

**Minutes of the Key West Planning Board
September 15, 2011**

DRAFT

A motion to elect Jim Gilleran as Acting Chairman was made by Mr. Browning and seconded by Mr. Oropeza.

Jim Gilleran called the Key West Planning Board Meeting of September 15, 2011 to order at 6:05 pm at Old City Hall, in the antechamber at 510 Greene Street, Key West.

ROLL CALL

Present were: Gregory Oropeza, Sam Holland, Jr., Jim Gilleran and Michael Browning

Excused Absence: Chairman Richard Klitenick, Vice-Chairman Tim Root and Lisa Tennyson

Also in attendance were: Deputy Assistant City Attorney, Larry Erskine; Planning Department staff: Brendon Cunningham, Carlene Cowart and Nicole Malo.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

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

Motion carried by unanimous voice vote.

SO ORDERED.

APPROVAL OF MINUTES

1 August 18, 2011 – Meeting Minutes

A motion to approve the August 18, 2011 meeting minutes was made by Mr. Browning and seconded by Mr. Holland.

Motion carried by unanimous voice vote.

SO ORDERED.

RESOLUTIONS

Old Business

- 2 Conditional Use - 802 - 806 Whitehead Street (RE# 00014010-000100, 00014020-000000) / 320-324 Petronia Street (RE# 00014010-000000), 809-811 Terry Lane (RE# 00014050-000000, 00014060-000000) - A request for a restaurant in the HNC-3 zoning district per Section 122- 868(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Ms. Malo gave members a brief overview of the conditional use request. She informed members that this is a conditional use request for a restaurant with flexible indoor and outdoor consumption area of 6,637 square feet and 165 total seats. At the Planning Board Meeting held August 18, 2011 the item was postponed in order for the applicant to meet with the neighbors to attempt to resolve their concerns. Since the last Planning Board meeting the applicant has resubmitted a site plan showing the relocation of the garbage area away from the adjacent residential home. The applicant also scheduled a Community Meeting for September 5, 2011; however,

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as of the date of the published report in the package no additional changes to the original request had been proposed by the applicant.

Ms. Malo stated that the department has continued to receive comments regarding the proposed use. Most ongoing concerns appear to be regarding the size of the restaurant, odor from waste and traffic on Terry Lane. As a result, the Department has added a few conditions to the recommendation including enclosing the waste handling area on all four sides with a roof and a door for access and prohibiting service vehicles from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for conditional use be approved with the following conditions:

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

1. Approval is limited to no more than 165 seats. At no time does the request for 6,637 square feet of consumption area allow the applicant to increase seating on the site without conditional use review.
2. The parking lot shall be reconfigured and maintained to include two (2) compact car spaces in order to protect the root system of large trees on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) scooter spaces on the lot including twenty-five (25) bicycle parking spaces throughout the site.
3. The waste and recycling handling area shall exchange location with the handicap parking space as per the revised site plans and shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides with a roof and a door for access.

Conditions required prior to the issuance of a Certificate of Occupancy:

4. Completion of all improvements as depicted on the site plan.

General conditions:

5. No amplified music or live performance is allowed after the hours of 10pm unless approved under a special event permit per Section 6-86 of the City Code or for a special city-sanctioned event within the Petronia Street Commercial Corridor. Amplified music will be regulated by the “unreasonable noise” definition of Section 26-191 of the Code of Ordinances.
6. Recycling of applicable materials is required.
7. Hours of operation are limited from 8am to 11pm daily except during special city sanctioned events such as Fantasy Fest and Goombay.
8. Service vehicles are prohibited from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries.

Ms. Malo then stated that since the date of the community meeting, the applicant has presented additional conditions attached to the package under the title Additional Conditions Proposed by the Applicant. Of the eight conditions proposed, the department is in support of the following:

- That the applicant shall install multiple layers of landscape buffering between the serving area and residences to create a noise buffering area as designed by a registered landscape architect.
- That live amplified Music be prohibited outdoors at all times except during special permitted events.
- No outdoor music of any kind after the hours of 10pm
- That the applicant arrange waste pick up on Whitehead Street and not Terry Lane

It is not clear to date weather the needs of the neighbors have been met by the proposed conditions; however, it is the departments understanding that the applicant will postpone the item to continue to work with the neighbors.

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The applicant's representative, Owen Trepanier with Trepanier and Associates, informed members that they would like to postpone the item but requested time to make a few remarks as well as hear from the members of the public. Although unorthodox, members permitted his request.

Mr. Trepanier gave a brief overview of the public meeting that took place. The applicant, Ed Swift, gave members an overview of the history of the property.

The following members of the public spoke on the matter:

- Elbridge Curry, 807 Whitehead
- Colette Wik, 810 Whitehead
- Margaret Romero, 1615 Washington
- Jeffrey Dunaway, 807 Thomas
- Suzanne Washburn, 917 Thomas

A motion to postpone the conditional use request until the November 17th meeting was made by Mr. Browning and seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

New Business

3 Conditional Use - 3216 Flagler Avenue (RE# 00069060-000100) - A request for a medical office/clinic in the CL zoning district per Section 122-388(13) of the Land Development Regulations of the Code of Ordinances of the City of Key West.

