



## MEMORANDUM

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Date: April 1, 2025

To: Honorable Mayor and Commissioners

Via: Brian Barroso  
City Manager

From: Katie P. Halloran  
Planning Director

Subject: **File 23-4249 - Official Future Land Use Map Amendment of the Comprehensive Plan – 715 Seminole Avenue (RE # 00037230-000100; AK# 8735669) and 811 Seminole Avenue (RE # 00037160-000100; AK# 8735677)** – An ordinance of the City of Key West, Florida, amending the boundaries of the Official Future Land Use Map of the City of Key West Comprehensive Plan for properties located at 715 Seminole Avenue and 811 Seminole Avenue; amending the Future Land Use Map Legend from Historic Residential to Historic Commercial for the parcels stated above pursuant to Chapter 90, Article VI, Division 3 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida; 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 into the City of Key West Comprehensive Plan.

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### **Introduction**

The subject application involves a request to amend the Future Land Use Map (“FLUM”) designation of approximately 3.36 acres of property at 715 Seminole Avenue and 811 Seminole Avenue from Historic Residential (HR) District to Historic Commercial (HC) to allow for the development of 23 market rate units and 25 workforce housing units and the eventual conversion of the market rate units to transient rental units through transfer of existing transient licenses from nonconforming sender sites.

Concurrent with the FLUM amendment, the applicant is also requesting a Official Zoning Map (OZM) amendment for the subject properties, from Historic Medium Density Residential (HMDR) to Historic Commercial Tourist (HCT). While the FLUM is a map that represents the policies of the Comprehensive Plan, the OZM is the map that is incorporated into the Land Development Regulations, where specific

district requirements (permitted & conditional uses, dimensional criteria, etc.) are included. The maps are required to be consistent with each other. Thus, an amendment to the FLUM is necessary to amend the OZM.

This item was recommended for approval by the City of Key West Planning Board at their hearing on March 12, 2024, under Resolution No. 2024-011. Since that time, the applicant has held three public meetings/input sessions on the application. One was held at the subject property in May, 2024 and two were held at City Hall on October 2 and October 16, 2024.

### **Background**

The existing site consists of adjacent parcels located at 715 Seminole Avenue and 811 Seminole Avenue. The properties are owned and operated by owners of the adjacent Casa Marina Resort.

The applicant proposes an amendment to the Official Zoning Map and Future Land Use Map, which would allow the property owner to develop transient units on the site. The applicant has stated that if the parcels are rezoned, they will subsequently submit an application for a Major Development Plan and Development Agreement to develop 23 transient rental units and 25 workforce-affordable units.

The applicant has stated that amending the OZM & FLUM to allow transient use on the site is necessary to fund the development/redevelopment of the workforce-affordable units on site; market-rate, workforce, and employee housing is permitted under the current zoning. Monthly vacation rental units are also permitted under the current zoning. Further, the proposed development is consistent with the existing density restrictions.

The subject property currently contains the following residential development rights (i.e. BPAS units):

- 18 vacant market-rate dwelling units at 715 Seminole Ave
- 16 deed-restricted workforce housing units at 811 Seminole Ave
- 5 market-rate BPAS units from the Year 10 Cycle (not yet developed)
- 9 affordable BPAS units from the Year 10 Cycle (not yet developed)
- Total: 48 non-transient units

Under the applicant's proposal, the 16 workforce housing units and the 9 recently-awarded BPAS units would be developed for employee housing at 811 Seminole Ave; An amended Declaration of Affordable Housing Restrictions was recorded in 2009 for the 811 Seminole Avenue property, whereby a portion of the Block (Block 7, Lots 13, 14, and 15) is required to contain exclusively workforce housing.

Additionally, the applicant proposes to purchase transient licenses on the open market. These licenses would be applied to the 18 existing dwelling units and 5 new market-rate BPAS units, which would be developed as villas at 715 Seminole Ave.

In total, the site would include:

- 23 transient units
- 25 workforce-affordable/employee units
- Total: 48 units

The applicant is not required to submit a development plan concurrent with their request for rezoning and they have chosen not to do so at this time. The applicant has submitted a conceptual site plan. The applicant has also submitted proposed restrictive covenants for 715 and 811 Seminole Avenue that would limit future

uses and development of the property to the uses and conceptual site plan outlined in the covenants. The restrictive covenants are attached to the record, and described in more detail below.

