

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



**To:** Chair and Planning Board Members

**From:** Melissa Paul-Leto, Planner Analyst

**Through:** Patrick Wright, Planning Director

**Meeting Date:** July 20, 2017

**Agenda Item:** **Variance – 1119 White Street (RE # 00034460-000000) -** A request for a variance to parking requirements to allow for substitution of bicycle parking spaces on property located within the Historic Neighborhood Commercial (HNC-1) Zoning District pursuant to Sections 90-395, 108-572 (9) and 108-574 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

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**Request:** The applicant is requesting a variance for bicycle substitution by providing 40 excess bicycle spaces as an equivalent to 10 vehicular spaces (at ratio of 4 bike spaces = 1 vehicular space).

**Applicant:** Trepanier and Associates, INC.

**Property Owner:** 1119 White Street LLC.

**Location:** 1119 White Street (RE # 00034460-000000)

**Zoning:** Historic Neighborhood Commercial (HNC-1)



**Background:**

The subject property is 1119 White Street and is located on the corner of White and Catherine Street. The property is surrounded by the Historic Public and Semipublic Services (HPS) and Historic Medium Density Residential (HMDR) Zoning Districts.

The applicant submitted an application and went forward to the Planning Board on the June 15, 2017 meeting for a proposed Minor Development Plan for the inclusion of outdoor seating, Conditional Use for the expansion of seats from 24 to 56 seats, Landscape Waiver and a parking variance for 14 parking spaces.

Since the June meeting, the applicant has changed the proposed design to include the following: the seven parking spaces on the property will remain, the amount of seats has changed from 56 to 50 seats, the proposed consumption area has decreased from 827 square feet to 750 square feet and the Parking Variance has been changed to a bicycle substitution request.

The proposed Modification to the Minor Development Plan, Conditional Use and Landscape Waiver seeks to include 50 seats within a 750 square foot of consumption area. The proposal is located in the Historic Neighborhood Commercial (HNC-1) zoning district which allows restaurants, excluding drive-through as a Conditional Use. The project was granted a Minor Development Plan, Conditional Use and Parking Variance in 2002:

- City Commission Resolution 02-101, 1119 White Street was granted a Minor Development Plan and Conditional Use for a 24 seat Bakery/ Restaurant within a 270 square foot consumption area;
- Board of Adjustment Resolution 02-142, 1119 White Street was granted an addition of 90 square feet of consumption area (6 seats) to a Bakery/Restaurant by granting a variance to Article XV, Section 3-15.2.C, substitution of bicycle parking spaces.
- Planning Board Resolution 2002-05, 1119 White Street was granted a Conditional Use approval for the redevelopment of an existing building and parking lot into a 24 seated Bakery/Restaurant.

In 2007, the property operated as a health/ fitness club up until September of 2016. The Island Gym is a permitted use under the retail use. The Island Gym was in compliance with the existing required parking.

The applicant is proposing 7 vehicle parking spaces, therefore a bicycle substitution is being requested for the remaining 10 vehicle parking spaces. As per Section 108-574, the ratio of four (4) bicycle parking spaces being equivalent to one (1) vehicle parking space.

<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Proposed on Plan</b>	<b>Change / Variance Required?</b>
Minimum Number of Parking spaces required for: Section 108-572(9) 1 space per 45 sq. ft. and Bicycles as 25% of motor vehicles	17 vehicle spaces 5 bicycle spaces	7 vehicle spaces 40 bicycle spaces for substitution of 10 vehicular parking spaces, 5 bicycle spaces as 25% of motor vehicles	<b>Variance for bicycle substitution by providing 40 excess bicycles = 10 vehicular spaces and a additional 5 bicycle spaces= 25% of motor vehicles space required</b>

**Process:**

Planning Board:	June 15, 2017 (Postponed)
Planning Board:	July 20, 2017
Local Appeal Period:	10 days
DEO Review:	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. An applicant for development plan approval pursuant to article II of the land development regulations may file a request for a variance to substitute additional bicycle parking (i.e., bicycle parking in excess of that required pursuant to section 108-572). The planning board may grant such variance upon a finding that such additional bicycle parking would be beneficial and would satisfy the specific conditions of sections 90-394 and 90-395. However, hardship conditions shall not be a mandatory condition of obtaining the subject variance. If the planning board determines the requested bicycle parking is compliant with the referenced criteria, the planning board shall require that such additional parking be located on a site within 100 feet of the subject site. Furthermore, in determining the appropriate substitution, four bicycle parking spaces shall be equivalent to one motorized vehicle parking space. All such approved bicycle parking spaces shall satisfy pavement, maintenance, and construction specifications of subdivision II of this division as well as bicycle parking, design, lighting, and security criteria of section 108-643.

