

EXECUTIVE SUMMARY



To: Jim Scholl

Through: Donald Leland Craig, AICP, Planning Director

From: Nicole Malo, Planner II

Meeting Date: September 18, 2012

RE: **Comprehensive Plan Amendment** – Approval of an ordinance of the City of Key West, Florida, proposing amendments to the Future Land Use element and Future Land Use Map series of the City of Key West Comprehensive Plan for property known as the Peary Court Housing Complex (RE# 00006730-000000, Alternate key# 1006939); amending the Future Land Use Map Legend and Density and Intensity of Development, providing for a residential density of 8.6 units per acre, amending Map 1-1, Map 1-4, and Map 1-6 of the Future Land Use Map series; creating Policy 1-1.6.4; and Policy 1-2.3.11 to provide for the integration of the military sites into the community; and to define a new Future Land Use Map designation of “Historic Special Medium Density Residential” (HSMDR) and applying such designation to said property; 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.

Location: Peary Court Housing Complex (RE# 00006730-000000, Alternate Key# 1006939)

Background: Recent Action

This is the second reading of the proposed ordinance for adoption of amendments to the Comprehensive Plan for the new Future Land Use designation and Map series for the Peary Court Housing Complex to be designated Historic Special Medium Density Residential (HSMDR). As part of the state mandated coordinated review process for local Comprehensive Plan amendments the Planning Department transmitted the proposed amendments heard and approved by City Commission on May 29, 2012 to the State Land Planning Agency, the Department of Economic Opportunity (DEO) for review. On August 3, 2012 the City received the Objections, Recommendations, Comments (ORC) report from the DEO. Two changes are proposed to the amendment as a result of the ORC report and due to other influences as follows (Existing language is underlined, new language is in double underline format, omitted language has been struck through):

1. Policy 1-1.6.4: Peary Court Housing Complex Organizing Element. All new development and redevelopment within the Peary Court Housing Complex shall be consistent with the following key organizing elements:

- ~~4. Recognize that a portion of the existing housing on the property contributes to the affordable housing stock of the community due to its availability to non-military citizens and its rental rate structure, and to maintain such affordability for a reasonable portion of those units.~~
- 4. Affordable housing shall be required for all existing residential, redeveloped residential and new residential development at a ratio of 30% of the total aggregate of the existing or redeveloped, and/or new units on the property.

2. Policy 1-2.3.11: The proposed density for the site, although originally proposed at 8 units per acre, has been adjusted to 8.6 units per acre.

Revised **Policy 1-1.6.4** identifies the four basic organizing elements for development or redevelopment within the HSMDR Future Land Use designation. The proposed amendment to number four (4) now clarifies that 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. The only exception provided is the Peary Court property presently being considered for the companion HSMDR zoning designation. 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 following provides the standard equation for the proposed methodology:

Maximum units allowed on site with 30% being affordable:

$$A = X + Y + 0.1(X+Y)$$

Where:

X = Total existent units that are to remain market rate units;

Y = X (30% affordability factor).

Total number of units required to be affordable:

$$B = A(30\%)$$

For example, if a portion of Trumbo Point Annex were to be excessed with 100 residential units existent, and the non-military buyer wished to maintain 100 market rate units and supply 30% new affordable housing in addition, the required affordable housing would be calculated as follows:

A. Maximum units allowed on site:

$$A = 100 + 100(30\%) + 0.1 (100 + 30);$$

$$A = 100 + 30 + 13;$$

$$A = 143$$

B. Number of units required to be affordable:

$$B = 143(30\%)$$

$$B = 43$$

Revised **Policy 1-2.3.11** establishes an allowed density of 8.6 units in the HSMDR FLUM. As permitted by 163.3184(12) F.S, amendments to the Future Land Use element and Map for the HSMDR are being processed at the same time as the related Land Development Regulations (LDR's) for the new HSMDR zoning district. On September 6, 2012 in its deliberation of the amendments to the Land Development Regulations for the HSMDR zoning district the City Commission approved an ordinance establishing a density of 8.6 units per acre, allowing 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). This prescribed density is in response to the August 3, 2012 Objections, Recommendations and Comments (ORC) report issued by the Department of Economic Opportunity (DEO) that supports the allocation of 48 new affordable units to Peary Court in addition to the existing 160 units (see attached). The proposed density allowing 48 new units is supported by the proposed EAR based amendments to the Comprehensive Plan and the 2012 Data and Analysis report that were heard by the Planning Board on August 30, 2012 and will be presented to the City Commission on October 2, 2012.

