

ORDINANCE NO. 10-02

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO PART B, LAND DEVELOPMENT REGULATIONS, SECTION 114-1 DEFINITIONS AND CREATING SECTION 114-43 EXCEPTION FOR HISTORIC MARKERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the land development regulations in accordance with certain procedures and criteria; and

WHEREAS, the City of Key West has one of the most significant historic districts in Florida and the nation; and

WHEREAS, the City recognizes that education about historic resources is an aspect of historic preservation; and

WHEREAS, education about historic resources can be facilitated by historical markers that explain by word or symbol the history of certain buildings and structures throughout the City; and

WHEREAS, the Planning Board held a noticed public hearing on November 19, 2009, where based on the consideration of recommendations by the City planner, city attorney,

building official and other information recommended approval of the proposed amendments;

WHEREAS, the City Commission held a noticed public hearing on January 5, 2010 and in its deliberations considered the criteria identified in section 90-521 of the Code of Ordinances;

WHEREAS, the City 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.

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

Section 1: That Section 114-1 Definitions of the Code of Ordinances is hereby amended to include a definition of historical markers as follows:

Sec. 114-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Banner sign means any sign having the characters, letters, illustrations or ornamentations applied to cloth, paper or fabric of any kind.

Facade sign means any sign erected parallel to the facade of a building and mounted on the outside wall thereof, or mounted between the posts, columns, or other similar structural component or the building's porch or portico.

Flat sign means any sign erected parallel to and mounted on a wall, which wall is an integral part of the landscape design of the site, such as a wall screening off-street parking, bounding the site or lot, or serving as a principal landscape feature, and which wall is clearly not intended for the sole purpose of sign display.

Historic Marker means any sign or placard approved by the Historic Architectural Review Commission that explains by word or symbol the historical significance of the building, site or structure to which it is affixed.

Horizontal projecting sign means any sign projecting at any angle from the outside wall of any building and which has its greatest dimension in a horizontal plane.

Marquee sign means any sign placed flat along and on the edges of a marquee.

Pole sign means any sign erected on a pole and which is wholly or partially independent of any building for support.

Roof sign means any sign erected completely over the roof of any building.

Sign means any display of characters, letters, illustrations or any ornamentations or the complete structure on which any such characters, letters, illustrations or ornamentations are supported or applied, except that guys or their anchorages or the poles of pole signs will not be considered to be any part of a sign.

Sign erector means all individuals, firms or corporations engaged in the construction or erection of any sign having a structural frame, using electric power or requiring a scaffold for its application.

Sign writer means any individual, firm or corporation engaged in the painting or application of signs on windows, doors, walls, awnings, etc., where no framework is required for the sign or scaffolding for its application.

Vertical projecting sign means any sign projecting at any angle from the outside wall of any building and which has a vertical dimension equal to or exceeding the horizontal dimension.

Section 2. Section 114-43 is no longer reserved and is created as follows:

114-43 Exception for Historical Markers

Historic Markers shall be exempt from regulation in this Article and shall not be deemed a sign as defined in Article 1 nor shall it be considered in the allotment of signs for a property provided only one historic marker exists per property placed by a private entity.

Section 3: 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 4: 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 5: 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.

This Ordinance shall become effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a special meeting held this 15th day of December, 2009.

Read and passed on final reading at a regular meeting held this 5th day of January, 2010.

Authenticated by the presiding officer and Clerk of the Commission on 6th day of January, 2010.

Filed with the Clerk January 6, 2010.



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK

Executive Summary

EXECUTIVE SUMMARY



To: Jim Scholl, City Manager

Through: Amy Kimball-Murley, AICP, Planning Director

From: Ashley Monnier

Meeting Date: December 15, 2009

RE: An ordinance of the City Commission of the City of Key West, approving an amendment to Part B, Land Development Regulations, Section 114-1 Definitions and creating Section 114-43 Exception for Historic Markers; providing for severability; providing for repeal of inconsistent provisions; and providing for an effective date.

ACTION STATEMENT:

Request: An ordinance providing a definition for Historic Markers, and an exception that would exempt them from the regulations that are typically applicable to signs in the Code of Ordinances.

Location: Throughout the City.

BACKGROUND: This change to Chapter 114 of the Code is being sponsored by Commissioners Johnston and Lopez to allow historic markers to be placed throughout the City's historic district in furtherance of a proposed program known as "Key West Historic Marker Tour" being proposed by Historic Markers, Inc. Information from Historic Markers, Inc., is attached.

HARC reviewed and discussed, but did not take formal action on the proposed amendments to the Code on September 22, 2009. Although HARC approved the design of the specific markers proposed by Historic Markers, Inc., this amendment is not specific to those markers or the associated program of installation or use. The Planning Board recommended approval of the proposed changes in a meeting on November 19, 2009.

Previous City Actions:

Planning Board Recommendation of Approval: November 19, 2009

Planning Staff Analysis:

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.

Section 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 City Attorney's office, Building Official, and City Planner have worked together to create a definition and additional language in Chapter 114 that would regulate the implementation of the historical markers. The Planning Board report dated November 19, 2009 was prepared in support of procedural review criteria in the Code and in support of Planning Board consideration.

Section 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 proposed amendment appears to be consistent with the Comprehensive Plan. In addition, the amendment will help further Goal 1A-2 of the Comprehensive Plan, which promotes the public education on historic resources.

GOAL 1A-2: TO PROMOTE PUBLIC EDUCATION, AWARENESS, AND APPRECIATION OF HISTORIC, ARCHITECTURAL, AND ARCHAEOLOGICAL RESOURCES.

OBJECTIVE 1A-2.1: Education and Awareness Program Initiatives. The City and HARC shall encourage heritage education and awareness program initiatives directed at school age children, senior citizens, tourists, the business community, and the general public through: promoting school field trips; preparing pamphlets; creating a video documentary; building a public information display; holding seminars; and continuing operation of tourist activities related to historic resources, as specified in the following policies.

Policy 1A-2.1.9: Tourist Related Activities to Promote Preservation. Encourage the continued operation of tourist related activities that identify and promote the significance of Key West architectural and historical resources in an appropriate manner. The use of varying routes used by tour vehicles shall be encouraged so as to reduce the impact on residential communities in the Historic District.

(2.) *Conformance with requirements.* Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.

The amendment is in conformance with the Code of Ordinances, and is specifically following the process for Land Development Regulation amendments identified in Chapter 90 of the Code.

(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.

A request to erect historic markers as part of a historic tour prompted the land use amendment process. Chapter 114 of the Code as it exists does not define historic markers. Furthermore, Article II of Chapter 114 does not allow for historic markers to be erected in the City. The proposed amendment exempts historic markers which are approved by HARC from the regulations currently governing signage, provided that one historic marker exists per property. HARC Guideline changes are not needed to accommodate this modification since the Guidelines follow the Land Development Regulations in areas relevant to this issue.

(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 amendment will not impact land uses and therefore will not result in any incompatible 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, 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 modification pertains to signage and will have no impact on public facilities or the requirement to provide facilities through existing concurrency regulation.

- (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 sign ordinance modifications will not impact existing natural resource protection regulations.

- (7.) *Economic effects.* Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.**

The proposed amendment is not expected to have any negative economic impacts to the surrounding area or the general welfare.

- (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.**

By ensuring that only one historic marker is allowed per property, the proposal is not expected to have any negative effects on the land use pattern.

- (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 amendment is in harmony with the intent of the Land Development Regulations, and appears to support the overall public interest by means of providing public information regarding historical landmarks throughout the City.

