

Minutes of the Key West Planning Board

July 18, 2013 DRAFT MINUTES

Chairman Richard Klitenick called the Key West Planning Board Meeting of July 18, 2013 to order at **6:00 pm** at Old City Hall, in the antechamber at 510 Greene Street, Key West.

ROLL CALL

Present were: James Gilleran, Lisa Tennyson, Greg Oropeza, Sam Holland, and Vice-Chairman Tim Root.

Excused absence: Michael Browning and Chairman Richard Klitenick

Also in attendance were: Planning Director, Donald Craig; Chief Assistant City Attorney, Larry Erskine; Department staff: Brendon Cunningham, Nicole Malo, Jo Bennett and Katrina Kool.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

A motion to approve the agenda was made by Ms. Tennyson and seconded by Mr. Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

APPROVAL OF MINUTES

- **June 20, 2013 Meeting**

A motion to approve the June 20, 2013 meeting minutes was made by Mr. Gregory Oropeza and seconded by Ms. Lisa Tennyson.

Motion carried by unanimous voice vote.

SO ORDERED.

RESOLUTIONS

Old Business

1. **BPAS Ordinance - A resolution of the City of Key West recommending an ordinance to the City Commission amending Chapter 108 of the Code of Ordinances, entitled Planning and Development specifically Article X entitled Building Permit Allocation System by amending Section 108-986 "Definitions" and adding the definitions to Chapter 86 General Provisions, Section 86-9 entitled "Definitions"; amending Section 108-987 entitled "Propose and Intent"; amending Section 108-989 entitled "Authority"; amending Section 108-991 "Development Not Affected by Article"; amending Section 108-994 entitled "Established"; amending Section 108-995 entitled "Reporting Requirements and Adjustments in Residential Allocation Schedule"; adding Section 108-996 entitled Intent"; amending Section 108-997 by adding the Section entitled "Period of Allocation and Ranking/Review of Applications", amending Section 108-998 entitled "Procedures for Ensuring Beneficial Use of Private Property"; by deleting "Zoning in Progress" and adding "Allocation of Residential Permits in the Truman Waterfront Redevelopment Area" amending Section 108-999; and amending Chapter 122 entitled Zoning Section 122-1470**

**Minutes of the Key West Planning Board
July 18, 2013 DRAFT MINUTES**

“Accessory Unit Infill”; providing for severability; providing for repeal of inconsistent provisions, providing for an effective date.

Ms. Malo gave members an overview of the changes to the proposed ordinance. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommended the request of the proposed changes to the BPAS Ordinance be **approved**.

There was one public comment.

A motion was made by Mr. Holland, seconded by Mr. Oropeza that the Action Item continues to the second (2nd) reading, to the City Commission.

Motion carried by unanimous voice vote.

SO ORDERED.

Motion carried by unanimous voice vote.

SO ORDERED.

- 2. Conditional Use - 146-150 Simonton Street (RE# 00000290-000000, AK# 1000281 aka 110-124 Simonton Street) - A request to amend an existing Conditional Use to convert an Arcade/Bingo Hall to a Bar/Lounge in the HRCC-1 zoning district per Section 122-688(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Mr. Cunningham gave members an overview of the Conditional Use request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommended the request for Conditional Use be **approved** with the following conditions:

Conditions to be completed prior to the issuance of certificate of occupancy:

1. Compliance with the plans dated April 25 & 29, 2013 shall be a condition of approval and specifically incorporated herein;
2. The bar/lounge shall be fully ADA (Americans with Disabilities Act of 1990) accessible;
3. The applicant maintain a programmable distributive sound system to assure compliance with the “unreasonable noise” definition of Section 26-191 of the Code of Ordinances, and that such referenced document shall be updated to include that a computerized sound monitoring system is installed and real time monitoring access is provided to the City;

**Conditions subject to a Conditional Approval Permit, per Ordinance Number 10-22:
Conditions subject to associated annual inspection:**

4. The hours of operation shall be 7 AM to 4 AM seven days a week;
5. No exterior event lighting shall occur;
6. Outdoor speakers of any kind are prohibited on the property and on any vehicle parking at the property which is owned by the applicant or associated with events at the property, wherein the vehicle is under the control, rental or licensing by the applicant;
7. There shall be no live music, disc jockeys, or karaoke anywhere on the site unless located indoors and approved under a special event permit per Section 6-86 of the Code of Ordinances. Under no circumstances will these venues be allowed outdoors;
8. There shall be no music (amplified or vocal), entertainment, or special events of any kind

Minutes of the Key West Planning Board

July 18, 2013 **DRAFT MINUTES**

permitted outdoors on this site;

9. Seating shall be limited to 175 seats and confined to the interior of the bar/lounge only. The applicant's representatives, Owen Trepanier with Trepanier and Associates, gave members an overview of the request.

