

EXECUTIVE SUMMARY



To: Jim Scholl, Interim City Manager
Through: Donald Leland Craig, AICP, Planning Director
From: Carlene Smith, LEED Green Associate, Planner II
Meeting Date: October 21, 2014

RE: **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.

ACTION STATEMENT:

Request: A phased development to construct an open-air restaurant, storage and ADA accessible bathrooms and locate a food preparation trailer as phase 1 and an addition to replace the booths as phase 2.

Applicant: Trepanier and Associates, Inc.

Property Owner: Duval Lot, LLC

Location: 629 Duval Street (RE# 00012440-000100; AK#1012815)

Zoning: Historic Neighborhood Commercial Core (HRCC-1) zoning



BACKGROUND:

The applicant proposes a phased development. Phase one will consist of two ADA accessible bathrooms and a service and storage building be constructed to the north central portion of the property. Adjacent to the east would be the location of the kitchen trailer for food preparation. The remaining open areas would be graded and landscaped to accommodate the consumption area, bicycle and scooter parking.

Phase two is proposed for the demolition of the booths. They would be replaced with an addition to the building from phase one. The addition would include replacement retail spaces flanking a covered entranceway to the restaurant area. The applicant, as part of discussions with staff, requests that the time frame for total completion of the project be four years from date of development plan approval. If the applicant is unable to complete the project within this time frame, the second phase will require a separate application approval process.

The minor development plan and the parking variance was approved by the Planning Board on September 26, 2013. The Planning Board approved the application despite the recommendation for denial by the planning staff. Relevant portions of the staff analysis are highlighted in the attached report from staff to the Planning Board. Staff’s concerns were centered on the lack of parking for a restaurant, the applicant’s insistence that no variance was required, that the City had no jurisdiction, and that the applicant began operations without approval. And finally that the applicant used the ruse of a “licensed vehicle” to avoid what would normally be considered a structure and subject to all LDRs. The applicant then moved forward to HARC on April 24, 2014, who approved all aspects except for the trailer. The decision regarding the trailer was overturned by the magistrate and the city did not appeal that decision. The code case regarding the food truck on the subject property was dismissed since the HARC decision was overturned.

City Actions:

Development Review Committee Meeting:	November 16, 2012
Planning Board Meeting:	May 16, 2013, postponed
	June 20, 2013, postponed
	July 18, 2013, postponed
	September 26, 2013 (Res 2013-50 / MDP)
	September 26, 2013 (Res 2013-51/Parking Var)
HARC Meeting:	April 24, 2014 (H13-01-823)
Tree Commission:	Pending Review (Staff approval)

PLANNING STAFF ANALYSIS:

Development Plan Review

Section 108-91 A(1)b of the City of Key West Land Development Regulations requires that any proposed plan within the historic district including the addition or reconstruction of 500 to 2,499 square feet of gross floor area shall require a Minor Development plan. Section 108-196(a) of the Land Development Regulations states that “after reviewing a Major Development Plan or a Minor Development Plan for a property and staff recommendations, the Planning Board shall act by resolution to approve, approve with conditions, or disapprove it based on specific development review criteria contained in the Land Development Regulations and the intent of the Land Development Regulations and Comprehensive Plan.” A Minor Development Plan in the historic district is advisory to the City Commission.

City Code Section 108-198 states that the City Commission shall approve with or without conditions or disapprove the development plan based on specific development review criteria contained in the LDRs and based on the intent of the LDR's and Comprehensive Plan. The City Commission may attach to its approval of a development plan any reasonable conditions, limitations or requirements that are found necessary, in its judgment, to effectuate the purpose of this article and carry out the spirit and purpose of the comprehensive plan and the LDR's. Any condition shall be made a written record and affixed to the development plan as approved. If the City Commission disapproves a development plan, the reasons shall be stated in writing.

The proposed restaurant is a new, higher intensity use, in an already congested commercial corridor. The property without the restaurant retains a reasonable economic use. Any less intense use of the property, with lesser parking demands could be proposed.

Landscape Modification / Waiver Review

The applicant has requested a modification to Section 108-412(a) to reduce minimum landscape area from 20% to 14% and 108-413(b) to reduce the minimum depth of landscape along the street frontage from 10' to 3' provided. While Staff supports the waiver of the street frontage buffer, staff cannot support the waiver to open space as the site is largely vacant and can support the open space requirement. The Urban Forester will review the landscape plan prior to the City Commission hearing.

Options / Advantages / Disadvantages:

Option 1. Approve the Minor Development Plan request as recommended by the Planning Board via Resolution 2013-50 for the phased development to construct an open-air restaurant, storage and ADA accessible bathrooms and locate a food preparation trailer as phase 1 and an addition to replace the booths as phase 2, with the following conditions:

Please note that the Planning Board assigned no conditions to the project largely due to the applicant's position that the proposed use was not subject to the LDRs. Now that the applicant is asking for approval under the same LDRs for which he has such great disdain, staff is recommending a series of conditions for this use, which is not in any way a temporary food outlet, such as a mobile vendor, or food truck.

General Conditions:

1. Hours of operation (excluding City approved special events) are limited to 8 a.m. to 12 a.m., 7 days a week.
2. The applicant shall obtain a Conditional Approval Permit, pursuant to Section 18-610, in order to allow Code Compliance to assure consistency with the LDRS and conditions assigned for such a high intensity use.
3. New and any replacement lighting shall be designed to "Dark Sky" lighting standards.
4. The owner shall comply with the plans dated September 4, 2013 as a condition of approval and specifically incorporated herein.
5. Impact fees for the 43 seats shall be paid in full prior to issuance of certificate of occupancy.
6. If the applicant is unable to complete the project within four years from date of development plan approval, the second phase will require a separate

application approval process, and be subject to the Land Development Regulations then in place.

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

7. The applicant shall renew the Conditional Approval Permit issued by the City on an annual basis. The renewal is due on May 31st of every year.
8. Grease interceptor shall conform to the requirements of the Florida Building Code, and pay all applicable fees associated with such disposal, inclusive of plant investment fees for sewage disposal.
9. There shall be no music (amplified or vocal), entertainment, or special events of any kind permitted outdoors on this site unless approved under a special event permit per Section 6-86 of the Code of Ordinances.
10. The applicant will recycle materials accepted by the city's waste handling contractor.
11. Outdoor consumption area is limited to only what is depicted on the plans dated September 4, 2013.
12. The total number of seats shall not be more than forty-three (43).

Consistency with the City's Strategic Plan, Vision and Mission: Granting the request would be consistent with Economy and Environment goals of the Strategic Plan.

Financial Impact: The City would collect building permit, licensing and impact fees during subsequent phases of development. There would be no cost to the City for granting the request.

Option 2. Deny the request based on findings that the proposed development does not comply with the criteria established by the Comprehensive Plan and the Land Development Regulations.

Consistency with the City's Strategic Plan, Vision and Mission: Denial of the requested easement would not be inconsistent with the Strategic Plan.

Financial Impact: There would be no cost to the City for denying the request.

RECOMMENDATION: Option 1.

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, Staff and the Planning Board recommends **Option 1** to the City Commission approving the request with conditions listed above.