

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



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

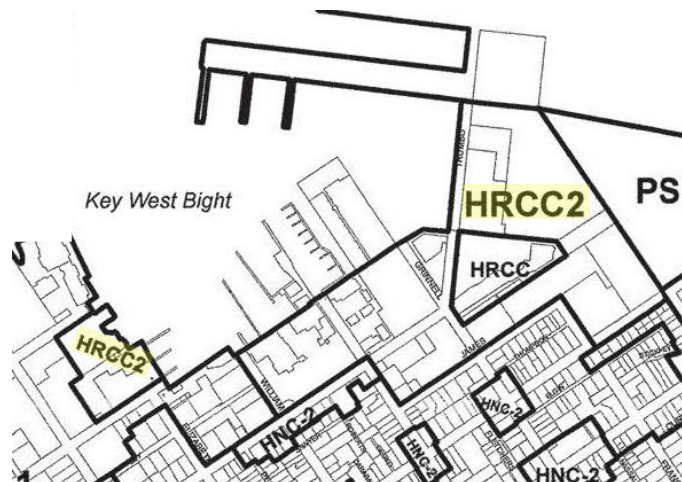
From: Vanessa Sellers, Planner II

Meeting Date: May 16, 2019

Agenda Item: **Text Amendment of the Land Development Regulations – Text Amendment of the Land Development Regulations** – A Resolution of the City of Key West Planning Board recommending an Ordinance to the City Commission amending Chapter 122 of the Land Development Regulations, entitled “Zoning”, Article IV, entitled “Districts”, Division 6 entitled “Historic Preservation Districts”, Subdivision III, entitled “HRCC-2 Key West Bight District”; pursuant to Chapter 90, Article VI, Division 2; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date

Background:

The proposed ordinance to amend the City’s Land Development Regulations (the “LDRs) is an essential part of an extensive effort to encourage the development of affordable & permanent housing within the City. The Planning Board is hearing this LDR text amendment and a text amendment to the Comprehensive Plan to allow for density bonuses in the Historic Residential Commercial Core – 2 Key West Bight (HRCC-2) zoning district without the requirement of a transfer(s) of development right(s).



Request:

The proposed text amendment to the LDRs is as follows*:

Subdivision III. - HRCC-2 Key West Bight District

Sec. 122-716. - Intent.

- (a) Consistent with the comprehensive plan future land use map, the HRCC-2 Key West Bight district includes the Key West Bight area. Development within this district shall reinforce the following:
- (1) Preservation of public waterfront access as well as waterfront views;
 - (2) Improved pedestrian linkages with adjacent and nearby activity centers;
 - (3) Protection and enhancement of opportunities for water-dependent and water-related land use activities, while preventing undue concentrations of population within the coastal high hazard area;
 - (4) Accommodation of public improvements necessary to achieve redevelopment plan objectives;
 - (5) Implementation of urban design schemes which attract pedestrians, increase waterfront exposure, reinforce the ambiance of the waterfront, and regulate against structures which wall off or otherwise inhibit access to waterfront views, strategic open spaces, or pedestrian linkages; and
 - (6) Consistency with the redevelopment plan for the Key West Bight and the Caroline Street Redevelopment Area.
- (b) This threshold shall be consistent with the limits established in F.S. § 420.9071(20) for moderate income persons. The HRCC-2 area is the only designated receiving area for transfers of development rights.

(Ord. No. 97-10, § 1(2-5.5.3(2)(A)), 7-3-1997)

Sec. 122-717. - Uses permitted.

In the HRCC-2 Key West Bight district, only water-dependent uses shall be located within the first 30 feet landward of the mean high water (MHW) or the bulkhead. Similarly, only water-related uses shall be located between the 30-foot setback and the 100-foot setback from the mean high water or the bulkhead. No permanent residential use shall be located within 100 feet of the mean high water, and no transient residential uses shall be allowed within any portion of the HRCC-2 district. Permitted uses include the following:

- (1) Single-family and two-family residential dwellings.
- (2) Multiple-family residential dwellings.
- (3) Group homes with less than or equal to six residents as provided in section 122-1246.

- (4) Places of worship.
- (5) Business and professional offices.
- (6) 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.
- (7) Medical services.
- (8) Parking lots and facilities.
- (9) Restaurants, excluding drive-through.
- (10) Veterinary medical services without outside kennels.

(Ord. No. 97-10, § 1(2-5.5.3(2)(B)), 7-3-1997)

Sec. 122-718. - Conditional uses.

Conditional uses in the HRCC-2 Key West Bight district are as follows:

- (1) Group homes with seven to 14 residents as provided in section 122-1246.
- (2) Community centers, clubs, and lodges.
- (3) Cultural and civic activities.
- (4) Educational institutions and day care.
- (5) Nursing homes, rest homes and convalescent homes.
- (6) Parks and recreation, active and passive.
- (7) Protective services.
- (8) Public and private utilities.
- (9) Bars and lounges.
- (10) Boat sales and service.
- (11) Commercial retail low and medium intensity greater than 5,000 square feet as provided in division 11 of article V of this chapter.
- (12) Commercial retail high intensity as provided in division 11 of article V of this chapter.
- (13) Funeral homes.
- (14) Light industrial.
- (15) Marinas.
- (16) Small recreational power-driven equipment rentals.

(Ord. No. 97-10, § 1(2-5.5.3(2)(C)), 7-3-1997)

Sec. 122-719. - Prohibited uses.

