

EXECUTIVE SUMMARY



To: Jim Scholl, City Manager
From: Amy Kimball-Murley, AICP, Planning Director
Meeting Date: October 19, 2010
RE: Amendment to Noticing Requirements for HARC Items

ACTION STATEMENT:

Request: 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

Location: Historic Zoning districts and historic and archaeological sites and structures in non-historic zoning districts

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 are often significant, 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.

Previous City Actions: The Planning Board recommended approval of the draft ordinance on September 16, 2010.

Process: 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.

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.

The Planning Board staff report and associated resolution constitute the review as required under this subsection.

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.

Options/Advantages/Disadvantages:

Option 1: Approve the proposed ordinance.

- 1. Consistency with the City's Strategic Plan, Vision, and Mission:** The Strategic Plan is silent on the issues pertaining to the ordinance.
- 2. Financial Impact:** Additional staff time to post impacted properties will be required; however, no additional staff will be hired to accomplish the posting.

Option 2: Do not approve the proposed ordinance.

- 1. Consistency with the City's Strategic Plan, Vision, and Mission:** The Strategic Plan is silent on the issues pertaining to the ordinance.
- 2. Financial Impact:** There is no direct financial impact to the city if the ordinance is not adopted.

Recommendation

Staff recommends approval of the ordinance.

The Planning Department recommends **approval** of