- (10.) *Other matters.* Other matters which the Planning Board and the City Commission may deem appropriate.**

This amendment promotes the public education of historic properties within the City, which helps further goals, objectives, and policies of the Comprehensive Plan.

Options/Advantages/Disadvantages:

Option 1: Approve the proposed amendments to the ordinance.

1. Consistency with the City’s Strategic Plan, Vision, and Mission:

The City’s Strategic Plan, Vision, and Mission do not address issues pertinent to this request. However, the proposed amendment may further historic resource education.

2. Financial Impact:

There is no direct financial impact to the City if the amendments to Chapter 114 are made.

Option 2: Do not approve the amendments to the ordinance.

1. Consistency with the City’s Strategic Plan, Vision, and Mission:

The City’s Strategic Plan, Vision, and Mission do not address issues pertinent to this request.

3. Financial Impact:

There is no direct financial impact to the City if the amendments to Chapter 114 are made; however, failing to approve the amendments could have a negative impact on historic resource education.

Recommendation

The Planning Department recommends **approval** of Option 1.

Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO PART B, LAND DEVELOPMENT REGULATIONS, SECTION 114-1 DEFINITIONS AND CREATING SECTION 114-43 EXCEPTION FOR HISTORIC MARKERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the land development regulations in accordance with certain procedures and criteria; and

WHEREAS, the City of Key West has one of the most significant historic districts in Florida and the nation; and

WHEREAS, the City recognizes that education about historic resources is an aspect of historic preservation; and

WHEREAS, education about historic resources can be facilitated by historical markers that explain by word or symbol the history of certain buildings and structures throughout the City; and

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

WHEREAS, the City Commission held a noticed public hearing on _____ and in its deliberations considered the criteria identified in section 90-521 of the Code of Ordinances;

WHEREAS, the City 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.

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

Section 1: That Section 114-1 Definitions of the Code of Ordinances is hereby amended to include a definition of historical markers as follows:

Sec. 114-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Banner sign means any sign having the characters, letters, illustrations or ornamentations applied to cloth, paper or fabric of any kind.

Facade sign means any sign erected parallel to the facade of a building and mounted on the outside wall thereof, or mounted between the posts, columns, or other similar structural component or the building's porch or portico.

Flat sign means any sign erected parallel to and mounted on a wall, which wall is an integral part of the landscape design of the site, such as a wall screening off-street parking, bounding the site or lot, or serving as a principal landscape feature, and which wall is clearly not intended for the sole purpose of sign display.

Historic Marker means any sign or placard approved by the Historic Architectural Review Commission that explains by word or symbol the historical significance of the building, site or structure to which it is affixed.

Horizontal projecting sign means any sign projecting at any angle from the outside wall of any building and which has its greatest dimension in a horizontal plane.

Marquee sign means any sign placed flat along and on the edges of a marquee.

Pole sign means any sign erected on a pole and which is wholly or partially independent of any building for support.

Roof sign means any sign erected completely over the roof of any building.

Sign means any display of characters, letters, illustrations or any ornamentations or the complete structure on which any such characters, letters, illustrations or ornamentations are supported or applied, except that guys or their anchorages or the poles of pole signs will not be considered to be any part of a sign.

Sign erector means all individuals, firms or corporations engaged in the construction or erection of any sign having a structural frame, using electric power or requiring a scaffold for its application.

Sign writer means any individual, firm or corporation engaged in the painting or application of signs on windows, doors, walls, awnings, etc., where no framework is required for the sign or scaffolding for its application.

Vertical projecting sign means any sign projecting at any angle from the outside wall of any building and which has a vertical dimension equal to or exceeding the horizontal dimension.

Section 2. Section 114-43 is no longer reserved and is created as follows:

114-43 Exception for Historical Markers

Historic Markers shall be exempt from regulation in this Article and shall not be deemed a sign as defined in Article 1 nor shall it be considered in the allotment of signs for a property provided only one historic marker exists per property placed by a private entity.

Section 3: 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 4: 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 5: 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.

This Ordinance shall become effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2009.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2009.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of

_____, 2009.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

Planning Board Resolution

RESOLUTION NUMBER 2009-046

**A RESOLUTION OF THE KEY WEST PLANNING BOARD
RECOMMENDING APPROVAL OF AN AMENDMENT TO
PART B, LAND DEVELOPMENT REGULATIONS, SECTION
114-1 DEFINITIONS AND CREATING SECTION 114-43
EXCEPTION FOR HISTORIC MARKERS; PROVIDING FOR
SEVERABILITY; PROVIDING FOR REPEAL OF
INCONSISTENT PROVISIONS; AND PROVIDING FOR AN
EFFECTIVE DATE**

WHEREAS, the Planning Board held a noticed public hearing on November 19, 2009, where based on the consideration of recommendations by the city planner, city attorney, building official and other information, including assessment of the proposed recommendation per Sections 90-521 and 90-522 of the Land Development Regulations, the Board recommended approval of the proposed amendments; and

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.

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.

_____ Vice Chairman

_____ Planning Director

Section 2. That **APPROVAL OF AMENDMENTS TO PART B, LAND DEVELOPMENT REGULATIONS, SECTION 114-1 DEFINITIONS AND CREATING SECTION 114-43 EXCEPTION FOR HISTORIC MARKERS** is 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 regular meeting held this 19th day of November, 2009.

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

Timothy W. Root, Vice Chairman
Key West Planning Board

Date

Attest:

Amy Kimball-Murley, AICP
Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

Date

_____ Vice Chairman
_____ Planning Director

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO PART B, LAND DEVELOPMENT REGULATIONS, SECTION 114-1 DEFINITIONS AND CREATING SECTION 114-43 EXCEPTION FOR HISTORIC MARKERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the land development regulations in accordance with certain procedures and criteria; and

WHEREAS, the City of Key West has one of the most significant historic districts in Florida and the nation; and

WHEREAS, the City recognizes that education about historic resources is an aspect of historic preservation; and

WHEREAS, education about historic resources can be facilitated by historical markers that explain by word or symbol the history of certain buildings and structures throughout the City; and

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

WHEREAS, the City Commission held a noticed public hearing on _____ and in its deliberations considered the criteria identified in section 90-521 of the Code of Ordinances;

WHEREAS, the City 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.

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

Section 1: That Section 114-1 Definitions of the Code of Ordinances is hereby amended to include a definition of historical markers as follows:

Sec. 114-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Banner sign means any sign having the characters, letters, illustrations or ornamentations applied to cloth, paper or fabric of any kind.

Facade sign means any sign erected parallel to the facade of a building and mounted on the outside wall thereof, or mounted between the posts, columns, or other similar structural component or the building's porch or portico.

Flat sign means any sign erected parallel to and mounted on a wall, which wall is an integral part of the landscape design of the site, such as a wall screening off-street parking, bounding the site or lot, or serving as a principal landscape feature, and which wall is clearly not intended for the sole purpose of sign display.

Historic Marker means any sign or placard approved by the Historic Architectural Review Commission that explains by word or symbol the historical significance of the building, site or structure to which it is affixed.

Horizontal projecting sign means any sign projecting at any angle from the outside wall of any building and which has its greatest dimension in a horizontal plane.

Marquee sign means any sign placed flat along and on the edges of a marquee.

Pole sign means any sign erected on a pole and which is wholly or partially independent of any building for support.

Roof sign means any sign erected completely over the roof of any building.

Sign means any display of characters, letters, illustrations or any ornamentations or the complete structure on which any such characters, letters, illustrations or ornamentations are supported or applied, except that guys or their anchorages or the poles of pole signs will not be considered to be any part of a sign.