The applicant has also submitted a request for a vacation of the public rights-of-way that lie within the boundaries of their privately owned properties at 715 and 811 Seminole in order to accommodate the proposed site plan. The applicant proposes to pause the vacation of right-of-way (ROW) request of approximately 8,600 square feet, and move it forward concurrently with a future development plan, if this proposed rezoning is approved. Sections 90-588 and 90-589 provide that in order to vacate a ROW, the City Commission must make a finding that there is an absence of “public purpose,” including purposes such as pedestrian/bicycle ways, drainage systems, etc. Because the subject ROW could serve a current or future public purpose, staff has recommended that in exchange for a ROW vacation, the applicant consider a commensurate exchange of land. To date, the applicant has suggested an easement that would allow for the maintenance of those public purposes, primarily including future above and below ground utility uses. The applicant has agreed to provide an easement of 3,395 square-feet for a pump station, as depicted in the attached site plan. Staff recommends that the City Commission consider whether this easement should be considered for inclusion in the proposed restrictive covenant or as a condition of the ordinance, as a minimum requirement.

Since the time this application went before the Planning Board, the applicant has provided the following additional information and updates:

- No new transient licenses are proposed to be created. If the FLUM and OZM amendments are approved, the applicant would then apply to transfer transient unit licenses from nonconforming sender sites. This scenario therefore does not conflict with Section 108-995 prohibiting the allocation of new transient units in the City of Key West and would not create a loss of available residential units in the City.
- A restrictive covenant on the subject properties was submitted to the City Attorney’s office on February 11, 2025. A restrictive covenant is legal instrument that regulates the ownership or use of a parcel of real estate. The proposed restrictive covenant is designed to address concern that granting of the OZM & FLUM amendments would permit development at a density and intensity greater than the development being proposed in the conceptual site plan. The covenant would be held in escrow and would become effective if the zoning amendments are approved.
  - The restrictive covenant limits the allowable new uses not currently permitted to 1) hotels, motels, and transient lodging, 2) business and professional offices and 3) parking lots.
  - City Code Section 122-896 also states, “The HCT district may also accommodate customary accessory uses and community facilities.” The applicant has proposed a laundry facility at the 811 Seminole Ave property to serve the Casa Marina and The Reach hotels. Staff finds that the laundry facility would be considered a “customary accessory use” to a hotel use, but would be considered “light industrial” if it were a standalone use. All other uses permitted in the HCT district, such as commercial retail, bars, and restaurants, would be prohibited at the subject site.
  - The restrictive covenant also limits the allowable density to the 16 dwelling units per acre currently permitted under the existing HMDR zoning designation. The density would be prohibited from increasing to the 22 dwelling units per acre that would otherwise be permitted with a change to an HCT zoning designation. The function of the restrictive covenant is discussed in more detail below.
- A list of addresses where current employees live within the City of Key West to demonstrate the number and spread of housing options that would be made available if Casa Marina employees were to relocate to the Casa Marina housing.

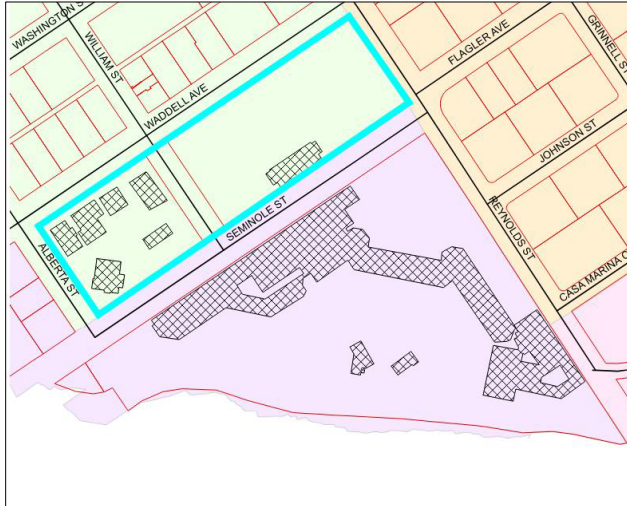
Planning staff has modified its analysis below given the above updates.

**Request/Proposed Map Amendment:**

The applicant is requesting an amendment to the City’s Official Zoning Map for the subject properties. The current zoning is Historic Medium Density Residential (HMDR). The proposed zoning map category is Historic Commercial Tourist (HCT).