Ms. Malo gave members an overview of the conditional use request. She informed members that the request is for a conditional use for a medical office for cardiac diagnosis and treatment with three physicians that are currently associated with the Lower Keys Medical Center. The property is located in a commercial area characterized by office and retail plazas along Flagler Avenue neighboring to the new City Hall Plaza. The subject structure has most recently been used as a home furnishing retail store. Fifteen parking spaces are located on the property and meet the requirement for the proposed new bicycle parking. No structural improvements are proposed; however, site improvements are included as conditions of approval and include increased open space, landscaping, and an enclosure for the waste handling area. Located across the street to the rear of the property is a residential neighborhood. Potential impacts to the neighborhood are most likely limited to solid waste and potentially deliveries. To help reduce solid waste impacts, the applicant shall screen the waste handling area and deliveries will be limited to the initial moving phase and may be intermittent if at all in the rear, according to the applicant. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for conditional use be approved with the following conditions:

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

1. The revitalization of the existing sign and planter box;
2. A portion of the 2.8' x 52' poured concrete walkway on the east property line will be removed as depicted on the site plans and at least two-three semi-mature native trees with appropriate ground cover will be planted as determined by the city's Urban Forester. An ADA access path will remain to serve the ADA parking space;
3. The parking bumpers in the parking lot that face the Flagler Avenue right-of-way will be relocated to 3.5 feet from the property line to meet the Code requirement and prevent parked vehicles from encroaching onto the right-of-way;
4. Directional signage and paint will identify the one way traffic design of the parking lot and will be

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- coordinated with the adjacent property owner; and
5. The solid waste handling area at the rear of the building shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279.

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

6. Maintain in healthy condition the required plantings on site including: the silver buttonwood hedge planted along the front of the building, the planter box below the pole sign and the two-three semi-mature native trees with appropriate ground cover required along the northeasterly property line.
7. Maintain in working order objectives of conditions 3-5 above.

The applicant's attorney, Ginny Stones with Stones and Cardenas, gave members an overview of the request. She informed members that this request is not for a surgery center. She then addressed possible noise concerns.

The following members of the public spoke on the matter:

- Bo Rivas, 3202 Riviera
- Steve Ross, 3220 Riviera
- Dale Lockwood, 3206 Riviera

Members reviewed and discussed the request with staff and Mrs. Stones. Members expressed concern on the impact of the neighbors on Venetian Drive. Members urged the public to address any concerns regarding the impact that is being caused by the new City Hall location with City Management and request they improve the rear area of Habana Plaza.

Members agreed that an additional condition be added to the conditional use request that states that no patron access shall be available at the rear door and that the applicant shall post signage at the rear door prohibiting parking and ingress.

A motion to approve the conditional use request to include all eight conditions was made by Mr. Oropeza and seconded by Mr. Browning.

Motion was carried by unanimous voice vote.

SO ORDERED.

- 4 Transient License Transfer – from 1800 Atlantic Blvd Unit 109-A (RE# 00063560-001000) to 223 Ann Street (RE# 00001210-000000) - Transfer of One Transient Business Tax Receipt (Licenses) from property located at 1800 Atlantic Boulevard Unit 109-A located in the MDR-C zoning district to property at 223 Ann Street located in the HRCC-1 zoning district per Section 122-1339(b) of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Ms. Malo gave members an overview of the transient license transfer request. She informed members that the license was previously purchased by the property owner at 223 Ann Street and has been held in the licensing department in the "unassigned pool" waiting to transfer to a conforming receiver site. As required of any single family residential property in the HRCC-1 zoning district, the site includes in its current configuration one parking space and two solid waste receptacles. Based on the criteria in the Land Development Regulations and the Comprehensive Plan, the Planning Department recommends approval of the transient transfer of one license from 1800 Atlantic Boulevard unit 109-A, to 223 Ann Street.

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

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There were no public comments.

Members reviewed the request.

A motion to approve the transient license transfer was made by Mr. Browning and seconded by Mr. Holland.

Motion was carried by unanimous voice vote.

SO ORDERED.

5 Variance - 2318 Fogarty Avenue / 1311 Fifth Street (RE# 00048900-000000) – A request for the required front yard setback for signage in the SF zoning district per Section 114-71 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. He informed members that the applicant is proposing the reconstruction of an existing sign identifying the church and the hours of service. A replacement sign of the same size in the same location and an LED electronic reader board replacing printed text is proposed for “church and community announcements and activities.” Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for a variance be denied.

The applicant, Pastor Ozzie Vater, gave members an overview of the request. He stated that the sign can also be used for public announcements, such as Amber Alerts. Carl Reid with Southernmost Signs gave an overview of the sign’s dimensions and brightness of the LED.

There were no public comments.

Members reviewed the request.

A motion to approve the variance to include Planning Department recommendations was made by Mr. Holland and seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

6 Variances - 2801 Venetian Drive (RE# 00070990-000000) – A request for front and rear-yard setbacks in the SF zoning district per Section 122-238 (6)a.1.&3. of the Land Development Regulations of the Code of Ordinances of the City of Key West.

Mr. Cunningham gave members an overview of the variances request. He informed members that the applicant is proposing the construction of a single family house which will encroach into the required front and rear setbacks thus requiring a variance. The property does not comply with any dimensional requirements of the existing code. The property has received variance approvals on two separate occasions September 10, 1999 (BOA Resolution 99-326) and October 5, 2007 (BOA Resolution 07-358) for the same purpose of building a house. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variance be approved with the following conditions to be completed prior to the issuance of a Certificate of Occupancy:

1. Removal of all Holly and Cork trees.

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2. Protect all Mangroves, Seagrapes and Radiata during construction.
3. Trimming of Mangroves by FDEP permit and City of Key West permit only.
4. All Mangrove branches overhanging the property shall be flagged and protected during construction.

The applicant's representative, Annalise Mannix, gave members an overview of the request.

There were no public comments.

Members reviewed the request.

A motion to approve the variances to include Planning Department recommendations was made by Mr. Browning and seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

PLANNER'S REPORT

There was no Planner's Report.

ADJOURNMENT

A motion to adjourn was made by Mr. Oropeza and seconded by Mr. Holland.

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 7:30 pm.

**Respectfully submitted by,
Carlene Cowart
Development Review Administrator
Planning Department**