

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, MSHP  
Historic Preservation Planner

Meeting Date: February 16, 2023

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 Land Development Regulations Chapter 102, entitled "Historic Preservation", by amending Section 102-217, entitled "Required public meetings and staff approval", by amending the requirements to obtain approval to demolish historic but non-contributing buildings or structures in the Historic District after conclusion of one regular Historic Architectural Review Commission Meeting; 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 Sec.102-217, entitled "Required public meetings and staff approval" by amending the requirements to obtain approval to demolish historic but non-contributing buildings or structures in the historic district after conclusion of one regular Historic Architectural Review Commission meeting.

Applicant: City of Key West

**Background:**

The Historic Architectural Review Commission ("HARC") has seen an increase in Certificate of Appropriateness applications requesting demolition of historic but non-contributing buildings or structures. Currently Section 102-217 of the Land Development Regulations ("LDR's") requires two meetings to review requests for demolition of historic or contributing buildings or structures. The purpose of the amendment as proposed by HARC is to relax the requirement for the demolition of a historic but non-contributing buildings or structures from two readings to one reading. The LDR's establishes under definitions the National standard of 50 years or more of construction for a building to be deemed historic, meaning that buildings or structures built on or before 1972 are historic. The LDR's define a contributing building or structure as a resource *that contributes to the character of the historic district by sharing the same period of significance, architectural qualities, or historical or cultural attributes*. The period of significance of the historic district is from 1829 to 1945.

These amendments will not affect future demolition considerations for buildings or structures that may be considered significant due to association with a special event or a renowned person, craftsmanship, or that has become an integral part of the streetscape. The LDR's includes specific criteria to qualify a building or structure as a contributing resource and this criterion is used to evaluate demolition requests.

It is the intent of HARC to expedite the approval process for proposed demolitions of non-contributing, non-significant structures in the historic district. The proposed amendments will reduce to one month, the two-month review process, which is significant time in the construction world.

**Requested/ Proposed Amendment:** \*Coding: Added language is underlined; deleted language is ~~struck through~~ at first reading.

**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 bona 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) Subject to the criteria contained in section 102-218, the historic preservation planner shall have the authority to staff approve the demolition of the following non-historic, non-contributing buildings or structures in the historic district, as long as there is no build back of any structure on the site, with the exclusion of a swimming pool:
  - (a) Awnings
  - (b) Carports
  - (c) Detached covered porches located on the rear of a property
  - (d) Gazebos
  - (e) Gatehouses
  - (f) Pavilions
  - (g) Pergolas
  - (h) Sheds
  - (i) Swimming pools and hot tubs
  - (j) Trellis and arbors
  - (k) Walls

The historic preservation planner shall have the authority to staff approve the demolition and, if necessary, reconstruction of non-historic, non-contributing staircases, decks 30 inches or taller, and fences that do not qualify as unsafe structures, pursuant to section 102-221, and that are in need to be demolished due to deterioration or building code requirements.

- (3) The historic architectural review commission shall ~~not~~ only issue a certificate of appropriateness for demolition of a historic but non-contributing, non-historic or non-contributing building or structure located in a designated historic zoning district, ~~with the exception of qualified buildings and structures under section 102-217 (2)~~, after conclusion of one regular historic architectural review commission meeting.

- (4) The historic architectural review commission shall ~~not~~ only issue a certificate of appropriateness for demolition of a historic and contributing 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.

**Land Development Regulations Text Amendment Process:**

HARC Discussion Item:	December 20, 2022
HARC Approval	January 24, 2023
Planning Board Meeting:	February 16, 2023
City Commission (1 <sup>st</sup> Reading):	TBD 2023
Local Appeal Period:	30 days
DEO Review (1 <sup>st</sup> Reading):	Up to 60 days
City Commission (2nd Reading / Adoption):	TBD, 2022
Local Appeal Period:	30 days
DEO Review (2nd Reading):	Up to 45 days
DEO Notice of Intent (NOI):	Effective when NOI posted to DEO 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 a discussion item by staff to the Historic Architectural Review Commission on December 20, 2022, to fulfill a request to reduce from two to one meeting specific development that requires demolition of historic but non-contributing buildings or structures. On January 24, 2023, HARC approved the proposed amendments.

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 in light of 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 Demolition regulations under the Land Development Regulations 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.

New proposed buildings and structures that will be replacing historic but non-contributing resources must be approved by HARC based on architectural vocabulary as well as mass, scale, and proportions taking into consideration the surrounding urban context. Certificate of Appropriateness review requires that new construction be harmonious with its immediate surroundings and shall not create a false sense of history.

Although the City's Comprehensive Plan and the 2021-2024 Strategic Plan are silent pertaining to the timing for reviewing a Certificate of Appropriateness, it is in the best interest of our citizens to expedite any review process. 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.

***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 LDRs will not affect the zoning of any specific parcels in the City.

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

The proposed change does not affect the City's official zoning map nor the City's future land use map. The proposed amendment will facilitate the land redevelopment process, and was proposed by the HARC and the City's historic preservation planner.

**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.

- 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.

**RECOMMENDATION:**

The Planning Department and Historic Architectural Review Commission staff, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommend to the Planning Board that the request to amend the Land Development Regulations be **APPROVED**.