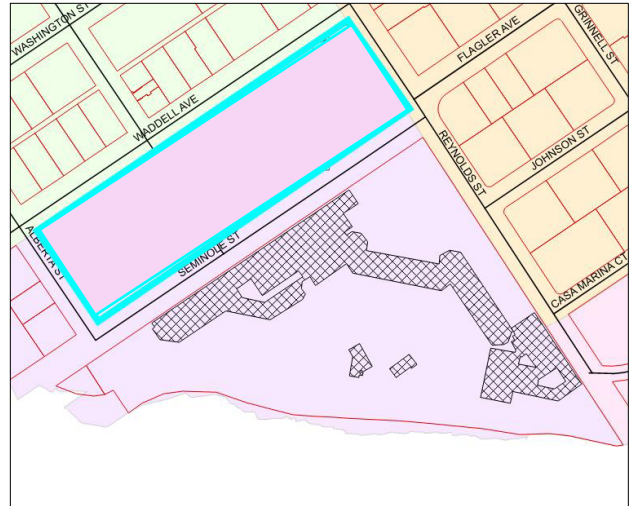
*Current Zoning:*

*Historic Medium Density Residential (HMDR)*



*Proposed Zoning:*

*Historic Commercial Tourist (HCT)*



-  Historic Commercial Tourist (HCT)
-  Historic Medium Density Residential (HMDR)
-  Public Service (PS)
-  Single-Family (SF)

Sec. 122-596(a) describes the intent of HMDR , stating: “The HMDR district shall accommodate historic Old Town medium density residential development for permanent residents, including single-family, duplex, and multiple-family residential structures. The HMDR district shall provide a management framework for preserving the residential character and historic quality of the medium density residential areas within Old Town.’

Sec. 122-869(a) describes the intent of the HCT district, stating “The HCT district is comprised of areas having a high concentration of hotels, motels, and/or transient lodging facilities together with primarily tourist-oriented commercial services, including specialty shops, restaurant and drinking establishments, personal services, offices, and other similar activities.”

## Criteria Analysis

Section 90-551 of the City Code states that the purpose of the Comprehensive Plan Amendment process is to:

*“to provide a means for changing the text of the land development regulations or 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 division, the consistency of the proposed amendment with the intent of the Comprehensive Plan.”*

### **Criteria for Approving Amendments to Comprehensive Plan Future Land Use Map pursuant to Code Section 90-554(6):**

Pursuant to Section 90-554(6), an application to amend the FLUM shall address the following:

**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 zoning on the Comprehensive Plan. The zoning should be consistent with the Comprehensive Plan.
  - **Policy 3-1.7.5(8): Manage Current Developmental Impacts.** Evaluate and manage impacts of proposed development pursuant to existing ordinances, including, but not limited to, impacts on residential neighborhoods, local housing supply and demand, public facility impacts, and natural environmental factors.
  - **Objective 3-1.1: Provide Quality Affordable Housing and Adequate Sites for Low and Moderate Income Housing.** The City shall implement policies in order to assist in accommodating existing and projected housing need. Monitoring Measure: Number of affordable housing units provided (public housing and deed restricted affordable housing) compared to current and projected demand.
  - **Policy 3-1.7.1: - Promote Maintenance of Housing Stock and Neighborhood Conservation.** The City shall enforce all Building Code provisions and Land Development Regulations to promote maintenance of housing stock. Necessary corrective action shall be taken where non-compliance exists or when it comes into existence in the future.

As seen above, Comprehensive Plan policies, goals and objectives are geared toward the maintenance and development of affordable housing units. The applicant proposes to redevelop the site if the zoning amendment is approved, to include:

- 23 transient units (comprised of 18 market-rate, BPAS-recognized units currently associated with the site, plus 5 market-rate BPAS units that were recently awarded)
- 25 workforce units (comprised of 16 affordable-rate BPAS-recognized units currently associated with the site, plus 9 new affordable rate-units that were recently awarded).

- Maximum rental rates would be deed-restricted to 80% AMI (Area Median Income) while maximum income would be increased to 140% AMI. This would allow occupants to maintain lower rental rates while making higher incomes.
- The applicant proposes primarily 4-bedroom workforce units. Twenty-one of the units would be reserved for Casa Marina employees, and 4 units would be available to City police, firefighters and general services employees, as well as school district employees.

While the Comprehensive Plan does promote the development of workforce housing, the existing zoning district already allows for workforce housing. The intent and impact of this request is to permit transient use on the site.

The Comprehensive Plan does not contain goals, policies or objectives that call for the expansion of transient use in residential districts where it is currently prohibited.

The applicant has indicated that the request would advance workforce housing goals because the transfer of transient licenses would leave behind newly available non-transient units at sender sites (e.g. a site where a transient license is transferred from.) However, that is a function of transient license transfers in general, and is not specific to this proposal.

Additionally, sender site units do not necessarily contribute to the permanent housing stock when transient licenses are transferred out. Some may be converted to monthly vacation rentals, or absorbed into other units. Thus, the City cannot rely on a guarantee that each transient license transferred to the site will advance Comprehensive Plan housing policies by creating permanent or workforce housing opportunities at the sender site.

