

# **Resolution 2009-043**



STATE OF FLORIDA

**DEPARTMENT OF COMMUNITY AFFAIRS**

*"Dedicated to making Florida a better place to call home"*

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

December 11, 2009

Mrs. Amy Kimball-Murley, AICP  
[akinball@keywestcity.com](mailto:akinball@keywestcity.com)  
City of Key West Planning Director  
P.O. Box 1409  
Key West, Florida 33041

**Re: Res# 2009-043 512 Eaton St.**

The Area of Critical State Concern program has received and reviewed the above referenced permit in accordance with Section 380.07, Florida Statutes. The permit would authorize one year extension. The Department will not appeal the proposed development or development order as issued.

This letter is not intended to constitute, and shall not be construed as constituting, a verification of compliance with the Comprehensive Plan and Land Development Regulations, and shall not be relied upon as a precedent or a waiver of rights regarding any other development order or other growth management laws or statutes.

If additional information is needed, please call Rebecca Jetton @ (850) 922-1766.

Sincerely,

Rebecca Jetton, Administrator  
Florida Keys Area of Critical State Concern

RJ/kj

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100  
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: [www.dca.state.fl.us](http://www.dca.state.fl.us)

♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦ FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) ♦  
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦

**RESOLUTION NUMBER 2009-043**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD TO ALLOW A ONE-YEAR EXTENSION FROM THE EFFECTIVE DATE OF THE ORIGINAL CONDITIONAL USE APPROVAL GRANTED IN RESOLUTION NUMBER 07-042 FOR PROPERTY LOCATED AT 512 EATON STREET (RE#00006500-000000), KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 122-63(e) provides that a conditional use may be extended only one time for 12 months by a favorable vote of the Planning Board or City Commission, when the project is a major development; and

**WHEREAS**, the Planning Board approved Resolution 07-042 in December of 2007 allowing a conditional use for the conversion of a former church/theater into a restaurant with stage and screen entertainment, and 3,075 square feet of consumption, stage, and accessory bar waiting area; and

**WHEREAS**, a delay in the City's rendering process caused the approval to not be valid until November of 2008; and

**WHEREAS**, the applicant requested a 12 month extension from the effective date of the conditional use approval; and

  
Chairman  
  
Planning Director

**WHEREAS**, the applicant submitted a timely request for extension and demonstrated that there are no changes to circumstances regarding the original conditional use approval; and

**WHEREAS**, the granting of the conditional use extension will be in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

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

**Section 1.** That the conditional use approval and associated conditions granted by the Planning Board in Resolution No. 07-042, allowing for the conversion of a former church/theater into a restaurant with stage and screen entertainment, and 3,075 square feet of consumption, stage, and accessory bar waiting area in the HNC-1, Historic Neighborhood Commercial Truman/Simonton Zoning District, under the Code of Ordinances of the City of Key West, Florida, are hereby extended for one-year until November, 2010 for the property located at 512 Eaton Street (RE# 00006500-000000), see attached plans dated 10/29/09, with the following conditions:

1. 1. The approval of the Conditional Use Extension is contingent upon the approval of the variance request for alcohol sales at 512 Eaton Street (RE# 00006500-000000).
2. The sale of food, dessert, and non-alcoholic beverages must constitute 51% or more of business.
3. The sale of food must occur during the time in which service is being provided to the public.

  
Chairman  
  
Planning Director

**Section 2.** It is a condition of this conditional use extension that 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 one year of the effective date of the approval.

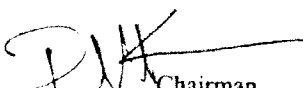

**Section 3.** This conditional use extension does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

**Section 4.** 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.

**Section 5.** This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regular meeting held this 10th day of November, 2009.

