

From: Ashley Monnier

Sent: Monday, June 27, 2011 3:05 PM

To: Carlene Cowart

Cc: Don Craig

Subject: FW: Special Exemption request by Mr. Lynn Kephart, property owner for 512 Eaton Street (RE# 00006500-000000)

From: Larry D. Hooper [mailto:frhooper@stpaulskeywest.org]

Sent: Monday, June 27, 2011 2:38 PM

To: amonnier@keywestcity.com

Cc: 'Sherri Moore'; 'Susanne Woods'; 'Seabrook Wilkinson'; BRWHAGEMAN@aol.com; 'Bobby Highsmith'; mdeasy@stpaulskeywest.org; 'Ginger Butler'; iplaybridge@mailstation.com; 'LindaYoung@aol.com'; 'Lenny Whitley'; 'Eyer David'; 'amy pontello'; 'Highsmith Kerry'

Subject: Special Exemption request by Mr. Lynn Kephart, property owner for 512 Eaton Street (RE# 00006500-000000)

Dear Ms Monnier,

I am writing to specifically address concerns St. Paul's Episcopal Church has regarding the application for a special exemption requested by Mr. Lynn Kephart for a "dinner theater" at 512 Eaton Street, which will be coming up on the agenda for the Planning Board on Wednesday, June 29, 2011, at the regularly scheduled meeting beginning at 6:00 p.m.

While there are many concerns which I will address further below, let me first specifically say that, in general, the Episcopal Church and many of its members are not against the consumption of alcoholic beverages or their sale. We do have a real concern for the abuse of such beverages and how many can and do succumb to alcohol's ill effects on human beings and society. So let us be clear, any reservations we might have about granting a Special Exemption to Mr. Kephart in his application is not driven by a "teetotal" type of argument. We are strong advocates of personal responsibility and seeking in all things a common good.

Having said that, I for one, and on behalf of many parishioners in St. Paul's, at this time wish to speak against granting of a Special Exemption to Mr. Kephart for the primary reason of lack of clarity and a perceived lack of transparency about the type of shows and entertainment along with a concern for the hours of operation and parking issues. When this matter came up before in prior times to the Planning Board and then to the City Commissioners many within St. Paul's Church, myself included, sensed a fundamental incongruence between the term "dinner theater" and the proposed hours of operation on Friday and Saturday nights (which, as you well know, spills on into Sunday until 4:00 a.m.).

In no part of the application do we see specifics about what kinds of entertainment will be the "theater" part of the term "dinner theater" application. Is this one act plays, serious dramatic theater, musical theater, comedy acts, vaudeville, audio-visual projection entertainment, musical bands, duets, quartets, soloists, orchestras, etc? While we applaud the specific notation of the prohibition of adult entertainment in this district and adult entertainment not within the "contemplated" use of the approved theater use, can this not be spelled out with

greater certainty than merely contemplated. In short, dinner theater conjures up a great many ideas in many people's minds and I do not think it is unreasonable to insist upon accurate up to date plans from the applicant about what that specifically means. I, for one, have never been to an establishment that was called a dinner theater with a curtain drop after the last act later than 12:00 a.m. I don't think the Red Barn Theater stays open past 12:00 a.m. on any night; and if they do, I suspect they are few.

In no part of the application is there something that remotely looks like a business plan specifically pointing out how it is that food sales will truly be 51% or higher of the gross sales at the venue. There is a general feeling among many, including myself, that individuals at a venue between the hours of 12:00 a.m. and 4:00 a.m. are not eating much food in terms of dollar sales compared to alcohol sales.

The floor plans submitted with the application are, I guess, 3 - 5 years old, or older. They seem to be in a part of the papers submitted for public inspection with dates that go back a few years. While, I know this has been a dream of Mr. Kephart's for a long time, I think many of his neighbors, us included, would want to see clean, up to date, drawings and details about the interior and exterior of the building. It has been my experience when going before Planning Boards and City and County Commissioners in other jurisdictions specifics go a long way toward allaying the anxieties of opposing groups. Yes, there have been recent applications which have come before the Planning Board and on the agenda of the City Commission for exemptions to sell alcohol within 300 feet of a church, namely us at St. Paul's (referencing the Old Town Manor at 511, Eaton Street, Planning Board Resolution 2011-024, RE#4330) that St. Paul's did not actively oppose. The reason for that was extreme clarity of what the applicants proposed with color drawings, photographs, and figures related to occupancy and usage of space. We would, and I suspect others close to the proposed enterprise and the Planning Board, would want to see similar detail in the application. The old adage that a picture is worth a thousand words is true. Show us the pictures.

