



## THE CITY OF KEY WEST

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### EXECUTIVE SUMMARY

To: The Planning Board for the City of Key West  
From: Ronald Ramsingh, Assistant City Attorney  
Date: February 2, 2012  
RE: Demolitions in the Historic District ordinance revision

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Mr. Chairman and Planning Board members:

**Background:**

I was asked to draft a proposed ordinance revision by HARC with the support of city management to revise the Land Development Regulations concerning demolitions in the historic district as well as contributing buildings and structures that are located outside of the historic district. Specifically, the proposal relaxes the requirement from 2 readings to 1 for the demolition of any non-contributing or non-historic building or structure within the historic district. Also, the requirement of 2 readings for the demolition of non-historic or non-contributing buildings or structures within the historic district that concern code compliance case can be staff approved if written approvals are issued by the city attorney and the city planner. If both officials do not agree, then said application shall be brought before HARC for 1 reading. All of the noticing and posting requirements shall remain applicable.

It is the intent of HARC and city management to expedite the process for demolitions in the historic district and even more so when there is a code case requiring some level of demolition for compliance. There has been more than one occasion in the recent past

where a Respondent in a code case is told to demolish an illegal structure or face fines, but then also face a time consuming process to get a permit to demolish and thus come into compliance.

Furthermore, the undersigned has reviewed the criteria for approving amendments to the official zoning map and land development regulations contained in 90-521 and 90-522.

The analysis is as follows:

1. *Consistency with plan:* This proposal is not inconsistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program. Non-historic and non-contributing buildings and structures do not contribute to the historic fabric.
  2. *Conformance with requirements:* This proposed ordinance is in conformance with all applicable requirements of the Code of Ordinances by encouraging the removal of non-compliant buildings and structures.
  3. *Changed conditions:* Neither “land use” nor “development conditions” would change as a result of the adoption of this ordinance revision. This proposal simply seeks to recognize the need to expedite the process of bringing non-historic and non-contributing buildings and structures in the historic district into compliance with the code of ordinances when a said nonconformity is subject to a code violation. Further, the proposed revision seeks to reduce the number of required public meetings from two to one for the demolition of said non-historic and non-contributing buildings and structures in the historic district that are not part of a code violation. Finally, the proposed revision recognizes the need to submit an application to the Historic Architectural Review Commission concerning demolition for those contributing buildings that are located outside of the historic district and otherwise under the jurisdiction of the Historic Architectural Review Commission.
  4. *Land use compatibility:* This proposed ordinance revision will not create any incompatible land uses and will in fact promote further compatibility with the historic fabric by expediting the demolition process of non-historic and non-contributing structures.
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5. *Adequate public facilities:* The adoption of this ordinance revision would not impose any additional impacts on any public facilities, services including transportation, water, wastewater, solid waste, disposal, drainage, recreation, education, or emergency services and will in fact reduce utility consumption by expediting the demolition process of non-historic and non-contributing structures; especially those that contain utilities.
  6. *Natural Environment:* The adoption of this ordinance revision would not impose any additional adverse impact to the natural environment.
  7. *Economic Effects:* This proposed ordinance revision will have a positive economic effect on property values in the area by encouraging the removal of non-compliant buildings and structures.
  8. *Orderly development:* The adoption of this ordinance revision will not create a negative effect on any “land use pattern”.
  9. *Public interest; enabling act:* The adoption of this ordinance revision serves the public interests in promoting properties that are in compliance with the Florida Building Code and the Code of Ordinances.
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Options:

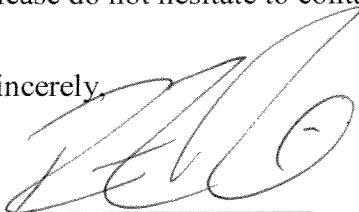
1. To pass the proposed ordinance revision to the L.D.R.’s, thereby relaxing the required HARC readings for demolitions in the historic district only concerning non-historic or non-contributing buildings or structures.
2. To defeat the proposed revision and the existing ordinances will continue to be enforced.

Recommendation:

To pass the proposed ordinance revision.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,



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Ron Ramsingh, Esq.