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

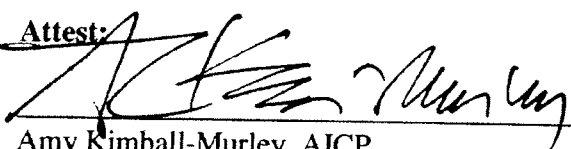
  
Chairman  
  
Planning Director



Rickard Klitenick, Chairman  
Key West Planning Board

NOV 23, 2009  
Date

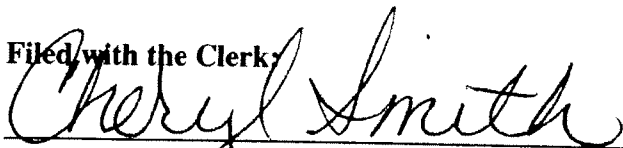
**Attest:**



Amy Kimball-Murley, AICP,  
Planning Director

NOV 23, 2009  
Date

**Filed with the Clerk:**



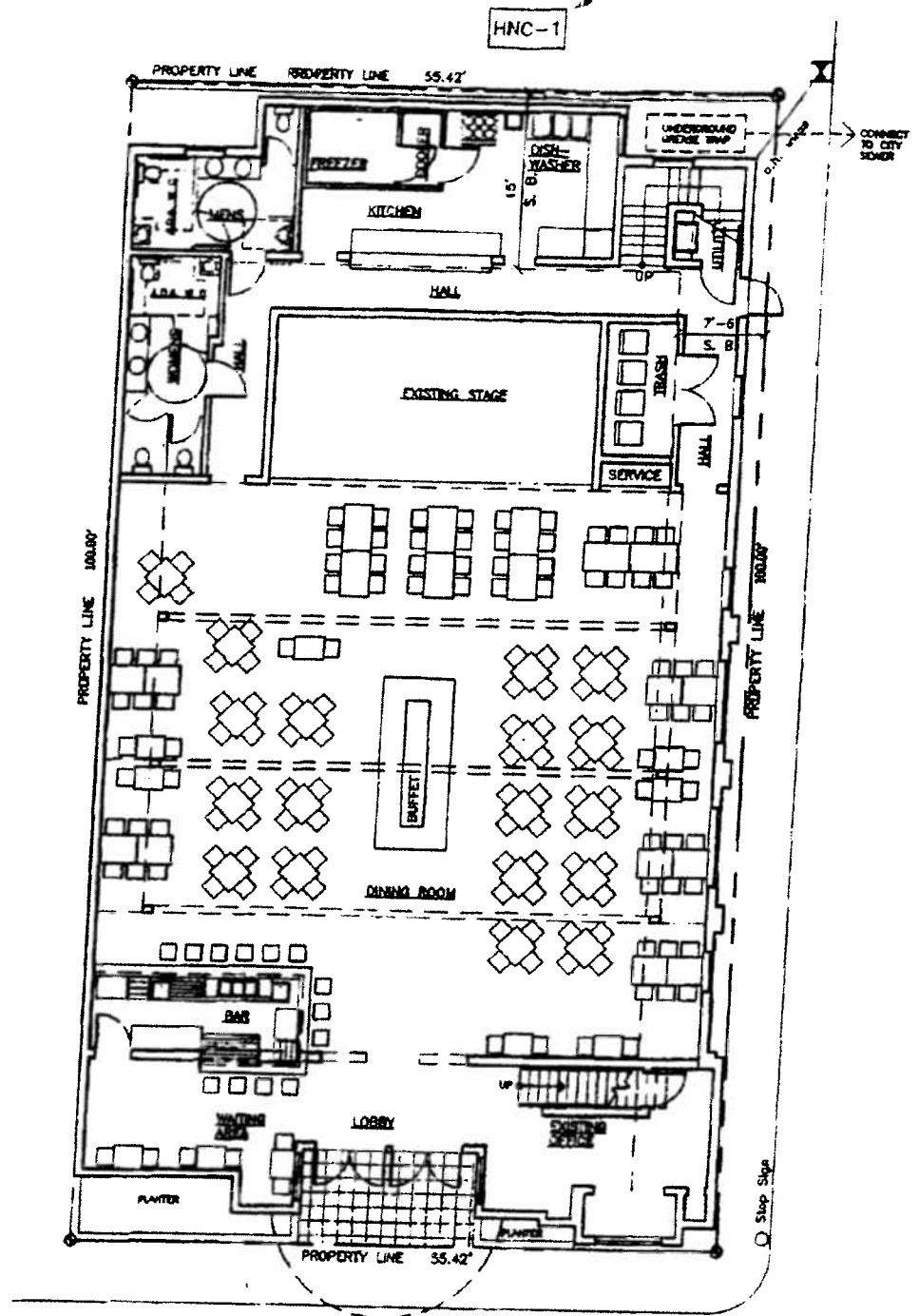
Cheryl Smith, City Clerk

11-23-09  
Date



Chairman

\_\_\_\_\_  
Planning Director



HNC-1

HNC-1

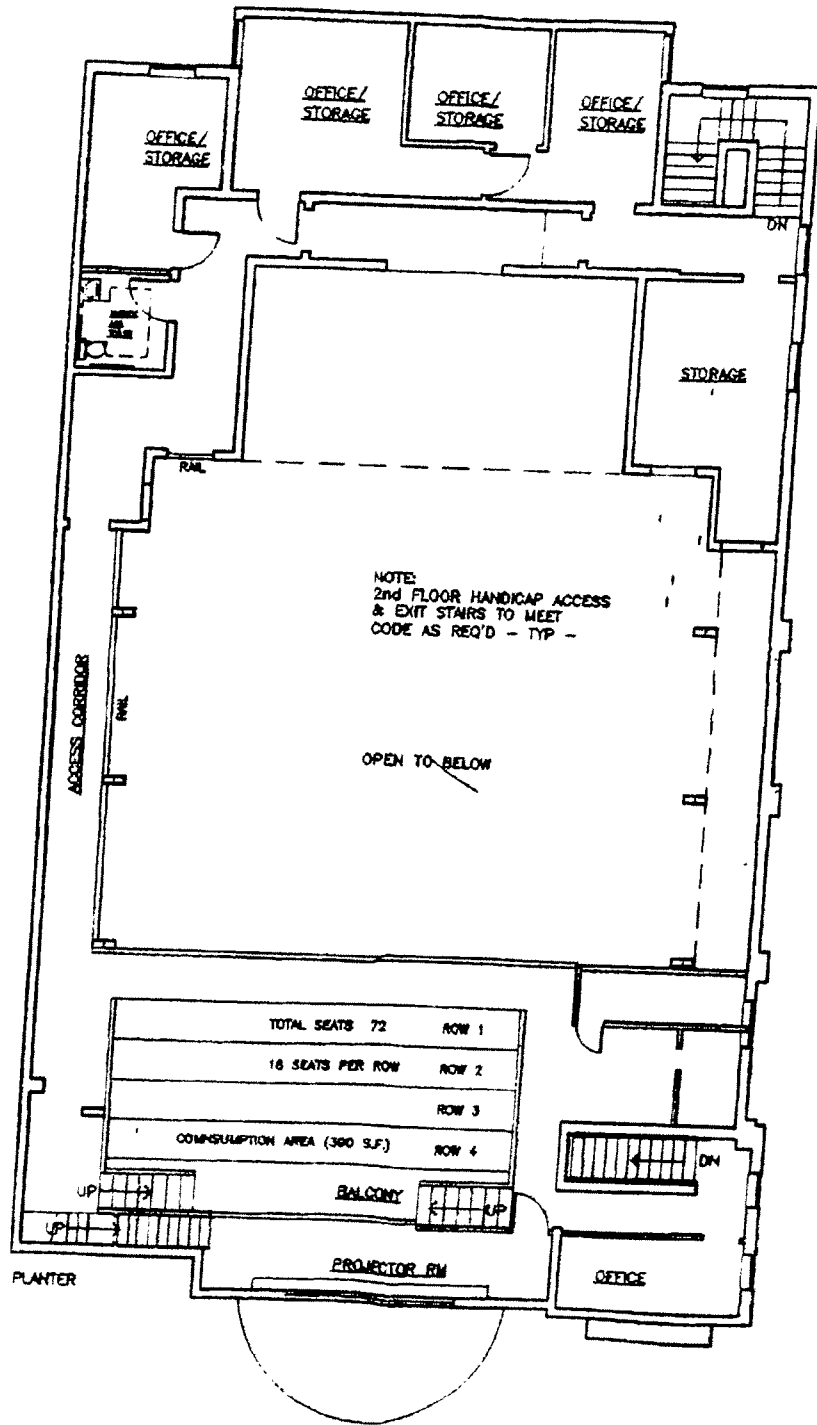
EATON STREET (50.00' R/W)



PROPOSED FIRST FLOOR PLAN

SCALE 1/8"=1'-0"

*RUK*



PROPOSED SECOND FLOOR PLAN

*RUK*