



THE CITY OF KEY WEST

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Dispute and Appeal Resolution, 405 Fleming Street

November 18, 2013

Issue: The Land Development Regulations of the City of Key West do not allow commercial retail activity at properties located within the HRO zoning district. The owner of 405 Fleming Street asserts that their business has historically had a commercial retail component and is thus "grandfathered" to that end.

Introduction: The owner was informed in writing (attached) that it was the Department's position that there was no existing retail activity on site. During conversations with the property owner and their counsel, it was revealed through licensing and business tax records that there had been a commercial retail component in the form of a gift shop. The property owner was then asked to complete a traffic impact study to demonstrate that the reintroduction of the shop would not have a significant impact on traffic patterns and trip generation. The study indicated that there would be minimal to no increase in automobile traffic. The results are included in the packet attached to this letter.

Initially, the property owner sought to lease a portion of the property to a local guided tour company for a trolley stop and associated souvenir sales. To accommodate the trolley stop, the existing parking area would need to be vacated. Further, the addition of the trolley stop would be an increase in the intensity of commercial use. Based on the traffic study and past commercial use, it is the Department Head's determination that the retail use can resume. Therefore, while the Planning Department is willing to recognize the historical existence of commercial retail activity, the increase in intensity of that use cannot be expanded or intensified as it is no longer a permitted use.


Determination: The Planning Department recognizes that commercial retail sales shall continue to be allowed at 405 Fleming Street with the following conditions:

1. The site shall not serve as a trolley or entertainment vehicle drop-off and pick-up, including pedicabs or other vehicles-for-hire;
2. Moped, electric car or other such vehicle rentals are prohibited;
3. The site plan is subject to Fire Department review and approval;
4. The retail sales is subject to the existing level of intensity.* The property owner's existing businesses, Florida Keys Offset Printing & Publishing, Inc., Florida Keys Wholesales, Inc. and the Blackwell Family property management offices may continue at their current location;
5. Any proposed sale of food or alcoholic beverages shall be subject to an application for a change of Non-Conforming Use;

6. All exterior improvements are subject to HARC review and approval;
7. There shall be no more than three parking spaces to be located within the parking lot on the west side of the building. So long as a separate and distinct tenant rents the Whitehead Street side of the subject property, the entrance on the Whitehead Street side of the property, closest to the Fleming Street, shall remain fully accessible and unimpeded by any parking space. In the event that all of the tenants of the subject property have their own ingress and egress on the Fleming Street side of the property, all of the parking spaces on the Whitehead Street side of the property may be utilized;
8. This project must comply with all other applicable Sections of the Code of Ordinances.
9. None of the conditions contained herein shall prohibit a permitted or conditional use of the subject property, subject to applicable approvals pursuant to the City of Key West Code of Ordinances.

*Subject to the traffic study

Authority: Section 90-301(b) of the City of Key West Land Development Regulations provides the Planning Director the administrative responsibility to interpret the land development regulations.



11-15-13
Donald Leland Craig, AICP
Director of Community Development Services



11-18-13
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