

THE CITY OF KEY WEST
PLANNING BOARD
Staff Report



To: Chairman Holland and Planning Board Members

Through: Katie P. Halloran
Planning Director

From: Enid Torregrosa-Silva
Historic Preservation Planner

Meeting Date: February 17, 2022

Agenda Item: **Text amendments to the Land Development Regulations** - A resolution of the City of Key West Planning Board recommending an ordinance to the City Commission to amend Chapter 102 of the Code of Ordinances entitled "Historic Preservation", Article IV entitled "Certificate of Appropriateness" by amending Division 2, entitled "Economic Hardship" by increasing the maximum household income for applicants seeking substitution of alternative building materials for historic or traditional materials; Providing for severability; Providing for repeal of inconsistent provisions; Providing for an effective date.

Request: Approval of proposed amendments to Chapter 102 of the Code of Ordinances entitled "Historic Preservation", Article IV entitled "Certificate of Appropriateness" by amending Division 2, entitled "Economic Hardship" by increasing the maximum household income for applicants seeking substitution of alternative building materials for historic or traditional materials.

Applicant: City of Key West

Background:

The Historic Architectural Review Commission (HARC) initiated changes to current guidelines for windows and window protections as it has been established that such architectural elements are considered energy devices. Florida Statute 163.04 prohibits any jurisdiction in the State not to allow the installation of energy devices based on renewable resources. Furthermore, the Statute prohibits regulations that requires construction materials beyond the capacity of private owners to maintain in order to conserve and protect the value of buildings and land while driving the cost of owning and operating commercial and residential property. HARC finds that current regulations for economic hardship for substitution of alternative building materials includes qualifications that can be onerous to fulfill for many citizens and families under financial constraints.

In the past thirteen years HARC staff has found that the Economic Hardship Ordinance qualifications, which have never been revised since its adoption in 1997, have become more difficult to fulfill for citizens in real financial constraints. Citizens regularly ask for aid due to economic hardship for two architectural

elements, roofing finish material and windows. The cost of metal shingle versus metal V-crimp and restoration of historic windows or installation of wood windows versus the use of metal windows can be a financial burden for a family that cannot afford such required materials. Protecting a building with strong and resilient construction materials is paramount to the safety, welfare, and health of our community. Changes to economic hardship qualifications and increasing the maximum household income for applicants seeking hardship will contribute to fulfill the goals and objectives of the City of Key West 2021-2024 Strategic Plan by preserving, repairing, and improving existing housing for vulnerable groups.

Previous City Actions:

HARC Recommendation of Approval: January 25, 2022

Analysis:

The proposed amendments, drafted as ordinance, are attached as part of this report. The amendments under review were proposed by the Historic Architectural Review Commission on January 25, 2022, to fulfill requirements under Florida Statute 163.04. Section 90-520 of the Code outlines required information for a petition to amend the Land Development Regulations. A review of the proposed ordinance relative to Section 90-520 is provided below:

- (1) **Property Description** - Historic District, specifically zones HMDR, HSMDR, HHDR, HRCC1, HRCC2, HRCC3, HRCC4, HNC1, HNC2, HNC3, HCT, HRO, HPS, HPS1, HPS2, HPRD and HCL. Buildings and structures listed as contributing outside of the historic zoning districts.
- (2) **Current and proposed comprehensive plan land use map designation** - No changes proposed in land use map designation.
- (3) **Current and proposed zoning** - No changes proposed in zoning designation.
- (4) **Existing and proposed use** - Not applicable.
- (5) **Disclosure of ownership** - Not applicable.
- (6) **Justification** - The amendments to the Economic Hardship regulations under the Land Development Regulations have been proposed and recommended for approval 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 preserving the quality of housing and neighborhoods in the historic district

Under Policy 1A-1.2.3 – Related Incentives and Disincentives, the Comprehensive Plan mandates that *“the City shall maintain the protection of historic resources by providing disincentives from demolition and affording property owners incentives for the maintenance and rehabilitation of historic resources, as well as other appropriate methods”*. It is staff’s opinion that the proposed amendments to the economic hardship regulations create reasonable qualifications for citizens under economic disadvantage. The amendments will

allow for vulnerable families to protect their homes and commercial buildings while keeping the character of the historic district.

The proposed amendments to the economic hardship regulations for substitution of alternative building materials are consistent with the City's Comprehensive Plan and the 2021-2024 Strategic Plan. 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.

Section 90-522 establishes the Planning Board Review process for proposed changes of the 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 City Attorney's office and the Planning Director have worked with HARC staff in the review of the proposed text amendments to ensure that the changes are consistent with the LDRs and Florida Statutes and are necessary to assist families and citizens that cannot afford to install required building materials in their property. The proposed text amendment does not alter the official zoning map Section 90-521 of the LDRs, entitled "Criteria for approving amendments to official zoning map," and therefore it is not applicable under this review.

Process:

Section 90-523 of the Land Development Regulations states that the City Commission shall review and act upon all proposed amendments to the LDRs and the official zoning map. If the Planning Board approves the text amendment the City Commission shall schedule a public hearing on the petition. The City Commission review process requires two readings of the proposed amendments. Absent of any appeals, the ordinance will be rendered to the Florida Department of Economic Opportunity, who will have 60 days to issue an order of consistency. The final ordinance will be sent to the Florida Department of State, Division of Historical Resources, as required by the city's Certified Local Government Agreement of 1991.

RECOMMENDATION:

The Historic Architectural Review Commission and Planning Department staff recommend consideration and approval of the submitted text amendments, based on requirements and objectives set forth in the Land Development Regulations and the City of Key West Comprehensive Plan.