



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

**To:** Chairman and Planning Board Members

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

**Meeting Date:** April 23, 2012

**Agenda Item:** Chapter 90 Administration Ordinance Amendment – Consideration of an ordinance of the City of Key West, Florida, amending Chapter 90 of the Code of Ordinances entitled “Administration” by amending Section 90-553 to lift the twice per year restriction on Comprehensive Plan amendments; providing for repeal of inconsistent provisions; providing for an effective date.

**Background:** On June 2, 2011, House Bill 7207 was signed into law; significantly amending Chapter 163 of the Florida Statutes (F.S.). One notable change was the deletion of the twice per year limit on plan amendment frequency (line 5931 of House Bill 7207). Section 90-553 of the City of Key West Code of Ordinances provides that “Comprehensive plan amendments shall only occur two times each calendar year. The schedule for such amendments shall be established by resolution of the City Commission.”

Though Section 90-553 of the City Code is still consistent with the statutory requirements, it is now a more restrictive requirement, and as such, the City’s schedule for comprehensive plan amendments has been maximized for the remainder of the 2012 calendar year. The Planning Department has been processing amendments to comply with other aspects of House Bill 7207, including an amendment to provide for the coordination strategies and compatibility of lands adjacent to or proximate to military installations (as required by Chapter 163.3175 and 163.3177). Also, the Planning Department has been working on a Future Land Use Map and Future Land Use designation for the property known as the Peary Court Housing Complex (RE# 00006730-000000), due to the impending land sale of the property by the military to a non-military entity. The Planning Department has also been working on preparing the Evaluation and Appraisal Report (EAR) amendments to the Comprehensive Plan, and is required to prepare and transmit the subject amendments by December 29, 2012. The three Comprehensive Planning initiatives identified are necessary amendments maintaining compliance with changes in state legislation, as well as unforeseen circumstances requiring City action. As such, it is imperative to amend Section 90-553 of the City Code, or otherwise request a variance to the provision at the time of consideration the proposed EAR amendments.

**Review Criteria:**

Section 90-522 of the Code of Ordinances outlines key review criteria for any changes to the Land Development Regulations. A review of the proposed ordinance relative to the criteria is provided below.

**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.**

**Sec. 90-521. Criteria for approving amendments to official zoning map.**

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.**

The proposed change does not impact the official zoning map or underlying future land use map designations.

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

The proposed modifications appear consistent with all applicable requirements of the Code.

(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 proposed amendment is being proposed due to changes in land use and development conditions since the effective date of the existing regulations.

(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 proposal does not impact land use classifications; therefore, this provision is not applicable.

**(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.

The proposed ordinance modifications do not directly affect the demand on public facilities and services. Regardless of the number of Comprehensive Plan amendments that are processed during a particular calendar year, Chapter 163 (F.S.) requires that proposed amendments address potential development impacts and the availability of public facilities.

**(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 proposed ordinance modification does not impact existing natural resource protection regulations.

**(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 proposed ordinance amendment does not adversely affect property values 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.

This modification is not expected to have any new direct impact on existing land use patterns.

**(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 not in conflict with the public interest, and 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.**

Modifying this section of the Code will provide easier maintenance of the City's Comprehensive Plan, especially when major legislative changes occur which require specific Comprehensive Plan amendments be made.

**PROCESS**

After the Planning Board recommends changes to the City Commission, the ordinance will be required to be heard at two City Commission readings for adoption. Absent any appeals, the ordinance will be rendered to the state land planning agency, which will have 60 days to issue an order of consistency determination.

**RECOMMENDATION**

The Planning Department recommends consideration and approval of the ordinance amendment.

