

**Key West Planning Board Meeting Agenda**  
**September 16, 2010 – 6:00 p.m.**  
**City Commission Chamber**  
**Old City Hall, 510 Greene Street**



## **Item 3.**

**Ordinance-** An Ordinance Of The City of Key West, Florida, Amending chapter 90 of the Code of Ordinances entitled "Administration" by amending sections 90-133, 90-136, 90-138 and 90-143 and chapter 102 of the Code of Ordinances entitled "Historic Protection" by amending section 102-217 to provide for an expanded and consistent public noticing process for the Historic Architectural Review Commission; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.



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

**To:** Chairman and Planning Board Members

**From:** Amy Kimball-Murley, AICP

**Meeting Date:** September 16, 2010

**Agenda Item:** AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY AMENDING SECTIONS 90-133, 90-136, 90-138 AND 90-143 AND CHAPTER 102 OF THE CODE OF ORDINANCES ENTITLED "HISTORIC PROTECTION" BY AMENDING SECTION 102-217 TO PROVIDE FOR AN EXPANDED AND CONSISTENT PUBLIC NOTICING PROCESS FOR THE HISTORIC ARCHITECTURAL REVIEW COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

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**Background**

In order to respond to concerns voiced by members of the public, and shared by staff, the Planning Department has prepared revisions to the noticing requirements for Historic Architectural Review Commission (HARC) items. Currently, noticing for most items consists solely of a newspaper notice. Unless neighbors and concerned citizens read the notices diligently, they may not know when items are scheduled for hearing. Because HARC decisions carry such importance, and because HARC addresses massing and scale issues which are otherwise not readily addressed in development review criteria, the hearings are important to surrounding property owners and residents.

The revisions require any item appearing before the board to be posted on site. The revisions also address other areas in the code to ensure consistency with the posting requirements.

The Planning Department believes that improving HARC noticing will complement other changes implemented over the last year by staff, including the provision of staff reports and application packages for each application as well as online publication of the agenda and packages.

**Review Criteria:** Section 90-522 of the Code 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.**

This scheduled meeting is the required public hearing before the planning board.

**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 City's Comprehensive Plan specifically addresses the importance of public participation in the historic preservation process, including the following:

- Objective 1A-3.2: PUBLIC PARTICIPATION. of the adopted Comprehensive Plan states that the city will "provide opportunities for public participation in historic preservation initiatives and activities through public meetings, community workshops, and special events related to historic preservation. . ."
- Policy 1A-3.2.1: Advertising Meetings and Scheduling Workshops. of the adopted Comprehensive Plan states that " Public participation in the historic preservation planning process shall be encouraged through the advertisement of public meetings and the scheduling of community workshops."

This ordinance will improve site specific noticing and should increase public knowledge about individual applications heard by HARC.

Because the proposed ordinance does not impact density or intensity, it will have no impact on minimum levels of service or concurrency determinations as established by the Comprehensive Plan.

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

The proposed ordinance is in conformance with applicable requirements of the Land Development Regulations.

**(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 are no changed conditions or regulations associated with the ordinance.

**(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 proposed ordinance will have no direct impact on land uses.

**(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 will have no impact on concurrency requirements or the provision 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 will have no impact on natural resource protection.

**(7) *Economic effects.* Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.**

This proposal is not expected to have an adverse effect on the property values in the area or upon the general welfare. Actions which are intended to protect the historic fabric tend to maintain and increase property values, since historic districts and buildings are unique and tend to have higher real estate values than the rest of the City.

**(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 ordinance is intended to address HARC noticing and will have no direct impact on land use.

**(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 ordinance appears to support the public interest and is in harmony with the purpose and intent of the land development regulations.

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

Efforts to increase public awareness of HARC decisions is an important step in enhancing public information and transparency associated with city boards.

#### **PROCESS**

After the Planning Board makes a recommendation to the City Commission, the ordinance will require two City Commission readings for adoption. Absent any appeals, the ordinance will be rendered to the DCA , who will have 60 days to issue an order of consistency. A draft and the final version of the ordinance will be sent to the State of Florida Department of State Division of Historical Resources as required by the city's Certified Local Government Agreement.

#### **RECOMMENDATION**

The Planning Department recommends consideration and approval of the draft HARC noticing ordinance modifications.

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**Draft  
Ordinance**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY AMENDING SECTIONS 90-133, 90-136, 90-138 AND 90-143 AND CHAPTER 102 OF THE CODE OF ORDINANCES ENTITLED "HISTORIC PROTECTION" BY AMENDING SECTION 102-217 TO PROVIDE FOR AN EXPANDED AND CONSISTENT PUBLIC NOTICING PROCESS FOR THE HISTORIC ARCHITECTURAL REVIEW COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS**, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the land development regulations in accordance with certain procedures and criteria; and

**WHEREAS**, Section 90-126 of the Code of Ordinances empowers the historic architectural review commission to preserve the character and appearance of the historic preservation districts of the city as well as the buildings, structures and properties listed in the local register of historic places and the National Register of Historic Places, and buildings, structures, archaeological sites, or districts classified as "contributing" or "contributing but altered" on the city historic preservation study; and