Sign erector means all individuals, firms or corporations engaged in the construction or erection of any sign having a structural frame, using electric power or requiring a scaffold for its application.

Sign writer means any individual, firm or corporation engaged in the painting or application of signs on windows, doors, walls, awnings, etc., where no framework is required for the sign or scaffolding for its application.

Vertical projecting sign means any sign projecting at any angle from the outside wall of any building and which has a vertical dimension equal to or exceeding the horizontal dimension.

Section 2. Section 114-43 is no longer reserved and is created as follows:

114-43 Exception for Historical Markers

Historic Markers shall be exempt from regulation in this Article and shall not be deemed a sign as defined in Article 1 nor shall it be considered in the allotment of signs for a property provided only one historic marker exists per property placed by a private entity.

Section 3: 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 4: 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 5: 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.

This Ordinance shall become effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2009.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2009.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of

_____, 2009.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK

Planning Board Report

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

From: Ashley Monnier

Through: Amy Kimball-Murley, AICP, Planning Director

Meeting Date: November 19, 2009

Agenda Item: An ordinance of the City Commission of the City of Key West, approving an amendment to Part B, Land Development Regulations, Section 114-1 Definitions and creating Section 114-43 Exception for Historic Markers; providing for severability; providing for repeal of inconsistent provisions; and providing for an effective date.

Request: The purpose of this amendment is to provide a definition for Historic Markers in the Code of Ordinances, and to provide an exception that would exempt them from the regulations that are typically applicable to signs. This change to Chapter 114 of the Code is being requested by Commissioner Johnston to allow historic markers to be placed throughout the City's historic district in furtherance of a proposed program known as "Key West Historic Marker Tour" being proposed by Historic Markers, Inc. Information from Historic Markers, Inc., is attached.

HARC reviewed and discussed, but did not take formal action on the proposed amendments to the Code on September 22, 2009. Although HARC approved the design of the specific markers proposed by Historic Markers, Inc., this amendment is not specific to those markers or the associated program of installation or use.

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:

Section 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.**

Section 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 proposed amendment appears to be consistent with the Comprehensive Plan. In addition, the amendment will help further Goal 1A-2 of the Comprehensive Plan, which promotes the public education on historic resources.

GOAL 1A-2: TO PROMOTE PUBLIC EDUCATION, AWARENESS, AND APPRECIATION OF HISTORIC, ARCHITECTURAL, AND ARCHAEOLOGICAL RESOURCES.

OBJECTIVE 1A-2.1: Education and Awareness Program Initiatives. The City and HARC shall encourage heritage education and awareness program initiatives directed at school age children, senior citizens, tourists, the business community, and the general public through: promoting school field trips; preparing pamphlets; creating a video documentary; building a public information display; holding seminars; and continuing operation of tourist activities related to historic resources, as specified in the following policies.

Policy 1A-2.1.9: Tourist Related Activities to Promote Preservation. Encourage the continued operation of tourist related activities that identify and promote the significance of Key West architectural and historical resources in an appropriate manner. The use of varying routes used by tour vehicles shall be encouraged so as to reduce the impact on residential communities in the Historic District.

- (2.) ***Conformance with requirements.*** Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.

The amendment is in conformance with the Code of Ordinances, and is specifically following the process for Land Development Regulation amendments identified in Chapter 90 of the Code.

- (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.

A request to erect historic markers as part of a historic tour prompted the land use amendment process. Chapter 114 of the Code as it exists does not define historic markers. Furthermore, Article II of Chapter 114 does not allow for historic markers to be erected in the City. The proposed amendment exempts historic markers which are approved by HARC from the regulations currently governing signage, provided that one historic marker exists per property. HARC Guideline changes are not needed to accommodate this modification since the Guidelines follow the Land Development Regulations in areas relevant to this issue.

- (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 amendment will not impact land uses and therefore will not result in any incompatible 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, 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 modification pertains to signage and will have no impact on public facilities or the requirement to provide facilities through existing concurrency regulation.

- (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 sign ordinance modifications will not impact existing natural resource protection regulations.

- (7.) ***Economic effects.*** Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.

The proposed amendment is not expected to have any negative economic impacts to the surrounding area or the general welfare.

- (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.

By ensuring that only one historic marker is allowed per property, the proposal is not expected to have any negative effects on the land use pattern.

- (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 amendment is in harmony with the intent of the Land Development Regulations, and appears to support the overall public interest by means of providing public information regarding historical landmarks throughout the City.

(10.) ***Other matters.*** Other matters which the Planning Board and the City Commission may deem appropriate.

This amendment promotes the public education of historic properties within the City, which helps further goals, objectives, and policies of the Comprehensive Plan.

Process

After the Planning Board recommends changes to the City Commission, 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.

Recommendation

The Planning Department recommends **approval** of the proposed amendment to Chapter 114 of the Code of Ordinances.

September 22, 2009
HARC Meeting Minutes

architecture preserved. It was difficult for him to envision the addition.

It was moved by Nils Muench to table. Motion fails.

Tom Pope felt that when he first saw the building that it had been so altered that preservation was not an issue. He needed to understand the Board's direction.

Carlos Rojas responded that he felt that it was a significant structure that needed to be preserved.

Chairperson Barbara Bowers felt that what Mr. Pope was attempting to do was preserve the existing structure.

Tom Pope stated that when he first began this project he told the owner that they needed to restore roofline back to the original sawtooth roofline. He felt that the Board would object to that.

Carlos Rojas stated that one of the Guidelines from the Secretary of the Interior was that when an addition had become historic, it needed to be maintained and protected. He felt that this fell under that Guideline.

Chairperson Barbara Bowers stated that they did make adjustments to allow people to make improvements to historic buildings. She stated that this would be a side addition back away from the front of the house.

Tom Pope original kitchen addition was probably a gabled addition and then they extended the roof section out.

It was moved by Vice Chair Peter Batty, seconded by Nils Muench, to table. Carlos Rojas voted no. Motion carried.

Other Business:

Ordinance draft review:

An ordinance of the City of Key West, Florida, amending Chapter 114 of the Code of Ordinances entitled "Signs"; creating a historical marker definition and exception, providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Assistant City Attorney Ronald Ramsingh presented the background for the Ordinance change. This was to create a definition for the historical markers and creating

an exception to that.

Vice Chair Peter Batty questioned the approval process. His concern was the number of entities who could place a sign on a structure. Assistant City Attorney Ronald Ramsingh added under the exception section, "one marker placed by a private entity."

What they were doing was creating a definition for a marker vs. a sign.

Preservation Planner Enid Torregrosa stated that her only concern was based on the number of signs allowed.

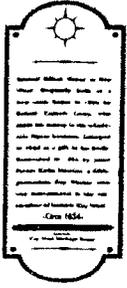
Assistant City Attorney Ronald Ramsingh stated that the next action would be at the Planning Board level because it was an amendment to an LDR ordinance.

Chairperson Barbara Bowers spoke about the anonymous letter for the roofing approved at 404 South Street. She stated that she was only recognizing that they had received the letter but because of the anonymity and the fact that they were not specific about what they objected to, she was only acknowledging receipt of the letter.

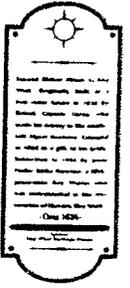
Adjournment:

There being no further business, it was moved by Vice Chair Peter Batty, seconded by Carlos Rojas, to adjourn. Motion carried.

