

EXECUTIVE SUMMARY



To: Bogdan Vitas Jr., City Manager

From: Nicole Malo, Planner II

Through: Donald Leland Craig, AICP, Planning Director

Date: September 18, 2012

RE: An Ordinance of the City of Key West amending the Land Development Regulations, and the Official Zoning Map for property known as the Peary Court Housing Complex (RE# 00006730-000000, Alternate Key# 1006963) Amending the Official Zoning Map Legend; Amending Chapter 122, Article IV, to create a new Historic Special Medium Density Residential district (HSMDR), providing for permitted uses, conditional uses, prohibited uses and dimensional requirements; providing for a residential density of 8.6 units per acre; amending Chapter 122, Article V, providing amendments to the tables of uses and dimensional requirements for Historic Special Medium Density Residential district (HSMDR); providing for concurrent and conditional adoption upon adoption of Comprehensive Plan amendments; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

ACTION STATEMENT

Request: Request to consider amendments to the Land Development Regulations for the new Historic Special Medium Density Residential Zoning District including amendments to the zoning map and associated information to compliment the proposed Comprehensive Plan Future Land Use Amendment for the Peary Court Housing Complex, a former military housing site.

Location: Peary Court Housing Complex;
RE# 00006730-000000, Alternate Key# 1006963

Background

On September 6, 2012 the City Commission approved the first reading of the Historic Medium Density Residential (HSMDR) Zoning District, for the Peary court Housing Complex based on recommendations made by the Planning Board on July 19, 2012, that were amended based on comments subsequently received by the Department of Economic Opportunity (DEO) on July 25, 2012 and on August 3, 2012 through the Objections, Comments and Recommendations (ORC) report for the associated Future Land Use HSMDR designation amendment (see attached).

In its deliberations on September 6th, the City Commission made three significant changes to the proposed ordinance as follows:

- 1. Density: 8.6 units per acre: Section 122-615(1);**
- 2. Affordable housing exception: Section 122-616;**
- 3. Requirement of a Development Agreement: Section 122-611;**

Density: 8.6 units per acre: The proposed density of 8.6 units per acre, allows a maximum of 208 units on the site (24.18 acres: Please note that this number is reflective of the most up to date survey made available to the City on September 5, 2012. See attached). The prescribed density is in response to the August 3, 2012 ORC report issued by the DEO that supports the allocation of 48 new affordable units to Peary Court in addition to the existing 160 units (see attached). The proposed maximum density is supported by the proposed EAR based amendments to the Comprehensive Plan and the 2012 Data and Analysis report that were recommended for approval by the Planning Board on August 30, 2012 and will be presented to the City Commission on October 2, 2012.

Affordable housing exception: The Peary Court Housing Complex is the first of such possible military surplus properties for which HSMDR zoning may be appropriate, and the property so considered has unique characteristics. Therefore, the proposed LDR's supported by the HSMDR FLUM amendment being processed at the same time as this ordinance provides an exception to the 30% affordability requirement of Comprehensive Plan Policy 3-1.1.3 for applications requesting rezoning of property to HSMDR received before September 6, 2012. The exception allows an adjustment such that the requirement shall be not less, but not more than 30% of the units existent on site at the time of application. While 30% of the total existing residential or redeveloped residential, and/or new residential density added to the City's BPAS system from former military sites, must be affordable and meet the requirements of the Affordable Workforce Housing Regulations.

This exception, as discussed with the City Commission on September 6, 2012, is due to the position of the DEO and the Peary Court property owner that the affordable housing requirement is limited to no less than, nor more than 30% of the 160 units presently on the property. Both identified litigation as a method to defend their positions. In consideration of that point the commission decided to allow the zoning to proceed with the lesser number. For future applications of the HSMDR FLUM to excessed military housing, 30% of the total aggregate of units new to the BPAS, inclusive of the affordable units shall be the standard. The standard methodology is spelled out in the associated HSMDR FLUM.

Section 122-616. – Affordable housing requirements.