**Draft  
Resolution**

**PLANNING BOARD  
RESOLUTION NO. 2012-XX**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD RECOMMENDING APPROVAL OF AN ORDINANCE AMENDMENT OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 102 ENTITLED "HISTORIC PRESERVATION" BY AMENDING SECTION 102-217 "REQUIRED PUBLIC MEETINGS", RELAXING THE REQUIREMENTS TO OBTAIN APPROVAL TO DEMOLISH NON-HISTORIC AND NON-CONTRIBUTING BUILDINGS OR STRUCTURES IN THE HISTORIC DISTRICT AND INCLUDING CONTRIBUTING BUILDINGS AND STRUCTURES OUTSIDE OF THE HISTORIC DISTRICT IN SECTION 102-216; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Planning Department prepared an amendment to the Land Development Regulations to provide for modifications of the requirements to obtain approval for demolition of non-historic and non contributing buildings or structures in the historic district and included new requirements to obtain approval for demolition of contributing buildings and structures outside of the historic district; and

**WHEREAS**, the Planning Board held a noticed public hearing on March 27, 2012, where based on the consideration of recommendations by the city planner, city attorney, building official and other information, the Board recommended approval of the proposed amendments; and

\_\_\_\_\_ Chairman

\_\_\_\_\_ Planning Director

**WHEREAS**, the Planning Board 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; and

**WHEREAS**, the legal department for the City of Key West has reviewed the proposed ordinance amendment within the prescriptions of Sec. 90-521 and 90-522. The analysis is as follows:

1. *Consistency with plan*: This proposal is not inconsistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program. Non-historic and non-contributing buildings and structures do not contribute to the historic fabric.
2. *Conformance with requirements*: This proposed ordinance is in conformance with all applicable requirements of the Code of Ordinances by encouraging the removal of non-compliant buildings and structures.
3. *Changed conditions*: Neither “land use” nor “development conditions” would change as a result of the adoption of this ordinance revision. This proposal simply seeks to recognize the need to expedite the process of bringing non-historic and non-contributing buildings and

\_\_\_\_\_ Chairman

\_\_\_\_\_ Planning Director

structures in the historic district into compliance with the code of ordinances when a said nonconformity is subject to a code violation. Further, the proposed revision seeks to reduce the number of required public meetings from two to one for the demolition of said non-historic and non-contributing buildings and structures in the historic district that are not part of a code violation. Finally, the proposed revision recognizes the need to submit an application to the Historic Architectural Review Commission concerning demolition for those contributing buildings that are located outside of the historic district and otherwise under the jurisdiction of the Historic Architectural Review Commission.

4. *Land use compatibility:* This proposed ordinance revision will not create any incompatible land uses and will in fact promote further compatibility with the historic fabric by expediting the demolition process of non-historic and non-contributing structures.
5. *Adequate public facilities:* The adoption of this ordinance revision would not impose any additional impacts on any public facilities, services including transportation, water, wastewater, solid waste, disposal, drainage, recreation, education, or emergency services and will in fact reduce utility consumption by expediting the demolition process of non-historic and non-contributing structures; especially those that contain utilities.
6. *Natural Environment:* The adoption of this ordinance revision would not impose any additional adverse impact to the natural environment.

\_\_\_\_\_ Chairman

\_\_\_\_\_ Planning Director

7. *Economic Effects:* This proposed ordinance revision will have a positive economic effect on property values in the area by encouraging the removal of non-compliant buildings and structures.
8. *Orderly development:* The adoption of this ordinance revision will not create a negative effect on any “land use pattern”.
9. *Public interest; enabling act:* The adoption of this ordinance revision serves the public interests in promoting properties that are in compliance with the Florida Building Code and the Code of Ordinances.