Request



KEY WEST HISTORIC MARKER TOUR



OCT 27 2002

Dear Amy,

I understand that you and your staff are under a great deal of pressure and stress trying to manage the demands and requests of many. On the other hand please realize that I have been working and building community support for my project for seven months.

The following is a thumbnail description of my project followed by a description of what further delays mean to the project.

Key West Historic Marker Tour is a bi-lingual community-based information platform using cell phone, MP3, text message, podcasts and the web to create a dialogue capturing personal stories and memories by connecting citizens to national events tied to the Florida Keys culturally diverse historic sites.

In recognition of the extensive Hispanic influence on the history of our community coupled with the fact that Spanish is the second language in the United States, the Tour and website will be available in Spanish.

Our project uses a bundling of the latest information technologies to enable the local community, visitors and the international community to easily access the story of who we were, who we are and to encourage a dialogue of how everyone's personal experiences can benefit the global community of the future.

Use of the World Wide Web is central to our project. The website will feature a composite of community history covering nearly 500 hundred years and will have public access points at 400+ historic sites throughout Key West and the Florida Keys. The Historic Markers are uniform in size and layout. They have text pertaining to the site and most importantly an information phone number that will guide you through the tour and direct you to the website and links to mp3,



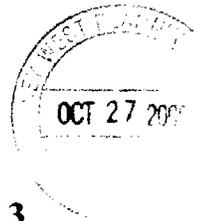
text message, GPS and Podcasts. The phone system has access up to 10,000 information sites on demand that can be used to enlarge the tour or to expand the system to handle any number of interactive programs.

The website will post daily blog questions, and announcements of upcoming events to encourage community and visitor interaction. The web home page will have a series of regularly updated trivia questions about local history, community and our island/ocean environment. A section of trivia questions designed for school children will be a great virtual learning tool or actual school trip for teachers.

Our community outreach efforts start with the schools. The local high school and community college students will participate in a series of intern programs. The intern programs will be open to history, journalism, photography, video and Spanish language students. In the process of learning research, translation, graphic design and text writing techniques for the Phone Tour and Website they will be exposed to our City and County archives and stories of the community. The High School is currently partnering with us to create a year long research class to accomplish our goal. Upon completion each intern will be eligible for school credit, an achievement entry on their scholastic resume, and a chance for a scholarship.

The project will enlist local talent for the Phone Tour voice over narrations. These recordings will be the main element in the production of the Podcasts. We will select 5–10 individuals to be “the voices of history”. They will be coached and recorded by the local talk radio station.

Through local media, civic organizations and word of mouth the community will be encouraged to nominate buildings, historic sites, offer family stories and to help research any location they feel should be included.



**** How will the project improve the information needs of the community?**

Our project presents a record of place-based history that is often hidden in neighborhoods, museums, libraries and government archives. The use of modern day interactive technology will convert archival information and bring it to life. The information is accessible 24 hours a day and is free!

The project represents a whole range of community engagement. It creates an opportunity to hear, read and discover new and shared stories of the community. The interactive blog and trivia elements on the web site will create direct dialogue within the community and with our visitors. It will reach the international community who may never be able to visit but are eager to experience our world.

Very little of our history or information is currently offered in Spanish. During periods of our history Key West's population was 50% hispanic. Most of that population was Cuban and Spanish Bahamian. The project will make our history and stories available to many in the Spanish speaking global community for the first time.

One of the most exciting aspects of our project is that the concept, technological interface, markers and web model can work for communities and organizations of any size.

**** Who might the likely partners be?**

Commitments have been secured with the City of Key West's Historic Architectural Review Commission, the Monroe County Library and the Historic Florida Keys Foundation. The Key West High School and the Florida Keys Community College have committed to participation in our student intern programs. Mutual marker partners will be the Maritime Historic Society, The United States Military. Marketing partners will be the Monroe County Tourism and Development Council and the tourism business community.



OCT 27 2009

Page 4

Support proposals have been submitted to AT&T wireless and Verizon Wireless to partner with us as the main corporate sponsor of the project.

**** What will be different in the community as a result of this project?**

The project will help our community reconnect with their roots and create a sense of belonging and ownership of place. The Soul Of The Community survey by Gallup and the Knight Foundation concludes that “a community’s social offerings, it’s physical beauty and its openness to new and different people are the most important to making residents love where they live”. Pride of place, and knowledge of ones self will also foster a curiosity in others that will help bridge cultural differences as the world becomes increasingly interdependent.

A project of this type and scope is tremendously important in a geographic location like the Florida Keys that has lost twelve percent of its population in the last two years.

The Florida Keys is primarily a tourist driven economy. The project will stimulate economic growth and enhance cultural tourism. Greater outside interest in our community will bring more visitors to experience our cultural assets and bolster our long-term economy. It will create new career opportunities and showcase the Keys as a great place to live, work and play.

We must never forget that it is our rich, diverse, cultural history that has made us a great nation.



Page 5

Amy, there seems to be some confusion over grants and how they affect my project. The original project that I presented to HARC consisted of 400 Historic Markers placed at sites of historic merit throughout Key West.

The first application was tabled and the second application was approved with an amendment to the installation guidelines. The third meeting saw the introduction of the change in signage language and it was approved. I believe you already have those documents,

The project was designed to be self supporting with individuals, companies and civic organizations funding the Historic Markers. The project is being managed by the Non Profit Historic Markers, Incorporated.

The grant potential began when The Community Foundation of the Florida Keys approached me a few months ago and asked to present my project to the Knight Foundation. Last month we passed their initial application process and presented our funding application a few weeks ago. As it stands I will be unable to accept funding for the project because I do not have Marker approval from the City of Key West.

The other foundation that we have funding requests with will be the same story.

We have begun to explore Historic Marker funding with the TDC under their Bricks and Mortar program. While there seems to be a good chance that we will qualify for funding I can not apply for something we do not have. The delays you are suggesting may be necessary will put my project out of the application deadlines. We will have to wait until 2011 for another chance.



I currently have \$106,000 of “in kind” funding from the local community. I am concerned that in this economy many of the companies may not be able to deliver on their commitments in the near future.

Well enough about money. Let’s look at the main community outreach part of my project. Four months ago I approached the Key West High School and the Florida Keys Community College to create student intern programs to research the history and dates for our Historic Markers. I worked with Jeanne Sanford, the History/Social Sciences Program Specialist at the high school to create the intern program. They have students ready to participate but I do not feel that in good faith I can proceed without a Historic Marker to research.

I met with Joseph Burke, our new school superintendent last week. He was so impressed by the project that he wants to partner with our Non Profit and create a year long research class that will include history, journalism, Spanish, photography and video students. The class will start at the beginning of the 2010 school year and will be for credit. In the mean time, our Non Profit is soliciting funds for student scholarships. If we pass on this window of opportunity it will not present itself again until August of 2011. I fear that we will loose this extraordinary educational opportunity if I fail to convince you that my application is some how not “compelling” enough to be considered with the 20 other projects you are juggling.

The same story applies to the Florida Keys Community College. History Professor Sharon Farrel has been working with me on a similar history research intern program. Sharon has become one of the History Consultants to our Board of Directors and plans to use our program to help teach historic research techniques to her seven history students this coming semester.



Page 7

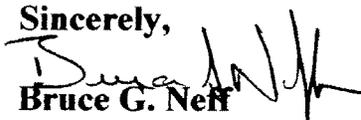
That brings me back to money. We have requests with First State Bank and TIB Bank of the Keys for scholarship money for the High School and Community College intern programs. Banks are mandated by the Federal Government to reinvest in the communities that they serve. The programs are called CRA programs. The banks review funding requests during the year and announce their choices at the beginning of the New Year. If I have nothing concrete to fund than I will have to wait until 2011 to be eligible again.

