



MEMORANDUM

Date: August 8, 2024

To: Honorable Mayor and Commissioners

Via: Todd C. Stoughton
Interim City Manager

From: Katie P. Halloran
Planning Director

Subject: **24-5660 -Text Amendment of the Historic Architectural Guidelines-** An Ordinance of the City of Key West, Florida, to amend the Historic Architectural Review Commission Guidelines for fences, specifically Section VI (v.) Fences and Walls, Subsection (9), as referenced in Chapter 90 (Administration), Article II, Division 4 - Historic Architectural Review Commission of the City of Key West Land Development Regulations; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

Introduction

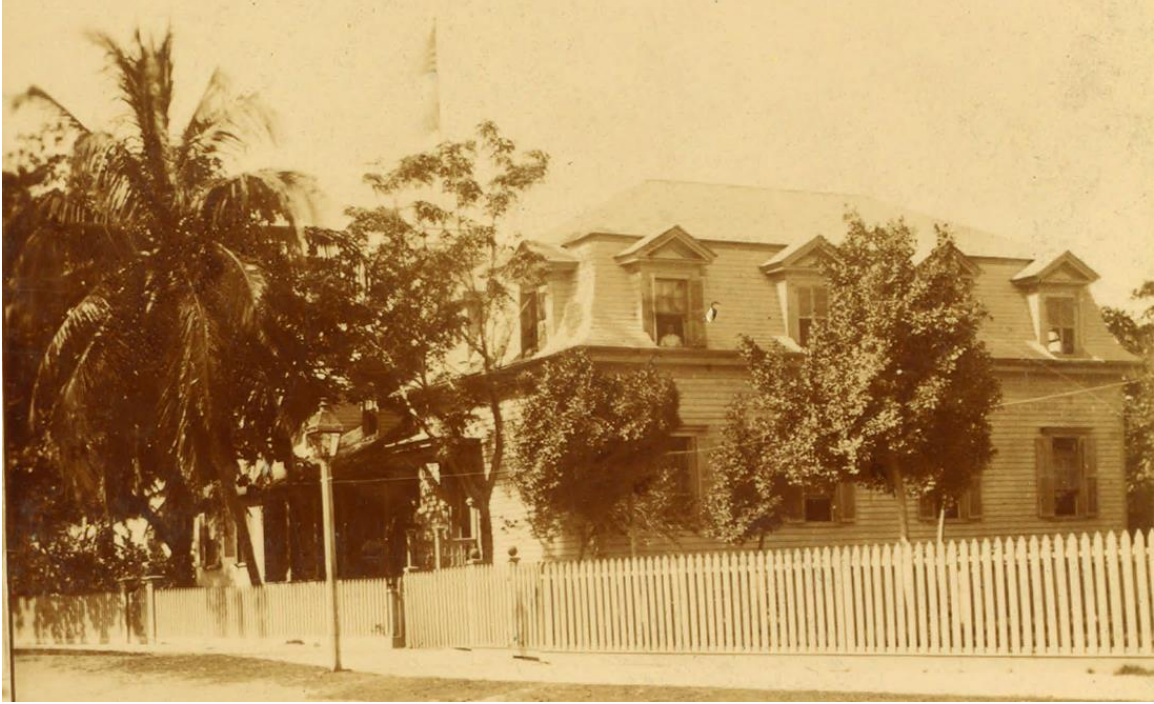
The Historic Architectural Review Commission (HARC) is proposing amendments to their guidelines, specifically on how to measure the height of fences in properties within the historic district. The Commission finds that current standards should include where in the property that measurement will be taken and proposes clarification for properties where no sidewalks exist. On May 16, 2024, the Planning Board approved the proposed text amendment at their regular meeting.

Background

On March 26, 2024, the Historic Architectural Review Commission approved proposed amendments to the Historic Architectural Guidelines to strengthen guideline number nine under fences and walls. This specific guideline is the only regulation in the city that standardizes how fence heights are measured. For more than 40 years the height of a fence within the historic district has been measured from the sidewalk or natural grade.

Historic photos are evidence of how fences are character defining features of the historic district. The HARC Guidelines establish such significance in the first two sentences of the fences and walls preamble, *“Fences are important elements of the design and character of historic structures and districts. The scale*

and character of a fence, posts and gates must be compatible with the house and the neighboring structures". The U.S. Secretary of the Interior's Standards and Guidelines for Rehabilitation recommend retaining the historic relationship between buildings and the landscape, which includes, among other elements, fences.



Old Custom House on Front Street circa 1898. Monroe County Library.



*Fences on both sides of the road built next to a sidewalk with unpaved road.
Stereoview from Monroe County Library.*

The Historic Architectural Review Commission was presented with the challenge of how natural grade can be manipulated on a private lot, where exactly the height of a fence is measured, and what will happen if there are no sidewalks, and the natural grade inside of a private property has been manipulated with fill. Commissioners found that current guideline 9 of fences and walls should be more specific by establishing a point for measuring the height of a fence and recognizes differences between urban blocks with sidewalks and non-existing sidewalks. It is the intent of the Commission to maintain the character and established patterns of fences within the historic streetscapes while adopting new language that will assist the public when they need to build, restore, or replace any fence on their property.



600 Fleming Street in 1920's and today. Historic photograph courtesy of the Monroe County Library.

Requested/ Proposed Text Amendment:

The Historic Architectural Review Commission respectfully recommends to the City Commission the following text amendment to the Historic Architectural Guidelines, specifically fences and walls.

