

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

Through: Shawn D. Smith, City Attorney

From: Nathalia A. Mellies, Assistant City Attorney

Cc: Patti McLauchlin, City Manager
Katie Halloran, Planning Director

Meeting Date: September 15, 2022

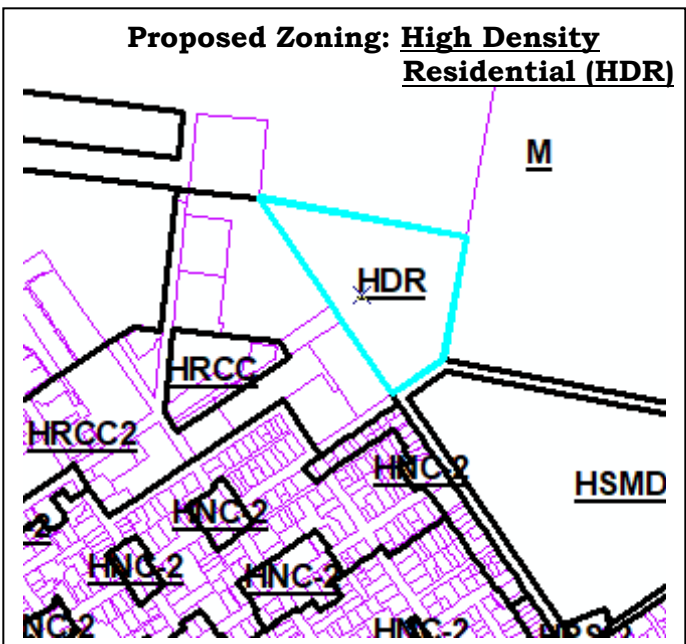
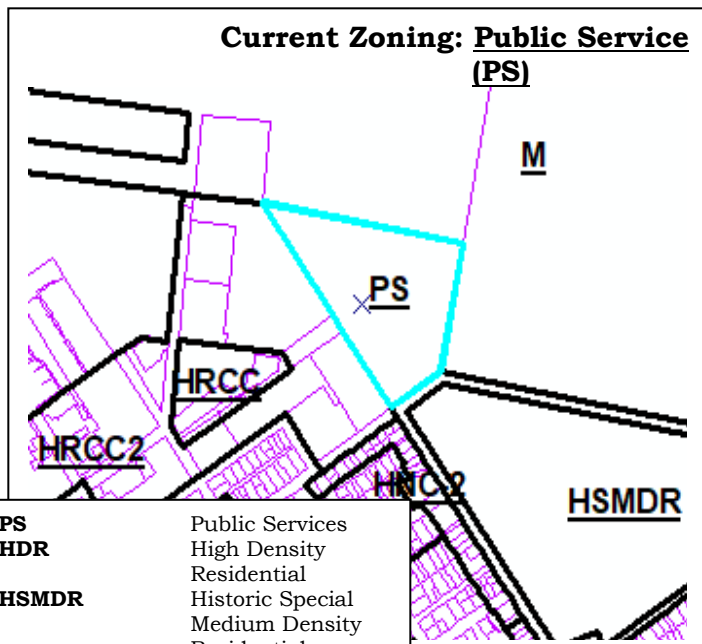
Agenda Item: **Official Zoning Map Amendment – 301 White Street (RE # 00001780-000000; AK # 1001864)** – Consideration of an ordinance of the City of Key West, Florida, proposing amendments to the boundaries of the Official Zoning Map for the promotion of affordable housing and public housing for property located at 301 White Street; amending the boundaries of the Official Zoning Map category from Public Service (PS) to High Density Residential (HDR) for the parcel stated above pursuant to Chapter 90, Article VI, Division 3 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida; providing for severability; providing for the repeal of inconsistent provisions; 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.

Request: A site-specific amendment to the Official Zoning Map and the Land Development Regulations from Public Service (PS) to High Density Residential (HDR).