On the positive side Teri Johnston and Clayton Lopez are still willing to sponsor my application at the City Commission level. I also presented the project to Mayor Cates after his election and he told us that he likes the project and sees the community and economic need for our efforts. If I understand Bryon correctly we still have time to do the necessary advertising for the November meeting.

A month or two delay may not be much in the grand scheme of City projects but it will cripple a project like this. This project represents a window of opportunity not only to archive our unique history for the world to see but to draw our community together. It will create a sense of self and a sense of place for our citizens. The project will grow our history related tourism industry and will grow our economy in the long run. How many of the projects before you can claim the same?

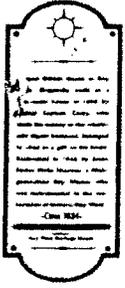
If you need any additional information or clarification on my project please feel free to call. I hope to see you at your next meeting.

Sincerely,

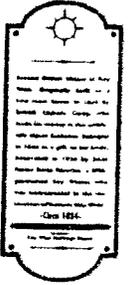


Bruce G. Neff

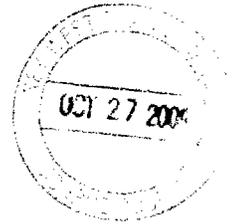
**Historic Markers, Inc
(305) 393-9777**



KEY WEST HISTORIC MARKER TOUR



HISTORIC MARKERS, INCORPORATED BOARD OF DIRECTORS



Don Craig AICP - President
Comprehensive City Planning
The Craig Company
610 White Street
Key West, Florida 33040
(305) 294-1515

* Member of the City of Key West Historic Architectural Review Board from 2001-2005.

Dennis Beebe - President and Principle Architect
Historic Restoration and Preservation
Solaria Design and Consulting
925 Truman Avenue
Key West, Florida 33040
(305) 296-8885

* Member of the City of Key West Historic Architectural Review Board from 1987-1991.

Patricia Madiedo - Property Mananger
Residential and Commercial Management
Prudential Knight & Gardner Realty
336 Duval Street
Key West, Florida 33040
(305) 294-5155

- * Recipient of the 2008 and 2009 Star Award for Preservation Excellence from the Historic Florida Keys Foundation.
- * Bilingual consultant.





Paul Mills, C.P.A - Owner
Certified Public Accountant
1541 Fifth Street
Key West, Florida 33040
(305) 294-3699

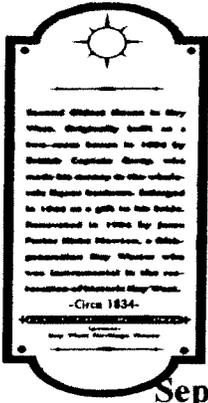
- Treasurer for the Heritage House Museum in the Historic District of Key West.

Esther Tupino - Key West Vice President
Centennial Bank
1229 Simonton Street
Key West, FL 33040
(305) 676-3142

- * Board of Directors for the Key West Chamber of Commerce.
- * Sunset Rotary Member.

EXECUTIVE DIRECTOR - Bruce Neff
Founder
1310 Petronia Street
Key West, Florida 33040
(305) 393-9777

- * Designed, built and donated the replica façade of an 1897 Gato Cigar Makers Cottage to the City of Key West.
- * Recipient of the 2009 Star Award for Preservation Excellence from the Historic Florida Keys Foundation.
- * Designer and sponsor of the Gato Cigar Monument for Gato Village Park in Key West. Dedicated Nov. of 2009.



KEY WEST HISTORIC MARKER TOUR

September 1, 2009

Key West Planning Department
604 Simonton Street
Key West, Florida 33040

- 1 2009

RE: Historic Marker approval.

Dear Brendon,

This is a request from Bruce Neff and the Key West Historic Marker Tour. KWHMT is a nonprofit that is creating 400 Historic Markers for historic buildings and locations in the City of Key West.

We are requesting our Historic Marker be recognized as a marker or plaque outside of the existing signage code. With your approval we can then submit our Marker to the Key West City Commission.

HARC approved the Historic Marker along with installation guidelines at their August 11, 2009 meeting.

Please get us on the earliest Planning meeting possible.

Sincerely,

**Bruce Neff
(305) 393-9777
Kwhistoricmarker@aol.com**

Key West Planning Board Meeting Agenda
November 19, 2009 – 6:00 p.m.
City Commission Chamber
Old City Hall, 510 Greene Street



Item 3.b.4.

An Ordinance of the City of Key West, Florida, Amending Chapter 114 of the Code of Ordinances entitled "Signs"; creating a historical marker definition and exception; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

From: Ashley Monnier

Through: Amy Kimball-Murley, AICP, Planning Director

Meeting Date: November 19, 2009

Agenda Item: An ordinance of the City Commission of the City of Key West, approving an amendment to Part B, Land Development Regulations, Section 114-1 Definitions and creating Section 114-43 Exception for Historic Markers; providing for severability; providing for repeal of inconsistent provisions; and providing for an effective date.

Request: The purpose of this amendment is to provide a definition for Historic Markers in the Code of Ordinances, and to provide an exception that would exempt them from the regulations that are typically applicable to signs. This change to Chapter 114 of the Code is being requested by Commissioner Johnston to allow historic markers to be placed throughout the City's historic district in furtherance of a proposed program known as "Key West Historic Marker Tour" being proposed by Historic Markers, Inc. Information from Historic Markers, Inc., is attached.

HARC reviewed and discussed, but did not take formal action on the proposed amendments to the Code on September 22, 2009. Although HARC approved the design of the specific markers proposed by Historic Markers, Inc., this amendment is not specific to those markers or the associated program of installation or use.

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:

Section 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.**

Section 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 proposed amendment appears to be consistent with the Comprehensive Plan. In addition, the amendment will help further Goal 1A-2 of the Comprehensive Plan, which promotes the public education on historic resources.

GOAL 1A-2: TO PROMOTE PUBLIC EDUCATION, AWARENESS, AND APPRECIATION OF HISTORIC, ARCHITECTURAL, AND ARCHAEOLOGICAL RESOURCES.

OBJECTIVE 1A-2.1: Education and Awareness Program Initiatives. The City and HARC shall encourage heritage education and awareness program initiatives directed at school age children, senior citizens, tourists, the business community, and the general public through: promoting school field trips; preparing pamphlets; creating a video documentary; building a public information display; holding seminars; and continuing operation of tourist activities related to historic resources, as specified in the following policies.

Policy 1A-2.1.9: Tourist Related Activities to Promote Preservation. Encourage the continued operation of tourist related activities that identify and promote the significance of Key West architectural and historical resources in an appropriate manner. The use of varying routes used by tour vehicles shall be encouraged so as to reduce the impact on residential communities in the Historic District.

- (2.) *Conformance with requirements.* Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.**

The amendment is in conformance with the Code of Ordinances, and is specifically following the process for Land Development Regulation amendments identified in Chapter 90 of the Code.

- (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.**

A request to erect historic markers as part of a historic tour prompted the land use amendment process. Chapter 114 of the Code as it exists does not define historic markers. Furthermore, Article II of Chapter 114 does not allow for historic markers to be erected in the City. The proposed amendment exempts historic markers which are approved by HARC from the regulations currently governing signage, provided that one historic marker exists per property. HARC Guideline changes are not needed to accommodate this modification since the Guidelines follow the Land Development Regulations in areas relevant to this issue.

