



## EXECUTIVE SUMMARY

**To:** Bogdan Vitas, City Manager

**Through:** Donald Leland Craig, AICP, Planning Director

**From:** Nicole Malo

**Meeting Date:** September 18, 2012

**RE:** An ordinance of the City Commission of the City of Key West, Florida, addressing the compatibility of lands adjacent to or closely proximate to military installations in the Future Land Use Element of the City of Key West Comprehensive Plan; revising Policy 1-3.9.1, and creating Policy 1-3.9.2, Policy 1-3.9.3, Policy 1-3.9.4, Policy 1-3.9.5, Policy 1-3.9.6, and Policy 1-3.9.7; providing for severability; providing for the repeal of inconsistent provisions; providing for transmittal to the state land planning agency; providing for the filing with the Secretary of State and for an effective date; and providing for the inclusion in the City of Key West Comprehensive Plan.

### Action Statement

**Request:** To adopt amendments to the City's Comprehensive Plan, in accordance with the requirements in Chapter 163 of the Florida Statutes (F.S.).

**Location:** Citywide

### Background

The City Commission is being requested to hold a second public hearing amending the Comprehensive Plan in order to address land use compatibility proximate to military installations. In accordance with Chapter 163.3184, F.S. the Planning Department transmitted the proposed amendments to the State Land Planning Agency (DEO) for the state coordinated review after the first reading and approval of the Ordinance on March 20, 2012. On June 4, 2012 the City received the Objections, Recommendations, Comments (ORC) report from the DEO in which no objections were identified; however, the DEO recommended an amendment to Policy 1-3.9.7 in order to clarify that the 2007 Air Installations Compatible Use Zones (AICUZ) Study is adopted by reference in the Comprehensive Plan as permitted by 163.3177(1)(b) F.S. Further, as recommended by the DEO, when the AICUZ is updated in the future the City will be required to update the reference by Plan amendment. Therefore, Policy 1-3.9.7 has been amended in accordance with the recommendation (see attached ORC Report).

The overall purpose of the proposed amendment is to address 2011 legislation, embodied in House Bill 7207, Sections 163.3175, and 163.3177, F.S that require local governments to address compatibility of new development proposals with military installations and require the exchange of information between local governments and military installations to be addressed. The statute requires that specific criteria and land use compatibility controls for lands proximate to military installations be addressed in the Future Land Use element of the local Comprehensive Plan by June 30, 2012 or the city would be subject to mediation with the US Military. Because the requested ordinance transmittal is subject to the state coordinated review process, the June 30, 2012 deadline could not be met. However, Planning Department staff has made Naval Air Station Key West officials and the state land planning agency's Area of Critical State Concern Administrator aware of the situation. Both parties are aware that the City is working towards compliance with state requirements, and can demonstrate progress made thus far.

Ultimately, if a local government Comprehensive Plan does not contain criteria addressing compatibility by December 31, 2013, the State Land Planning Agency may notify the Administration Commission, which may impose sanctions pursuant to Section 163.3184 (8), F.S., including the direction to state agencies to not provide funds to increase the capacity of roads, bridges, or water and sewer systems for those local governments with plan amendments determined not to be in compliance. The Administrative Commission may also specify that the local government is not eligible for grants under the following programs: Florida Small Cities Community Development Block Grant Programs; Florida Recreation Development Assistance Program; and revenue sharing. If the local government has a Coastal Management Element, the Administrative Commission may also specify that the local government is not eligible for funding pursuant to Section 161.091, F.S., regarding beach management and maintenance funding.

#### **State Coordinated Review Process and Previous City Actions**

Due to the City's Area of Critical State Concern (ACSC) designation, the State Coordinated Review Process contained in 163.3184, F.S. is the required process for adoption of a Comprehensive Plan amendment. The process has been followed as illustrated below:

- February 16, 2012: Planning Board approval of transmittal;
- March 20, 2012: City Commission approval of transmittal;
- March 27, 2012: Amendment transmitted to State Land Planning Agency and reviewing agencies (60 days to comment);
- June 4, 2012: Objections, Recommendations, Comments (ORC) report received by the City from State Land Planning Agency to City;
- September 18, 2012: Second City Commission meeting adopting plan amendment with effective date (held within 180 days after receipt of the ORC report);
- September 28, 2012: Forward copy of Comprehensive Plan amendment to State Land Planning Agency, as well as any other agency or local government who provided timely comments (within 10 days of adoption hearing);

- November 2012: State Land Planning Agency issues Notice of Intent to City determining compliance (within 45 days of receipt of complete adopted plan amendment); and
- December 2012: Appeal period of 21-days after State Land Planning Agency issues Notice of Intent.
- December 2012: Ordinance adoption. Plan amendment complete.

### **Coordination Effort**

Prior to preparing proposed amendments to the Future Land Use element, Planning Department staff met with the Ron Demes, Executive Director/Business Manager of Naval Air Station Key West. As a result the proposed coordination strategies include the following:

- Measures for coordinating development applications with Naval Air Station Key West;
- Policies promoting land use compatibility with the various military installations proximate or adjacent to City boundaries;
- Providing a mechanism for the exchange of relevant information to achieve compatible land uses;
- Providing comment periods for Naval Air Station Key West, and forwarding such comments to the State Land Planning Agency;
- Provision for Ex Officio, nonvoting members onto the Development Review Committee, and City of Key West Planning Board;
- Acknowledgement of the Encroachment Challenges Synopsis, and 2007 Air Installations Compatible Use Zones (AICUZ) Study; and
- Provision for amendments to be made to the Land Development Regulations to further address encroachment protection criteria based upon the Encroachment Challenges Synopsis and 2007 AICUZ Study.

**Review Criteria:** Chapter 90 of the Land Development Regulations only provides review criteria for proposed amendments to the City's Future Land Use Map (FLUM). Because this proposal is an amendment to the Future Land Use element, but not a change in the Future Land Use map series, the review criteria in Chapter 90 would not be applicable.

### **Options / Advantages / Disadvantages:**

**Option 1.** To adopt the ordinance to amend the comprehensive plan as stated.

#### **1. Consistency with the City's Comprehensive Plan and Land Development Regulations:**

This option is consistent with the City's Comprehensive Plan and Land Development Regulations.

- 2. Consistency with the City's Strategic Plan, Vision and Mission:**  
This option is consistent with the City's Strategic Plan, Vision, and Mission.
- 3. Financial Impact:**  
No financial impact is anticipated as a result of this proposal.

**Option 2.** To not adopt the ordinance to amend the comprehensive plan.

- 1. Consistency with the City's Comprehensive Plan and Land Development Regulations:**  
This option is not consistent with the requirements of Chapter 163 of the Florida Statutes, which provides indirect noncompliance with the City's Comprehensive Plan and Land Development Regulations.
- 2. Consistency with the City's Strategic Plan, Vision and Mission:**  
This option would not be consistent with the City's Strategic Plan, Vision, and Mission.
- 3. Financial Impact:**  
Indirect financial impact may occur should the Comprehensive Plan not meet this statutory requirement. This would occur in the form of the City not being able to receive certain state funds, or being able to apply for specific grant programs.

**RECOMMENDATION:**

Approval of **Option 1** for adoption of the **ordinance approved by the state land planning agency.**