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May 24, 2107

Key West Planning Board  
c/o Key West Planning Department  
Attn. Mellisa Paul-Leto, City Planner

Via email: [mleto@cityofkeywest-fl.gov](mailto:mleto@cityofkeywest-fl.gov)  
and Hand Delivered to City Hall

SUBJECT: Objection to 1119 White Street Variance & Conditional Use Applications filed 1/23/17

Dear Planning Board Members,

My husband Bob Kruse and I live at 1213 White Street. Our home is on the same side of White Street and one building away from the proposed project. We and 26 surrounding neighbors previously appeared before this board to oppose a similar restaurant and parking variance at 1200-1206 White Street, which is located diagonally across the street from the project now under your consideration. (The board initially approved that variance and conditional-use restaurant, but after a long appeals process, the applications were withdrawn by the applicant and vacated by the planning department.)

Our reason for objecting to this project's application for a restaurant (whether 54-seats as described in the notice or 70-seats as stated in the application) and a 14-space parking variance remains the same: **Introduction of a restaurant at a site without sufficient off-street parking to meet it's own parking demands creates an intensity of use that would have a lasting and severely detrimental impact on the property values and quality of life of the surrounding residents and business owners.**

Our neighborhood is designated HNC-1. That designation was intended to promote a compatible mix of residential and light-commercial uses in this district. Light commercial uses are those permitted-by-right. They include retail sales, florists, doctor and professional offices, art galleries, hair salons, frame shops, yoga/gym/fitness studios, real estate offices, etc. The parking requirements for such permitted-by-right uses are 1 space per 300 sf. Restaurants are not a permitted-by-right use in our district. The parking requirements for a restaurant are 1 space per 45 sf. These far greater parking requirements reflect the far greater parking demands created by restaurants.

Restaurants, by their very nature, greatly increase the intensity of use compared to permitted-by-right businesses. In addition to the substantial increase in parking demands, restaurants are incompatible for many other reasons. They create more noise and odor pollution. They generate more garbage, waste disposal and sanitation problems. They greatly increase the intensity of vehicular and pedestrian traffic. (A traffic analysis prepared by the Applicant's own traffic consultant estimates that at least 237 daily trips will be generated by the proposed "High-Turnover Sit-Down Restaurant". See page 2 of KBP Consulting Inc., traffic analysis attached to the Application.)

Applicant's proposed restaurant will require at least 14 on-street public parking spaces. There are only 6 on-street public parking spaces in entire block of the proposed restaurant. Applicant's business plan would devour all the public parking spaces in that block which now serve 8 existing businesses (not including the church next door to the project which has its own parking lot). The proposed restaurant use would also have an adverse and permanent domino-effect on the parking availability for residents and business owners in the adjacent blocks and side streets.<sup>1</sup> Incredibly, the Applicant also proposes to eliminate 2 of his existing 7 on-site spaces in order to create additional outside seating.

The Applicant refers to his application as an "amendment" to a 2002 minor development plan, conditional use and variance approval for a previous take-away bagel shop at the site. This is a misstatement of the facts and the law. The previous non-conforming bagel shop closed and it's conditional-use approval was abandoned over 10 years ago.<sup>2</sup> Section 122.30 of the Key West Code of Ordinances provides: "IF A NONCONFORMING USE CEASES... ANY AND EVERY FUTURE USE OF THE BUILDING OR STRUCTURE AND/OR PREMISES SHALL BE IN CONFORMITY WITH THE USE SECTIONS OF THE LAND DEVELOPMENT REGULATIONS... A NONCONFORMING USE SHALL BE CONSIDERED ABANDONED WHEN SUCH USE HAS CEASED FOR A PERIOD OF 24 MONTHS.")

This should not be a difficult decision for the Planning Board. Section 90-395 of the city's land development regulations require that an applicant satisfy all of the 7 criteria before a variance may be lawfully approved. In this case, the Applicant does not meet any of the criteria. Specifically:

(1) Existence of special conditions or circumstances: There are no special conditions or circumstances unique to this site. Every property in this midtown HNC-1 district faces similar off-

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<sup>1</sup> The 1200 block of White just south of the proposed project contains only 19 on-street public parking spaces which already serve 16 businesses and 17 residential units (2 single family homes and 15 multi-family units). The remaining 1100 block of White north of Eliza Street contains only 10 on-street public parking spaces which already serve 9 businesses and 5 multi-family residential units.

<sup>2</sup> See page 4 of Monroe County Property Appraiser's Notes attached to Applicant's current (2017) application: "1/10/2007 RENOVATION OF 1800 SQ FT COMMERCIAL BUILDING INTERIOR CHANGE USE FROM 24 SEAT REST. TO GYM." (emphasis added).

street parking limitations and the same needs for on-street public parking by its residents and business customers and employees.

(2) Conditions not created by applicant: The Applicant's plan to introduce an intrusive, intensive conditional-use restaurant at the site is the sole cause and creation of the conditions necessitating a 14-space parking variance.