Item was postponed.

A motion to postpone the conditional use was made by Ms. Lisa Tennyson and seconded by Mr. Gregory Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

3. Exception for Outdoor Merchandise Display - 1200 Duval Street (RE# 00029110-000000, AK# 1029891) - A request to allow the display of merchandise in the HRCC-3 zoning district per Section 106-52 of the Land Development Regulations of the Code of Ordinances of the City of Key West.

Mr. Cunningham gave members an overview request for Exception to the Outdoor Merchandise Display. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommended the request for the Exception to the Outdoor Merchandise Display be **approved** with the following conditions:

1. The Exception is specific to the applicant, Carlos Bettancur, and granted for a term of 60 months. The Exception is limited to 60 months, as shown on the site plan for: display of merchandise on four, 4 X 6 foot carts proposed to be located on the eastern side of the store adjacent to the store windows facing Duval Street.;
2. The Exception will only be present during hours of operation. The four carts shall be stored behind the fence after hours of operation;
3. The two proposed swales shall be constructed as shown on the Proposed Site Plan, C1;
4. A Certificate of Appropriateness shall be required for signage, or any other elements of the site plan that are required pursuant to the Historic Architectural Review Commission (HARC) guidelines;
5. Exceptions to Section 106-51 may be revoked by the Planning Board after notice and hearing on grounds that:
 - a. The applicant has failed to comply with terms and conditions specified pursuant to the granting of an Exception in this section;
 - b. The Exception was granted pursuant to mistaken or misleading information; or
 - c. The Exception is not compatible, or in visual harmony, with development of the neighborhood occurring subsequent to granting of this Exception;
6. That no display cart shall be allowed within 36" of another cart and the building for ADA and fire access.
7. The City Manager or the Planning Board upon written petition by any City resident may cause issuance of a notice of hearing on revocation of an Exception, which notice shall be issued by the City Clerk.

The applicant's representatives, Owen Trepanier with Trepanier and Associates, gave members an overview of the request.

**Minutes of the Key West Planning Board
July 18, 2013 DRAFT MINUTES**

Item was postponed.

A motion to postpone the conditional use was made by Ms. Lisa Tennyson and seconded by Mr. Gregory Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

- 4. Minor Development Plan - 629 Duval Street (RE# 00012440-000100, AK# 1012815) – A request for a minor development plan to construct a restaurant with outdoor consumption area in the HRCC-1 zoning district per Section 108-91 A.1 (b) and (c) and modify landscape requirements per Section 108-412 and 108-413 of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Mr. Cunningham gave members an overview of the Minor Development Plan request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommended the request for the Minor Development Plan be **denied**, in its constituent parts:

1. Minor Development Plan - Section 108-91 A.1.(b)
2. Landscape Waiver – Section 108-412(a)

The applicant's representatives, Owen Trepanier with Trepanier and Associates gave members an overview of the request and requested that item 4 and 5 be heard together. Mr. Owen Trepanier introduced Patrick Wright, Bill Horn, the owner Joel DeSantos and Ginny Butler.

There was one public comment.

Item was postponed.

A motion to postpone the conditional use was made by Mr. Gregory Oropeza and seconded by Mr. Sam Holland.

Motion carried by unanimous voice vote.

SO ORDERED.

- 5. Parking Variance - 629 Duval Street (RE# 00012440-000100, AK# 1012815) – A request for a variance to parking requirements from 15 automobile spaces to the 8 bicycle and scooter proposed in the HRCC-1 zoning district per Section 108-572 (9) of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Mr. Cunningham gave members an overview of the Variance request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommended the request for Variance to waive the 15 off-street parking spaces be **denied**.

The applicant's representatives, Owen Trepanier with Trepanier and Associates, gave members an overview of the request.

There were no public comments.

Minutes of the Key West Planning Board
July 18, 2013 DRAFT MINUTES

Item was postponed.

A motion to postpone the conditional use was made by Mr. Gregory Oropeza and seconded by Mr. Sam Holland.

Motion carried by unanimous voice vote.

SO ORDERED.

- 6. Conditional Use – 1200-1212 White Street and 1124 Catherine Street (RE# 00033010-000000 / 00033050-000000; AK# 1033774 / 1033812) – A request to allow small recreational power-driven equipment rentals, light industrial, and restaurant in the HNC-1 zoning district per Section 122-808 (12-14) of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Mr. Cunningham gave members an overview of the Conditional Use request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department believed that the totality of the traffic, parking and other impacts lead staff to the conclusion that the proposed mixed use facility is inconsistent with the mix of surrounding land uses, will negatively affect the neighborhood, and is inconsistent with the principles contained in the Comprehensive Plan to regulate the mix and intensity of uses in commercial/residential neighborhoods, and recommended the Conditional Use be **denied**.