- 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 current zoning of the subject parcels is HMDR. The table on the following page outlines the existing permitted (“P”) and conditional (“C”) uses of the current zoning designation and the permitted and conditional uses for the proposed HCT zoning district.

The uses with asterisk would be prohibited under the applicant’s restrictive covenant for the subject property. Transient units and offices, a new laundry facility for The Reach and Casa Marina, and new required parking would be the only additional permitted uses at the subject property with the change to HCT zoning.

*Table of land uses by districts.*

|  | <b>Existing<br/>HMDR</b> | <b>Proposed<br/>HCT</b> |
|--|--------------------------|-------------------------|
| <b><i>Residential Uses</i></b>   |                          |                         |
| 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                       |
| Group homes with seven to 14 residents   | C                        | C                       |
| <b><i>Community Facilities / Commercial Uses</i></b>   |                          |                         |
| Cultural and civic activities  | C                        | C                       |
| Community centers, clubs and lodges  |                          | C*                      |
| Educational institutions and day care  | C                        | C                       |
| Nursing homes/rest homes and convalescent homes  | C                        | C                       |
| Parks and recreation active and passive  | C                        | C                       |
| Places of worship  | C                        | P*                      |
| Protective services  | C                        | C                       |
| Public and private utilities   | C                        | C                       |
| Parking lots and facilities  | C                        | P                       |
| Business and professional offices  |                          | P                       |
| Commercial retail low intensity less than or equal to 5,000 square feet  |                          | P*                      |
| Commercial retail low and medium intensity greater than 5,000 square feet  |                          | C*                      |
| Hotels, motels, and transient lodging  |                          | P                       |
| Bars and lounges accessory to and located within a motel, hotel or other transient facility having at least 20 units |                          | C*                      |
| Restaurants, excluding drive-through   |                          | C*                      |
| Small recreational power-driven equipment rentals (allowed only as an accessory use to a hotel/motel)                |                          | C*                      |

The current zoning of the subject parcels is HMDR, which allows for a mix of residential development types ranging from single family to multi-family. The proposed HCT zoning district allows for additional potentially incompatible conditional and permitted uses that include retail, bars and lounges accessory to hotels, recreational rental vehicle businesses, and additional transient rentals. However, the applicant has submitted a restrictive covenant limiting the proposed new uses on the subject property to just transient, office space, and an accessory laundry facility.

All additional uses permitted in the HCT district would be prohibited at this site. The restrictive covenant also limits the allowable density to the 16 dwelling units per acre currently permitted under the existing HMDR zoning designation. Staff recommends that the restrictive covenant also

establish that no new parking be permitted beyond the spaces needed for additional housing and/or depicted on the conceptual site plan be permitted.

**c. *Avoidance of spot zoning.*** *The proposed change shall not constitute a spot zone change. Spot zoning occurs when:*

**1.** *A small parcel of land is singled out for special and privileged treatment.*

The proposed rezoning is for two parcels currently owned by the applicant. It will not result in rezoning of other of residentially zoned parcels that are adjacent to existing hotels.

**2.** *The singling out is not in the public interest but only for the benefit of the landowner.*

The proposed workforce housing is in the public interest, although staff notes that the majority of the units would be available to Casa Marina employees only.

However, the only property that would be rezoned to allow for transient use is owned by the applicant. Additionally, the existing zoning regulations do not prohibit the proposed workforce housing development. The rezoning would provide the applicant the ability to mitigate the financial cost of workforce housing with the revenue generated by the transient use. This financial mitigation tool/incentive (i.e. rezoning to allow transient use to offset workforce housing costs) would only apply to the subject property.

**d. *Undeveloped land with similar zoning.*** *The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested.*

There is little to no undeveloped land in the general area and in the city having the same zoning classification as HCT.

**Criteria for Approving Amendments to the Official Zoning Map pursuant to Code Section 90-555:**

City Code Section 90-555 establishes ten (10) criteria to be used in evaluating proposed changes to the future land use map. Staff's evaluation of these criteria is listed below.

**(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.*

As mentioned previously in this report, the development and redevelopment of workforce housing is consistent with the Comprehensive Plan.

However, the proposed zoning amendments are only needed and are intended to facilitate the transfer of transient units in return for the development of deed restricted employee housing units. Ultimately, the Comprehensive Plan does not encourage changes in land use designation and rezoning to render development more profitable to property owners. Staff therefore concludes that the applicant's approach is inconsistent with the Comprehensive Plan.