Fences and Walls

Fences are important elements of the design and character of historic structures and districts. The scale and character of a fence, posts and gates must be compatible with the house and the neighboring structures. Chain link, unfinished block walls, reed fencing and non-vertical fencing are not allowed.

1. Fencing shall be constructed so the finished face is toward the street or neighboring property.
2. Design and construction of fences or changes to existing fences must be approved and permitted.
3. A picket fence up to 4 feet in height is permitted at the front of the structure; if a building is located on a corner lot, this height should be consistent on both front and side elevations, at least to the rear edge of the structure. Picket fences should be constructed in proportion to historic dimensions.
4. Six-foot high picket fences may be permitted on side and rear property lines only. All front elevation fences shall not exceed four feet in height, unless there is a previous masonry and wood or iron picket combination fence.
5. Solid six-foot fences with abutting vertical boards are permissible on side and rear elevations if adjacent owners have signed notarized statements of agreement.
6. Six-foot fences may begin from the rear of where the façade of the house joins the front porch, or at least ten (10) feet from the front property line.
7. New decorative wooden fences (solid with patterns cut out of the top portion) are discouraged.
8. Traditional historic fencing included wood pickets, wrought iron, concrete and combinations of these materials. Fencing should be designed with respect for the site land environment.
9. Fence heights will be measured from the sidewalk on the front property line. If no sidewalk exists at the front property line, fence height shall be measured from the natural grade from the public right-of-way immediately adjacent to the front property line ~~or from the level of the natural grade, whichever is highest.~~
10. Fences erected within the required setback area (i.e., between the property line and the setback line) are subject to the same height restrictions as fences erected on the property line.

*Coding: Added language is **underlined**; deleted language is ~~**struck through**~~ at first reading.

Historic Architectural Guidelines and Land Development Regulations Text Amendment Process:

HARC Approval	March 26, 2024
Planning Board Meeting:	May 16, 2024
City Commission (1 st Reading/ Transmittal):	June 6, 2024
Local Appeal Period:	30 days
DOC Review (1 st Reading):	Up to 60 days
City Commission (2 nd Reading/Adoption):	August 8, 2024
Local Appeal Period	Up to 30 days
DOC Review (2nd Reading):	Up to 45 days
DOC Notice of Intent (NOI):	Effective when NOI posted to DOC site
State Historic Preservation Office	Up to 45 days

Analysis:

The proposed amendments, drafted as ordinance, are attached as part of this report. The amendments under review were presented as an action item to the Historic Architectural Review Commission on February 27, 2024, and the action item was approved on March 26, 2024. The Planning Board approved the proposed text amendments at their May 16, 2024, regular meeting. The City Commission approved the first reading of this proposed text amendment on June 6, 2024, with no changes to the proposed document.

The Historic Architectural Guidelines are adopted by ordinance under Sec. 90-142. Amendments to the guidelines must follow the same procedural requirements as amendments to the Land Development Regulations. 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. It is not intended to relieve hardships nor to confer special privileges or rights to any person, but only to make necessary adjustments considering changed conditions. In determining whether to grant a requested amendment, the Planning Board and the City Commission shall consider the consistency of the proposed amendment with the intent of the Comprehensive Plan.

Pursuant to Code Section 90-552, the Planning Board 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 in the LDRs to the City Commission for official action.

The Code provides criteria by which LDR amendments must be evaluated:

Section 90-520 (6) Justification. The need and justification for the proposed change shall be stated. 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 must be consistent with the Comprehensive Plan.***

The amendments to the Historic Architectural Guidelines for fences and walls have been proposed by the Historic Architectural Review Commission. The Historic Preservation Element under Future Land Use in the City of Key West Comprehensive Plan states the importance of maintaining the unique architectural heritage of buildings and structures and the implementation of HARC Guidelines and federal Standards when reviewing new development.

The proposed text amendment for fences and walls will have no impact in zoning on the Comprehensive Plan. Moreover, policy 1A-1.2.1; HARC Guidelines, under the Historic Preservation Element of the Comprehensive Plan establishes that “*the City and HARC shall continue to protect all historically significant structures and historic districts by periodically updating the HARC Guidelines*”.

Although the City’s 2021-2024 Strategic Plan is silent pertaining to fences and walls, it is in the best interest for our citizens to have fair and easy to understand regulations. The Historic Architectural Review Commission is chartered to preserve the character and appearance of the Key West Historic District through review and regulation of proposed changes in the district. The proposed amendments will assist HARC and their staff in their responsibilities.

- 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.***

There will be no impact on surrounding property or infrastructure or a particular property. To the contrary, the proposed text amendments promote the preservation of the character of the historic district.

- 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 amendments to the HARC Guidelines will not affect the zoning of any specific parcel in the city.

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

The proposed text amendment does not affect the City’s official zoning map nor the City’s future land use map.

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

The proposed amendment is consistent with the adopted comprehensive plan and will ensure consistency between the LDRs and the comprehensive plan. The text amendment will protect the historic character of the district and provides for the sensitive treatment of historic streetscape, specifically when a historic wall or fence is restored, or a new fence is built.

- 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.***

This proposed amendment is not associated with a particular comprehensive plan, future land use designation or specific zoning district.

Procurement

There will be no cost to the city.

Recommendation

The Planning Board and the Historic Architectural Review Commission, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, respectfully recommend to the City Commission that the request to amend the Historic Architectural Guidelines, specific, guidelines for fences and walls be **APPROVED**.