- (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 amendment will not impact land uses and therefore will not result in any incompatible 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, 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 modification pertains to signage and will have no impact on public facilities or the requirement to provide facilities through existing concurrency regulation.

- (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 sign ordinance modifications will not impact existing natural resource protection regulations.

- (7.) ***Economic effects.*** Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.

The proposed amendment is not expected to have any negative economic impacts to the surrounding area or the general welfare.

- (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.

By ensuring that only one historic marker is allowed per property, the proposal is not expected to have any negative effects on the land use pattern.

- (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 amendment is in harmony with the intent of the Land Development Regulations, and appears to support the overall public interest by means of providing public information regarding historical landmarks throughout the City.

- (10.) ***Other matters.*** Other matters which the Planning Board and the City Commission may deem appropriate.

This amendment promotes the public education of historic properties within the City, which helps further goals, objectives, and policies of the Comprehensive Plan.

Process

After the Planning Board recommends changes to the City Commission, 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.

Recommendation

The Planning Department recommends **approval** of the proposed amendment to Chapter 114 of the Code of Ordinances.

Draft Resolution

RESOLUTION NUMBER 2009-_____

**A RESOLUTION OF THE KEY WEST PLANNING BOARD
RECOMMENDING APPROVAL OF AN AMENDMENT TO
PART B, LAND DEVELOPMENT REGULATIONS, SECTION
114-1 DEFINITIONS AND CREATING SECTION 114-43
EXCEPTION FOR HISTORIC MARKERS; PROVIDING FOR
SEVERABILITY; PROVIDING FOR REPEAL OF
INCONSISTENT PROVISIONS; AND PROVIDING FOR AN
EFFECTIVE DATE**

WHEREAS, the Planning Board held a noticed public hearing on November 19, 2009, where based on the consideration of recommendations by the city planner, city attorney, building official and other information, including assessment of the proposed recommendation per Sections 90-521 and 90-522 of the Land Development Regulations, the Board recommended approval of the proposed amendments: and

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.

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.

_____ Chairman

_____ Planning Director

Section 2. That **APPROVAL OF AMENDMENTS TO PART B, LAND DEVELOPMENT REGULATIONS, SECTION 114-1 DEFINITIONS AND CREATING SECTION 114-43 EXCEPTION FOR HISTORIC MARKERS** is 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 regular meeting held this 19th day of November, 2009.
Authenticated by the Chairman of the Planning Board and ~~the~~ Planning Director.

Richard Klitenick, Chairman
Key West Planning Board

Date

Attest:

Amy Kimball-Murley, AICP
Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

Date

_____ Chairman

_____ Planning Director

Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF KEY WEST, APPROVING AN AMENDMENT TO PART B, LAND DEVELOPMENT REGULATIONS, SECTION 114-1 DEFINITIONS AND CREATING SECTION 114-43 EXCEPTION FOR HISTORIC MARKERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the land development regulations in accordance with certain procedures and criteria; and

WHEREAS, the City of Key West has one of the most significant historic districts in Florida and the nation; and

WHEREAS, the City recognizes that education about historic resources is an aspect of historic preservation; and

WHEREAS, education about historic resources can be facilitated by historical markers that explain by word or symbol the history of certain buildings and structures throughout the City; and

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

WHEREAS, the City Commission held a noticed public hearing on _____ and in its deliberations considered the criteria identified in section 90-521 of the Code of Ordinances;

WHEREAS, the City 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.

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

Section 1: That Section 114-1 Definitions of the Code of Ordinances is hereby amended to include a definition of historical markers as follows:

Sec. 114-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Banner sign means any sign having the characters, letters, illustrations or ornamentations applied to cloth, paper or fabric of any kind.

Facade sign means any sign erected parallel to the facade of a building and mounted on the outside wall thereof, or mounted between the posts, columns, or other similar structural component or the building's porch or portico.

Flat sign means any sign erected parallel to and mounted on a wall, which wall is an integral part of the landscape design of the site, such as a wall screening off-street parking, bounding the site or lot, or serving as a principal landscape feature, and which wall is clearly not intended for the sole purpose of sign display.

Historic Marker means any sign or placard approved by the Historic Architectural Review Commission that explains by word or symbol the historical significance of the building, site or structure to which it is affixed.

Horizontal projecting sign means any sign projecting at any angle from the outside wall of any building and which has its greatest dimension in a horizontal plane.

Marquee sign means any sign placed flat along and on the edges of a marquee.

Pole sign means any sign erected on a pole and which is wholly or partially independent of any building for support.

Roof sign means any sign erected completely over the roof of any building.

Sign means any display of characters, letters, illustrations or any ornamentations or the complete structure on which any such characters, letters, illustrations or ornamentations are supported or applied, except that guys or their anchorages or the poles of pole signs will not be considered to be any part of a sign.

Sign erector means all individuals, firms or corporations engaged in the construction or erection of any sign having a structural frame, using electric power or requiring a scaffold for its application.

Sign writer means any individual, firm or corporation engaged in the painting or application of signs on windows, doors, walls, awnings, etc., where no framework is required for the sign or scaffolding for its application.

Vertical projecting sign means any sign projecting at any angle from the outside wall of any building and which has a vertical dimension equal to or exceeding the horizontal dimension.

Section 2. Section 114-43 is no longer reserved and is created as follows:

114-43 Exception for Historical Markers

Historic Markers shall be exempt from regulation in this Article and shall not be deemed a sign as defined in Article 1 nor shall it be considered in the allotment of signs for a property provided only one historic marker exists per property placed by a private entity.

Section 3: 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 4: 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 5: 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.

This Ordinance shall become effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2009.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2009.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of

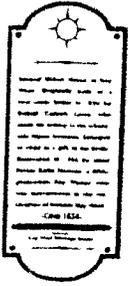
_____, 2009.

CRAIG CATES, MAYOR

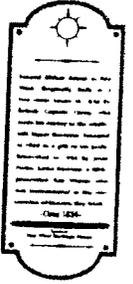
ATTEST:

CHERYL SMITH, CITY CLERK

Request



KEY WEST HISTORIC MARKER TOUR



OCT 27 2007

Dear Amy,

I understand that you and your staff are under a great deal of pressure and stress trying to manage the demands and requests of many. On the other hand please realize that I have been working and building community support for my project for seven months.

The following is a thumbnail description of my project followed by a description of what further delays mean to the project.

Key West Historic Marker Tour is a bi-lingual community-based information platform using cell phone, MP3, text message, podcasts and the web to create a dialogue capturing personal stories and memories by connecting citizens to national events tied to the Florida Keys culturally diverse historic sites.

In recognition of the extensive Hispanic influence on the history of our community coupled with the fact that Spanish is the second language in the United States, the Tour and website will be available in Spanish.

Our project uses a bundling of the latest information technologies to enable the local community, visitors and the international community to easily access the story of who we were, who we are and to encourage a dialogue of how everyone's personal experiences can benefit the global community of the future.

Use of the World Wide Web is central to our project. The website will feature a composite of community history covering nearly 500 hundred years and will have public access points at 400+ historic sites throughout Key West and the Florida Keys. The Historic Markers are uniform in size and layout. They have text pertaining to the site and most importantly an information phone number that will guide you through the tour and direct you to the website and links to mp3,



OCT 27 2011

Page 2

text message, GPS and Podcasts. The phone system has access up to 10,000 information sites on demand that can be used to enlarge the tour or to expand the system to handle any number of interactive programs.