Affordable housing shall be required for all existing residential, redeveloped residential and new residential development at a ratio of 30% of the total units existent, redeveloped and/or created on properties located within the HSMDR zoning district per Chapter 122, Article V, Division 10, Sections 122-1465 through 122-1472. Except that applications for

rezoning of property to HSMDR zoning received before September 6, 2012, shall have the 30% ratio adjusted such that the requirement shall be not less, but not more than 30% of the units existent on site at the time of application.

New language has been double underlined for reference.

Requirement of a Development Agreement:

The proposed requirement for a development agreement provides the City with additional controls for complex large long term redevelopment and development projects for properties such as Peary Court Housing Complex.

Section 122-611. - Intent.

(e) Any Development Plan Approval submitted for a property in the HSMDR zoning District shall be accompanied by a concurrent application for a Development Agreement.

New language has been double underlined for reference.

No other changes are proposed to the original Zoning ordinance approved by the City Commission on September 6, 2012.

Process

The proposed amendments are a result of the United States Navy, with its concessional housing partner, Southeast Housing, LLC, pursuing the sale of the property known as the Peary Court Housing Complex (RE# 00006730-000000, Alternate Key# 1006963); and all of the structures on it, to a private entity. The property is located within a Military (M) Future Land Use designation and corresponding zoning district. Because the property is considered for sale to a non-military entity, the Future Land Use Element and Future Land Use Map (FLUM) of the City of Key West Comprehensive Plan must be amended, and the City's Land Development Regulations (LDR's) must be changed in order to include the new zoning district and update the City's Official Zoning Map.

Both the FLUM amendment and the Zoning Ordinance for the HSMDR are on a parallel approval track to be adopted on September 18, 2012 pursuant to the recently enacted Laws of Florida 2012-99, amending Florida Statute Section 163.3184(12) to allow municipalities to process Future Land Use Amendments and amendments to the Land Development Regulations concurrently. The rule requires that the LDR amendment is contingent upon the approval and adoption of the Future Land Use Amendment.

In order to amend the Comprehensive Plan and LDR's for the proposed HSMDR zoning district, a data and analysis report was prepared with the following information:

- Consistency of the proposed land use amendments with the future land use element goals, objectives and policies, and those of other affected elements;
- Impacts on Hurricane Evacuation; Planning and the BPAS;

- Concurrency determination: description of availability of and the demand on sanitary sewer, solid waste, drainage, potable water and water supply, traffic circulation, and recreation, as appropriate;
- Tenant Rental Types and Rental Ranges in Relation to Affordable Housing;
- Construction Code/Federal Emergency Management Agency (FEMA) Flood Elevation Compliance; and
- Review of Archaeologically Sensitive Areas on the Site.

Please see the attached Data, Inventory and Analysis Report and the supporting Comprehensive Plan Objectives and Policies that provide direction for the LDR amendment (see attached). Please note that on September 5, 2012 the Planning Department was provided an updated survey of the Peary Court property dated April 20, 2012 (see attached) in which the size of the site had been reduced from 24.26 acres to 24.18 acres. The density calculations provided herein are reflective of the updated acreage (24.18); however, the supporting data and analysis report referred to maintains the old information of 24.26 acres. The small discrepancy however has been determined not to affect the conclusions of the Data, Inventory and Analysis Report.

Proposed Amendments and Existing Site Characteristics

The Peary Court Housing Complex consists of approximately 24.18 acres, and began phased construction in late 1993-1994. The total number of residences recognized on the property is 160; however, only 157 units are currently in existence on the property today. At the time of construction, the residences fulfilled military housing needs. However, over time, the tenant eligibility was broadened to include public sector civilians.

The property is located adjacent to the following future land use designations: Military (M) designation at Trumbo Point Annex to the north, the Historic Neighborhood Commercial Future Land Use designation along White Street to the west, the Historic Medium Density Residential (HMDR) designation to the south, the General Commercial Future Land Use designation to the east, and Public Service (PS) Future Land Use designation to the northwest and northeast. Though there are some institutional and commercial zoning districts proximate or adjacent to the property, most significant abutting land use is historic, permanent residential housing.

