

**PLANNING BOARD
RESOLUTION NO. 2019-**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD GRANTING WITH CONDITIONS AMENDING A SPECIAL EXCEPTION TO 1105 SIMONTON, LLC, JOINED BY FERNANDY'S CAFÉ LLC ALLOWING FOR THE SALE OF BEER AND WINE AND CONSUMPTION AS AN ACCESSORY USE TO A FOOD TRUCK RESTAURANT ON PROPERTY WITHIN 300 FEET OF ONE SCHOOL LOCATED WITHIN THE HISTORIC NEIGHBORHOOD COMMERCIAL (HNC-1) ZONING DISTRICT AT 1103-1105-1107 SIMONTON STREET (RE # 00027490-000000; 00027510-000000) PURSUANT TO SECTION 18-28(B) OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 18-28(a) of the Code of Ordinances of the City of Key West, Florida provides that no person shall conduct in the City any business involving the sale of alcoholic beverages where such place of business is within 300 feet of any established church, school, cemetery, or funeral home; and

WHEREAS, City Code Section 18-28(b) (2) provides that the prohibition in subsection (a) above shall not apply if a property owner is granted a special exception to specifically sell alcoholic beverages pursuant to authorization granted by the Planning Board that the use will not detrimentally impact the public health, safety or welfare after consideration of all the following criteria:

- A. Compatibility with surrounding existing uses;
- B. The extent of conflict between the proposed use and the hours of operation of the facilities described above;
- C. Mitigation measures agreed to be implemented by the applicant;

- D. Public input;
- E. That the applicant has demonstrated a “good neighbor policy” by contacting or attempting to contact all noticed property owners who have objected to the application, and by addressing the objections expressed by these neighbors;
- F. Any other factors the approving body determines relevant to the public’s health, safety, and welfare; and

WHEREAS, the applicant requested a Special Exception for sales and consumption of wine and beer within 300 feet of the following: The Basilica School of Saint Mary Star of the Sea, 724 Truman Avenue pursuant to City Code Section 18-28(b)(2); and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on September 19, 2019; and

WHEREAS, the Planning Board finds that the applicant’s proposal to sell wine and beer is compatible with surrounding existing uses; and

WHEREAS, the Planning Board finds that the extent of conflict between the proposed use and the established church will be minimal; and

WHEREAS, the Planning Board considered the mitigation measures agreed to be implemented by the applicant; and

WHEREAS, the Planning Board considered public input; and

WHEREAS, the Planning Board has found that the applicant has demonstrated a “good neighbor policy” by contacting or attempting to contact all noticed property owners who have objected to the application, and by addressing the objections expressed by these neighbors; and

WHEREAS, the Planning Board considered other factors determined relevant to the public's health, safety, and welfare; and

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

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

Section 2. That a Special Exception, under Section 18-28(b)(2) of the Code of Ordinances of the City of Key West, Florida, is hereby granted as follows: exclusive to 1105 Simonton LLC, joined by Fernandy's Café LLC located at 1103-1105-1107 Simonton Street (RE # 00027490-000000; 00027510-000000) Key West, Florida with the following conditions:

1. The Special Exception is granted exclusively to 1105 Simonton LLC, joined by Fernandy's Café LLC and shall not be transferable.

General conditions:

2. The hours of operation for the restaurant and the accessory uses shall be the following: 11:00 a.m. to 10:00 p.m. from Sunday through Thursday and open until 11:00 a.m. to 11:00 p.m. on Friday and Saturday.

Section 3. Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.

Section 4. This Special Exception does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This resolution shall go into effect immediately upon its passage, adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations).

Read and passed at a dually noticed meeting held this 19th day of September 2019.

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

Sam Holland, Chairman, Key West Planning Board

Date

Attest:

Roy Bishop, Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

Date