***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 property is located in the Historic Neighborhood Commercial (HNC-1) Zoning district. Currently, the one story structure is unoccupied. There was recently a health/fitness club known as, Island Gym at this location. The establishment closed last September of 2016. The Island Gym is considered retail use, and is a permitted use in the HNC-1 zoning district. The parking requirement for retail use is, one (1) parking space per 300 square feet. The Island Gym was in compliance with the parking requirements. The applicant is increasing a previously approved Minor Development Plan, Conditional Use and Parking Variance which requires a Modification to the Minor Development Plan, a new Conditional Use, Landscape Waiver and Parking Variance approval. The parking requirements for restaurant use are one (1) parking space per 45 square feet of consumption area. The land does not offer enough space for the 17 required vehicular parking spaces needed for the proposed consumption area. However, the land does have enough space to accommodate adequate parking and fulfill the LDR parking requirements for other commercial uses such as retail and office without the need for a parking variance. Special conditions or circumstances do not exist.

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.***

It is the applicant's decision to request 50 seats for a restaurant use within a 750 square foot consumption area. In effect, doubling the 24 seats and the 360 square feet of consumption area that was previously approved in 2002. These conditions are created 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 108-572 (9) identifies the parking requirements for restaurants, bars and lounges. Section 108-574 allows the Planning Board as part of the development plan approval to request a variance to parking requirements for bicycle substitution. Granting a variance to parking requirements would confer special privileges upon the applicant denied by the land development regulations to other lands, buildings or structures in the same zoning district.

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.***

Literal interpretation of Section 108-572 (9) would not deprive the applicant of rights commonly enjoyed by other properties in the same district, nor would it work unnecessary and undue hardship on the applicant. The subject property currently has the rights to a restaurant use, as it was previously approved for a Conditional Use to allow for a restaurant in 2002. The required total vehicle parking of 17 vehicular spaces and 4 bicycle parking spaces is a result of the applicant increasing the amount of seats and consumption area of the property in which the code requirement of Section 108-572 (9) requires one (1) vehicle parking spaces per 45 square feet of serving and/or consumption area. The intent of the applicant to promote bicycle and multi-modal transportation is supported by staff and also meets the intent of several of the transportation polices, objectives and goals of the City's Comprehensive Plan. Hardship conditions do not exist.

NOT REQUIRED.

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 request is not the minimum necessary that will make possible the reasonable use of the land and structure as proposed by the applicant. The characteristics of the proposed project and the associated conditional use require seventeen (17) parking spaces as determined by the Land Development Regulations.

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.***

The requested variance will not be injurious to the public welfare, it will be beneficial to the public welfare by providing a large amount of bicycle parking. There is a sharrows on White Street in front of the subject property for a shared lane use. The neighborhood in and around the site has transit and bicycle routes that easily connect it to the rest of the City. As mentioned above Section 108-574 allows the Planning Board as part of development plan approval to request a variance to parking requirements for bicycle substitution. Granting the requested variance would be in harmony with the general intent and purpose of the land development regulations and not be injurious or detrimental to public welfare.

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 would trigger any public facility 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.***

Pursuant to Code Section 90-392, in granting such application the Planning Board must make specific affirmative findings respecting each of the matters specified in Code Section 90-394. However, hardship conditions shall not be a mandatory condition of obtaining the subject variance.

***The planning board shall not grant a variance to permit a use not permitted by right or as a conditional use in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district.***

Restaurants, bars and lounges are a conditional use in the HNC-1 zoning district.

***No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.***

No such grounds were considered.

***No variance shall be granted that increases or has the effect of increasing density or intensity of a use beyond that permitted by the comprehensive plan or these LDRs.***

No density or intensity of a use would be increased beyond that permitted by the comprehensive plan or these LDRs.

**RECOMMENDATION:**

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variance be **denied**.