Applicant: City of Key West

Property Owner: Housing Authority of the City of Key West, Florida

Location: 301 White Street, Key West, Florida
(RE # 00001780-000000, AK # 1001864)



PS	Public Services
HDR	High Density Residential
HSMDR	Historic Special Medium Density Residential
M	Military
HRCC-2	Historic Residential Commercial Core 2

Current Official Zoning Map and Proposed Official Zoning Map

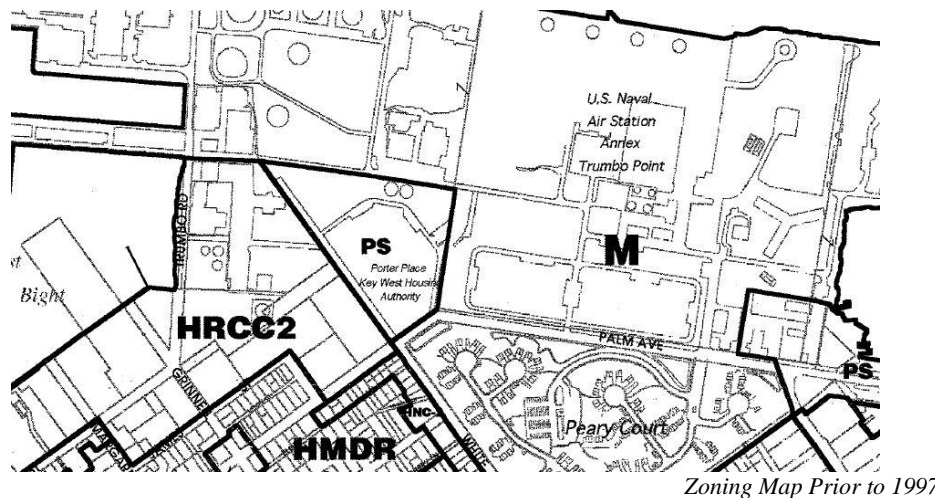


Aerial Map of the Subject Property

Background:

The subject property is an 8.77 acre parcel located within the Public Service (PS) Zoning District. The parcel and improvements are owned by the Housing Authority of the City of Key West, Florida (KWH) and are subsidized by the United States Department of Housing and Urban Development (HUD). The property contains eighteen buildings, with a total of 136 residential dwelling units. All the units are public housing, limited to residency by low-income families and individuals. Households pay thirty percent of their monthly adjusted income for rent.

The zoning of the properties prior to 1997 was PS Public Services, with uses including Recreation, Schools, Public and Semi-Public Lands. (see image below).



The current zoning (PS) does not allow for residential uses either by right or by conditional use, therefore, residential use is prohibited. Since the subject property was developed prior to the current zoning designation, it's use is considered nonconforming, permitted to continue through Chapter 122, Article II of the Land Development Regulations (LDRs).

The construction of the 136 units began in December of 1940, over 80 years ago, and the structures have far exceeded their useful life. Currently, the KWH is plagued by high maintenance and repair costs, and those expenses continue to grow. It has been determined that the best path forward for the property is to demolish the structures and replace them through HUD's Rental Assistance Demonstration (RAD) program. Preserving affordable housing, particularly in Key West, is crucial. In addition to the 136 families that the subject property currently serves, as of September 9, 2022, there are 1,917 additional families on the public housing wait list.

In order for the KWH to move forward with redevelopment, a zoning map amendment is required. Additionally, based upon the surrounding zoning designations and uses and the City's dire need for additional affordable housing, an appropriate zone for the subject property would be High Density Residential, which would allow for up to twenty-two (22) dwelling units per acre.

Request / Proposed Map Amendment:

The applicant is requesting an amendment to the Land Development Regulations and the City's Official Zoning Map for the subject property. The current zoning is Public Service (PS). The proposed zoning map category is High Density Residential (HDR). 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 Public Service (PS). The proposed FLUM category is High Density Residential (HDR).

Surrounding Zoning Districts and Related Land Uses:

Direction	Official Zoning Map Designation	Property Uses
North	Military (M)	Military uses
South	Historic Special Medium Density Residential (HSMDR); Historic Residential Commercial Core 2 (HRCC-2)	Single-family, two-family, and multi-family housing units
East	Military (M)	Military uses
West	Historic Residential Commercial Core 2 (HRCC-2)	Single-family, two-family, and multi-family housing units

Official Zoning Map Amendment Process:

Planning Board Meeting:	September 15, 2022
If denied, then an appeal may be filed within 10 calendar days	
City Commission (1 st Reading / Transmittal):	October 6, 2022
City Commission (2 nd Reading / Adoption):	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 site

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 text of the land development regulations or 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 division, 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 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.

90-520 (6) Justification. The need and justification for the proposed change. The evaluation shall address but shall not be limited to the following issues:

- a. Comprehensive Plan consistency.** Identifying impacts of the proposed change in zoning on the Comprehensive Plan. The zoning should be consistent with the Comprehensive Plan.