Based upon the Data and Analysis together with direction provided by the Future Land Use Amendment, and suggestions made through the ORC Report for the Future Land Use Amendment and the prospective buyer, White Street Partners, LLC., on behalf of the owners, the US Navy and Southeast Housing, LLC, planning staff created the proposed Land Development Regulations that best and fairly protect existing residential development and uses on site, protect surrounding neighborhood districts and allow future redevelopment of the site. The proposed LDR's for the Historic Special Medium Density Residential (HSMDR) provide a hybrid approach that reflects the special circumstances of the existing site development with other somewhat similar, existing zoning regulations that have a history of successful implementation such as the HMDR, MDR, HPRD and PRD zoning district regulations.

In addition to creating the new HSMDR zoning district with affordability regulations, permitted uses, conditional uses and dimensional requirements, the proposed amendments include modifications to the official zoning map and FLUM (Exhibit 1) and associated official zoning map legend (Exhibit 2). These changes will appear as follows:

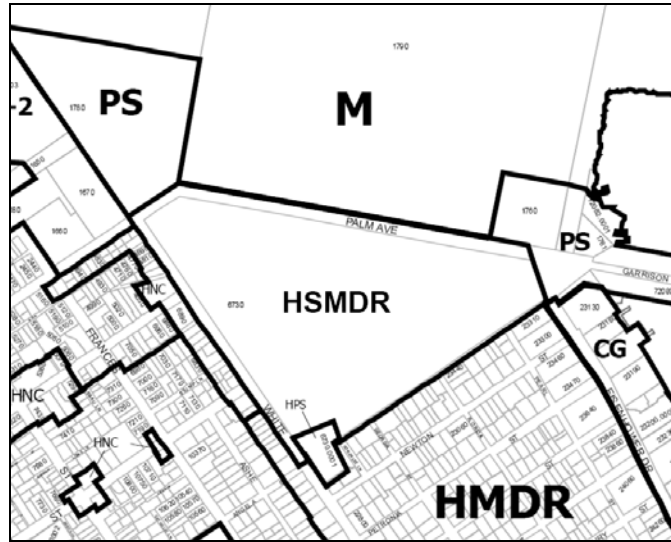


Exhibit 1

OFFICIAL ZONING MAP OF THE CITY OF KEY WEST, FLORIDA			
LEGEND			
A Airport	HHDR Historic High Density Residential	MDR Medium Density Residential	Zoning delineations based on Future Land Use Map (FLUM). Original map created by D. Sullins Stewart with the City of Key West Planning Department dated 1993. 1996 Revisions provided by the City of Key West Planning Department. FLUM adopted as zoning map by ordinance 97-10, July 3, 1997. 2004 Revisions provided by the City of Key West Planning Department based on ordinances 99-16, 00-14, and 03-04. Base map provided by the Monroe County Property Appraiser. Parcel map updated on: June 24, 2004 Plot prepared on: December 14, 2004 <small>THIS PROPERTY LOCATION MAP HAS BEEN COMPILED FOR INTERNAL OFFICE USE AS AN AID IN THE PREPARATION OF THE MONROE COUNTY TAX ROLL. IT IS NOT A SURVEY AND THE OWNERSHIP INFORMATION DEPICTED THEREON SHOULD NOT BE RELIED UPON FOR TITLE PURPOSES. NEITHER THE CITY OF KEY WEST NOR THE OFFICE OF THE PROPERTY APPRAISER ASSUMES RESPONSIBILITY FOR ANY ERRORS OR OMISSIONS.</small>
C-FW Conservation- Freshwater wetlands	HMDR Historic Medium Density Residential	MDR-1 Medium Density Residential 1	
C-OW Conservation- Outstanding Wetlands of the State	HNC (1 - 3) Historic Neighborhood Commercial 1 - 3	MDR-C Coastal Medium Density Residential	
C-TW Conservation- Tidal Wetlands of the State	HPRD Historic Planned Redevelopment and Development District	PRD Planned Redevelopment and Development District	
C-UH Conservation- Upland Hammock	HPS Historic Public and Semi-public Services	PS Public Services	
CG General Commercial	HPS (1 & 2) Historic Public and Semi-public Services 1 & 2	RO Residential / Office	
CL Limited Commercial	HRCC Historic Residential Commercial Core	SF Single Family	
CM Conservation- Mangrove	HRCC (1 - 4) Historic Residential Commercial Core 1-4	SF Special SF Special, Ordinances 122-036 and 122-038	
CT Salt Pond Commercial Tourist	HRO Historic Residential / Office		
HCL Historic Limited Commercial	LDR-C Coastal Low Density Residential		
HCT Historic Commercial Tourist	M Military		
HDR High Density Residential			
ATTENDED: See Key West City Clerk's Office for Official Version BY: <u>SYMBIOSIS CITY PLANNERS</u> DATE: _____ REVISIONS: <u>HSMDR Historic Special Medium Density Residential District</u>			

