

Minutes of the Key West Planning Board

November 17, 2011

DRAFT

Chairman Richard Klitenick called the Key West Planning Board Meeting of November 17, 2011 to order at 6:05 pm at Old City Hall, in the antechamber at 510 Greene Street, Key West.

ROLL CALL

Present were: Chairman Richard Klitenick, Vice-Chairman Tim Root, Jim Gilleran, Sam Holland, Jr., Gregory Oropeza and Lisa Tennyson.

Excused absence: Michael Browning

Also in attendance were: Planning Director, Donald Craig; Chief Assistant City Attorney, Larry Erskine; Planning Department staff: Brendon Cunningham, Carlene Cowart, Ashley Monnier and Nicole Malo.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

A motion to approve the agenda was made by Vice-Chairman Root and seconded by Ms. Tennyson.

Motion carried by unanimous voice vote.

SO ORDERED.

RESOLUTIONS

Old Business

1 Conditional Use - 802 - 804 Whitehead Street (RE# 00014010-000100, 00014020-000000) / 318-324 Petronia Street (RE# 00014010-000000), 809-811 Terry Lane (RE# 00014050-000000, 00014060-000000) - A request for a restaurant of 165 seats for property located 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 stated that at the Planning Board meetings held August 18th and September 15th, the item was postponed for the applicant to meet with the neighbors to attempt to resolve their concerns. Since the first Planning Board meeting the applicant has: relocated the garbage area away from the adjacent residential home and enclosed it; arranged daily garbage pick up on Whitehead Street; held a Community Meeting on September 5, 2011; added landscape buffering between the parking lot and the outdoor consumption area; added conditions to limit outdoor amplified music; and reduced the amount of bicycle parking from 60 spaces originally proposed to the 32 mixed scooter and bicycle parking proposed.

Ms. Malo stated that based on the criteria established by the Comprehensive Plan and the City Code, 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.

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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.
5. The applicant shall revise and resubmit a signed and sealed Landscape Plan that reflects the modified site plan dated November 1, 2011 and Civil Plan Dated November 9, 2011.

General conditions:

6. 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.
7. Recycling of applicable materials is required.
8. Hours of operation are limited from 8am to 11pm daily accept during special city sanctioned events such as Fantasy Fest and Goombay.
9. Service vehicles are prohibited from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries.

The applicant’s representative, Owen Trepanier with Trepanier and Associates, requested amending conditions six and eight and adding two additional conditions:

- #6 – ~~No amplified music or live performance~~ outdoor music of any kind 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.
- #8 – Hours of operation are limited from ~~8~~am to 11pm daily accept during special city sanctioned events such as Fantasy Fest and Goombay.
- Add #10 - All Waste pick up shall be daily via Whitehead Street.
- Add #11 - Economic Opportunities for residents of the Bahama Village Community Redevelopment Area

Any lease signed to operate the proposed restaurant shall include the following clause:

“In an effort to increase employment opportunities for residents of the Bahama Village Community Redevelopment Area (“BVCRA”) the restaurant operator will make a good faith effort to employ a minimum of 15% of the restaurant workforce from qualified residents of the BVCRA.

“Good faith effort” means all employment opportunities will be advertised and posted in places frequented by residents of the BVCRA, such as the District 6 Commissioner's office, the Douglas Community Center, the Nutrition Center, the Martin Luther King swimming pool, neighborhood churches, neighborhood fraternal organizations, grocery stores, etc.

The restaurant operator shall submit to the property owner proof of compliance with the employment requirement, on a quarterly basis. The property owner shall, in turn, provide the proof of compliance to the City of Key West, upon request. Any failure to comply with this requirement for any reason will result in an increase of \$750 in rent for each month the requirement is not met.

The property owner will in turn pay this increased amount to the BVCRA to be used to further employment programs within the Bahama Village Community Redevelopment Area.

This requirement shall run with the conditional use and remain in place from owner to owner, Lessee to Lessee and Lessor to Lessor.”

