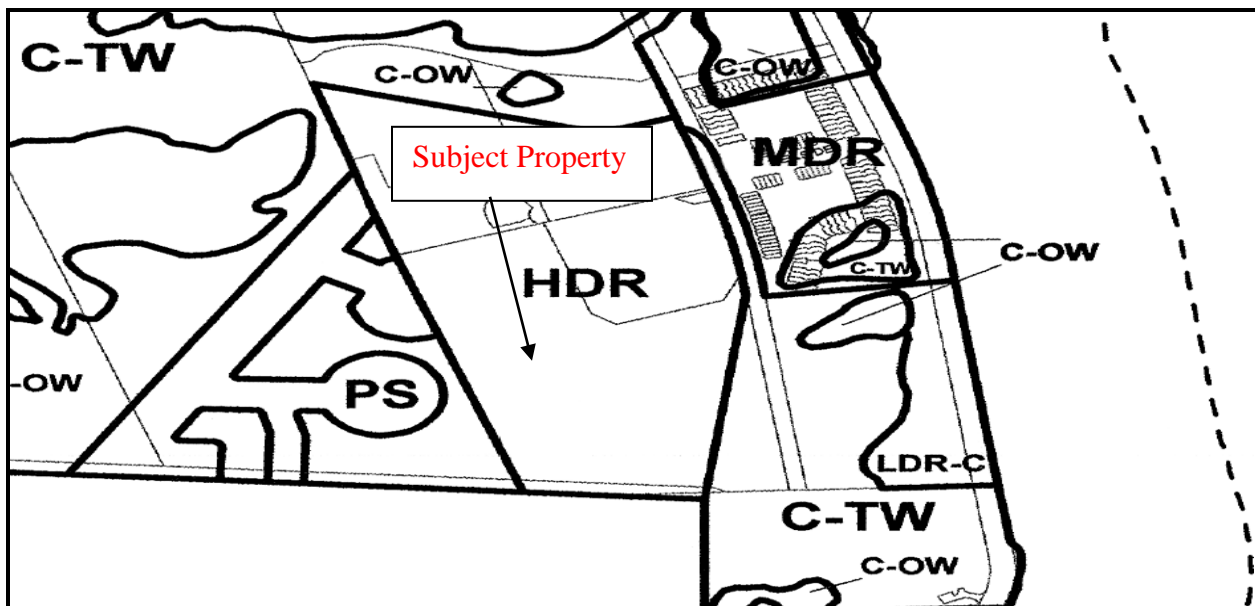


**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board members
From: Ginny Haller, Planner II
Through: Patrick Wright, Planning Director
Meeting Date: June 15, 2017
Agenda Item: **Development Agreement – 3900 South Roosevelt Boulevard (RE #00066180-000200)** - A request for a development agreement between Ocean Walk Key West Owner, LLC and The City of Key West for the construction of 56 new market rate residential units and 24 new affordable units on property located within the High Density Residential (HDR) Zoning District.

Request: Development agreement between Ocean Walk Key West Owner, LLC and The City of Key West for the construction of 56 new market rate residential units and 24 new affordable units.
Applicant: Critical Concern Consultants
Property Owners: Ocean Walk Key West Owner, LLC
Location: 3900 South Roosevelt Boulevard (RE# 00066180-000200)
Zoning: High Density Residential (HDR)



Project Background:

The subject property is located at 3900 South Roosevelt Boulevard and is bound by the multi-family residential units at Seaside and Las Salinas Condominium. The property is surrounded by Public Service, Medium Density Residential, Conservation-Tidal Wetlands, and Conservation - Outstanding waters of the State zoning districts. The parcel is approximately 17.11 acres of land including environmentally sensitive areas.

The parcel at Ocean Walk contains 296 existing dwelling units within two buildings that were constructed in 1989:

- Building one contains 88 units and is 26.6 feet in height with covered parking on the ground floor and apartments on the second and third floors;
- Building two contains 208 units and is 43.5 feet in height with covered parking on the ground floor and apartments on the second through fifth floors.