**Draft  
Resolution**

**PLANNING BOARD  
RESOLUTION NO. 2012-\_\_\_\_\_**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD  
RECOMMENDING APPROVAL OF AN ORDINANCE OF  
THE CITY OF KEY WEST, FLORIDA, AMENDING  
CHAPTER 90 OF THE CODE OF ORDINANCES  
ENTITLED "ADMINISTRATION" BY AMENDING  
SECTION 90-553 TO LIFT THE TWICE PER YEAR  
RESTRICTION ON COMPREHENSIVE PLAN  
AMENDMENTS; PROVIDING FOR REPEAL OF  
INCONSISTENT PROVISIONS; PROVIDING FOR AN  
EFFECTIVE DATE**

**WHEREAS**, the Planning Department initiated the proposed land development regulation amendment to be consistent with changes made to Chapter 163.3187 of the Florida Statutes (F.S.); and

**WHEREAS**, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the Land Development Regulations in accordance with certain procedures and criteria; and

**WHEREAS**, pursuant to Section 90-522, the Planning Board held a noticed public hearing on \_\_\_\_\_, where based on the consideration of recommendations by the City Planner, City Attorney, Building Official, and other information, the Planning Board recommended approval of the proposed amendments; and

**WHEREAS**, in accordance with the requirements in Section 90-522, the Planning Board reviewed the proposed changes in the Land Development Regulations; and

**WHEREAS**, the Planning Board considered the proposed amendment with the Comprehensive Plan, requirements of the Code of Ordinances, how land use and development conditions have changed since the effective date of the existing regulations, land use compatibility, availability of adequate public facilities, impacts on the natural environment, economic effects, the promotion of orderly development, whether the proposed amendment is in the public interest, as well as other matters; and

**NOW THEREFORE BE IT RESOLVED** by the Planning Board of the City of Key West, Florida:

**Section 1.** That the above recitals are incorporated by reference as if fully set forth herein.

**Section 2.** That AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY LIFTING THE TWICE PER YEAR RESTRICTION ON COMPREHENSIVE PLAN AMENDMENTS is hereby recommended for approval; a copy of the recommended modifications to the Code is attached.

**Section 3.** This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a special meeting held this \_\_\_\_ day of \_\_\_\_ 2012.

Authenticated by the Chairman of the Planning Board and the Planning Director.

\_\_\_\_\_  
Richard Klitenick, Chairman  
Key West Planning Board  
Date

**Attest:**

\_\_\_\_\_  
Donald Craig, AICP  
Planning Director  
Date

**Filed with the Clerk:**

\_\_\_\_\_  
Cheryl Smith, City Clerk  
Date

DRAFT



**Draft  
Ordinance**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY AMENDING SECTION 90-553 TO LIFT THE TWICE PER YEAR RESTRICTION ON COMPREHENSIVE PLAN AMENDMENTS; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the Land Development Regulations in accordance with certain procedures and criteria;

**WHEREAS**, pursuant to Section 90-522, the Planning Board held a noticed public hearing on \_\_\_\_\_; where based on the consideration of recommendations of the City Planner, City Attorney, Building Official and other information recommended approval of the proposed amendments with modifications; and

**WHEREAS**, the City Commission held a noticed public hearing on \_\_\_\_\_ and a second public hearing on \_\_\_\_\_ and in its deliberations considered the criteria identified in Section 90-521 of the Code of Ordinances; and

**WHEREAS**, the City determined that the proposed amendments are:

\*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the effective date of the existing regulation; will promote land use compatibility; will not result in additional demand on public facilities; will have no impact on the natural environment; will not negatively impact property values or the general welfare; will result in more orderly and compatible land use patterns; and are in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Chapter 90, Article VI. Amendments, of the Code of Ordinances is hereby amended as follows\*:

**Sec. 90-553 Initiation.**

Pursuant to this division, site-specific comprehensive plan amendments may be proposed by the city commission, the planning board, the city manager or the owner of real property within the city affected by the proposed amendment or the agent of such owner. In addition to site-specific amendments, the city commission, the planning board or city manager may initiate general amendments to the comprehensive plan. ~~Comprehensive plan amendments shall only~~

\*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

~~occur two times each calendar year. The schedule for such amendments shall be established by resolution of the city commission.~~

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission and approval by the State Land Planning Agency pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held

\*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Read and passed on final reading at a regular meeting held  
this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Authenticated by the presiding officer and Clerk of the  
Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Filed with the Clerk \_\_\_\_\_, 2012.

\_\_\_\_\_  
CRAIG CATES, MAYOR

ATTEST:

\_\_\_\_\_  
CHERYL SMITH, CITY CLERK