

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



To: Chair and Planning Board Members

From: Vanessa Sellers, Planner II

Through: Patrick Wright, Planning Director

Meeting Date: February 21, 2019

Agenda Item: **Conditional Use – 930 Eaton Street (RE # 00005470-000100; AK # 8916981)** – A request for conditional use approval to allow for restaurant use with indoor and outdoor consumption area in an existing bakery and retail building on a parcel located within the Historic Neighborhood Commercial District (HNC-2) zoning district pursuant to Sections 122-62 and 122-838 (9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

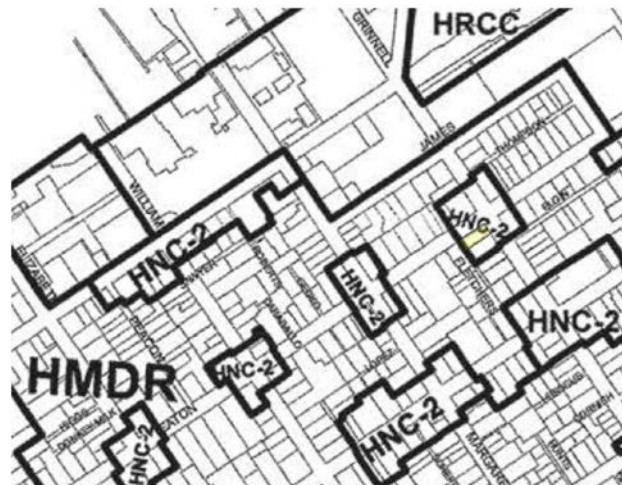
Request: Conditional use approval in order to operate a restaurant without drive-through in the HNC-2 zoning district.

Applicant: Trepanier & Associates, Inc.

Property Owner: Nina Cay, LLC

Location: 930 Eaton Street, Key West

Zoning: Historic Neighborhood Commercial District (HNC-2)



Background:

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

There are two (2) active business licenses attached to the property:

Number	Classification
24635	Food Service: Catering / Take-Out Only
33133	General Service Provider

The property is divided into 3 units: A, B, and C. Units A & B are currently occupied by Old Town Bakery (food service: catering/take-out only), and Unit C is occupied by Shea’s Pet Grooming (general service provider).

The applicant is proposing a three-phase project to expand the bakery/sandwich & soup take-out shop to include onsite indoor and outdoor consumption:

Phase 1: Add 249.85-square-feet of indoor consumption area (14 seats).
Add 347.5-square-feet of outdoor consumption area (23 seats).

Phase 2: Add 164.45-square-feet of indoor consumption area (13 seats).
Reconfigure the existing restrooms to create one (1) ADA compliant women’s restroom and one (1) ADA compliant men’s restroom.

Phase 3: Eliminate the general service provider use on the property and extend the back of house/kitchen.

Pursuant to section 108-572 of the LDRs, restaurant use requires a minimum of one (1) off-street parking space per 45-square-feet of consumption area. The addition of a total of 762-square-feet of consumption area will trigger the need for 17 off-street parking spaces. The proposed plans show two (2) off-street parking spaces and racks to accommodate up to 10 bicycles. Therefore, a parking variance is required.

Surrounding Zoning and Uses:

North: HNC-2 – An adult education center (conditional use approved via Resolution 2016-58)

South: HNC-2 – Residential

East: HNC-2 – Restaurant (License no. 25912 - Food Service: 1-15 Seats)

West: HMDR – Residential

Process:

Development Review Committee:	January 24, 2019
Planning Board:	February 21, 2019
Local Appeal Period:	10 days
DEO Review:	Up to 45 days

Conditional Use Review:

The purpose of conditional use review, pursuant to City Code Section 122-61, is to ensure that a conditional use shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity. City Code Chapter 122, Article III sets forth provisions and criteria for consideration of conditional uses on specific sites. Conditional uses shall be permitted only upon a finding that the proposed use satisfies this article.

Conditional Use Specific Criteria pursuant to Code Section 122-62:

(a) Findings

Code Section 122-62(a) provides, in part, that “a conditional use shall be permitted upon a finding by the Planning Board that the proposed use, application, and, if applicable, development plan comply with the criteria specified in this section, including specific conditions established by the Planning Board and/or the City Commission during review of the respective application in order to ensure compliance with the comprehensive plan and land development regulations.” This section also specifies that “a conditional use shall be denied if the city determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is adverse to the public’s interest.”

(b) Characteristics of use

The proposed use is a bakery with onsite consumption. Part of the property is currently operating as a bakery with no onsite consumption area. The property is located on the corner of Eaton Street and Grinnell Street, and it is in close proximity to residential use.