**BE IT RESOLVED** by the Planning Board of the City of Key West, Florida:

**Section 1.** That the above recitals are incorporated by reference as if fully set forth herein.

**Section 2.** That AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 102 ENTITLED “HISTORIC PRESERVATION” BY AMENDING SECTION 102-217 “REQUIRED PUBLIC MEETINGS”, RELAXING THE REQUIREMENTS TO OBTAIN APPROVAL TO DEMOLISH NON-HISTORIC AND NON-CONTRIBUTING BUILDINGS OR STRUCTURES IN THE HISTORIC DISTRICT AND INCLUDING CONTRIBUTING BUILDINGS AND STRUCTURES OUTSIDE OF THE HISTORIC DISTRICT IN SECTION 102-216; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE is

\_\_\_\_\_ Chairman

\_\_\_\_\_ Planning Director



hereby recommended for approval; a copy of the draft ordinance is attached.

**Section 3.** This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a special meeting held this 27th day of March, 2012.

Authenticated by the Chairman of the Planning Board and the Planning Director.

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Richard Klitenick, Chairman  
Key West Planning Board

Date

**Attest:**

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Donald Leland Craig, AICP  
Planning Director

Date

**Filed with the Clerk:**

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Cheryl Smith, City Clerk

Date

\_\_\_\_\_ Chairman  
\_\_\_\_\_ Planning Director

**Draft  
Ordinance**

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

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 102 ENTITLED "HISTORIC PRESERVATION" BY AMENDING SECTION 102-217 "REQUIRED PUBLIC MEETINGS", RELAXING THE REQUIREMENTS TO OBTAIN APPROVAL TO DEMOLISH NON-HISTORIC AND NON-CONTRIBUTING BUILDINGS OR STRUCTURES IN THE HISTORIC DISTRICT AND INCLUDING CONTRIBUTING BUILDINGS AND STRUCTURES OUTSIDE OF THE HISTORIC DISTRICT IN SECTION 102-216; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

**WHEREAS**, The City Commission for the City of Key West recognizes that the historic district has numerous illegal and unpermitted buildings and structures; and

**WHEREAS**, The City Commission for the City of Key West recognizes that the existence of these illegal and unpermitted buildings and structures pose a threat to the health, safety and welfare to the citizens and visitors of the City of Key West; and

**WHEREAS**, the City Commission for the City of Key West finds that expanding the authority to staff approve a HARC certificate of appropriateness for the demolition of non-contributing, non-historic buildings or structures that are part of a code case will hasten the process to bring properties in the historic district into compliance with the code of ordinances thereby promoting the health, safety

and welfare of citizens and visitors of the City of Key West; and

**WHEREAS**, the City Commission for the City of Key West finds that reducing the number of hearings before the historic architectural review commission from two to one regarding the demolition of non-contributing, non-historic buildings or structures in the historic district that are not part of a code compliance case will serve to promote a more accurate historic fabric and hasten the process for property owners to enhance their properties and property values in the historic district; and

**WHEREAS**, the City Commission for the City of Key West finds that there exists several historic, contributing properties that are located outside of the historic district and are presently otherwise under the jurisdiction of HARC for all architectural matters except regarding demolitions,

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

Sec. 102-216. - Submission of application to historic architectural review commission.

Application for a certificate of appropriateness for any demolition of a building or structure located within a designated historic zoning district, and contributing buildings or structures that are located outside of the historic district shall be submitted by the property owner to the historic architectural review commission.

Sec. 102-217. - Required public meetings and staff approval.

(1) The historic preservation planner shall have the authority to staff approve the demolition of a non-historic, non-contributing building or structure in the historic district that is part of a bone fide code compliance case after written consent from the city planner and the city attorney. If the required written approvals herein are not obtained, then subsection (2) below shall be applicable.

(2) The historic architectural review commission shall not issue a certificate of appropriateness for demolition of a non-historic or non-contributing building or

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

structure located in a designated historic zoning district except after conclusion of one regular historic architectural review commission meeting.

(3) The historic architectural review commission shall not issue a certificate of appropriateness for demolition of a historic or contributing building or structure located in a designated historic zoning district, or that is a contributing building or structure that is outside of the historic 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 meetings shall be published as for a regular meeting, pursuant to section 90-143.

Section 2: 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 there from and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: 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 4: 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.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2012.

Filed with the Clerk \_\_\_\_\_, 2012.

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CRAIG CATES, MAYOR

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CHERYL SMITH, CITY CLERK