

EXECUTIVE SUMMARY



To: Jim Scholl, City Manager
From: Kevin Bond, AICP, LEED Green Associate, Senior Planner
Through: Thaddeus Cohen, Planning Director
Meeting Date: July 7, 2015

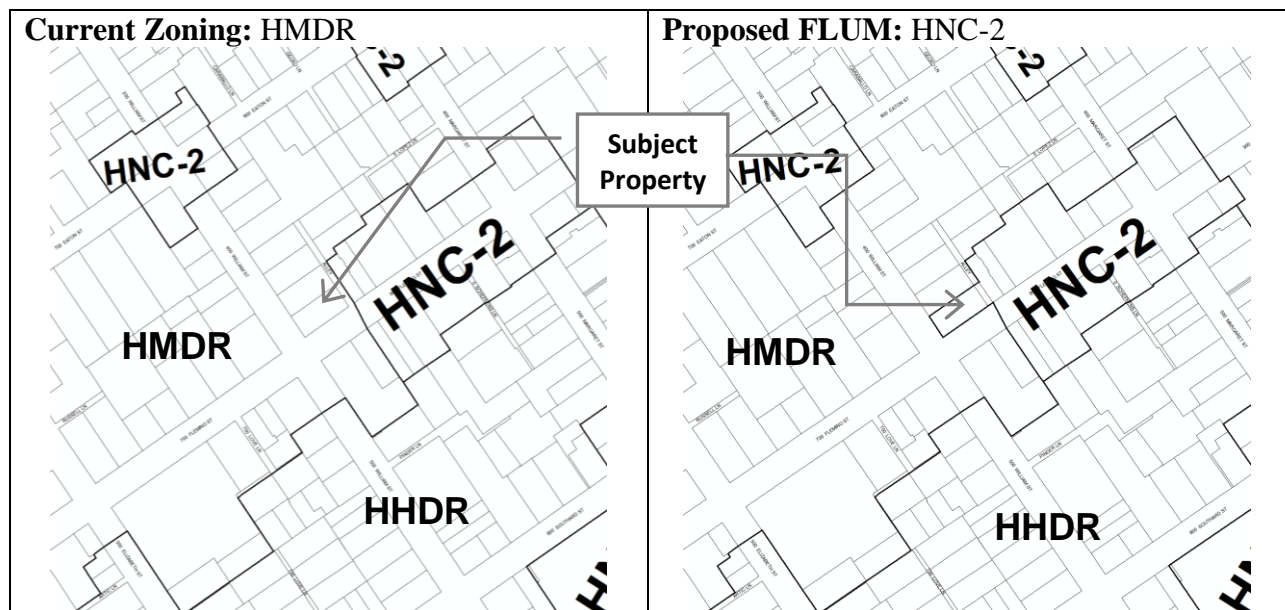
Agenda Item: **Official Zoning Map Amendment – 801-807 Fleming Street (RE # 00005930-000000; AK # 1006157)** – A request to amend the Official Zoning Map from Historic Medium Density Residential (HMDR) to Historic Neighborhood Commercial – Old Town Northeast and Southeast (HNC-2) on property located at 801-807 Fleming Street pursuant to Chapter 90, Article VI, Division 2 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida

Request: A site-specific amendment to the Official Zoning Map from Historic Medium Density Residential (HMDR) to Historic Neighborhood Commercial – Old Town Northeast and Southeast (HNC-2)

Applicant: Trepanier & Associates, Inc.

Property Owner: Tom Talooma, 801 Fleming Street LLC

Location: 801-807 Fleming Street (RE # 00005930-000000; AK # 1006157)



Background:

The property, located at the northern corner of Fleming and William Streets, consists of two buildings each with a single-family residence according to Monroe County Property Appraiser records. The property is located within the historic district and the buildings are contributing structures built in 1889 and 1892 according to the City’s 2011 Historic Resources Survey. Historic uses of the property over the last 100 years include residential dwellings, stores, a restaurant, a grocery and a cigar factory according to Sanborn maps from 1892 to 1961. More recent uses of the property include residential and retail (1995-2008) and general service (1995-2001) based on City business tax receipts. The prior zoning of the property between 1985 and 1997 was HP-3, which was the light commercial historic preservation district.