Exhibit 2

Until such time as the new LDR's for HSMDR are adopted and in place, the regulatory scheme of the Zoning in Progress will remain in force (see attached). That set of administrative directions to the property owner, whomever that may be, and the city staff is to allow the maintenance and replacement (if destroyed by accident or Act of God) of the existing residential and commercial structures in kind, type, density and intensity, but with no ability to process applications for development agreements, variances, exception, development plans or conditional uses. The present LDR Amendment process, when complete will be the final step of the rezoning of the property, which will then allow redevelopment of the property in conformance with the LDR's.

Previous City Actions

Planning Board Meeting

1st City Commission Meeting

2nd City Commission Meeting

July 19, 2012

August 7, 2012 – postponed
 September 6, 2012- approved
 September 18, 2012

Review Criteria

Section 90-523 of the Code outlines key City Commission review procedures for any changes to the Land Development Regulations. In accordance with the Code the City Commission shall consider the criteria in Section 90-521 together with the findings and recommendations of the Planning Board. As described in this report the Planning Board has recommended the proposed ordinance. A review of the proposed ordinance relative to the criteria is provided below.

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.

Based on the recent Statewide Hurricane Evacuation Modeling Workshops hosted by the Department of Economic Opportunity (DEO), the city's Building Permit Allocation System (BPAS) is being updated in the current EAR based Comprehensive Plan amendment process to reflect a distribution of 91 new units per year beginning in 2013.

As part of the Peary Court Future Land Use and zoning changes the State has issued a letter granting the first 48 affordable units of the 2013 BPAS allocation to the Peary Court Housing Complex redevelopment allowing a proposed density of 9 units per acre. The dedication of the 48 units to Peary Court are reflected in the Comprehensive Plan Amendments for the new BPAS system. The proposed Land Development Regulations for the new HSMDR zoning district and zoning map changes are consistent with the related updates to the infrastructure minimum level of service (LOS) standards and the concurrency management program and there are adequate public facilities to accommodate the proposed increase in density and any allowed commercial development on the site. The City's draft Data and Analysis report for the EAR based Comprehensive Plan updates in the process of review now describe that the city meets or exceeds adequate level of service standards and meets concurrency requirements for the existing and projected future population through the 20 year planning period including the 910 new units the city will receive through the updated planning period (see attached).

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

The proposed ordinances are in conformance with the Code and the procedures for amending the Land Development Regulations. The standards, regulations and procedures proposed for the HSMDR district are consistent with and not in conflict with other parts 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 changes support or work against the proposed rezoning.

Because the property has been owned by the US Navy there are no existing zoning regulations for the property that affect the new zoning proposed.

(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 Land Development Regulations permit limited residential uses and associated accessory uses as of right. Other customary land uses found in residential districts such as parks and recreation, parking lots, educational institutions and nurseries, utilities and cultural activities have been determined to be higher impact uses are only allowed conditionally and therefore, must obtain Planning Board approval to determine land use compatibility. Therefore, the proposed LDR's are compatible with surrounding 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.