***Objective 1-1.2.1: Plan and Design for Residential Quality.** Sufficient space shall be provided for residential development and required community facilities to adequately meet the housing needs of the present and expected future population. Residential development shall be planned and designed to create and perpetuate stable residential neighborhoods and implement the policies stipulated below.*

The proposed change to the Official Zoning Map will allow for high-density, deed-restricted affordable, multiple-family residential development which is the subject property's current use. The amendments will provide space for residential development to meet the critical housing needs of the current population.

***Objective 3-1.1: Provide Quality Affordable Housing and Adequate Sites for Low and Moderate Income Housing.** The City shall implement policies in order to assist in accommodating existing and projected housing need. Monitoring Measure: Number of affordable housing units provided (public housing and deed restricted affordable housing) compared to current and projected demand.*

The amendment would accommodate current and future residential uses, most importantly, public housing. These uses are not permissible under the current zoning designations of PS.

***Policy 3-1.1.1: Housing Assistance, Information and Referral Services.** The Key West Housing Authority shall manage the City's public housing and shall serve as the City's Community Development Office for purposes of Community Development Block Grant administration and continuing grantsmanship and program management. The Key West Planning Department and the Key West Housing Authority shall provide technical assistance, information and referral services to the private sector in order to maintain a housing production capacity sufficient to meet the projected housing market demand and continue to advance fair housing and elimination of discrimination in housing.*

The City's Chapter 1. – Affordable Housing Needs Analysis lists affordable housing as one of the issues that needs to be addressed during updates to the Comprehensive Plan. Some of the contributing factors to the need for affordable housing included lower wage tourism based jobs; loss of military families that lived in housing subsidized by the government; increased demand for second homes; government limitations on growth; the loss of housing due to conversion to guesthouses; and the lack of available vacant land. The zoning map amendment will help address this critical need.

Policy 3-1.1.11: Selecting Sites for Affordable Housing for Low and Moderate Income Households. *The City shall continue to enforce its Land Development Regulations in order to include principles and criteria for locating low and moderate income housing. The City shall continue to promote access to a broad range of housing opportunities with a full complement of urban services through cooperation and coordination with the private sector and Monroe County.*

Sites for affordable housing for low and moderate income households shall be approved if such sites have access to the following facilities, services and/or activity centers:

- 1. Serviced by potable water and central wastewater systems;*
- 2. Accessible to employment centers, including shopping centers which accommodate stores offering household goods and services needed on a frequent and recurring basis;*
- 3. Located on a paved street accessible to a major street (i.e., included in the City's major thoroughfare plan);*
- 4. Accessible to public parks, recreation areas, and/or open space systems; and*
- 5. Located on sites having adequate surface water management and solid waste collection and disposal.*

The provision of decent, safe, sanitary and affordable housing to all residents continues to be one of the most daunting challenges that the City of Key West faces. The scarcity of land for new development within the city, growth in the second home market, high quality of life and desirability, and unique and historic housing stock all contribute to property and housing values that are among the highest in the State. The City's economy is largely based on tourism and service industries, which generally pay lower wages than many other industries. These dynamics result in a pronounced affordability gap that continues to challenge the City. This zoning map amendment will allow the Housing Authority to add public housing units.

b. *Impact on surrounding properties and infrastructure.* The effect of the change, if any, on the particular property and all surrounding properties. Identify potential land use incompatibility and impacts on infrastructure.

The current zoning of the subject parcels is PS. The table below outlines the existing permitted (“P”) and conditional (“C”) uses of the current zoning designations and the proposed permitted and conditional uses for the proposed HDR zoning district.

	Existing PS	Proposed HDR
<i>Residential Uses</i>		
Single-family and two-family residential dwellings		P
Multiple-family residential dwellings		P
Group homes with less than or equal to six residents		P