Request / Proposed Map Amendment:

The applicant is requesting an amendment to the City’s Official Zoning Map for the subject property. The current zoning is Historic Medium Density Residential (HMDR). The proposed zoning is Historic Neighborhood Commercial – Old Town Northeast & Southeast (HNC-2). Concurrent with the FLUM amendment, the applicant is also requesting an amendment to the City’s Comprehensive Plan Future Land Use Map (FLUM) for the subject property. The current FLUM category is Historic Residential (HR). The proposed FLUM category is Historic Commercial (HC). If approved, the request would result in an expansion of the existing adjacent HC FLUM and HNC-2 Zoning District.

On May 21, 2015, the Planning Board reviewed the proposed zoning map amendment pursuant to City Code Section 90-522 and passed Resolution No. 2015-25 recommending approval to the City Commission.

Surrounding Zoning and Uses:

North: HMDR, Single-family residential use

South: HMDR, Multifamily residential and nonconforming hotel uses

East: HNC-2, Multifamily residential use

West: HMDR, Church and residential uses

Official Zoning Map Amendment Process:

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|--|--|
| Development Review Committee: | March 26, 2015 |
| Planning Board: | May 21, 2015 (Recommended approval) |
| If denied, then appeal may be filed within 10 calendar days. | |
| City Commission (1st Reading) | June 19, 2015 |
| City Commission (2nd Reading) | After DEO review of FLUM amendment |
| Local Appeal Period: | 30 days |
| Render to DEO | 10 working days |
| DEO Review: | Up to 45 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 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 subdivision, the consistency of the proposed amendment with the intent of the Comprehensive Plan.

Pursuant to Code Section 90-522(a), 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 of zoning 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 Official Zoning Map pursuant to Code Section 90-521. 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.

Consistency with the Comprehensive Plan

The City's Comprehensive Plan (the "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 maintain 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 zoning map amendment would not be inconsistent with the overall purpose of the Plan.

The proposed zoning map amendment would be consistent with the following relevant policies within the Comprehensive Plan:

- Policy 1-1.1.1: Planning Horizons.
- Policy 1-1.1.4: Affordable Housing and Compact Development Incentives.
- Policy 1-1.1.6: Historic Preservation Areas.
- Policy 1-1.2.1: Provide Access to Goods and Services and Protect Residential Areas from the Adverse Impacts of Transition in Land Use.
- Policy 1-1.2.2: Promote Orderly Land Use Transition.
- Policy 1-1.3.2: Designate Various Types of Mixed Use Commercial Nodes to Accommodate Diverse Commercial Uses.

Consistent with the adopted infrastructure minimum LOS standards and concurrency

The applicant's concurrency analysis concludes that the demand for some public facilities would increase and some would decrease. However, the small size of the property (0.10 acres) limits the maximum development potential, so any increased demand would be relatively small. Therefore, the projected impacts of the land uses allowed by the proposed zoning map amendment are not anticipated generate public facility needs that would trigger capital improvements.

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

The conformity of the proposed zoning map amendment with all applicable requirements of the City Code is being evaluated herein. The submitted application contains all of the information requirement by Code Section 90-520 for zoning map amendments.

(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 LDRs were adopted on July 3, 1997 through Ordinance No. 97-10 following adoption of the 1994 Comprehensive Plan. Over the last 18 years, the Comprehensive Plan and LDRs were amended from time-to-time. More recently, a new Comprehensive Plan was adopted on March 5, 2013 and became effective on May 2, 2013. Since the adoption of the new Comprehensive Plan, the LDRs and the Official Zoning Map have not been significantly amended, with the exception of the new Building Permit Allocation System (BPAS) ordinance. Although an overhaul of the LDRs is planned for the next year, the current LDRs and zoning map originate from the 1994 Comprehensive Plan.

The property has been located within the HMDR Zoning District since the 1994 Comprehensive Plan and the 1997 Land Development Regulations. Before that, the property was zoned HP-3, which allowed residential uses as-of-right and allowed commercial and institutional uses as a special exception (similar to a conditional use). The Sanborn maps document a historical mix of residential and commercial uses on the property. While land use and development conditions may not have changed much since the effective date of the 2013 Comprehensive Plan, the Plan does have policies that support expanding opportunities for mixed uses and reducing automobile dependency while promoting walkable communities.

(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 property is currently used residentially, but there is documentation of prior commercial uses. The proposed HC FLUM and HNC-2 Zoning District would allow for mixed uses, but prohibit transient uses and bars that would potentially be incompatible with the surrounding land uses. Allowed uses within the proposed HNC-2 Zoning District are listed in Code Sections 122-837 and 122-838.