No other changes are proposed to the original transmittal ordinance approved by the City Commission on May 29, 2012.

State Coordinated Review Process and Previous City Actions

Due to the City's Area of Critical State Concern (ACSC) designation, the State Coordinated Review Process required in 163.3184, F.S. is the required process for adoption of a Comprehensive Plan amendment. The process is outlined as follows:

- April 19, 2012: Planning Board approval of transmittal;
- May 29, 2012: City Commission approval of transmittal;
- June 8, 2012: Amendment transmitted to State Land Planning Agency and reviewing agencies (30 days to comment);
- August 3, 2012: Objections, Recommendations, Comments (ORC) report received by the City from State Land Planning Agency to City (60 days after receipt);
- Local government review of comments; adoption of amendments and transmittal;
- September 18, 2012: Second City Commission meeting adopting plan amendment with effective date (within 180 days after receipt of the state land planning agency's report);

- September 28, 2012: Within 10 days of adoption forward copy of Comprehensive Plan amendment to State Land Planning Agency, as well as any other agency or local government who provided timely comments;
- November 2012: Within 45 days of receipt of complete adopted plan amendment State Land Planning Agency may issue Notice of Intent to City determining compliance; and
- December 2012: Appeal period of 21-days after State Land Planning Agency issues Notice of Intent. Rule making process /Ordinance adoption complete.

Background and Existing Site Characteristics

On April 6, 2011, the City was notified that the United States Navy, with its concessional housing partner, Southeast Housing, LLC, would be pursuing the sale of the property known as the Peary Court Housing Complex (RE# 00006730-000000), 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. As such, the Future Land Use Element and Future Land Use Map of the City of Key West Comprehensive Plan must be amended, and subsequent amendments to the City's Land Development Regulations would be required to update the zoning district and the City's Official Zoning Map. In order to amend the Future Land Use Element and Future Land Use Map, the following information was reviewed and analyzed:

- Information regarding the 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 Evacuation; Planning and the BPAS;
- A 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.

The attached Data, Inventory and Analysis Report addresses these items and the direction provided by supporting Comprehensive Plan Objectives and Policies. 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.

The Peary Court Housing Complex consists of approximately 24.18 acres, and began phased construction in 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 type 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, the Historic Neighborhood Commercial Future Land Use designation, the Historic Medium Density Residential (HMDR) designation, the General Commercial Future Land Use designation, and Public Service (PS) Future Land Use designation. Though there are some institutional and commercial Future Land Use designations proximate or adjacent to the property, there is a significant portion of historic, permanent residential housing abutting the property.

Based upon this set of facts, and the need to identify a reasonable and prudent Future Land use designation for the property, together with the direction provided by the Zoning In Progress determination and options considered by the City Commission, Planning staff created a hybrid FLUM designation to best and fairly protect existing residential uses on site, and determine a policy position for LDRs which would protect surrounding land uses. This proposed FLUM designation is Historic Special Medium Density Residential (HSMDR). This hybrid approach is based on the special circumstances of the existing site development and surrounding uses.

The proposed policies when adopted will provide the direction for the creation of implementing LDR's. Until such time as the new LDRs for HSMDR are adopted and in place, the regulatory scheme of the Zoning In Progress will remain in force.

The proposed amendments are as follows:

Add to Goal 1-1 Land Use, Objective 1-1.6, Integrate Former Military Sites, the following new policy:

Policy 1-1.6.4: Peary Court Housing Complex Organizing Element. All new development and redevelopment within the Peary Court Housing Complex shall be consistent with the following key organizing elements:

1. Preserve the existing housing stock of 160 units for permanent multifamily residential purposes.
2. Maintain land use compatibility and sensitivity with the adjacent historic district.
3. Maintain land use compatibility and sensitivity with the adjacent military installation at Naval Air Station Key West Trumbo Point Annex.
4. Affordable housing shall be required for all existing residential, redeveloped residential and new residential development at a ratio of 30% of the total aggregate of the existing or redeveloped, and/or new units on the property.