Related to parking, you can be sure that St. Paul's parking lot, open along Bahama Street, the narrow street between the proposed dinner theater and St. Paul's, will be a prime target for patrons going to the dinner theater in which to park. Even now as I am writing this correspondence to you, there is a car parked in the church parking lot that has, very visibly displayed on the front dash board, an 8 1/2 inch by 11 inch Artist House Parking Permit. As you may know the Artist House is the guesthouse owned by the applicant. In my time as rector of St. Paul's, when people have parked on our property without authorization, we have yet had them towed. That cannot be claimed by Mr. Kephart regarding parishioners of St. Paul's who have had their cars towed when they parked, albeit without authorization, in parking lots owned by Mr. Kephart. The point I am making here is not "tit-for-tat," rather it only highlights the premium there is on parking places in the historic district of Key West. Unless, there is aggressive patrolling on Mr. Kephart's or his employee's part, there will be unauthorized parking by dinner theater patrons on St. Paul's property. While this may not be an ongoing problem, it is only a matter of time before there are times when this will be a significant problem; for example, when there are evening weddings, services, or events at St. Paul's. I would also suspect that, should the dinner theater be open until the hours of 4:00 a.m. on Friday and Saturday nights, that is Saturday and Sunday mornings, there will be an increased likelihood of unauthorized parking on St. Paul's property by patrons of the dinner theater who had too much to drink and not able to drive home.

I am thankful that on this go around, Mr. Kephart has applied for a Special Exemption that cannot be transferred. Indeed, this was a critical issue with us the last time this came up for consideration.

I also would express appreciation addressing the issue about garbage and its containment and pickup. I see that

there is a provision for some trash containers being stored "inside." However, we are still unclear about what all this means. I recently was driving in traffic and happened to be stopped at the stop light at the corner of Simonton and Truman, going west on Simonton. I happened to stop right next to the garbage/trash receptacle outside Pisces, the restaurant. The odor arising out of that container and filling the air was most unpleasant, nauseating in fact. St. Paul's can never abide a similar situation directly across the street from our property.

Lastly, Ms. Monnier, I would refer you to page 7 of your own Staff Report on this matter. I am specifically pointing out item E. As of this writing, I have not received any phone call or correspondence from Mr. Kephart or his representatives about the Planning Board's consideration of this application.

Most of the above items which I have listed in support of our opposition to the application can be summed up by saying that St. Paul's does not want to give tacit, verbal, or written support to an application which we feel is deficient in clarity. We are cautious of being tricked into giving support of an application which still feels like it full of "smoke and mirrors." We are attempting to be good citizens and neighbors, exercising due diligence, and seeking a common and pro-business good, that will not be in the future a "bait and switch."

I hope we have expressed our concerns clearly in this correspondence. I am available should you wish to speak with me directly. My numbers are at the bottom. I do plan to be at the meeting.

Respectfully and sincerely yours,

Fr. Larry D. Hooper+
Rector, St. Paul's Episcopal Church
401 Duval Street
Key West, FL 33040

(305) 296-5142
(305) 731-4557

Ashley Monnier

From: Ashley Monnier
Sent: Tuesday, May 17, 2011 5:02 PM
To: 'ginny@keyslaw.net'
Subject: FW: Alcohol Sales - Kephart
Follow Up Flag: Follow up
Flag Status: Red

Dear Ginny, please see below.

*Ashley Monnier
Planner II
City of Key West Planning Department
3140 Flagler Avenue
Key West, Florida 33040
Phone: (305) 809-3725
Fax: (305) 809-3978*

From: Ashley Monnier [mailto:amonnier@keywestcity.com]
Sent: Tuesday, May 17, 2011 4:59 PM
To: 'Mary Deasy'
Cc: Don Craig; Carlene Cowart; Larry Erskine; 'Runi Goyal (runi.goyal@gmail.com)'
Subject: FW: Alcohol Sales - Kephart

Ms. Deasy,

Just to clarify, in your email below, you are referencing opposition to a request for special exception which is the subject of another application within the Planning Department (512-524 Eaton Street). That application is not on the May 19th Planning Board agenda. With respect to the special exception on the May 19th agenda for 511 Eaton Street, the Planning Board will be considering whether the applicants at the Old Town Manor can sell alcohol to guests staying overnight, or attending events hosted at the guesthouse. If you would like to review the application further, please follow the link below, which will provide more information regarding the application.

