

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



To: Chair and Planning Board Members

From: Ginny Haller, Planner II

Through: Patrick Wright, Planning Director

Meeting Date: June 21, 2018

Agenda Item: **Parking Variance – 1400 Block of Duval Street** - A request for a variance to parking requirements to fifty-four (54) parking spaces for the construction of a pocket park and expansion of restaurant use on property located in the Historic Commercial Tourist (HCT) Zoning District pursuant to Sections 90-395 and 108-572(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

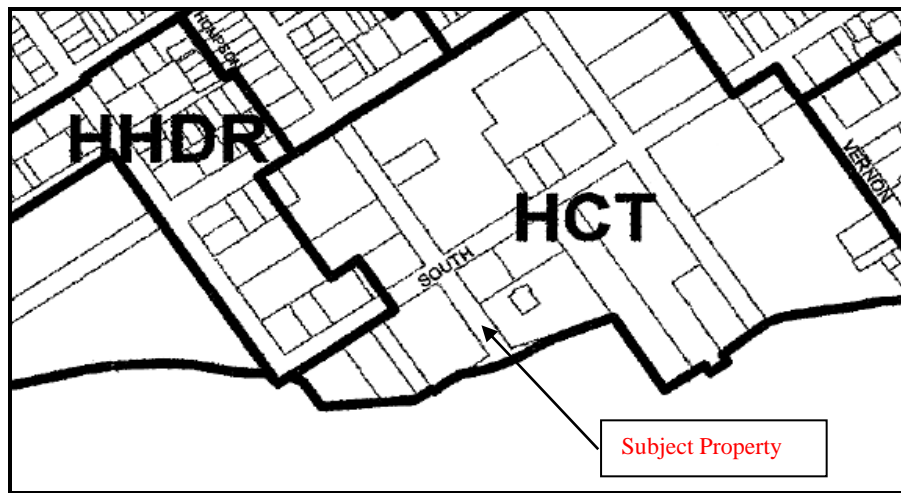
Request: The applicant is requesting a variance to 54 vehicle parking spaces to construct a pocket park and expansion of restaurant use.

Applicant: City of Key West

Property Owner: City of Key West

Location: 1400 Block of Duval Street

Zoning: Historic Commercial Tourist District (HCT)



Background:

The site is an existing 11,614 square foot public street located at the southern end of Duval Street. The street has sidewalks on the western and eastern boundaries and intersects with South Street. Currently the street has nine parking spaces and no structures, buildings, or landscaping. At the southern end of the property there is an existing seawall and gate.

The applicant proposes to construct a pocket park and an expansion of a restaurant use on the public street. The pocket park is proposed to have 2,400 square feet of consumption area serviced by a food truck located on the private property of the Southernmost House at 1400 Duval Street, which is a thirteen-room guest house that is licensed by the City for food service. In addition, the Southernmost Beach Café located at 1405 Duval Street will have food available for tourists and locals in the consumption area.

The proposed improvements include roadway reconstruction, including the removal of curbs and sidewalks. The site work includes stormwater infrastructure improvements, grading, and the installation of pavers and landscape planters.

In order to allow the proposed construction of a pocket park and expansion of restaurant use several development approvals would be necessary:

- Variance to parking requirements for fifty-four (54) vehicle spaces.
- Minor Development Plan review is required due to the construction of the pocket park and expansion of restaurant use with the addition of outdoor commercial activity consisting of restaurant seating, outdoor commercial storage, active recreation, outdoor sales area or similar activities of 500 to 2,499 square feet pursuant to Section 108-91. A.1(c) of the Land Development Regulations (LDRs) of the Code of Ordinances (the “Code”) of the City of Key West (the “City”).
- Conditional use review is required for parks and recreation, active and passive, and for restaurants, excluding drive-through within the HCT Zoning District, pursuant to City Code Section 122-898(6) & (11).

The existing 9 vehicle parking spaces will be eliminated and the proposed variance is for 54 vehicle spaces with a required of 1 space/45 square feet of 2,400 square feet of food consumption area for the expansion of the restaurant use at the proposed pocket park.
(2,400 SF ÷ 45 = 54)

Dimensional Requirement	Required/ Allowed	Proposed on Plan	Change / Variance Required?
Vehicle Off-street Parking	1 space per 45 SF = 54 spaces	0 vehicle spaces	Parking Variance for 54 vehicle spaces

Process:

Planning Board:	June 21, 2018
Local Appeal Period:	10 days
DEO Review:	Up to 45 days

Analysis – Evaluation for Compliance with the Land Development Regulations:

The criteria for evaluating a variance are listed in Section 90-395 of the City Code. The Planning Board before granting a variance must find all of the following:

1. *Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district.*

The land and public street of the 1400 block of Duval Street are located on property within the HCT Zoning District. The proposal is for the construction of an approximately 11,614 square foot pedestrian only pocket park, which includes proposed new landscaped areas, public art, and 2,400 square feet of food consumption area with tables and chairs. The proposal is for vehicles not be permitted within the park property. Therefore, special conditions and circumstances peculiar to the pocket park do exist.

IN COMPLIANCE.

2. *Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.*

The applicant is proposing to construct a pedestrian only pocket park and consumption area within an existing city right-of-way, therefore, the conditions are generated from specific actions initiated by the applicant.

NOT IN COMPLIANCE.

3. *Special privileges not conferred. That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district.*

Granting a variance to parking requirements would not confer special privileges upon the applicant denied by the land development regulations to other lands, buildings or structures in the same zoning district since the adjoining Southernmost Beach Café is permitted with no vehicle parking spaces.

IN COMPLIANCE.

4. *Hardship conditions exist. That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

The City and authorized representatives are proposing a pedestrian only pocket park and food consumption area, therefore hardship conditions do exist. Providing vehicular

parking would defeat the purpose of and inhibit the pedestrian thoroughfare of the pocket park.

IN COMPLIANCE.

5. *Only minimum variance granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

The variance requested is not the minimum required that will make possible the reasonable use of the land. However, they are the minimum necessary to accommodate the request.

IN COMPLIANCE.

6. *Not injurious to the public welfare. That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.*

Although the applicant is not in compliance with all the standards for considering a variance, the proposal to construct a pedestrian pocket park and expansion of the restaurant use to the consumption area is not injurious to the public welfare. The pocket park would be beneficial to the public welfare by providing additional open space for residents and tourists.

IN COMPLIANCE.

7. *Existing nonconforming uses of other property not the basis for approval. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.*

Existing non-conforming uses of other properties, use of neighboring lands, structures, or buildings in the same district, or other zoning districts, are not the basis for this request.

IN COMPLIANCE.

Concurrency Facilities and Other Utilities or Service (Section 108-233):

It does not appear that the requested variance would trigger any public facility capacity issues.

The Planning Board shall make factual findings regarding the following:

That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.

The standards established by Section 90-395 of the City Code have not been fully met by the applicant for the variances requested.

That the applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors.

No public comments have been received to date.

The planning board shall not grant a variance to permit a use not permitted by right or as a conditional use in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district.

Conditional use review is required for parks and recreation, active and passive, and for restaurants, excluding drive-through, within the HCT Zoning District, pursuant to City Code Section 122-898(6) & (11).

No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

No such grounds were considered.

No variance shall be granted that increases or has the effect of increasing density or intensity of a use beyond that permitted by the comprehensive plan or these LDRs.

No density or intensity of a use would be increased beyond that permitted by the comprehensive plan or these LDRs.

RECOMMENDATION:

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variance be **denied**.