Amend **Goal 1-2 Future Land Use Map**, by changing:

Map 1-1, Future Land Use Map Series: The City's Future Land Use Map (pg. 1-10). Remove the Military (M) Future Land Use designation applied to the property, and substitute the new Historic Special Medium Density (HSMDR) Future Land Use designation (Exhibit 1).

The **Future Land Use Map Legend and Density and Intensity of Development** (pg. 1-

11) shall be amended to include the Historic Medium Density (HSMDR) Future Land Use designation, and shall have a maximum nonresidential Floor Area Ratio of 1.0, and maximum residential density of 8.6 dwelling units per gross acre (Exhibit 2).

Map 1-4 of the Future Land Use Map Series (pg. 15) shall be amended to remove the “NAVY” designation on the parcel of property known as the Peary Court Housing Complex (RE# 00006730-000000) (Exhibit 3).

Map 1-6 of the Future Land Use Map Series (pg. 1-17) shall be amended to remove the “NAVY” designation on the parcel of property known as the Peary Court Housing Complex (RE# 00006730-000000) (Exhibit 4).

Amend Objective 1-2.3 Managing Old Town Redevelopment and Preservation of Historic Resources by adding the following policy:

Policy 1-2.3.11: Historic Special Medium Density Residential (HSMDR). The area delineated on the Future Land Use Map as Historic Special Medium Density Residential (HSMDR) is designed to accommodate the existing multifamily military housing complex at Peary Court at that time when the land and improvements are transferred to civilian ownership and City jurisdiction. The designation is intended to maintain land use compatibility with the adjacent historic district and military installation at Trumbo Point Annex. This designation is not intended to accommodate transient or commercial residential land use activities. The allowable residential density shall be a maximum of 8.6 units per acre. The maximum intensity of development shall not exceed a floor area ratio of 1.0 for all uses.

Upon Plan adoption, the land development regulations shall be amended to identify standards and processes to implement new Policy 1-1.6.4, to provide bulk and performance standards to implement the HSMDR designation, and to assure compliance with all other goals, objectives, and policies of the Comprehensive Plan.

Upon plan adoption, the Historic Preservation Planner shall have the discretion to review redevelopment and new development impacts for mass, scale, size, proportion, and screening to ensure compatibility with the existing community fabric. Upon plan adoption, the land development regulations shall be amended to include applicable review criteria for such historic architectural review standards.

Criteria for approving amendments to Comprehensive Plan Future Land Use Map. Section 90-555.

In evaluating proposed changes to the Comprehensive Plan Future Land Use Map, the City shall consider the following criteria:

- (1) Policy 1A-1.2.4: Land Use Compatibility Comprehensive Plan, including the adopted infrastructure, minimum levels of service standards and the concurrency management program.**

As demonstrated in the attached Data and Analysis report, the proposed

designation and policy set are supported by numerous existing Comprehensive Plan objectives and policies which direct the location, timing, density and intensity of development such that it minimizes impacts on surrounding residential and commercial districts and resources.

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

As demonstrated by the Data and Analysis and the Development Review Committee analysis the existing development is or will be consistent with all the appropriate Code sections when the LDRs are drafted and effectuated to guide development and re-development within this new district. The property owner is aware that any deficiencies in any building or site improvements must be compliant with Code (Building, Flood and Planning) at the time Certificates of Occupancy are issued upon transfer to private ownership, or by a date certain based upon a development order issued subsequent to adoption of LDRS to implement the new FLUM and Comprehensive Plan policies of HSMDR. Certificates of Occupancy are required throughout the City as a tracking method for residential and some commercial development, and to apply necessary licenses and fees for services rendered by the City. These C.O.'s are then re-issued when significant improvements totaling more than 50% of the appraised structure value are made. The fact that these units were in physical existence under the complete and autonomous authority of the US Navy does not relieve the City from the responsibility of issuing the C.O.'s. Finally, as discussed with the Balfour Beatty and US Navy representatives, when improvements are made to existing structures, and site improvements, the Building, Floodplain and Planning Codes applicable at the time of permit application will apply.

(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.

There has been one significant and paramount change from the time the development and use of the property initially occurred. That is the pending and imminent transfer of the property to private ownership, which requires a Future Land Use map designation, Comprehensive Plan policies and Land Development Regulations to regulate appropriate private use of property.