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

Staff's review of the proposal's conformance with the Code is outlined in this report.



**(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 OZM came into effect in 2015. Since then, the City has continued to face a shortage of permanent and affordable housing. Property values have increased, and anecdotal evidence suggests there has been an increase in the conversion of permanent housing units to monthly vacation rentals. There have also been record-breaking levels of tourism as evidenced by statistics from the Key West International Airport, and there has been a notable increase in traffic congestion throughout the City and lower keys.

These changes reflect an ever-increasing need for affordable housing in the City. However, these changed conditions do not support the proposed rezoning because the rezoning is not necessary to permit the development of affordable housing on the site.

Additionally, the applicant proposes 22 transient units of 1,200 square feet, and one 4,000 square-foot unit. These units are larger than the traditional hotel room, guest house room, or bed-and-breakfast room, which all equate to a single transient unit. Larger units can accommodate more occupants, potentially increasing the strain on traffic congestion, hurricane evacuation, and public utilities.

**(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.*

This report addresses this under the Section 90-520 review.

**(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 [chapter 94](#).*

This report addresses this under subsection (3) above.

**(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.*

Staff does not anticipate 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.*

Staff has received comments from property owners who state that the proposal will adversely affect neighborhood character and/or the value of their residential properties. Staff does not have access to professional appraisals to draw any conclusions as to those claims.

The applicant has provided an appraiser's report that indicated the rezoning would not negatively impact property values. The report cited a 2019 redevelopment on Eisenhower Drive, and noted that real estate sales for surrounding residential properties showed no evidence of adverse impacts on property values. Staff notes that this example differs from the subject request; as the Eisenhower Drive property is located in the Commercial General zoning district where transient use is permitted-by-right, and was converted from office use to transient residential use.

Staff recognizes that such a proposal would result in economic activity as a result of construction, permanent rental housing, and transient rental activity.

**(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.*

Staff recognizes that the subject property abuts both transient and non-transient residential uses, and that the adjacent HCT district currently permits transient use. However, Section 122-596 provides that the intent of the HMDR district is to “provide a management framework for preserving the residential character and historic quality of the medium density residential areas within Old Town.”

As is the case with the subject property, there are many properties and zoning districts in the City that permit transient use, and adjoin properties/districts that do not permit transient use. If the City makes a practice of rezoning sites along zoning district boundaries to be consistent with the higher-intensity of the two districts, it will result disorderly and incompatible land use patterns City-wide.

**(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 proposal is to rezone a medium-density residential neighborhood in order to allow transient residential and accessory uses. Comprehensive Plan Objective 1-1.2.1 provides that “Stable residential areas and projected future residential areas as delineated on the Future Land Use Map shall be protected from encroachment by incompatible development.”

While the property owner proposes a subsequent Major Development Plan that would result in the development of affordable housing units, the existing zoning does not prohibit the development of those units. For the reasons described above, staff does not find that the proposal is in harmony with the purpose and intent of the LDRs.

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

Chapter 90 of the Land Development Regulations establishes that the underlying purpose of changes to the City’s Official Zoning Map is, “only to make necessary adjustments in light of changed conditions”.

The City of Key West has been experiencing increasing housing costs and overall housing shortages for decades. Rezoning to provide employee housing for Casa Marina property owners, which is designed for individual workers (rather than a diverse style of units accommodating families as well as individuals) will not address a changed condition in Key West. Corporate housing for establishments that face seasonal fluctuations in workforce needs, and a high demand for lower-wage employees, does not necessarily address the need for consistent, permanent housing for permanent residents. Staff believes that more study is needed on how this type of employer-owned corporate housing impacts to the local economy and community before the City sets precedent and approves rezoning to accommodate this type of housing in a residential neighborhood.

## **Procurement**

The proposed map amendment is not anticipated to have any financial impact on the City.

**Recommendation:**

Per Section 90-551, amendments to the FLUM are “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.”

Staff finds that the proposed rezoning is not a necessary adjustment in light of changed conditions. While the applicant ultimately proposes affordable housing on the site, the rezoning is not necessary to build affordable housing on this property. The purpose of the FLUM amendment is to permit a commercial use that would provide additional revenue to offset the cost of redeveloping 16 workforce units and developing 9 new affordable units. Staff finds that this is not consistent with the criteria set out in the Code and described in this report.

As per Planning Board Resolution No. 2024-011, the Planning Board recommended that the City Commission approve the Official Zoning Map amendment. Planning Department staff recommends **denial** given the inconsistency with the Comprehensive Plan and Land Development Regulations indicated above.