The following members of the public spoke on the matter:

- Margaret Romero, 1615 Washington
- Dr. Kevin Lewis, 702 Whitehead
- Comm. Clayton Lopez, 326 Amelia
- Sue Fowler, 824 Terry Lane
- Jeffrey Dunaway, 807 Thomas
- Ralph Justen, 812 Terry Lane

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- Colette Wik, 810 Whitehead
- George Lennox, 817 Terry Lane
- Ken Sullivan, 1107 Whitehead

The property owner, Ed Swift, addressed public comments. He then stated that they proposed to open at 8am so that they would be able to serve breakfast.

Mr. Craig proposed amending condition six to include installation of programmable distributive sound system. Members agreed with Mr. Craig's proposal and amended condition six accordingly.

Board members reviewed and discussed the request with the applicant, staff and members of the public who spoke on the matter. Members addressed neighborhood impacts and concerns on the number of seats, parking on Terry Lane, hours of operation and noise.

Based on the terms of the criteria in the staff report, Mr. Gilleran made a motion to approve the conditional use request to include Planning Department recommendations with the following amendments:

- **Decrease seating from 165 to 150**
- **Change hours of operation to 9am-11pm**
- **Condition #11 - Employment opportunities – have language drafted that is in compliance with all applicable laws opined by the City Attorney**

The motion was seconded by Mr. Oropeza.

Motion carried by 5-1 voice vote (opposed by Chairman Klitenick).

SO ORDERED.

2 PS Zoning District Ordinance - An ordinance of the City of Key West amending Chapter 122 of the Code of Ordinances entitled "Zoning" of Article IV by amending Sections 122-1016, 122-1017, 122-1018, and 122-1020 for the Public and Semi-public (PS) zoning district, of the City of Key West Land Development Regulations, providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.

Mr. Oropeza recused himself from this item since the outcome may inure to the special gain or loss of his business associate. Ms. Tennyson recused herself from this item since the outcome may inure to the gain or loss to Monroe County Board of County Commissioners, of which she is an employee. Mr. Oropeza and Ms. Tennyson left the dias during the discussion.

Ms. Malo gave members an overview of the proposed ordinance change to the PS Zoning District. She informed members that the purpose of this amendment is to clarify the uses currently allowed in the PS zoning district, by more clearly defining language regarding permitted and conditional land uses within the Public and Semi-Public (PS) zoning district. Additional clarification and modifications are proposed to the district's dimensional requirements. This request is to specifically allow for amendments to Sections 122-1016(a) and (b), 122-1017, 122-1018, and 122-1020 for clarification pursuant to Section 90-517 and 90-521. The proposed amendments serve to improve the city's efficiency by resolving the following:

1. Standardize formatting of Section 122-1016(b) and (c) , Intent
2. Modify Section 122-1017, Permitted Uses and 122-1018, Conditional Uses to comport with Comprehensive Plan Policy 1-2.6.1
3. Better define uses associated with Essential Public Services and Facilities
4. Standardize dimensional requirements inconsistent with standards in other non-historical, residential, mixed-use and commercial districts

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The proposed modifications should result in the ability of the municipal government to more effectively utilize city property and provide essential public services to the citizens of Key West.

The following members of the public spoke on the matter:

- Margaret Romero, 1615 Washington
- Joanne Alexander, 5601 College
- Joy Brown Taylor, 5607 College #202
- Bart Smith, 624 Whitehead (on behalf of 52 residents)

Mr. Craig responded to public comments stating these amendments are necessary and provide clarification. He added that we believe there is no requirement for amending the Comprehensive Plan and that the existing PS District allows residential use such as nursing homes, rest homes and convalescent homes. Mr. Craig also stressed that “essential public services including but not limited to” means that it is not an exhausted list, which can include homeless shelters. He then stated that homeless shelters serve more than the continually homeless, it can also include all of us who can be homeless in an emergency situation if a hurricane destroyed our homes.

Based on the findings made by the Planning Department, Mr. Gilleran made a motion to recommend to the City Commission the proposed ordinance for the PS Zoning District.

Chairman Klitenick passed the gavel to Vice-Chairman Root.