	Existing PS	Proposed HDR
Group homes with seven to 14 residents		C
<i>Community Facilities</i>		
Places of worship		C
Protective services	C	C
Public and private utilities	C	C
Community centers, clubs and lodges	P	
Educational institutions and day care facilities	P	C
Golf course facilities	P	
Nursing homes, rest homes and convalescent homes	P	C
Parks and recreation, active and passive	P	C
Business and professional offices	P	
Medical services	P	
Parking lots and vehicular storage facilities	P	C
Veterinary medical services, with or without outside kennels	P	
Government operated transit facilities	P	
Governmental administration buildings	P	
Hospitals and supportive care facilities	P	
Essential public services and facilities inclusive of, but not limited to, drainage facilities, and emergency services; i.e., staging areas responsive to declared emergency, with the exception of shelters for the homeless, which are regulated as a conditional use	P	
Non-recreational open spaces	P	
Temporary storage, for less than six (6) months, of construction materials and debris generated by storms or other natural disasters.	P	
Other similar activities such as uses critical to government function, uses for essential public services, uses to serve social and cultural needs not otherwise listed.	P	
Government maintenance facilities and garages.	P	
Emergency shelters for the homeless, and shelters for temporarily housing the homeless	C	
Cemeteries	C	
Funeral homes and crematoriums	C	
Cultural and civic activities, inclusive of museums, theatres and stadiums	C	
Marinas.	C	
Restaurants and food service facilities associated with recreational activities	C	
Solid waste and recycling transfer and storage facilities	C	

Table of land uses by districts.

Land use incompatibilities are not anticipated with the permitted uses. Conditional uses would only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity.

Any public facility needs generated by the proposed change in land use shall be met concurrent with the impacts of development and the adopted level of service criteria shall be met.

c. *Avoidance of special treatment.* The proposed change shall not constitute a spot zone change. Spot zoning occurs when:

1. A small parcel of land is singled out for special and privileged treatment.

The proposed change involves a parcel totaling approximately 8.77 acres, or 381,978 square feet of land and currently utilized as public housing. Abutting residential properties in the HSMDR and HRCC-2 zoning districts do not have similar characteristics or land use relationships.

2. The singling out is not in the public interest but only for the benefit of the landowner.

The proposed change will allow for the development and redevelopment of affordable public housing, a critical need of the community. There is a severe shortage of affordable housing city and county-wide.

3. The action is not consistent with the adopted comprehensive plan.

The proposed Official Zoning Map amendment would be consistent with the adopted Comprehensive Plan, particularly with objectives 1-1.2.1, 3-1.1, and policies 3-1.1.1 and 3-1.1.11.

d. *Undeveloped land with similar comprehensive plan future land use map designation.* The amount of undeveloped land in the general area and in the city having the same zoning classification as that requested shall be stated.

There is no undeveloped land in the general area and in the city having the same zoning classification as HDR.

Criteria for Approving Amendments to the 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 overall purpose of 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 Official Zoning Map amendment would not be inconsistent with the overall purpose of the Comprehensive Plan.

Consistency with relevant policies within the Comprehensive Plan

The proposed Official 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 1-1.2.1: Provide Access to Goods and Services and Protect Residential Areas from the Adverse Impacts of Transition in Land Use.
- Policy 1-1.13.2: Compatibility with Military Installations.
- Policy 3-1.1.1: Housing Assistance, Information and Referral Services
- Policy 3-1.1.11: Selecting Sites for Affordable Housing for Low and Moderate Income Households
- Policy 3-1.1.13: South Florida Regional Planning Council Initiatives

The proposed amendment would possibly increase the demand for some public facilities due to the increase in density. However, existing infrastructure will accommodate proposed residential developments; as such, any increased demand would be relatively small as the parcel currently has 136 residential dwelling units on the property. Additionally, the total size of the property and the dimensional requirements of the HDR zoning district limits development potential, therefore, any potential future increased demand would be relatively small. The projected impacts of the land uses allowed by the proposed Official Zoning Map amendment are not anticipated to 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 Official Zoning Map amendment with all applicable requirements of the City Code is being evaluated herein. The submitted application and executive summary contains all of the information required by Code Section 90-520 for Official Zoning Map amendments.

(1) *Property description.*

(2) *Current and proposed comprehensive plan land use map designation.*

(3) *Current and proposed zoning.*

(4) *Existing and proposed use.*

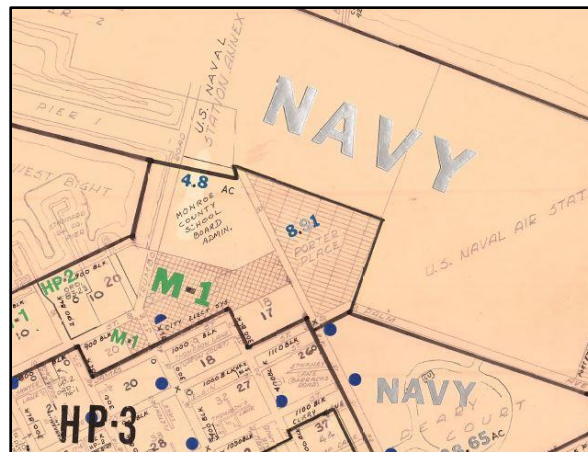
(5) *Disclosure of ownership.*

(6) *Justification.*

- a. *Comprehensive plan consistency.*
- b. *Impact on surrounding properties and infrastructure.*
- c. *Avoidance of spot zoning.*
- d. *Undeveloped land with similar zoning.*

(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.

