



MEMORANDUM

Date: August 8, 2024

To: Honorable Mayor and Commissioners

Via: Todd Stoughton
Interim City Manager

From: Katie P. Halloran
Planning Director

Subject: **File 24-6174** - A Resolution of the City Commission of the City of Key West, Florida, approving preliminary authorization to enter into the development agreement process and pursue negotiations with the property owner for the properties located at 715 Seminole Avenue (RE # 00037230-000100; AK# 8735669) and 811 Seminole Avenue (RE # 00037160-000100; AK# 8735677) pursuant to Section 90-679 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida; providing for an effective date.

Introduction

The subject application involves a request for preliminary authorization to enter into the Development Agreement process pursuant to Section 90-679 of the City Land Development Regulations.

The subject properties, with a combined area of 3.36 acres (which includes some City owned property internal to the subject property that the applicant has requested to be vacated), are designated as Historic Residential in the City of Key West's Future Land Use Map and are located in the Historic Medium Density Residential (HMDR) zoning district. The parcels and improvements are owned by Casa Marina Equity Holdings LLC through Casa Marina Owner, LLC (811 Seminole) and BRE/FL Development Parcels L.L.C. (715 Seminole) and currently contain a variety of uses, all of which are ancillary uses to the Casa Marina Key West.

Background

The 715 Seminole Avenue property is currently occupied by seven buildings containing a mix of hotel-related office space and 25 vacant dwelling units, of which 18 dwelling units are recognized by the City of Key West via the zoning verification process.

The 811 Seminole Avenue property is currently occupied by a surface parking lot for the hotel, and one building that houses the resort's spa and fitness center on the first level and 16 deed restricted workforce housing units on the second and third floors. The site is part of a Major Development Plan approved by the City Commission through Resolution 06-295. An amended Declaration of Affordable Housing Restrictions was recorded in 2009 for the 811 Seminole Avenue property, whereby a portion of the Block (Block 7, Lots 13, 14, and 15) is required to contain exclusively workforce housing.

The applicant has received five (5) Building Permit Allocation System (BPAS) permits for market rate units and nine (9) affordable BPAS permits during the Year 10 cycle. The applicant plans to submit a major development plan for redevelopment of both properties to include a total of 23 market rate units and 25 workforce housing units. The applicant indicates that the total 25 workforce housing units will create approximately 88 total beds of affordable housing given that existing deed restricted efficiency units have been proposed to be reconstructed as roommate-style units with up to four bedrooms per unit.

In February 2023, the applicant submitted a right-of-way vacation application, requesting that the City owned property internal to the subject property be vacated. The request went before the Development Review Committee on June 22, 2023 and again on October 26, 2023. A draft easement agreement with the City's Utilities Department is pending from the applicant before it can proceed to the City Commission for a vote.

In March 2023, the applicant submitted applications to amend the future land use designation of the subject properties from Historic Residential (HR) to Historic Commercial (HC) and the zoning classification from Historic Medium Density Residential (HMDR) to Historic Commercial Tourist (HCT). The basis for the proposed amendments is to allow the property owner to develop Transient Rental Units, which is not a permitted use under the existing future land use and zoning classifications, on 715 Seminole Avenue in order to offset their costs to construct workforce housing for their employees at 811 Seminole Avenue. Planning staff recommended denial due to concerns that included the request's impacts to surrounding properties with increased allowable development intensity, as well as impacts to the City's existing market-rate housing stock. After several postponements requested by the applicant, the future land use and official zoning map amendment applications went before the Planning Board on March 12, 2024, where they were approved under Resolutions 2024-010 and 2024-011. These applications were placed on the May 2024 City Commission agenda; however, the applicant has requested postponement until the November 2024 City Commission hearing.

Development Agreements are governed pursuant to Chapter 90 (Administration) article IX (Development Agreements) of the City Code. Pursuant to Section 90-676 (Authorization to enter into agreements) subsection (a) *The city commission, in its sole and exclusive discretion, may enter into development agreements with the legal and equitable owners of real property within or to be annexed to the city limits as is authorized in F.S. § 163.3220 and as is further set forth under the terms of this article.*

In addition, pursuant to Section 90-677 of the City Code, *"The entry into a development agreement by the city shall in no way whatsoever limit or modify any legislative power of the city to adopt ordinances, resolutions or regulations or to make executive or legislative decisions of any kind which it had the power to make prior to the entry into such development agreement, except to the degree that the development agreement, by its express terms and not by implication, gives vested rights to the property owner as to*

certain development permissions, required improvements and similar matters. No development agreement shall, by its express terms or by implication, limit the right of the city commission to adopt ordinances or regulations or to adopt policies that are of general application in the city, except as is expressly provided by F.S. §§ 163.3220—163.3243.”

The procedures for entering into (or modifying) a Development Agreement are contained in Chapter 90, Article IX. Once an applicant initiates a request to enter into a Development Agreement, *“the city administrative official shall place the matter on the agenda for the city commission.” (Sec. 90-679) After considering staff comments, “the city, in its sole and absolute discretion, determine whether or not to enter into a development agreement and to pursue negotiations with the property owner.”*

This Resolution does not involve a determination to formally enter into a Development Agreement. Instead, it involves consideration of whether or not to approve preliminary authorization to enter into the Development agreement process. The City, in its sole and absolute discretion, may elect to enter into a Development Agreement after further investigation or it may elect not to. Thus, the purpose of the instant request is to determine if the City would simply like to authorize the consideration of entering into a Development Agreement.

Procurement

This action is not anticipated to result in City expenditures.

Recommendation:

Despite Planning staff’s concerns over the applicant’s proposed future land use and official zoning map amendments currently scheduled to go before the City Commission in November 2024, staff encourages and supports the development of new workforce housing and the adaptive reuse of historic buildings. Therefore, it is recommended that the City Commission APPROVE the preliminary authorization to enter into the Development agreement process.