The following table summarizes the differences in allowed uses between the current HMDR and the proposed HNC-2 Zoning Districts. P = Permitted; C = Conditional Use.

| | Existing HMDR | Proposed HNC-2 |
|---|---------------|-----------------|
| Residential Uses | | |
| Single-family dwellings | P | P |
| Duplexes/two-family dwellings | P | P |
| Multiple-family dwellings | P | P |
| Foster homes/group homes with ≤ to 6 residents ² | P | P |
| Group homes with 7—14 residents | C | C |
| Approved home occupations ³ | P | P |
| Accessory uses and structures | P | P |
| Community Facilities | | |
| Cultural and civic activities | C | C |
| Educational institutions and day care facilities | C | C |
| Nursing homes, rest homes and convalescent homes | C | C |
| Parks and recreation, active | C | C |
| Parks and recreation, passive | C | C |
| Places of worship | C | P |
| Protective services | C | C |
| Public and private utilities | C | C |
| Commercial activities | | |
| Business and professional offices | | P |
| Commercial retail | | ⁸ |
| Medical services | | P |
| Parking lots and facilities | C | P |
| Restaurants, excluding drive-through | | C ¹¹ |
| Veterinary medical services, without outside kennels | | P |
| <i>8. Permitted and conditional commercial retail uses within each zoning district shall be determined based upon the criteria in section 122-1112.</i> | | |
| <i>11. Restaurants are expressly excluded from lots fronting on the south side of Caroline Street west of William Street and extending west 50 feet past Peacon Lane to include the lot abutting both the west side of Peacon Lane and the south side of Caroline Street.</i> | | |

(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 Code Chapter 94.

The applicant’s concurrency analysis concludes that the demand for some public facilities would increase and some would decrease. However, the small size of the property (0.10 acres) combined with the existing historically-contributing structures means that the any

increased demand on public facilities would be relatively small. Therefore, the proposed zoning map amendment is not anticipated to result in the capacity of any public facilities being exceeded.

(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 property does not contain any wetlands or groundwater aquifers. Any impacts on vegetative communities would be reviewed and mitigated at the time of a proposed development. The proposed zoning map 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 taxable values of property within residential zoning districts is comparable to the taxable values of property within mixed use neighborhood commercial zoning districts in the area. The proposed zoning map amendment is not expected to 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 zoning map amendment would result in the extension of an existing area within the HNC-2 Zoning District, rather than create an isolated parcel with this zoning. There is documentation of historic commercial and residential uses of the subject property over a 100+ year span of time. Orderly future development of the property would be ensured through the application of the City's LDRs and the historic district design guidelines.

(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 zoning map amendment would not be in conflict with the public interest, and would be in harmony with the purpose and interest of the LDRs.

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

The main result of the proposed zoning map amendment and the related FLUM amendment would be opening up the possibility of limited commercial uses on the subject property, such as business and professional offices, commercial retail, medical services, restaurants and veterinary medical services without outside kennels; all of which are currently prohibited by the existing FLUM and zoning. Hotels, motels, transient lodging, bars and lounges are prohibited within the proposed zoning district.

Options / Advantages / Disadvantages:

Option 1: Approve the proposed zoning map amendment on property located at 801-807 Fleming Street from Historic Medium Density Residential (HMDR) to Historic Neighborhood Commercial – Old Town Northeast and Southeast (HNC-2).

1. Consistency with the City’s Strategic Plan, Vision and Mission:

The approval of zoning map amendments is not discussed in the Strategic Plan. However, the proposed zoning map amendment would not be inconsistent with the vision and mission of the Strategic Plan.

2. Financial Impact:

There would be no direct financial impact to the City if the proposed zoning map amendment is approved. However, it is possible that business and property taxes could increase.

Option 2: Deny the proposed zoning map amendment on property located at 801-807 Fleming Street from Historic Medium Density Residential (HMDR) to Historic Neighborhood Commercial – Old Town Northeast and Southeast (HNC-2).

1. Consistency with the City’s Strategic Plan, Vision and Mission:

The denial of zoning map amendments is not discussed in the Strategic Plan. However, the proposed zoning map amendment would not be inconsistent with the vision and mission of the Strategic Plan.

2. Financial Impact:

There would be no direct financial impact to the City if the proposed zoning map amendment is denied. The City would continue to collect business and property taxes based on the allowed uses of the property’s current zoning.

RECOMMENDATION: Option 1.

The Planning Board and staff, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends Option 1 to the City Commission that the request to amend the Official Zoning Map be **APPROVED**.