The proposed major development plan and landscape waiver seeks to add 56 new market rate units and 24 new deed restricted affordable units for a total of 80 new units to be located in two new structures. The proposal is located in the High Density Residential (HDR) zoning district which allows residential uses, including single-family, two-family, multi-family dwelling units at a maximum density of 22 units per acre. The project was awarded Building Permit Allocation System (BPAS) units in Year 2 and Year 4:

- Planning Board Resolution 2015-26, the project was awarded 28 market rate equivalent single family units and 12 affordable equivalent units through Year 2 of the Building Permit Allocations System;
- Planning Board Resolution 2017-06, the project was awarded 28 market rate equivalent single family units and 12 affordable equivalent single family units through Year 4 of the Building Permit Allocation System.

In order to allow the proposed development, the following development approvals would be necessary or are requested by the applicant:

- Landscape Waiver review is required due to requirements along street frontage pursuant to 108-413 of the LDRs of the Code of Ordinances of the City of Key West;
- Major Development Plan review is required due to permanent residential development; addition of eleven or more units, pursuant to 108-91.B.2(a) of the LDRs of the Code of Ordinances of the City of Key West;
- Development Agreement has been requested per Article IX of the LDRs of the Code of Ordinances of the City of Key West.

City Actions:

Preliminary City Commission authorization:	January 5, 2016 (Resolution 16-021)
Development Review Committee (DRC):	March 24, 2016

Development Review Committee (DRC):	October 27, 2016
Conceptual Landscape Plan:	January 10, 2017
Planning Board:	May 18, 2016 ⁷
Final Tree Commission:	Pending
City Commission:	Pending
DEO review:	Up to 45 days, following local appeal period

The Land Development Regulations acknowledge the findings of the state legislature that enable Development Agreements under Florida Statute, as follows (see Section 90-676):

(1) The lack of certainty in the approval of development can result in a waste of economic and land resources, discourage sound capital improvement planning and financing, escalate the cost of housing and development, and discourage commitment to comprehensive planning.

(2) Assurance to a developer that, upon receipt of a development permit, the applicant may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement, strengthens the public planning process, encourages sound capital improvement planning and financing, assists in ensuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning and reduces the economic costs of development.

(3) The comprehensive planning process should be furthered by authorizing local governments to enter into development agreements with developers. The intent is to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development.

Development Agreement Review Criteria (Section 90-682):

The City's Land Development Regulations set forth criteria for the contents of a Development Agreement. The specific criteria, as well as the location of the information within the Development Agreement, are addressed below.

(a) Any development agreement approved under this article shall contain not less than the following requirements as provided in F.S. § 163.3227:

(1) A legal description of the land subject to the development agreement and the identification of all persons having legal or equitable ownership therein.

The legal description can be found in Exhibit A of the attachments. All ownership and equitable interests in the property are listed in Section C, Terms of Agreement 1. Legal Description; Ownership and Equitable Interests in the Property.

(2) The duration of the development agreement, which duration shall not exceed five years, but which may be extended by mutual consent of the city and the developer. Any request for an

extension shall be subject to the public hearing process necessary for the initial approval of the development agreement.

The proposed duration of the agreement is five years as expressed in Section C, Terms of Agreement 2. Duration of Agreement Renewal.

(3) The development uses permitted on the land, including population densities, building intensities and building heights.

The proposed development is described in Section 4. Site Plan. The permitted maximum density for the site is 22 units. Building heights are not to exceed the maximum permitted height of the HDR zoning district.

(4) All documents required to comply with criteria cited in the land development regulations applicable to the subject project.

The applicant has addressed the criteria cited in the Land Development Regulations applicable to the subject project under Section 4 Site Plan.

(5) A description of the public facilities that will service the development, including designation of the entity that will be providing such facilities. Additionally, if new facilities are needed to serve the project, the date by which such facilities will be constructed shall be provided. A schedule to ensure that public facilities shall be available concurrent with the impacts of the development shall also be provided. Such schedule, relating the provision of public facilities or services to events or thresholds in the development, may be substituted for the certain dates required under this subsection.