The website will post daily blog questions, and announcements of upcoming events to encourage community and visitor interaction. The web home page will have a series of regularly updated trivia questions about local history, community and our island/ocean environment. A section of trivia questions designed for school children will be a great virtual learning tool or actual school trip for teachers.

Our community outreach efforts start with the schools. The local high school and community college students will participate in a series of intern programs. The intern programs will be open to history, journalism, photography, video and Spanish language students. In the process of learning research, translation, graphic design and text writing techniques for the Phone Tour and Website they will be exposed to our City and County archives and stories of the community. The High School is currently partnering with us to create a year long research class to accomplish our goal. Upon completion each intern will be eligible for school credit, an achievement entry on their scholastic resume, and a chance for a scholarship.

The project will enlist local talent for the Phone Tour voice over narrations. These recordings will be the main element in the production of the Podcasts. We will select 5–10 individuals to be “the voices of history”. They will be coached and recorded by the local talk radio station.

Through local media, civic organizations and word of mouth the community will be encouraged to nominate buildings, historic sites, offer family stories and to help research any location they feel should be included.



**** How will the project improve the information needs of the community?**

Our project presents a record of place-based history that is often hidden in neighborhoods, museums, libraries and government archives. The use of modern day interactive technology will convert archival information and bring it to life. The information is accessible 24 hours a day and is free!

The project represents a whole range of community engagement. It creates an opportunity to hear, read and discover new and shared stories of the community. The interactive blog and trivia elements on the web site will create direct dialogue within the community and with our visitors. It will reach the international community who may never be able to visit but are eager to experience our world.

Very little of our history or information is currently offered in Spanish. During periods of our history Key West's population was 50% hispanic. Most of that population was Cuban and Spanish Bahamian. The project will make our history and stories available to many in the Spanish speaking global community for the first time.

One of the most exciting aspects of our project is that the concept, technological interface, markers and web model can work for communities and organizations of any size.

**** Who might the likely partners be?**

Commitments have been secured with the City of Key West's Historic Architectural Review Commission, the Monroe County Library and the Historic Florida Keys Foundation. The Key West High School and the Florida Keys Community College have committed to participation in our student intern programs. Mutual marker partners will be the Maritime Historic Society, The United States Military. Marketing partners will be the Monroe County Tourism and Development Council and the tourism business community.



OCT 27 2009

Page 4

Support proposals have been submitted to AT&T wireless and Verizon Wireless to partner with us as the main corporate sponsor of the project.

**** What will be different in the community as a result of this project?**

The project will help our community reconnect with their roots and create a sense of belonging and ownership of place. The Soul Of The Community survey by Gallup and the Knight Foundation concludes that “a community’s social offerings, it’s physical beauty and its openness to new and different people are the most important to making residents love where they live”. Pride of place, and knowledge of ones self will also foster a curiosity in others that will help bridge cultural differences as the world becomes increasingly interdependent.

A project of this type and scope is tremendously important in a geographic location like the Florida Keys that has lost twelve percent of its population in the last two years.

The Florida Keys is primarily a tourist driven economy. The project will stimulate economic growth and enhance cultural tourism. Greater outside interest in our community will bring more visitors to experience our cultural assets and bolster our long-term economy. It will create new career opportunities and showcase the Keys as a great place to live, work and play.

We must never forget that it is our rich, diverse, cultural history that has made us a great nation.



Page 5

Amy, there seems to be some confusion over grants and how they affect my project. The original project that I presented to HARC consisted of 400 Historic Markers placed at sites of historic merit throughout Key West.

The first application was tabled and the second application was approved with an amendment to the installation guidelines. The third meeting saw the introduction of the change in signage language and it was approved. I believe you already have those documents,

The project was designed to be self supporting with individuals, companies and civic organizations funding the Historic Markers. The project is being managed by the Non Profit Historic Markers, Incorporated.

The grant potential began when The Community Foundation of the Florida Keys approached me a few months ago and asked to present my project to the Knight Foundation. Last month we passed their initial application process and presented our funding application a few weeks ago. As it stands I will be unable to accept funding for the project because I do not have Marker approval from the City of Key West.

The other foundation that we have funding requests with will be the same story.

We have begun to explore Historic Marker funding with the TDC under their Bricks and Mortar program. While there seems to be a good chance that we will qualify for funding I can not apply for something we do not have. The delays you are suggesting may be necessary will put my project out of the application deadlines. We will have to wait until 2011 for another chance.



I currently have \$106,000 of “in kind” funding from the local community. I am concerned that in this economy many of the companies may not be able to deliver on their commitments in the near future.

Well enough about money. Let’s look at the main community outreach part of my project. Four months ago I approached the Key West High School and the Florida Keys Community College to create student intern programs to research the history and dates for our Historic Markers. I worked with Jeanne Sanford, the History/Social Sciences Program Specialist at the high school to create the intern program. They have students ready to participate but I do not feel that in good faith I can proceed without a Historic Marker to research.

I met with Joseph Burke, our new school superintendent last week. He was so impressed by the project that he wants to partner with our Non Profit and create a year long research class that will include history, journalism, Spanish, photography and video students. The class will start at the beginning of the 2010 school year and will be for credit. In the mean time, our Non Profit is soliciting funds for student scholarships. If we pass on this window of opportunity it will not present itself again until August of 2011. I fear that we will loose this extraordinary educational opportunity if I fail to convince you that my application is some how not “compelling” enough to be considered with the 20 other projects you are juggling.

The same story applies to the Florida Keys Community College. History Professor Sharon Farrel has been working with me on a similar history research intern program. Sharon has become one of the History Consultants to our Board of Directors and plans to use our program to help teach historic research techniques to her seven history students this coming semester.

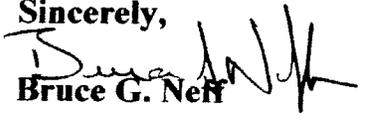


That brings me back to money. We have requests with First State Bank and TIB Bank of the Keys for scholarship money for the High School and Community College intern programs. Banks are mandated by the Federal Government to reinvest in the communities that they serve. The programs are called CRA programs. The banks review funding requests during the year and announce their choices at the beginning of the New Year. If I have nothing concrete to fund than I will have to wait until 2011 to be eligible again.

On the positive side Teri Johnston and Clayton Lopez are still willing to sponsor my application at the City Commission level. I also presented the project to Mayor Cates after his election and he told us that he likes the project and sees the community and economic need for our efforts. If I understand Bryon correctly we still have time to do the necessary advertising for the November meeting.

A month or two delay may not be much in the grand scheme of City projects but it will cripple a project like this. This project represents a window of opportunity not only to archive our unique history for the world to see but to draw our community together. It will create a sense of self and a sense of place for our citizens. The project will grow our history related tourism industry and will grow our economy in the long run. How many of the projects before you can claim the same?

If you need any additional information or clarification on my project please feel free to call. I hope to see you at your next meeting.