The parcel is located in the HNC-2 zoning district which is defined as an area that is a historic neighborhood commercial district restricted to small offices, neighborhood shops, restaurants with very limited seating, or other commercial uses similar in character to traditional neighborhood commercial services which have very limited square footage and generate low volumes of traffic. Pursuant to section 122-836, in the future, in-fill within the HNC-2 district shall be strictly governed by performance criteria which ensures continued land use compatibility and stability within and among adjacent residential areas. The HNC-2 district mixed-use subareas are comprised of both residential and commercial activities and shall continue to be allowed to develop as mixed-use neighborhood centers. Qualitative and quantitative performance criteria shall be used to prevent encroachment by incompatible commercial uses characterized by excessive scale and intensity.

(1) Scale and intensity of the proposed conditional use as measured by the following:

a. Floor area ratio (FAR):

The proposed renovation and addition of consumption area will not add additional floor area to the property. The total parcel area is 3,360-square-feet. The permitted FAR in the HNC-2 zoning district 1.0. The existing FAR is .71 (2,391.5 sq. ft.) and there is no proposed change at this time.

b. Traffic generation:

The Institute of Transportation Engineers (ITE) 7th Edition does not provide trip generation estimates to fit a coffee/bread/sandwich shop use specifically. However, staff was able to locate a report by the Technical Committee of the Colorado-Wyoming Section of the ITE. The study was submitted to the ITE for use in a future edition. The data submitted is shown in the table below. The counts for all of the sites were in either suburban areas or urban areas not in the central business district, similar to that of 930 Eaton Street.

Site #	Square Footage	Trip Generation Rate per 1,000 SF GFA							
		AM Peak Hour of Adjacent Street				PM Peak Hour of Adjacent Street			
		Enter	Exit	Total	% DT	Enter	Exit	Total	% DT
1	2,000	60	58	118	28	23	23	46	
2	1,916	63	56	120	28				
3	1,798	73	81	154	26				
4	2,616	44	49	92	44	16	20	37	51
5	1,517	40	42	81	81	11	13	24	73
6	1,465	81	76	158	61	18	25	43	64
7	1,750	77	70	147	66	17	17	34	50
8	1,520	73	73	146	63	18	18	36	54
9	2,500	33	28	60	46	14	14	28	51
10	1,197	50	67	117		22	14	36	
11	2,646	37	36	73	73				
12	1,500	83	81	164	62				
Average	1,869 SF	56.81	56.63	113.44	50.8%	17.30	18.13	35.43	55.5%

Table 4: Peak Hour Trip Generation Rates per 1,000 SF. Peak hours reference peak hour of adjacent street traffic. All data rounded off to the nearest integer. Blank cells designate an uncounted value.

For comparison, according to the Institute of Transportation Engineers (ITE) 7th Edition, Volume 3 of 3, a high-turnover (sit-down) restaurant (land use code 932) has an average trip generation of 127.15 vehicles on a weekday per 1,000-square-feet of gross floor area.

The gross floor area of the proposed coffee/bread/sandwich shop is 2,391.5-square-feet. The reduction of gross floor area used for general service provider and the increased area used for the bakery/restaurant without a drive-through is expected to increase traffic generation.

c. Square feet of enclosed space for each specific use:

There are two specific uses existing within the 2,391.5-square-foot building: food service take-out only and general service provider. As depicted in the plans and application, following 3-phases of redevelopment, the entire property will function as a coffee/bread/sandwich shop and 762-square-feet will be used for consumption area.

d. Proposed employment:

No additional employment is proposed. According to the applicant, a guest of the bakery will place and pickup their order at the counter and table service will not be offered. Therefore, it is “business as usual.”

The existing employment for the general service provider will cease.

e. Proposed number and type of service vehicles:

Staff does not anticipate any adverse impacts from service vehicles.

f. Off-street parking needs:

The off-street parking requirement for restaurants is 1 space per 45-square-feet of consumption area. The applicant is proposing 762-square-feet of consumption area; therefore, the off-street parking requirement is 17 spaces. The proposed plans show two off-street parking stalls, of which one is handicapped accessible. In addition, the plans propose a dedicated space for up to ten (10) bicycles. The project as proposed will require a parking variance.

(2) On- or off-site improvement needs generated by the proposed conditional use and not identified above including the following:

a. Utilities:

Staff does not anticipate any improvement needs regarding utilities.

b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in City Code Chapter 94:

None expected. Compliance with building codes and life safety codes would be required prior to building permit issuance. Based on comments at the DRC, it does not appear the conditional use will trigger any public facility capacity issues.

c. Roadway or signalization improvements, or other similar improvements:

None expected.

d. Accessory structures or facilities:

None proposed.

e. Other unique facilities/structures proposed as part of site improvements:

None proposed.

