

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



**To:** Chair and Planning Board Members

**From:** Melissa Paul-Leto, Planner I

**Through:** Roy Bishop, Planning Director

**Meeting Date:** November 21, 2019

**Agenda Item:** **Conditional Use – 300 Petronia Street – (RE# 00014230-000000) - A request for a conditional use to include to allow for a restaurant on property located in the Historic Neighborhood Commercial (HNC-3) zoning district pursuant to Sections 122-62 and 122-868 (9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.**

**Request:** To change existing retail floor area into consumption area for a restaurant.

**Applicant:** Trepanier & Associates, Inc.

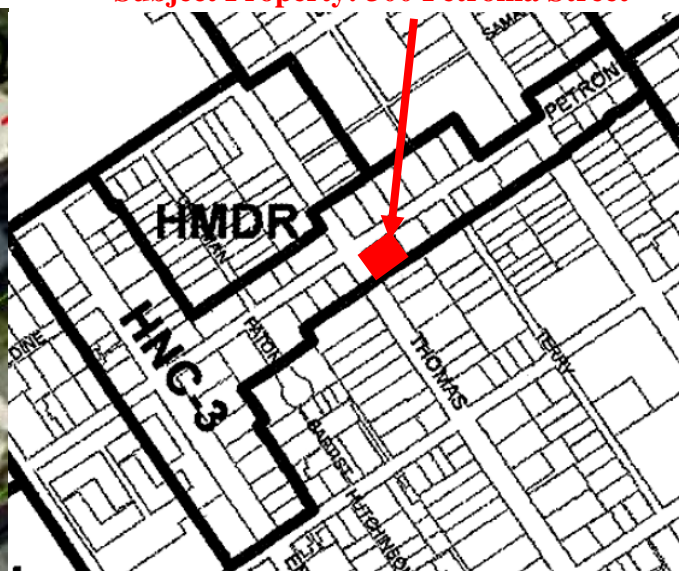
**Property Owner:** Bi-State Realty LTD

**Location:** 300 Petronia Street – (RE# 00014230-000000)

**Zoning:** Historic Neighborhood Commercial (HNC-3) zoning district



**Subject Property: 300 Petronia Street**



## **Background:**

The subject property is on the corner of Petronia and Thomas Street. It is one lot of record and consists of a one two- and one-half story wood framed structure with a wraparound open porch and decks. The property is located within the Historic Neighborhood Commercial (HNC) zoning district. On June 5, 1996, the Board of Adjustment approved Resolution #96-207 granting variances to the following dimensional requirements: a zero (0) foot left side setback, a two (2) foot rear yard setback, the maximum allowed building coverage, and substitution of ten (10) automobile parking spaces for forty (40) bicycle parking spaces in order to allow for construction of a 445 square foot dining deck addition to the rear and left sides of the existing take out restaurant. In 2008 the property owner demolished an existing non-historic mixed use, one story building of 2,268 square feet in area and replaced it with a two-and-a-half story mixed use building. A minor development plan, conditional use, and variances were required.

The following chronology includes the property's previous approvals:

May 22, 2008: Planning Board Resolution 2008-008 (recommended approval) of a Minor Development Plan and Conditional Use to allow for the construction of a 2-1/2-story building with commercial, including one transient residential unit, one residential unit, and 1,734 square feet of low density commercial (including 212.5 sq. ft of consumption area).

July 1, 2008: City Commission Resolution 08-198 approved a Minor Development Plan and Conditional Use to allow for the demolition of a 1-story building with take-out restaurant use, two (2) dwelling units and replace it with a 2-1/2-story building with commercial, including restaurant and low intensity retail use, on the first floor, and two (2) dwelling units on the second floor.

July 2, 2008: BOA Resolution 08-203 approved a variance to parking, impervious surface, and building coverage, in compliance with the condition of the Minor Development Plan approval.

November 19, 2009: Planning Board Resolution 2009-53 grants a parking variance to allow for an expansion of the consumption area from 212.5 sq. ft to 883.5 sq. ft.

November 19, 2009: Planning Board Resolution 2009-51 recommends approval of a Conditional Use to expand the consumption area by 671 square feet to a total of 883.5 square feet.

February 16, 2010: City Commission Resolution 10-070 denies the modification to a Minor Development Plan and Conditional Use, making the approvals from November 19, 2009 essentially moot.

The property is licensed for the following uses: one (1) transient rental unit, one (1) non-transient unit, a restaurant called La Creperie French Cafe that is licensed for (14) fourteen seats, and a retail establishment of 813.7 square feet called Viv Wine & Cheese Bar. The retail establishment is the subject of the conditional use request. The applicant is proposing to convert the Viv Wine & Cheese retail establishment with 813.7 square feet into a restaurant with 646 square feet of consumption area.

