maximum floor area ratio: The maximum floor area ratio for the HMS area shall be 1.0, excepting large scale regional facilities, which require a community impact statement. The latter projects may have a higher floor area ratio if approved by city commission. However, prior to approving a floor area ratio in excess of 1.0, the city commission must render a finding that the proposed public facility requires a higher floor area ratio in order to accommodate a regional service necessary to the general health, safety, and welfare of the city and/or county. Furthermore, the finding must indicate that the regional facility as proposed shall comply with all other qualitative and quantitative criteria of the comprehensive plan and land development regulations, including but not limited to the adopted concurrency

	management policies.
Height	25 feet
Permitted Uses	Art and tourism uses: Antique shop, Architect studio or office, Art gallery, Artist materials and supply sales, Art school, Artist studios and artists offices, Arts, crafts and handicrafts creation, fabrication, manufacture, display and sale, including but not limited to ceramics, clothing, toys, glass blowers, which may include the use of kilns fired by electricity. Commercial retail low and medium intensity, Community centers, clubs and lodges. Civic activities. Cultural activities: Museums, including light processing and metal fabrication, assembly and distribution functions, electronics, research and development and similar uses. Theaters and performance venues, Public performances. Dockage at the Mallory Pier. Educational institutions. Parking lots and facilities. Parks and recreation, active and passive. Restaurants including, but not limited to outdoor seating, outdoor entertainment and alcohol sales, excluding drive-through. Gift shop. Book or stationery store.
Conditional Uses	Commercial retail high intensity, protective services.
Setbacks	Front: 20 feet Side: greater of 5 feet or 10 percent of lot width to a maximum of 15 feet Rear: 20 feet or 15 feet if abutting an alley Street Side: 10 feet
Lot Coverage	Building Coverage: 40% Impervious surface: 50%
Lot Size	1 acre Depth: 50 feet Width: 100 feet

Also in summary, see Attachment B for the proposed changes to:

- Section 122-1111. – Table of land use by districts; and
- Division 2. Uses - Section 122-1112 – Table of permitted and conditional commercial retail uses by district; and
- Division 3. Areas Requirements – Section 122-1151. – Size and dimension Regulations.

Also proposed are the following changes to Section 108-573 **Special Provisions within historic commercial pedestrian-oriented area.**

- (a) Description of area. The area within the historic commercial pedestrian-oriented area shall include all land zoned HMS; HRCC-1; HRCC-2, excepting those properties east of Trumbo Road and Grinnell Street; HRCC-3; HNC-1, excepting all land located east of lots which front on the east side of Simonton Street; HNC-3; as well as the lands within the HRO district which is located immediately east of Truman Annex, the post office and the courthouse; the HNC-2 district abutting the south side of Caroline Street; and the three HPS districts located west of Simonton Street..

RECOMMENDATION:

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