(3) Special privileges not conferred: Granting this Applicant a 14-space parking variance and approval to eliminate 2 existing parking spaces for the purpose of introducing a restaurant not permitted-by-right in this district would confer upon this Applicant special privileges denied to all other property owners in the same zoning district.

(4) Hardship conditions exist: The Applicant argues that undue hardship exists because there are "conflicts" between the Comprehensive Plan and the Land Development Regulations. Even if such conflicts exist, the hardship is not unique to this particular Applicant or to this particular property. The alleged conflicts would affect an entire class of property owners governed by the same zoning laws. The Planning Board may be authorized to hold public hearings and make changes to the Comprehensive Plan or the Land Development Regulations which are more (or less) favorable for all property owners in a zoning district -if the board decides there are conflicts in the existing zoning code, or if the board wants to remove cumbersome parking requirements for all businesses in a zoning district, or if the board no longer wishes to protect the "livability" for residents in mixed-use neighborhoods - but it does not have the legal authority to grant an individual property owner a variance from the existing zoning laws imposed upon all other property owners in the district if that applicant does not meet the existing criteria for a variance.

In this case, criteria 4 is not met by the Applicant. The existing land development regulations, regardless of conflicts, do not deprive the Applicant of reasonable economic use of his property. The site has served our neighborhood for the last 6 or 7 years as a gym and fitness center. This use, or any other permitted-by-right business (retail sales, florists, doctor and professional offices, art galleries, hair salons, frame shops, real estate offices, etc.) may be conducted at the site without the need for any parking variance whatsoever. With its 7 existing off-street parking spaces, the site now fully accommodates its own parking demands for permitted-by-right commercial uses (1866 sf x 300 sf per 1 space = 6.2 spaces).

(5) Only minimum variance granted: The proposed 14-space parking variance is needed only because Applicant proposes to introduce an intrusive, higher intensity conditional-use restaurant at the site. No parking variance (-0-) is needed to operate permitted-by-right uses at the site.

(6) Not injurious to the public welfare: This neighborhood was given the HNC-1 zoning designation to encourage and protect the compatible co-existence of residential and light-commercial uses. Granting Applicant's 14-space parking variance and approving a 54 (or 70) seat restaurant at a site that cannot accommodate its own off-street parking demands is not in harmony with the general intent and purpose of the city's land development regulations and it is detrimental to the interests and welfare of the general public and the surrounding neighbors.

(7) Existing nonconforming uses of other property not the basis for approval. The Applicant's reference to the site's abandoned prior non-conforming use as a "take-away bagel shop" is no more permissible under the city's land development regulations than asking the board to consider existing nonconforming uses in this district.

In summary, approval of a parking variance and intensive restaurant use at this site would be permanently and severely injurious to the surrounding neighbors. It would increase the value of the Applicant's commercial property at the direct expense of the surrounding neighbors' property values and quality of life. Reallocation of property values and diminishment of quality-of-life for commercial gain is not the mission of the Planning Board.

The general public -and our neighborhood- depend on the Planning Board to insure that the city's zoning ordinances are fairly and consistently followed, that surrounding property owners are not unnecessarily harmed, and that each and every applicant fully meets all statutory requirements before a variance or a conditional-use is approved. This Applicant does not meet the statutory criteria and we therefore respectfully ask the Planning Board to deny entirely the applications for a parking variance and a conditional-use restaurant at this site.

Thank you for your consideration of these matters of great importance to us and to our neighborhood.

Best Regards, Linda Wheeler and Robert Kruse

Hello Melissa,

Thank you for visiting with me today regarding the Minor Development Plan and Variance requests for 1119 White Street. As I expressed today, my two concerns are noise and parking.

Since I live across the street from the proposed restaurant, I am concerned with noise, particularly amplified music that may be played outdoors and late at night. Sound travels very easily in the Key West air and simple conversations can often be heard from a great distance. Amplified music played outdoors, whether live or recorded, carries for blocks in the Key West breeze. What restrictions will be in place for noise at the new restaurant?

While White Street is a commercial corridor and there are numerous 30-minute on-street parking spaces, I'm concerned that the restaurant customers will not take a chance of getting a ticket in the 30-minute spots and choose to park on Catherine Street. Catherine Street in this area does not currently participate in the Residential Permit Parking program so all spots are first-come, first-serve for everyone, residents and visitors alike. With the new Lucky Street Gallery development also at the intersection of White and Catherine, parking for the residents in the nearby area is already becoming a greater challenge. I am encouraged by the restaurant's expanded bicycle and scooter parking spaces in the front of the building, but this comes at the cost of two existing automobile parking spaces. Perhaps the restaurant could offer some type of incentive to its customers who bike or use scooters for transportation.

Again, thank you for your time today. I appreciate you showing me the plans for the project.

Sincerely,

David Hoot

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