**Surrounding Zoning and Uses:**

**Northeasterly corner:** HNC-3, Residential and Commercial Retail Uses (Blue Heaven Restaurant)

**Southwesterly, adjacent:** HMDR, Historic Medium Density Residential (houses)

**Easterly corner:** HNC-3, Residential and Commercial Retail Uses (grocery; retail)

**Northwesterly:** HNC-3, Residential and Commercial Retail Uses (shops)

**Process:**

Development Review Committee:	September 26, 2019
Planning Board:	November 21, 2019
Local Appeal Period:	10 days
DEO Review:	Up to 45 days

**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 averse to the public’s interest.”

***(b) Characteristics of use***

The historic neighborhood commercial district (HNC-3) consists of the Bahama Village commercial core. The HNC-3 Bahama Village commercial core district includes the Bahama Village neighborhood commercial core along Petronia Street, approximately 200 feet southwest of Duval Street, and extends southwestward to the rear property lines of lots abutting the southwest side of Emma Street. The village area is a redevelopment area, including a commercial center linked to Duval Street. Consistent with the comprehensive plan, development in the district shall be directed toward maintaining and/or revitalizing existing housing structures, preventing displacement of residents, and compliance with concurrency management.

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

**a. Floor area ratio (FAR):**

The proposed use will not change the existing floor area to the property. The existing FAR is .48 (2,171 square feet). The area of the Conditional Use will occupy approximately 813.7 square feet of the already existing 4,410 square foot lot.

**b. Traffic generation:**

The applicant states there are no changes to current, approved traffic pathways, drives, parking space dimensions, access and egress.

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

The existing square footage of the restaurant is a total of 813.7 square feet of which 368 square feet will be converted to interior consumption area. The additional 278 square feet of consumption area is proposed within the outdoor porch facing Petronia Street.

**d. Proposed employment:**

The applicant states if the business grows they will add one (1) additional employee.

**e. Proposed number and type of service vehicles:**

There are no additional deliveries anticipated.

**f. Off-street parking needs:**

This subject property is located within the Historic Commercial Pedestrian-Oriented Area. Section 108-573 (c) Change of existing commercial pedestrian-oriented uses. States that no additional off-street parking shall be required within the historic commercial pedestrian-oriented area if a commercial structure is the subject of a change from one type of commercial use to another type of commercial use, so long as no additional or expanded floor area is created. However, the off-street parking regulations in this article shall apply to the following:(1) Additional floor area; or (2) Any nonresidential floor area created after January 1, 1998 and converted to another use requiring more parking.

The applicant is not proposing to increase additional floor area or any non-residential floor area. There are no off-street parking requirements for this conditional use request.

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

**a. Utilities**

None expected.

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

None expected. Compliance with building codes and life safety codes would be required prior to building permit issuance.

**c. Roadway or signalization improvements, or other similar improvements**

None required.

**d. Accessory structures or facilities**

None proposed.

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

None proposed.

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

**a. Open space**

No changes are proposed.

**b. Setbacks from adjacent properties**

No changes required or proposed.

**c. Screening and buffers**

No changes proposed.

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

No changes proposed.

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

The applicant states there will be no changes to the existing mitigation plans required or proposed.

**(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 proposed use would be in the HNC-3 zoning district. Restaurants, excluding drive-through, are a conditional use in the HNC-3 zoning district. Per Section 122-868 the intent of the Historic Neighborhood Commercial zoning district is defined as a district includes the Bahama Village neighborhood commercial core along Petronia Street. The village area is a redevelopment area, including a commercial center linked to Duval Street. Consistent with the comprehensive plan, development in the district shall be directed toward maintaining and/or revitalizing existing housing structures, preventing displacement of residents, and compliance with concurrency management.

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

The size and shape of the site are adequate to accommodate the proposed scale and intensity of the conditional use requested.

**(3) Proper use of mitigative techniques**

None have been proposed.

**(4) Hazardous waste**

None expected or proposed.

**(5) Compliance with applicable laws and ordinances**

The use will comply with all applicable laws and regulations would be required.

**(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:** The site is not located in a conservation area.
- b. Residential development:** No residential development is proposed.
- c. Commercial or mixed-use development:** No negative impacts expected.
- d. Development within or adjacent to historic district:** Any signage or other building permits necessary will be required to have HARC approval.
- e. Public facilities or institutional development:** No development of public facilities or institutions are proposed.
- f. Commercial structures use and related activities within tidal waters:** The site is not located within tidal areas.
- g. Adult entertainment establishments:** No adult entertainment is being proposed.

**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 conditional use and proposed restaurant shall match the approved plans signed and dated: September 14, 2019 by, Timothy Seth Neal, P.A.
2. The proposed restaurant will have no more than forty-three (43) seats within the 646 square foot of consumption area.
3. Hours of operations will be from Monday through Sunday 4 p.m. till 10 p.m., seasonal hours may change to 12 p.m. till 10 p.m. Monday through Sunday.

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

4. The owner shall obtain and maintain a Conditional Approval Permit, pursuant to City Code Chapter 18, Article XII, 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.