I hope that this helps clarify, and should you have any questions, please do not hesitate to contact me.

<http://keywest.legistar.com/Calendar.aspx>

*Ashley Monnier
Planner II
City of Key West Planning Department
3140 Flagler Avenue
Key West, Florida 33040
Phone: (305) 809-3725
Fax: (305) 809-3978*

From: Greg Oropeza [mailto:Greg@bartonsmithpl.com]
Sent: Monday, May 16, 2011 3:35 PM
To: Ashley Monnier
Subject: FW: Alcohol Sales - Kephart

6/24/2011

Gregory S. Oropeza, Esq.

BARTON SMITH, P.L.

624 Whitehead Street
Key West, FL 33040
Office:(305) 296-7227
Fax:(305) 296-8448
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From: Gregoropeza [mailto:gregoropeza@aol.com]
Sent: Monday, May 16, 2011 3:34 PM
To: greg@bartonsmithpl.com
Subject: Fwd: Alcohol Sales - Kephart

-----Original Message-----

From: Mary Deasy <deasygirl@hotmail.com>
To: richard <richard@rmkpa.com>; kwmaroot <kwmaroot@aol.com>; gregoropeza <gregoropeza@aol.com>; sam <sam@conchhouse.com>; mbrowning <mbrowning@newmoonmgmt.com>; jamesgillera <jamesgillera@gmail.com>; lisatennyson <lisatennyson@yahoo.com>
Sent: Tue, May 10, 2011 3:53 pm
Subject: Alcohol Sales - Kephart

Dear Planning Board Members,

With regard to the item on the May 19th agenda, requesting an alcoholic beverage sales license for Mr. Kephart's Eaton Street property, please do not allow this exception to the City Ordinance disallowing liquor sales in this location. I am aware that this exception was made once in the past, and as a member of the community, I am very much against allowing this now, or any time in the future. This is a very sensitive issue and there are many of us in the neighborhood **vehemently** opposed to having this venture. The location is surrounded on three sides by a funeral home and two churches. One of the churches has a school and a burial columbarium on its site, all of which are less than 300 feet from Mr. Kephart's building. The columbarium itself is a mere 25 feet from Mr. Kephart's building.

Last year, this same issue came before the City Commission, at that time Mr. Kephart was seeking a variance to the city liquor sales ordinance. If you check the records of those commission meetings you will see that many members of the community spoke out loudly against it, which is why he has had to resubmit an application to you. Please, please take this into consideration and do not grant this license.

6/24/2011

I sincerely appreciate your consideration in this matter.

Mary Deasy
305-296-6904
305-879-6566

Ashley Monnier

From: Higgswest@aol.com
Sent: Monday, May 16, 2011 5:40 PM
To: Ashley Monnier
Cc: richard@rmkpa.com; gregoropeza@aol.com; sam@conchhouse.com;
mbrowning@newmoonmgmt.com; jamesgilleran@gmail.com; lisatennyson@yahoo.com; Don Craig;
Larry Erskine; runi.goyal@gmail.com; Carlene Cowart
Subject: Re: May 19th Agenda - Item #3 New Business
Follow Up Flag: Follow up
Flag Status: Red

Ashley,

Thank you for the clarification. Regarding this request - If by granting this request the Planning Commission would be inclined to grant an exception to the 512-524 Eaton Street application, then I would submit similar arguments regarding social gatherings that may include guests other than those staying at the guest house. In these cases - parking is a very serious issue. These buildings have been in existence for years, but it is their proposed "use" for expanded purposes, not originally planned for that cause further disruption to the surrounding neighborhoods, including two churches and a funeral home. All of these establishments have been in existence for 100's of years prior to these current requests for "exceptions."

Again, thank you for the additional information.