**WHEREAS**, the historic architectural review commission guidelines, as adopted per Section 90-142, allow the city preservation planner to bring complex projects which substantially alter the exterior appearance of structures or their site and surroundings to the Historic Architectural Review Commission for

review at a public meeting; and

**WHEREAS**, actions taken by the historic architectural review commission can be of significant import to surrounding property owners and the public at large; and

**WHEREAS**, Objective 1A-3.2: PUBLIC PARTICIPATION. of the adopted Comprehensive Plan states that the city will "provide opportunities for public participation in historic preservation initiatives and activities through public meetings, community workshops, and special events related to historic preservation. . .  
"; and

**WHEREAS**, Policy 1A-3.2.1: Advertising Meetings and Scheduling Workshops. of the adopted Comprehensive Plan states that " Public participation in the historic preservation planning process shall be encouraged through the advertisement of public meetings and the scheduling of community workshops." and

**WHEREAS**, the City's certification under the National Historic Preservation Act of 1966, as amended through 2006, requires that the city provide for adequate public participation in the local historic preservation program; and

**WHEREAS**, existing public notice requirements for historic architectural review commission public meetings are limited in most cases to a newspaper advertisement only; and

**WHEREAS**, the Planning Board held a noticed public hearing on \_\_\_\_\_, where based on the consideration of recommendations by the city planner, city attorney, building official and other



information recommended approval of the proposed amendments;

**WHEREAS**, the City Commission held a noticed public hearing on \_\_\_\_\_ and in its deliberations considered the criteria identified in section 90-521 of the Code of Ordinances;

**WHEREAS**, the City determined that the proposed amendments: are consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the effective date of the existing regulation; will promote land use compatibility; will not result in additional demand on public facilities; will have no impact on the natural environment; will not negatively impact property values or the general welfare; will result in more orderly and compatible land use patterns; and are in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Chapter 90 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 90-133. Regular meetings.**

The historic architectural review commission shall attempt to convene on a regularly scheduled basis at least once each month. Notice of all meetings will be provided pursuant to Section 90-143.

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\* (Coding: Added language is underlined; deleted language is ~~struck through~~.)

~~, including the agenda with the address and description of each project, shall be published in a newspaper of general circulation in the city at least five days in advance thereof. At any special or regular meeting the historic architectural review commission may set a future meeting date; however, that meeting must be noticed pursuant to Section 90-143.~~

**Sec. 90-136. Preparation of agenda and minutes.**

Minutes shall be kept of all meetings of the historic architectural review commission or committees thereof. All meetings shall be open to the public and, except for emergencies so designated by a majority of the full membership, notice of all meetings shall be published as for a regular meeting, pursuant to Section 90-143 ~~and an agenda for each meeting shall be available to the public at city hall five days in advance thereof.~~

**Sec. 90-138. Notice and ability to be heard.**

Notice of the date upon which the vote of the historic architectural review commission will be taken shall be provided to the applicant, as shall written notice of the total vote. Applicants shall be given reasonable opportunity to be heard prior to the vote. ~~The historic architectural review commission shall not accept or take action on any application for a certificate of appropriateness for work requiring planning board approval of a major development plan pursuant to sections 108-165 and 108-166, unless the historic architectural review commission first finds that the applicant has, for the two weeks preceding the historic~~

~~architectural review commission meeting, posted on the work site a public notice showing the date and time of the historic architectural review commission meeting at which the application is considered. The size and style of the public notice shall be such that it is readily readable from an adjacent public street, and it shall include the words "public notice" in block lettering three inches or more in height.~~

Section 90-143 ~~Reserved~~ Notice

(a) Scope. The city shall provide notice for all historic architectural review commission meetings in accordance with this section except as otherwise required or provided by state statute.

(b) Newspaper notice. The city shall publish an advertisement of the public meeting in a newspaper of general paid circulation in the city and of general interest and readership in the city, not one of limited subject matter.

(c) Posted notice. The city shall post a notice of the public meeting on the subject property that is legible from the adjacent public street. The notice shall contain block lettering on a high contrast background color with the words "public notice" in letters three inches or more in height.

(d) Content of posted notice. The posted notice required by this section shall contain the date, time and place of the public meeting and a common description of the location of the subject site and the nature of the project.

(e) Timing of notice. The notice required by this division

shall be given at least five days prior to the date set for the public hearing at which the application is first considered. A copy of the notice shall be available for public inspection during regular business hours of the city planning department.

Section 2. That Chapter 102 of the Code of Ordinances is hereby amended as follows\*:

Sec. 102-217. Required public meetings.

The historic architectural review commission shall not issue a certificate of appropriateness for demolition of a building or structure located in a designated historic zoning district, except after conclusion of two regular historic architectural review commission meetings regarding the application, which shall be at least 14 days apart, and which meetings shall be advertised at least five days in advance in a newspaper of general circulation published in the city. Notice of the meeting shall be published as for a regular meeting, pursuant to Section 90-143. ~~also be posted on site in a conspicuous location at least five days in advance of the meeting. The notice shall be posted by the property owner or the property owner's agent. The notice shall be legible from an adjacent public street. The notice shall contain block lettering on a high contrast background color with the words "public notice" in letters three inches or more in height.~~

Section 3: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional

for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 4: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 5: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission and approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2010.

Filed with the Clerk \_\_\_\_\_, 2010.

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CRAIG CATES, MAYOR

ATTEST:

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CHERYL SMITH, CITY CLERK