A description of the public facilities that will service the development are found in Section C, Terms of Agreement 9. Concurrency and Public Facilities. The concurrency management has also been reviewed by staff as outlined and attached in the Planning Board staff report for the Major Development Plan.

(6) The applicant may be required to provide for a performance bond, letter of credit, or similar instrument, to be deposited with the city, to secure the construction of any new facilities that are required to be constructed as part of the proposed development agreement. Alternatively, such construction may be a condition precedent to the issuance of any building permits or other development permissions. If the new public facilities are in place and operating at the time development permits are requested, no such performance bond or letter of credit shall be necessary unless such facilities are not adequate for the project.

Not applicable. A concurrency analysis showing that facilities will be available at the time of development is being revised to reflect the City's 2013 Comprehensive Plan amendments.

(7) A description of any reservation or dedication of land for public purposes. The development agreement shall provide specifically how all impact fees and other funding requirements for the project are to be met.

The agreement does not include the reservation or dedication of land for public purposes. All applicable City impact fees will be required.

(8) If land is to be conveyed to the city in discharge of the obligation of any impact fee or other similar obligation, the development agreement shall provide that such conveyance will be by warranty deed and will be accompanied by an environmental audit and a title insurance policy which shall be in an amount not less than the assessed value of the land. The applicant shall bear the cost of these requirements.

Not applicable.

(9) A description of all development permits approved or needed to be approved for the development of the land, which description shall specifically include but not be limited to the following:

a. Any required comprehensive plan amendments or rezonings.

Not applicable

b. Any required submissions to or approvals from the county; the South Florida Regional Planning Council; the state departments of community affairs (DCA), environmental protection (DEP), transportation (DOT), health and rehabilitative services (DHRS); the United State Army Corps of Engineers; the South Florida Water Management District; the United States Environmental Protection Agency; or any other departments with competent jurisdiction over any aspect of the proposed development.

Required permits and approvals are outlined in Section C, Terms of Agreement 10. Required Permits and Approvals.

c. If development requirements are not satisfied, action in reliance on the development agreement or expenditures in pursuance of its terms shall not vest any development rights to the applicant/property owner. Failure to perform as specified in the development agreement shall not constitute partial performance and shall not entitle the applicant or property owner to a continuation of the development agreement.

This issue is addressed in Section C, Terms of Agreement 15. Laws Governing this Agreement.

(10) A specific finding in the development agreement that the development permitted or proposed is consistent with the city's comprehensive plan and with the land development regulations. However, if amendments are required to the comprehensive plan or land development regulations, such amendments shall be specifically identified in the development agreement, and the agreement shall be contingent upon those amendments being made and approved by the appropriate governmental agencies.

This issue is addressed in Section C, Terms of Agreement, 13. Finding of Consistency.

(11) The city commission may provide for any conditions, terms, restrictions or other requirements determined to be reasonably necessary for the public health, safety or welfare of city residents and property owners.

This is addressed in Section C, Terms of Agreement 6. Affordable Work Force Housing. As part of this Development Agreement twenty-four (24) units will be affordable work force housing units.

(12) A statement indicating that failure of the development agreement to address a particular permit, condition, term or restriction shall not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.

This is addressed in Section C, Terms of Agreement 14. Compliance with Permits, Terms, Conditions and Restrictions Not Identified Herein.

(13) At the city commission's discretion, the development agreement may provide that the entire development, or any phase thereof, be commenced or completed within a specific period of time.

The proposed duration of the agreement is five years, per Section C, Terms of Agreement 2. Duration of Agreement; Renewal.

(b) At such time as the city administrative official has reduced the terms of the proposed development agreement to written contractual form, the administrative official shall transmit such development agreement to the planning board and the city commission with a written recommendation from the development review committee.

This report responds to this requirement. The minutes of the DRC Meeting are attached herein.

(c) Prior to the first public hearing, the proposed development agreement shall have been reviewed by the planning board, and its recommendation along with the development review committee's recommendation shall be provided to the city commission.

This report responds to this requirement.

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 for Development Agreement be **APPROVED**.