In the HRCC-2 Key West Bight district, all uses not specifically or provisionally provided for in this subdivision are prohibited.

(Ord. No. 97-10, § 1(2-5.5.3(2)(D)), 7-3-1997)

Sec. 122-720. - Dimensional requirements.

The dimensional requirements in the HRCC-2 Key West Bight district are as follows; however, construction may be limited by proportion, scale and mass considerations as expressed through the historic architectural review commission design guidelines:

- (1) Maximum density: Density of areas designated HRCC-2 on the future land use map shall carry a base density of eight units per gross acre. These HRCC-2 designated areas may develop to a density of 12 units per acre ~~under the transfer of development rights program~~ assuming that the owner/developer certifies by affidavit as described in this subsection that a minimum of 40 percent of the residential units shall be provided and maintained as affordable housing as described. Areas designated "HRCC-2" on the ~~future land use~~ official zoning map may be increased to 20 units per acre if all units within the development are certified by affidavit of the owner/developer as affordable residential units. ~~All increases in density above the base density of eight units per acre shall be only by transfer of development rights.~~ An affordable housing affidavit shall guarantee that the affordable units shall be inhabited in perpetuity by residents whose income levels are consistent with income thresholds to be established in the city's affordable housing in division 10 of article V of this chapter. All developments in the HRCC-2 district involving ~~transfer of development rights and~~ affordable housing shall be approved pursuant to a development agreement as provided in chapters 94, 102 and 106; articles I and III through IX of chapter 108; and chapters 110 and 114. This threshold shall be consistent with the limits established in F.S. § 420.9071(20) for moderate income persons. The HRCC-2 area is the only designated receiving area for transfers of density.
- (2) Maximum floor area ratio: 0.5.
- (3) Maximum height: 35 feet, except within the 100-foot setback from mean high water, the following restrictions apply:
 - a. The minimum open space ratio shall be 0.5.
 - b. The height of buildings shall be one habitable floor/story above the base flood elevation.
- (4) Maximum lot coverage: Within the 100-foot setback from mean high water, the minimum open space ratio shall be 0.50, and the maximum height of buildings shall be restricted to one habitable floor/story above base flood elevations. The open space restriction shall not apply to a ferry terminal if the Chevron property within the Key West Bight area is selected for the city ferry terminal. The redevelopment plan shall provide design criteria which shall protect waterfront views, mandate pedestrian access improvements, and ensure preservation of open space. Landward of the 100-foot setback area the following restrictions shall apply:
 - a. Maximum building coverage: 50 percent.

- b. Maximum impervious surface ratio: 60 percent, excepting the first 100 feet from mean high water as provided in section 122-716.
- (5) Minimum lot size: 5,000 square feet.
- a. Minimum lot width: 50 feet.
 - b. Minimum lot depth: 100 feet.
- (6) Minimum setbacks:
- a. Front: 10 feet.
 - b. Side: 7.5 feet.
 - c. Rear: 15 feet but ten when abutting an alley.
 - d. Street side: 7.5 feet.

(Ord. No. 97-10, § 1(2-5.5.3(2)(E)), 7-3-1997; Ord. No. 10-04, § 7, 1-5-2010)

Secs. 122-721—122-745. - Reserved.

*Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.

Land Development Regulations Text Amendment Process:

Planning Board:	May 16, 2019
<i>If denied, then appeal may be filed within 10 calendar days.</i>	
City Commission (first reading):	TBA
City Commission (second reading):	TBA
Local Appeal Period:	30 days
Render to DEO:	10 working 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 changing the text of the Land Development Regulations. 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 90-552 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 in the LDRs to the City Commission for official action. In its deliberations, the Planning Board shall consider the criteria in Code Section 90-521.

Criteria for Approving Amendments to the LDRs pursuant to Code Section 90-521 and 90-522 (a). In evaluating proposed changes to the LDRs, 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 Comprehensive Plan

The City's Comprehensive 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 text amendment would be consistent with the Comprehensive Plan.

Consistent with the adopted infrastructure minimum level of service standards and the concurrency management program

The proposed text amendment would be consistent with the Comprehensive Plan and level of service (LOS) standards.

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

The proposal is in conformance with all applicable requirements of the Code of Ordinances.

- (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 conditions 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 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.

The proposed ordinance to amend the City's Land Development Regulations (the "LDRs") is essential to encourage the development of affordable and permanent housing in the City.

- (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 proposed text amendment will make no change to the permitted uses nor the conditional uses of the HRCC-2 zoning district, therefore, the proposal would not result in any incompatible land 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. Rezoning does not constitute a concurrency determination, and the applicant will be required to obtain a concurrency determination pursuant to Chapter 94.**

No development plans are proposed with this application.

- (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.**

Any impacts on vegetative communities and the natural environment 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 proposal would not 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 proposed amendment will allow for development above 8 dwelling units per acre without the need for a transfer of development rights, however, the maximum allowable density tiers will not change. Therefore, the proposal would not have negative effects on the current 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 amendment would not be in conflict with the public interest and it is in harmony with the purpose and interest of the Land Development Regulations.

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

According to the Monroe County Property Appraiser, the total land area of the HRCC-2 zoning district is 24.78 acres, or 1,079,560.6-square-feet. The removal of the transfer of development rights restriction will allow for the future development and redevelopment of affordable & permanent housing.

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 Land Development Regulations be **APPROVED**.