(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 residential use of the property when limited in scope and density as proposed will be consistent with the surrounding single family and limited multi-family historic districts. The proposed density limitation of the policies of 8.6 units per acre is consistent with the surrounding historic residential districts. The policies provide direction to the formulation of LDRs such that any nonresidential

development will be limited in scope by prohibiting commercial or transient land use. These prohibitions on commercial and transient use were taken from the policies and regulations applicable to the HMDR zoning district because of the existence of such districts adjacent to the property in question, and because the concept of limiting commercial and transient development in such neighborhoods such as this one has withstood litigation in which the City has prevailed.

- (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 DRC analysis demonstrated that the existing development has been or will be accommodated by all the relevant public facilities and services named above. Any new development that may be proposed after adoption of the LDRs must demonstrate concurrency by analysis prior to any construction approval.

- (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.**

There are no significant natural resources on site, with the exception of a number of larger trees which will have enhanced protection due to the City's Tree ordinance becoming effective upon ownership transfer.

- (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 transfer of ownership and the implementation of the new LDRs and the Comprehensive Plan designation will have a significant and positive effect by increasing the assessed value subject to City, School and Special District and County taxation levies. If the property is regulated by the policies and LDRs which limit density and prevent transient and commercial uses, the effects on surrounding property values will be positive.

- (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 development pattern has already been established by the construction of the existing units. As presently envisioned and with the lack of any new BPAS allocations anywhere in the city inclusive of the subject property, the existing development pattern will remain the same.

(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 designation of a FLUM designation which largely maintains the status quo, but supports and regulates the continuation of the existing development pattern, type and density, and prevents the use of the property for transient rentals and commercial purposes is in harmony with the LDR intent by balancing the need to provide for a reasonable use of property and the protection of the property rights of surrounding land use districts. The proposed FLUM designation is consistent with F.S. 380.05, 380.0552 and F.S. 163.3184 in that the proposed FLUM and policy implements the Principles for Guiding Development, Florida Administrative Rule 28-36.003.

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

There are no other matters that have been identified at this time.

Options / Advantages / Disadvantages:

Option 1. To approve adoption the proposed Future Land Use Map designation and implementing policies, recognizing that all other pertinent policies of the Comprehensive Plan apply equally and without exception.

1. Consistency with the City's Comprehensive Plan and Land Development

Regulations: Creating the new FLUM designation will allow the City to create a regulatory system, inclusive of land use policies and Land Development Regulations which carefully regulate the use of the land and is an action consistent with the City's Comprehensive Plan and Land Development Regulations.

2. Consistency with the City's Strategic Plan, Vision and Mission: The proposal is consistent with the City's Strategic Plan, Vision, and Mission in that it creates opportunities for BPAS system net new residential development (160 existing units) plus an additional 48 affordable units compatible with existing neighborhoods.

3. Financial Impact:

The proposed designation and policies 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 non-federal system and regulation 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. To not approve for transmittal the proposed FLUM and Comprehensive Plan Policies. If the Commission chose not adopt the FLUM and Policies, it would leave the Zoning in Progress designation in place and have the following effects:

1. Consistency with the City’s Comprehensive Plan and Land Development Regulations:

Choosing to not approve the proposed FLUM would put the City in the position of not yet having a Future Land Use designation, require the Planning staff to create a new FLUM and policies consistent with City Commission direction, relying on the Zoning in Progress to tightly regulate development. Eventually, the property must have a FLUM designation, policies and an LDR because the existing “Military” FLUM is totally inappropriate and gives the City little latitude in regulating development.

2. Consistency with the City’s Strategic Plan, Vision and Mission: Choosing to not adopt the FLUM and Policies will not provide the direction for integrating the existing housing into the fabric of the community quickly.

3. Financial Impact:

Not approving the FLUM and Policies, and the ensuing delay in identifying a suitable land use designation could have a negative effect on the Monroe County Property appraiser’s assigned values on the property, until such time as the Appraiser fully understands the market limitations imposed by the delay and the yet remaining Zoning in Progress designation.

Recommendation:

The Planning Board and the Planning Department recommends the **approval of Option 1**, adopting the ordinance approving the FLUM designation of HSMDR and the implementing Policies, together with direction to staff to develop the appropriate Land development Regulations to implement the Comprehensive Plan policies.