However, should the Planning Board decide to **approve** the proposal, the following conditions should be applied:

1. The applicant will comply with Sections 18-610-615 of the Code of Ordinances;
2. Compliance with the plans dated April 26, 2013 is a condition of approval and specifically incorporated herein;
3. Compliance with the Planting Plan by Craig Reynolds, Landscape Architecture, dated 3/5/2013;
4. On-site stormwater retention calculations for the parcel shall be provided for Engineering Services when application is made for Building Permits;
5. All signs or other modifications to the structure shall receive HARC approval;
6. Exterior lighting will be minimal and retained on site;
7. Outdoor waste handling shall occur between 6:30 a.m. and 10:30 p.m. As shown on Plan D-8 dated 4/26/2013, the applicant shall have the pull-out trash dumpster in an effort to mitigate odor from the trash receptacle;
8. The applicant shall maintain disposal contracts for all hazardous waste. All contracts are for disposal at approved locations outside the city. The period of time between acquisitions of these materials to disposal, all storage shall be inside the premises;
9. In an effort to mitigate noise, the restaurant hours of operation shall be no later than 9:00 p.m. Sunday through Thursday and not later than 11:00 p.m. on weekends.
10. The dispute on the location of the property line along White Street survey issue must be resolved before the canopy on the structure along White Street may be constructed;
11. There shall be no music (amplified or vocal), entertainment, or special events of any kind permitted outdoors on this site;
12. Storage of vehicle inventory on the city Right-of-Way is strictly prohibited without an easement agreement between the applicant and the City;

Minutes of the Key West Planning Board
July 18, 2013 DRAFT MINUTES

13. The three proposed parking spaces to be located on the lot at 1212 White Street will not be utilized for vehicle sales, storage, or repair work/servicing;
14. The Planning Department is concerned that noise from the restaurant and recreational vehicle traffic may adversely affect the neighbors. Therefore the Planning Board reserves the authority, after due public notice, to attach conditions limiting music and traffic noise;
15. The property is fully ADA accessible; and
16. Approval of this Conditional Use is contingent upon the approval of the proposed parking variance.

The applicant's representatives, Wayne LaRue Smith with The Smith Law Firm, gave members an overview of the request.

Item was postponed.

A motion to postpone the conditional use was made by Ms. Lisa Tennyson and seconded by Mr. Gregory Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

7. **Variance – 1200-1212 White Street and 1124 Catherine Street (RE# 00033010-000000 / 00033050-000000; AK# 1033774 / 1033812) – A request to allow 22 off-street parking spaces for the 25 parking spaces required in the HNC-1 zoning district per Section 108-572 (9) and (10) and of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Mr. Cunningham gave members an overview of the Variance request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommended that the request for variance to waive twenty-two (22) off-street parking spaces be **denied**.

However, if the Planning Board approves this request, staff would like to require the following conditions:

1. Storage of vehicle inventory on the city Right-of-way is strictly prohibited without an easement agreement between the applicant and the City;
2. The three proposed parking spaces to be located on the lot at 1212 White Street will not be utilized for vehicle sales, storage, or repair work/servicing.

The applicant's representatives, Wayne LaRue Smith with The Smith Law Firm, gave members an overview of the request.

Item was postponed.

A motion to postpone the conditional use was made by Ms. Lisa Tennyson and seconded by Mr. Gregory Oropeza.

Motion carried by unanimous voice vote.

**Minutes of the Key West Planning Board
July 18, 2013 DRAFT MINUTES**

SO ORDERED.

New Business

- 8. Major Development Plan – 430 Duval Street (RE# 00006570-000000, AK# 1006807) – A request for Major Development Plan approval for the reconstruction of 4,800 square feet of non-transient commercial floor area for property located in the HRCC-1 zoning district per Section 108-91(A)(2)(b) of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Vice-Chairman Tim Root recused himself and gave to Mr. James Gilleran.

Mr. Cunningham gave members an overview of the Major Development Plan request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommended the request for Major Development Plan be **approved**.

The applicant's representatives, Peter Pike and Owen Trepanier, gave members an overview of the request.

There were two public comments.

A motion to approve the Major Development Plan request to include Planning Department recommendations was made by Mr. Gregory Oropeza and seconded by Mr. Sam Holland.

Motion carried by unanimous voice vote.

SO ORDERED.

PLANNER'S REPORT

Mr. Craig informed members of upcoming projects.

ADJOURNMENT

A motion to adjourn was made by Mr. Sam Holland.

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 8:18PM.

**Respectfully submitted by,
Stacy L. Gibson
Administrative Assistant II
The City of Key West
Planning Department**