Sincerely,

Bruce G. Neff
Historic Markers, Inc
(305) 393-9777

Paul Mills, C.P.A - Owner
Certified Public Accountant
1541 Fifth Street
Key West, Florida 33040
(305) 294-3699

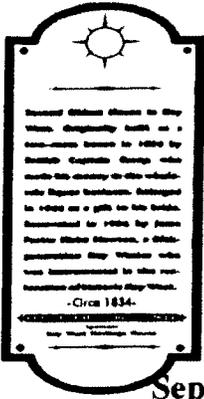
- **Treasurer for the Heritage House Museum in the Historic District of Key West.**

Esther Tupino - Key West Vice President
Centennial Bank
1229 Simonton Street
Key West, FL 33040
(305) 676-3142

- * **Board of Directors for the Key West Chamber of Commerce.**
- * **Sunset Rotary Member.**

EXECUTIVE DIRECTOR - Bruce Neff
Founder
1310 Petronia Street
Key West, Florida 33040
(305) 393-9777

- * **Designed, built and donated the replica façade of an 1897 Gato Cigar Makers Cottage to the City of Key West.**
- * **Recipient of the 2009 Star Award for Preservation Excellence from the Historic Florida Keys Foundation.**
- * **Designer and sponsor of the Gato Cigar Monument for Gato Village Park in Key West. Dedicated Nov. of 2009.**



KEY WEST HISTORIC MARKER TOUR

September 1, 2009

Key West Planning Department
604 Simonton Street
Key West, Florida 33040

- 1 2009

RE: Historic Marker approval.

Dear Brendon,

This is a request from Bruce Neff and the Key West Historic Marker Tour. KWHMT is a nonprofit that is creating 400 Historic Markers for historic buildings and locations in the City of Key West.

We are requesting our Historic Marker be recognized as a marker or plaque outside of the existing signage code. With your approval we can then submit our Marker to the Key West City Commission.

HARC approved the Historic Marker along with installation guidelines at their August 11, 2009 meeting.

Please get us on the earliest Planning meeting possible.

Sincerely,

Bruce Neff
(305) 393-9777
Kwhistoricmarker@aol.com

September 22, 2009
HARC Meeting Minutes

architecture preserved. It was difficult for him to envision the addition.

It was moved by Nils Muench to table. Motion fails.

Tom Pope felt that when he first saw the building that it had been so altered that preservation was not an issue. He needed to understand the Board's direction.

Carlos Rojas responded that he felt that it was a significant structure that needed to be preserved.

Chairperson Barbara Bowers felt that what Mr. Pope was attempting to do was preserve the existing structure.

Tom Pope stated that when he first began this project he told the owner that they needed to restore roofline back to the original sawtooth roofline. He felt that the Board would object to that.

Carlos Rojas stated that one of the Guidelines from the Secretary of the Interior was that when an addition had become historic, it needed to be maintained and protected. He felt that this fell under that Guideline.

Chairperson Barbara Bowers stated that they did make adjustments to allow people to make improvements to historic buildings. She stated that this would be a side addition back away from the front of the house.

Tom Pope original kitchen addition was probably a gabled addition and then they extended the roof section out.

It was moved by Vice Chair Peter Batty, seconded by Nils Muench, to table. Carlos Rojas voted no. Motion carried.

Other Business:

Ordinance draft review:

An ordinance of the City of Key West, Florida, amending Chapter 114 of the Code of Ordinances entitled "Signs"; creating a historical marker definition and exception, providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Assistant City Attorney Ronald Ramsingh presented the background for the Ordinance change. This was to create a definition for the historical markers and creating

an exception to that.

Vice Chair Peter Batty questioned the approval process. His concern was the number of entities who could place a sign on a structure. Assistant City Attorney Ronald Ramsingh added under the exception section, "one marker placed by a private entity."

What they were doing was creating a definition for a marker vs. a sign.

Preservation Planner Enid Torregrosa stated that her only concern was based on the number of signs allowed.

Assistant City Attorney Ronald Ramsingh stated that the next action would be at the Planning Board level because it was an amendment to an LDR ordinance.

Chairperson Barbara Bowers spoke about the anonymous letter for the roofing approved at 404 South Street. She stated that she was only recognizing that they had received the letter but because of the anonymity and the fact that they were not specific about what they objected to, she was only acknowledging receipt of the letter.

Adjournment:

There being no further business, it was moved by Vice Chair Peter Batty, seconded by Carlos Rojas, to adjourn. Motion carried.

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

In re: LAND DEVELOPMENT
REGULATIONS ADOPTED BY
CITY OF KEY WEST ORDINANCE
NO. 10-02

2010 MAR 15 AM 11:52
OFFICE OF THE
CLERK OF THE
CITY OF KEY WEST,
FLORIDA

FINAL ORDER

The Department of Community Affairs (the “Department”) hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), Fla. Stat., (2009), approving a land development regulation adopted by a local government within the City of Key West Area of Critical State Concern as set forth below.

FINDINGS OF FACT

1. The City of Key West is a designated area of critical state concern.
2. On February 5, 2010 the Department received for review City of Key West Ordinance No. 10-02, which was adopted by the City of Key West City Commission on January 5, 2010, (“Ord. 10-02”). The purpose of Ord. 10-02 is to amend Part B, Land Development Regulations, Section 114-1 Definitions by adding a definition of Historic Marker, and create Section 114-43 Exception for Historic Markers to exempt historic markers from sign regulations.
3. Ord. 10-02 is consistent with the City’s Comprehensive Plan: Goal 1A-1: to Identify and Protect Resources of Archeological, Historical, and Architectural Significance; Goal 1A-2: to Promote Public Education, Awareness, and Appreciation of Historic, Architectural, and Archaeological Resources; Policy 1A-2.1.1: Public Information, Education and Technical Assistance; and Policy 1A-2.1.7: Public Information Display.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern based upon consistency with the Principles for Guiding Development applicable to that area of

critical state concern. §§ 380.05(6) and 380.05(11), Fla. Stat., (2009).

5. The City of Key West is an Area of Critical State Concern. § 380.05, Fla. Stat. (2009) and Rule 28-36.001, Fla. Admin. Code.

6. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. (2009). The regulations adopted by Ord. 10-02 are land development regulations.

7. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for the particular area (the “Principles”). § 380.05(6), Fla. Stat.; see Rathkamp v. Department of Community Affairs, 21 F.A.L.R. 1902 (Dec. 4, 1998), aff’d., 740 So. 2d 1209 (Fla. 3d DCA 1999). The Principles for the City of Key West Area of Critical State Concern are set forth in Rule 28-36.003(1), Fla. Admin. Code.

8. The above identified portions of Ord. 10-02, are consistent the following Principles:

(a) Strengthen local government capabilities for managing land use and development.

(e) Protection of the historical heritage of Key West and the Key West Historical Preservation District.

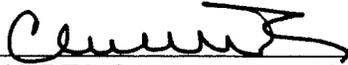
(h) Protection of the public health, safety, welfare and economy of the City of Key West, and the maintenance of Key West as a unique Florida Resource.

9. Ord. 10-02 is not inconsistent with the remaining Principles and is consistent with the Principles for Guiding Development as a whole.

WHEREFORE, IT IS ORDERED that Ord. 10-02 is found to be consistent with the Principles for Guiding Development of the City of Key West Area of Critical State Concern, and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida.



CHARLES GAUTHIER, AICP
Director, Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, TO CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, TO SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND TO FILE EXCEPTIONS TO

ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF COMMUNITY AFFAIRS A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK, IN THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100.

THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the method indicated this 12th day of March, 2010.



Paula Ford, Agency Clerk

By U.S. Mail:

The Honorable Craig Cates
Mayor, City of Key West
P.O. Box 1409
Key West, Florida 33041

Cheryl Smith
Clerk to the City Commission
P.O. Box 1409
Key West, Florida 33041

Amy Kimball-Murley, AICP
Planning Director
City of Key West
P.O. Box 1409
Key West, Florida 33041

Larry Erskine
City Attorney
P.O. Box 1409
Key West, FL 33041

By Hand Delivery or Interagency Mail:

Rebecca Jetton, ACSC Administrator, DCA Tallahassee
Richard E. Shine, Assistant General Counsel, DCA Tallahassee