The proposed zoning district regulations are intended to limit the impacts of uses allowed on the site. The proposed amendments will not result in development that creates excessive demands on public facilities and the existing facilities are consistent with concurrency management requirements. The Peary Court Data and Analysis Report prepared serves as the concurrency determination for existing development; however, all applications for future development will have to comply with concurrency standards.

(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 site proposed for rezoning is not considered environmentally sensitive or currently zoned as conservation land. The proposed zoning regulations have no impact on the natural environment; however, any future development projects will be required to attain necessary environmental permitting and comply with mitigation requirements.

(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 LDR's are intended to protect the surrounding property values and general welfare of the city and only permits the types of residential uses that exist on the site today as of right.

(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 LDR's will support an orderly and compatible land use pattern consistent with that which are currently existing. Further the LDR's proposed reflect a hybrid of existing district regulations with in the city to account for the special situations encountered at Peary Court.

(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 dimensional requirements reflect the existing land use patterns in other similar and adjacent residential districts within the city and compels new construction to be compatible with the surrounding Historic District. The proposed permitted and conditional uses are intended to be low impact and or accessory to the residential uses and are not in conflict with surrounding neighborhood residential uses or existing surrounding commercial development. The proposed LDR's are expected to help protect the greater public interest and will further the intent of the Comprehensive Plan and Land Development Regulations.

(10) *Other matters.* Other matters which the Planning Board and the City Commission may deem appropriate.

Other matters have not been identified at this time.

In summary, the zoning regulations contained in the proposed Ordinance are as follows:

Density	8.6 dwelling units per acre
FAR	1.0
Height	30 feet
Permitted Uses	Single family dwellings; Multifamily dwellings; Accessory Uses and structures; Approved home occupations.
Conditional Uses	Community centers clubs and lodges accessory to residential uses; Cultural and civic activities; Parks and recreation active and passive; Public and private utilities; Parking lots and facilities; Educational institutions and daycare facilities.
Setbacks	Front: 10 feet

	Side: 5 feet Rear: 15 feet Street Side: 7.5 feet
Lot Coverage	Building Coverage: 40% Impervious surface: 60%
Lot Size	5,000 square feet Width: 50 feet Depth: 100 feet
Architectural Review	HARC Staff and HARC Commission review for redevelopment and new development to ensure compatibility

RECOMMENDATIONS

Options / Advantages / Disadvantages:

Option 1. Approve the Ordinance.

1. **Consistency with the City’s Strategic Plan, Vision and Mission:** This action would provide regulations that are consistent with the mission and vision of the city to provide affordable housing, limit impacts of development on surrounding neighborhoods and provide oversight for compatibility with historic preservation efforts.
2. **Financial Impact:** The proposed LDR’s will allow the creation of new taxable assessed property value needed by the City. The infrastructure and public service programs and system are already in place to support the development. As the development enters the private system and is regulated by the City, any new development, and existing development as required will pay service and utility fees and make improvements to the physical facilities as required. The intent of such an approach is that the impact of transferring these units to the private sector be at no cost to the public. The final methods, processes and fees where appropriate will be developed with the new Land Development Regulation applied to the property.

Option 2. Do not approve the Ordinance.

1. **Consistency with the City’s Strategic Plan, Vision and Mission:** This action would not provide enhanced services and is not consistent with the mission and vision of the city.
2. **Financial Impact:** Denying the request may cause delays in identifying suitable Zoning Regulations that may have a negative effect on the Monroe County Property appraiser’s assigned values on the property.

STAFF RECOMMENDATION

Option 1.

Approval of the Ordinance amending the Official Zoning Map for property known as the Peary Court Housing Complex (RE# 00006730-000000, Alternate Key# 1006963) Amending the Official Zoning Map Legend; Amending Chapter 122, Article IV, to create a new Historic Special Medium Density Residential district (HSMDR), providing for permitted uses, conditional uses, prohibited uses and dimensional requirements; providing for a residential density of 8.6 units per acre; amending Chapter 122, Article V, providing amendments to the tables of uses and dimensional requirements for the Historic Special Medium Density Residential district (HSMDR).