

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



To: Chair and Planning Board Members

From: Melissa Paul-Leto, Planner Analyst

Through: Patrick Wright, Planning Director

Meeting Date: October 19, 2017

Agenda Item: **Conditional Use – 328 Simonton Street Unit C (RE# 00004170-000100)** – A request for a conditional use approval of a restaurant business with no on-site consumption area within a commercial prep kitchen space on property located within the Historic Neighborhood Commercial (HNC-1) Zoning District pursuant to Sections 122-62, and 122-808(13) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: Conditional use approval to allow for a restaurant use within the HNC-1 Zoning District.

Applicant: Richard McChesney, Esq., Spottswood, Spottswood, Spottswood & Sterling

Property Owner: 328 Simonton Street, LLC

Location: 328 Simonton Street Unit C (RE# 00004170-000100)

Zoning: Historic Neighborhood Commercial (HNC-1)



Background:

The property consists of a two story structure built in circa 1895. The property is located on the Northwestern side of Simonton Street. The building is listed as a contributing structure within the historic district. The two story structure houses a residential unit on the second floor and three commercial spaces on the first level. 328 Simonton Street Unit C is located in the rear of the two story structure within the two story rear addition consisting of a total of 591.2 square feet of commercial floor area. There is currently an existing commercial prep kitchen inside the Unit C. The applicant is proposing to utilize the existing kitchen as a catering business, where all food is consumed off-site.

Request:

To utilize the existing 591.2 square feet of commercial prep kitchen in order to prepare food to cater off-site to consumers.

Conditional use approval is required for restaurants, excluding drive-through, within the HNC-1 Zoning District, pursuant to City Code Section 122-808(13).

Process:

Development Review Committee:

July 27, 2017

Planning Board:

October 19, 2017

Conditional Use Review

The purpose of conditional use review, pursuant to City Code Section 122-61, is to ensure that a conditional use shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity. City Code Chapter 122, Article III sets forth provisions and criteria for consideration of conditional uses on specific sites. Conditional uses shall be permitted only upon a finding that the proposed use satisfies this article.

Conditional Use Specific Criteria pursuant to Code Section 122-62***(a) Findings***

Code Section 122-62(a) provides, in part, that “a conditional use shall be permitted upon a finding by the planning board that the proposed use, application, and, if applicable, development plan comply with the criteria specified in this section, including specific conditions established by the planning board and or the city commission during review of the respective application in order to ensure compliance with the comprehensive plan and land development regulations.” This section also specifies that “a conditional use shall be denied if the city determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is adverse to the public’s interest.”

(b) Characteristics of use

The proposed conditional use includes utilizing the 591.2 square feet of commercial prep kitchen to prepare food to cater off-site to consumers. The characteristics of the proposed conditional use is evaluated below.

(1) Scale and intensity of the proposed conditional use as measured by the following:

a. Floor area ratio (FAR):

No change in floor area is proposed. The maximum FAR in the HNC-1 Zoning District is 1.0. The Applicant calculates a FAR of 0.31 for the proposed conditional use in Unit C, based on 591.2 square feet of nonresidential floor area. Staff concurs the F.A.R. is in compliance.

b. Traffic generation:

Compared to the previous restaurant use at Unit C, the Applicant estimates that trip generation will not increase. Staff concurs with this estimate. Like the previous restaurant use, this conditional use proposal has no consumption area and serves the food at an off-site location.

c. Square feet of enclosed space for each specific use:

The proposed space for the catering consists 591.2 square feet of commercial kitchen area.

d. Proposed employment:

The Applicant estimates there will be a total of two employees.

e. Proposed number and type of service vehicles:

The applicant proposes one catering van.

f. Off-street parking needs:

The property is located within the Historic Commercial Pedestrian-Oriented area pursuant to City Code Section 108-573. Therefore, no off-street parking shall be required as the floor area will not be expanding.

(2) On- or off-site improvement needs generated by the proposed conditional use and not identified above including the following:

a. Utilities

No changes proposed.

b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in City Code Chapter 94

No public facilities are proposed.

c. Roadway or signalization improvements, or other similar improvements

No roadways or signalization are proposed.

d. Accessory structures or facilities

No accessory structures or facilities are proposed.

e. Other unique facilities/structures proposed as part of site improvements

No unique facilities/structures are proposed.

(3) On-site amenities proposed to enhance site and planned improvements, including mitigative techniques such as:

a. Open space

No additional open space proposed.

b. Setbacks from adjacent properties

No change.

c. Screening and buffers

No change.

d. Landscaping berms proposed to mitigate against adverse impacts to adjacent sites

No berms proposed.

e. Mitigative techniques for abating smoke, odor, noise and other noxious impacts

The applicant is removing the stove from the existing prep kitchen. All food will either be cold food or baked in an oven that contains its own ventilation system.

(c) *Criteria for conditional use review and approval*

Pursuant to City Code Section 122-62(c), applications for a conditional use shall clearly demonstrate the following:

(1) Land use compatibility

The surrounding uses are generally mixed with commercial retail, and residential. The restaurant use would be compatible with the HNC-1 Zoning District.

(2) Sufficient site size, adequate site specifications and infrastructure to accommodate the proposed use

The existing building on the property would not be increased in size. The property has adequate size, site specifications, and adequate infrastructure as the property is located within the Historic Commercial Pedestrian-Oriented Area.

(3) Proper use of mitigative techniques

No mitigated techniques are proposed.

(4) Hazardous waste

No hazardous waste is proposed.

(5) Compliance with applicable laws and ordinances

The applicant would be required to comply with all applicable laws and regulations as a condition of approval. The applicant would also be required to comply with Code Chapter 18, Article XII, Division 1 for a conditional approval permit.

(6) Additional criteria applicable to specific land uses

Applicants for conditional use approval shall demonstrate that the proposed conditional use satisfies the following specific criteria designed to ensure against potential adverse impacts which may be associated with the proposed land use:

a. Land uses within a conservation area: N/A

b. Residential development:

No change.

c. Commercial or mixed use development:

The surrounding uses are a mix of commercial and residential. The applicant is proposing no interior renovations. No exterior changes are proposed. This project proposes no change to the overall existing floor area ratio on site.

d. Development within or adjacent to historic district:

The property is within the Historic District. Any applicable future work (e.g., signs, awnings, mechanical equipment) as a result of this conditional use, if approved, would be subject to review through a HARC the Certificate of Appropriateness.

e. Public facilities or institutional development: N/A

f. Commercial structures, uses and related activities within tidal waters: N/A

g. Adult entertainment establishments: N/A

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request for Conditional Use be **APPROVED WITH CONDITIONS** as follows:

General conditions:

1. The floor plan layout shall be consistent with the approved Food Service Plan dated August 10, 2012.
2. All required Certificates of Appropriateness shall be obtained for the proposed development prior to building permit issuance.

3. In order to offset the solid waste generated by the proposed use, staff recommends the owner participate in Waste Management's commercial recycling program and/or participate in a certified green business program, such as through Florida Keys Green Living & Energy Education (GLEE).

Conditions prior to issuance of a Certificate of Occupancy and/or Business Tax Receipt:

1. The owner shall obtain and maintain a Conditional Approval Permit, pursuant to City Code Chapter 18, Article XII, and Division 1. The City Code Compliance shall inspect the property on an annual basis upon reasonable notice to determine compliance with the conditions of the Planning board resolution.