(3) On-site amenities proposed to enhance site and planned improvements, including mitigative techniques such as:

a. Open space:

The parcel is currently nonconforming to commercial open space requirements. A small change is proposed to improve the nonconformity by 1%, or 43-square-feet.

b. Setbacks from adjacent properties:

No changes proposed.

c. Screening and buffers:

A new 43-square-foot landscape area has been installed between the sidewalk on Eaton Street and the proposed bicycle parking area.

d. Landscaping berms proposed to mitigate against adverse impacts to adjacent sites:

No landscaping berms are proposed.

e. Mitigative techniques for abating smoke, odor, noise and other noxious impacts:

No noxious impacts expected.

(c) Criteria for conditional use review and approval

Pursuant to City Code Section 122-62(c), applications for a conditional use shall clearly demonstrate the following:

(1) Land use compatibility:

The proposed use would be located in the HNC-2 zoning district. Per Section 122-836, the intent of the HNC-2 zoning district is restricted to small offices, neighborhood shops, restaurants with very limited seating, or other commercial uses similar in character to traditional neighborhood commercial services which have very limited square footage and generate low volumes of traffic. The applicant is proposing a total of fifty (50) seats.

(2) Sufficient site size, adequate site specifications and infrastructure to accommodate the proposed use:

The site is not of sufficient size to accommodate the minimum off-street parking requirement for 762-square-feet of consumption area. The applicant has applied to the Planning Board for a parking variance.

(3) Proper use of mitigative techniques:

No mitigative techniques were proposed in the plans.

(4) Hazardous waste:

None expected or proposed.

(5) Compliance with applicable laws and ordinances:

Compliance with all applicable laws and regulations would be required.

(6) Additional criteria applicable to specific land uses:

Applicants for conditional use approval shall demonstrate that the proposed conditional use satisfies the following specific criteria designed to ensure against potential adverse impacts which may be associated with the proposed land use:

- a. **Land uses within a conservation area:** Not applicable.
- b. **Residential development:** No residential development is proposed with this application.
- c. **Commercial or mixed-use development:** The commercial development proposed as a conditional use was reviewed for land use compatibility based on compliance with divisions 2 through 14 of article IV and divisions 2 and 3 of article V of chapter 122 pertaining to zoning district regulations, including size and dimension regulations impacting floor area ratio, setbacks, lot coverage, height, mass of buildings, building coverage, and open space criteria. Land use compatibility also was measured by appearance, design, and land use compatibility criteria established in chapter 102; articles I, II, IV and V of chapter 108; section 108-956; and article II of chapter 110; especially protection of historic resources; subdivision of land; access, pedestrian access and circulation; internal vehicular circulation together with access and egress to the site, and off-street parking; as well as possible required mitigative measures such as landscaping, buffering, and other site design amenities.

The increased traffic generation and inadequate off-street parking may trigger negative effects on the surrounding area. In addition, the proposed outdoor consumption area is adjacent to a residential use. No mitigative measures were proposed for this area in the plans.

- d. **Development within or adjacent to historic district:** The development is located within the Key West Historic District.
- e. **Public facilities or institutional development:** Not applicable.
- f. **Commercial structures, uses, and related activities within tidal waters:** Not applicable.
- g. **Adult entertainment establishments:** Not applicable.

RECOMMENDATION:

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

Pursuant to Section 122-836, "Intent", the HNC-2 zoning district is restricted to small offices, neighborhood shops, restaurants with very limited seating, or other commercial uses similar in character to traditional neighborhood commercial services which have very limited square footage and generate low volumes of traffic.

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request for Conditional Use be **DENIED**.

However, if the Planning Board approves this request, staff recommends the following conditions:

General conditions:

1. There will be no amplified music allowed in the outdoor consumption area associated with this use. Additional floor area or consumption area will require the parking requirements of Section 108-572 be met and will require further City approvals.
2. Hours of operation shall be 7 days a week, 7am – 5pm. Any increase in hours of operation will require an amendment to the conditional use.
3. The conditional use and site improvements/renovations shall match approved plans dated February 8, 2019 by Aileen Osborn, Registered Architect.
4. The project must first receive applicable approvals from HARC before the issuance of building permits.
5. The project must receive a parking variance in the amount of fifteen (15) off-street parking spaces from the Planning Board.

Conditions prior to issuance of a Certificate of Occupancy and/or Business Tax Receipt:

6. The owner shall obtain and maintain a Conditional Approval Permit, pursuant to City Code Chapter 18, Article XII, Division 1. The City Code Compliance shall inspect the property on an annual basis upon reasonable notice to determine compliance with the conditions of the Planning Board resolution.
7. All applicable impact fees must be paid in full.