Sincerely,
Sandy Higgs

Ashley Monnier

From: Ashley Monnier
Sent: Monday, May 16, 2011 4:46 PM
To: 'Higgswest'
Cc: 'richard'; 'gregoropeza'; 'sam'; 'mbrowning'; 'jamesgillieran'; 'lisatennyson'; Don Craig; Larry Erskine; 'Runi Goyal (runi.goyal@gmail.com)'; Carlene Cowart
Subject: RE: May 19th Agenda - Item #3 New Business
Follow Up Flag: Follow up
Flag Status: Red

Mrs. Higgs,

Just to clarify, in your email below, you are referencing opposition to a request for special exception for a dinner theatre and restaurant type use, which is the subject of another application within the Planning Department (512-524 Eaton Street). That application is not on the May 19th Planning Board agenda. With respect to the special exception on the May 19th agenda for 511 Eaton Street, the Planning Board will be considering whether the applicants at the Old Town Manor can sell alcohol to guests staying overnight, or attending events hosted at the guesthouse.

I hope that this helps clarify, and should you have any questions, please do not hesitate to contact me.

*Ashley Monnier
 Planner II
 City of Key West Planning Department
 3140 Flagler Avenue
 Key West, Florida 33040
 Phone: (305) 809-3725
 Fax: (305) 809-3978*

From: Greg Oropeza [mailto:Greg@bartonsmithpl.com]
Sent: Monday, May 16, 2011 3:35 PM
To: Ashley Monnier
Subject: FW: May 19th Agenda - Item #3 New Business

Gregory S. Oropeza, Esq.

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6/24/2011

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From: Gregoropeza [mailto:gregoropeza@aol.com]
Sent: Monday, May 16, 2011 3:32 PM
To: greg@bartonsmithpl.com
Subject: Fwd: May 19th Agenda - Item #3 New Business

-----Original Message-----

From: Higgswest <Higgswest@aol.com>
 To: richard <richard@rmkpa.com>; gregoropeza <gregoropeza@aol.com>; sam <sam@conchhouse.com>; mbrowning <mbrowning@newmoonmgmt.com>; jamesgillieran <jamesgillieran@gmail.com>; lisatennyson <lisatennyson@yahoo.com>
 Sent: Sat, May 14, 2011 9:53 am
 Subject: May 19th Agenda - Item #3 New Business

Dear Planning Commissioners:

On the upcoming Planning Board Meeting Agenda is an Item under New Business #3. This item requests a special exception to the prohibition of alcoholic beverage sales within 300 feet of a church and funeral home for property located with the HRCC-1 zoning district, pursuant to Section 18-28 (b)(2) of the Code of Ordinances of the City of Key West.

I offer the following as a parishioner of St. Paul's Episcopal Church whose property lies within 25 ft. of this location, and I seek your support in denying this request.

FACT: The City of Key West established an ordinance in 1985 prohibiting alcoholic beverage licenses to be issued to establishments located within 300 feet of churches, schools, funeral homes and cemeteries.

FACT: The current owner purchased 511 Eaton Street in 1991 knowing the prohibition.

FACT: The current owner had a limited alcoholic beverage license that lapsed. The venue was unsuccessful because of the lack of adequate parking for the clientele attracted to a dinner theatre. Patrons who frequent these establishments want convenient parking. NONE exists surrounding this location.

FACT: Nine (9) residential units adjacent to this building have already been approved. There is no parking for those 9 units, nor is there any parking for a facility requiring several hundred people.

This approval was separated from the alcoholic beverage license request in an effort to obtain approval, said approval was granted - there is no parking to accompany said residential units.

ISSUES OF CONCERN:

PARKING: A traffic study has not been conducted and prior to giving this request any consideration it is recommended that you require the applicant to undertake a traffic study outlining exactly how this major issue

would be addressed without impacting the surrounding neighbors who already deal with the lack of sufficient parking.

GARBAGE: Restaurants generate a tremendous amount of garbage – please do not saddle the churches, our school children, and our elders with the odor of garbage as they attend church services and school classes.

HOURS OF OPERATION: In checking with potential patrons, no-one, not one person would be eating “supper” after 11:00 p.m. If you are inclined to approve – please limit the hours of operation to MIDNIGHT – NOT 4 AM. Patrons of a true supper club do not frequent establishments after Midnight.

On behalf of the approximate 850 parishioners of both the Methodist and Episcopal Churches – **IT IS REQUESTED THAT THIS REQUEST FOR A SPECIAL EXCEPTION BE DENIED.**

Thank you.
Sandra Higgs