

## EXECUTIVE SUMMARY



**To:** Jim Scholl

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

**Meeting Date:** May 15, 2012

**RE:** 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.

**Location:** Citywide

**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. In addition, in the coming year of 2013 other Comprehensive Plan amendments will be necessary as follow on amendments to the Comprehensive Plan as the City moves to implement a “City Beautiful Program” and

create the follow on amendments that will become necessary as a result of the Hurricane Evacuation Workshops

**Planning Staff Analysis:**

The Planning staff and Planning Board as well as the City Commission are required to review the criteria contained in Chapter 90 of the Land Development Regulations in considering any change to the regulations or the zoning map of the City . The criteria and the analysis of the same are listed below.

**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. Those decisions are made at the appropriate time by the City Commission.

**(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. The flexibility afforded by the easing of the limitation will allow the City to deal with long overdue and necessary changes to the Comprehensive Plan in response to many changed conditions in the community since 1993, the date of the adoption of the Comprehensive Plan.

**(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.

**Previous City Actions:**

The Planning Board approved the recommendation for adopting the ordinance to allow for the changes to the Land Development Regulations at its April 23, 2012 meeting.

**Options / Advantages / Disadvantages:**

**Option 1.** To adopt the ordinance amending chapter 90 of the Code of Ordinances to allow for the more frequent adoption of amendments to the Comprehensive Plan

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

Adopting the ordinance to allow more frequent change of the Comprehensive plan still requires all criteria for any change be met and the Comprehensive Plan is silent as to the frequency of changes allowed.

**2. Consistency with the City's Strategic Plan, Vision and Mission:**

The proposal is consistent with the City's Strategic Plan, Vision, and Mission.

**3. Financial Impact:**

The proposal is intended to create a method of reasonable and fair reviews to amend the Comprehensive Plan to benefit citizens and the City when economic conditions change and changes to the

Comprehensive plan can be made to accommodate positive impacts.

**Option 2.** To not invoke the Zoning in Progress Doctrine.

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

Choosing to not adopt the ordinance change will severely limit the City’s ability to amend the Plan in response to state law, and will require the City to apply for and receive variances to do so, a cumbersome, expensive and time consuming process with no guarantee or reasonable assurance of success.

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

Choosing to not amend the ordinance will inhibit the ability of the City to amend the Strategic Plan to achieve some goals that are supported by the Comprehensive Plan or can only be achieved with parallel changes to the Comprehensive Plan.

**3. Financial Impact:**

Not approving the ordinance to allow more frequent changes of the Comprehensive Plan will negatively impact citizens whose property use have changed, but has not been legitimized by a Comprehensive Plan change due to the limit on the number of Plan changes and the moratorium on any changes for many years.

**Recommendation:**

The Planning Department recommends the **approval of Option 1**, adoption of the ordinance to remove the twice annually limitation on amending the Comprehensive Plan.