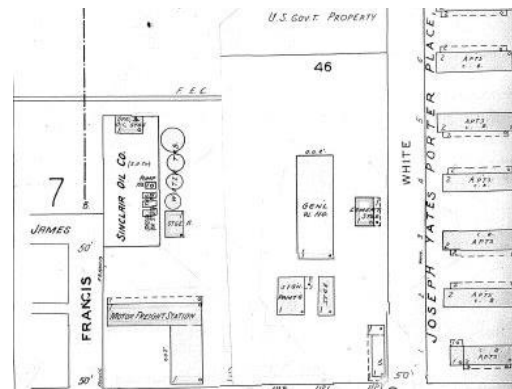
The existing Land Development Regulations (the LDRs) were adopted on July 3, 1997 through Ordinance No. 97-10 following the adoption of the 1994 Comprehensive Plan. More recently, a new Comprehensive Plan was adopted on March 5, 2013 and became effective on May 2, 2013. The new Future Land Use Map maintained the residential FLUM category that the property at 301 White Street previously had since the 1994 Comprehensive Plan and the 1997 Land Development Regulations. Prior to that, the property was zoned M-1 Light Industrial and Warehousing District (illustration below), which allowed manufacturing, warehousing, distribution, wholesaling and other industrial functions uses as-of-right and allowed planned industrial development uses and structures over 35 feet high as a special exception (similar to a conditional use).



Zoning Map Prior to 1993

The Sanborn maps document multi-family residential uses on the property, specifically public housing. While land use and development conditions have not changed since the effective date of the 2013 Comprehensive Plan, the Plan does have policies that support expanding opportunities for a range of housing types, inclusive of apartments, townhouses, efficiencies, and single room occupancies.

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The Sanborn Map of 1960

(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 at 301 White Street is currently used as residential public housing; however, prior to 1993, the property was zoned M-1, which manufacturing, warehousing, distribution, wholesaling and other industrial functions uses as-of-right. The intent of the M-1 zone was to minimize adverse influences of the industrial activities on nearby nonindustrial areas and to eliminate unnecessary industrial traffic through nonindustrial areas. The proposed residential use of the property will be consistent with the adjacent HSMDR and HRCC-2 zoning districts as both allow multiple-family residential dwelling uses as-of-right.

The property at 301 White Street is currently used for residential purposes. The proposed HDR FLUM and HDR zoning district would allow for an increase in density concurrent with its current use but prohibit other uses that would potentially be incompatible with the surrounding land uses. Allowed uses within the PS Zoning District are listed in Code Sections 122-1017 and 122-1018.

Consistent with the Comprehensive Plan, development in the district shall be directed toward maintaining and/or revitalizing existing housing structures, preventing displacement of residents, and compliance with concurrency management.

(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 concurrency analysis concludes that the demand for public facilities would possibly increase for some public facilities due to the increase in density. However, existing infrastructure will accommodate proposed residential developments; as such, any increased demand would be relatively small as the parcel currently has 136 residential dwelling units on the property and would be limited by the rezoning to 192 dwelling units. The projected impacts of the land uses allowed by the proposed Official Zoning Map amendment are not anticipated to generate public facility needs that would trigger capital improvements.

(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 or wildlife habitats would be reviewed and mitigated at the time of a proposed development. The proposed Official 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 millage group for the subject property is 10KW. The proposed Official 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 Official Zoning Map amendment would be consistent with the current use of the property and would result in an orderly and compatible land use pattern. The Sanborn maps document historic residential uses of the subject property dating back to at least the 1940s. Orderly and compatible uses of the properties would be ensured through the application of the City's LDRs.

(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 Official Zoning Map amendment would not be in conflict with the public interest, and it is 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 result of the proposed zoning map amendment and the related FLUM amendment would be to accommodate the supply of housing responsive to the diverse housing needs of the existing and projected future population and to provide affordable quality public housing.

RECOMMENDATION:

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Legal Department and the Planning Department recommends to the Planning Board that the request to amend the Land Development Regulations and the Official Zoning Map be **APPROVED**.