The motion was seconded by Chairman Klitenick.

Motion fails by 2-2 voice vote (opposed by Mr. Holland and Vice-Chairman Root).

A motion to postpone the proposed ordinance for the PS Zoning District to time certain was made by Mr. Holland and seconded by Vice-Chairman Root.

Motion carried by 3-1 voice vote (opposed by Mr. Gilleran).

SO ORDERED.

Ms. Tennyson and Mr. Oropeza returned to the dias. Mr. Gilleran excused himself from the meeting.

New Business

- 3 Variance - 1210 Washington Street (RE# 00041290-000000) - A request for an 8' fence in the rear and side yard of property located in the HMDR zoning district per Section 122-1183(d).(1).(c) of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Ms. Malo gave members an overview of the variance request. She informed members that the applicant is requesting variances to allow the installation of an 8' privacy fence in the side and rear yards of the property. The applicant has contacted the neighbors and received letters of support. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variance be denied. However, if the Planning Board chooses to approve the variance, the Department recommends the following condition:

1. That a Certificate of Appropriateness is obtained for the fence in accordance with Code Section 122-1183(b).

Chairman Klitenick disclosed that he is currently representing parties that are under contract to purchase an adjacent property and that his disclosure does not pose a conflict. Vice-Chairman Root disclosed that he owns property two doors down from 1210 Washington. Mr. Erskine agreed that both disclosures do not pose a conflict.

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

Motion was carried by unanimous voice vote.

SO ORDERED.

- 4 Conditional Use and Special Exception - 821 Duval Street (RE# 00016820-000000) - A request for a conditional use and special exception to the prohibition of alcoholic beverage sales within 300 feet of a church to operate a bar and lounge at property located within the HRCC-3 zoning district, pursuant to Sections 122-748 (9) and 18-28 (b)(2) of the Code of Ordinances of the City of Key West.**

Mr. Cunningham gave members an overview of the conditional use and special exception request. He informed members that this request is for the conditional use of existing commercial floor area located on the first floor and deck of an existing building. The applicant is proposing a wine bar and lounge with 1,459 square feet of indoor and 408 square feet of outdoor consumption area for a total of 1,867 square feet of consumption area. This amount of floor area can accommodate 124 seats. The applicant would like 120 seats. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, The Planning Department recommends the request for conditional use and special exception be approved with the following conditions:

Condition to be completed prior to the issuance of a certificate of occupancy:

1. ADA access is provided and maintained.

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

2. Hours of operation are limited to Sunday through Thursday 10am to 2am and Friday and Saturday from 10am to 4am.
3. The use is approved for the sale of beer and wine only.
4. There will be no amplified outdoor music on the premises.
5. There will be no additional seats allowed without further City approvals.

Mr. Craig clarified for members that the applicant proposed just the sale of beer and wine. He then stated that Code Compliance Manager, Jim Young, expressed that a programmable distributive sound system would aid in noise complaints since they would be able to monitor the noise in the establishment. He would like for us to establish this with all new restaurant facilities and bars that provide sound.

The applicant, Fran Gonzon, agreed to all of the conditions.

Mr. Holland disclosed that he spoke with Charles Walters, who submitted a letter in opposition of the project. Mr. Holland stated that issues discussed did not prejudice his decision-making capacity.

A motion to approve the conditional use and alcohol special exception request to include amended Planning Department recommendations was made by Vice-Chairman Root and seconded by Mr. Oropeza.

Motion was carried by unanimous voice vote.

SO ORDERED.

PLANNER'S REPORT

- **Development Agreement Annual Review**

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Mr. Craig informed members that the purpose of the status report is to provide a review for good faith compliance with the terms of the development agreement. He stated that Key West Resort and Conference Center as well as Banana Bay had no ongoing development under their agreement. The development for AIDS HELP of Monroe County, Inc. (A.H.M.C.) is complete.

ADJOURNMENT

A motion to adjourn was made by Vice-Chairman Root and seconded by Ms. Tennyson.

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 9:35 pm.

Respectfully submitted by,
Carlene Smith
Development Review Administrator
Planning Department