



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

**To:** Chairman and Planning Board Members

**Through:** Patrick Wright, Planning Director

**From:** Vanessa Sellers, Planner II

**Meeting Date:** February 21, 2019

**Agenda Item:** **Variance – 930 Eaton Street (RE # 00005470-000100)** – A request for a variance to the required 17 off-street parking spaces for property located within the Historic Neighborhood Commercial (HNC-2) Zoning District pursuant to Sections 90-395 and 108-572 (9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

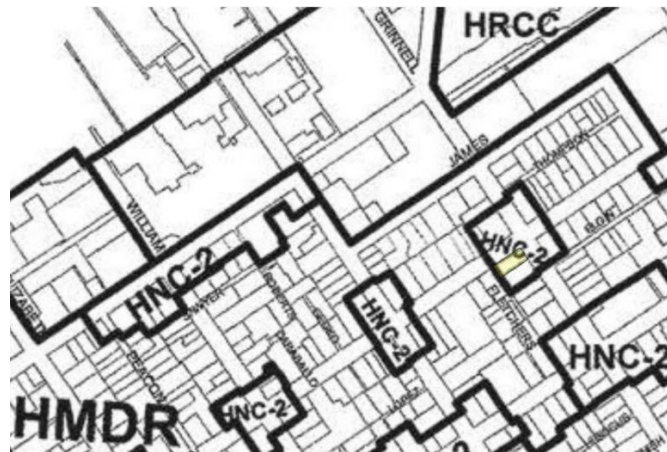
**Request:** The applicant is requesting a variance of fifteen (15) off-street parking spaces. The need for additional parking is the result of an expansion of a take-out only bakery/restaurant to include on-site consumption area. The applicant is proposing two (2) off-street parking spaces plus ten (10) bicycle racks.

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

**Property Owner:** Nina Cay, LLC

**Location:** 930 Eaton Street

**Zoning:** Historic Neighborhood Commercial (HNC-2) Zoning District



**Background:**

The property at 930 Eaton Street is located on the corner of Eaton Street and Grinnell Street and it is one lot of record. It is located within the HNC-2 Zoning District, and it is within the Key West Historic District boundaries.

The applicant is proposing to expand an existing take-out bakery and add onsite consumption areas. Restaurant use is a conditional use in the HNC-2 zoning district, restricted to very limited seating. In addition, the plans submitted would require a variance to the minimum number of parking spaces required for restaurant use.

The following table summarizes the requested variance:

<b>Relevant HNC-2 Zoning District Dimensional Requirements: Code Section 122 - 840</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Maximum height	30'	<30'	No change	No
Minimum lot size	5,000 SF	3,360 SF	No Change	No
Maximum density	16 dwelling units per acre	N/A	N/A	No
Maximum FAR	1.0	<1.0	No Change	
Maximum building coverage	40%	59%	55% (improves upon)	No
Maximum impervious surface	60%	89%	87% (improves upon)	No
Minimum open space (commercial)	20%	11%	12% (improves upon)	No
Minimum front setback	10'	0'	No Change	No
Minimum side setback	5'	3'-9.75"	No Change	No
Minimum street-side setback	7.5'	0'	No Change	No
Minimum rear setback	15'	15'-9.75"	No Change	No
<b>Relevant Off-Street Parking Requirements: Code Section 108-572</b>				
<b>Minimum off-street parking</b>	<b>17 spaces</b>	<b>2 spaces</b>	<b>2 auto spaces + 10 bicycle spaces</b>	<b>Yes</b>

**Process:**

**Planning Board Meeting:**

**February 21, 2019**

**Local Appeal Period:**

**10 days**

**DEO Review Period:**

**up to 45 days**

**Analysis – Evaluation for Compliance with the Land Development Regulations:**

The criteria for evaluating a variance are listed in Section 90-395 of the City Code. The Planning Board, before granting a variance, must find all the following:

1. ***Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.***

The parcel is nonconforming in size, width, and depth. The existing structure sits within the front, street-side, and rear yard setbacks, and the current uses of the property do not conform with the off-street parking requirements of section 108-572. However, these conditions and circumstances are not peculiar and are applicable to other land, structures, or buildings in the HNC-2 zoning district.

NOT IN COMPLIANCE.

2. ***Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.***

The applicant is proposing to add 762-square-feet of consumption area to an existing take-out bakery, which will trigger the need for additional off-street parking. The conditions and circumstances are generated from specific actions initiated by the applicant.

NOT IN COMPLIANCE.

3. ***Special privileges not conferred. That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings, or structures in the same zoning district.***

Section 122-27 of the Land Development Regulations discourages the expansion of site nonconformities. Therefore, permitting the addition of 762-square-feet of consumption area without the required minimum number of off-street parking spaces would confer special privileges upon the applicant.

NOT IN COMPLIANCE.

4. ***Hardship conditions exist. That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.***

The parcel at 930 Eaton Street is limited in land area and, thus, the amount of off-street parking it can provide. However, the applicant is proposing to increase the existing nonconformity by converting an existing outdoor storage area and existing indoor retail area to consumption area. Literal interpretation of the provisions of the land development

regulations would not deprive the applicant of rights commonly enjoyed by other properties in the HNC-2 zoning district under the terms of this ordinance and would not work unnecessary and undue hardship on the applicant.

NOT IN COMPLIANCE.

5. *Only minimum variance granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

The variance requested is not the minimum required that will make possible the reasonable use of the land, building, or structure. However, it is the minimum necessary to accommodate the request.

NOT IN COMPLIANCE.

6. *Not injurious to the public welfare. That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.*

Due to the non-compliance with all the standards for considering variances, the granting of the requested variance would be injurious to the area involved and otherwise detrimental to the public interest.

NOT IN COMPLIANCE.

7. *Existing nonconforming uses of other property not the basis for approval. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

Existing non-conforming uses of other properties, use of neighboring lands, structures, or buildings in the same district, or other zoning districts, are not the basis for this request.

IN COMPLIANCE.

**Concurrency Facilities and Other Utilities or Service (Section 108-233):**

It does not appear that the requested variance will trigger any public facility or utility service capacity issues.

**The Planning Board shall make factual findings regarding the following:**

*That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.*

The standards established by Section 90-395 of the City Code have not been fully met by the applicant for the variances requested.

*That the applicant has demonstrated a “good neighbor policy” by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors.*

The Planning Department has not received any public comment for the variance request as of the date of this report.

**RECOMMENDATION:**

Pursuant to Section 122-32 (d), a nonconforming use shall not be extended, expanded, enlarged, or increased in intensity.

Pursuant to Section 108-571, parking shall be provided in all districts at the time any building or structure is erected or enlarged or increased in capacity by a change of use or the addition of dwelling units, transient units, floor area, seats, beds, employees, or other factors impacting parking demand.

Pursuant to Section 108-575 (5), whenever a building or use is enlarged in floor area, number of dwelling units, seating capacity, or in any other manner so as to create a need for a greater number of parking spaces than that existing, such spaces shall be provided in accordance with this section. Any parking deficiency shall be brought into conformity concurrently with the enlargement or change of use.

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**.

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

**General Conditions:**

1. The proposed development shall be consistent with the plans dated February 8, 2019 by Aileen Osborn, Registered Architect. No approval granted for any other work or improvements shown on the plans other than the proposed onsite-consumption area with one standard-sized parking stall, one ADA compliant parking stall, and 10 spaces for bicycle parking.
2. This parking variance is valid only if the restaurant use as a conditional use in the HNC-2 zoning district is approved by the Planning Board.