



THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report

**To:** Chair and Planning Board Members

**Through:** Katie P. Halloran, Planning Director

**From:** Mario Duron, AICP, Corradino

**Meeting Date:** February 17<sup>th</sup>, 2022

**Agenda Item:** **Conditional Use – 529 United Street (RE# 00028790-000100):** A request for a revision to a conditional use approval to increase the consumption area within an existing food service restaurant, located in the Historic Neighborhood Commercial – Truman/Simonton (HNC-1) Zoning District, pursuant to Section 122-63(e) and 122-808 of the City of Key West Land Development Regulations.

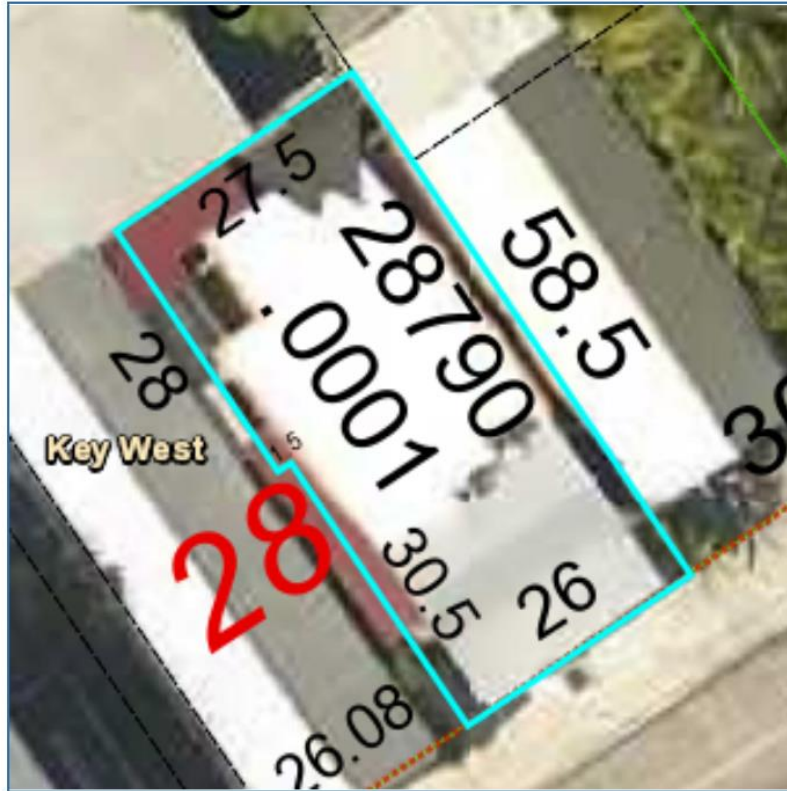
**Request:** Revise an existing conditional use approval to increase consumption area from 194 square feet to 592 square feet within an existing restaurant.

**Applicant:** Owen Trepanier

**Property Owner:** Xavier Bellin

**Location:** 529 United Street (RE# 00028790-000100)

**Zoning:** Historic Neighborhood Commercial – Truman/Simonton (HNC-1)



**Background:**

The subject property is located on the 500 block of United Street near the corner of Simonton Street, within the Historic Neighborhood Commercial – Truman/Simonton (HNC-1) zoning district. The property is improved with a one-story frame structure built in 1928, with approximately 900 square feet in gross floor area. It is comprised of 784 square feet of living space and a 116 square foot open porch.

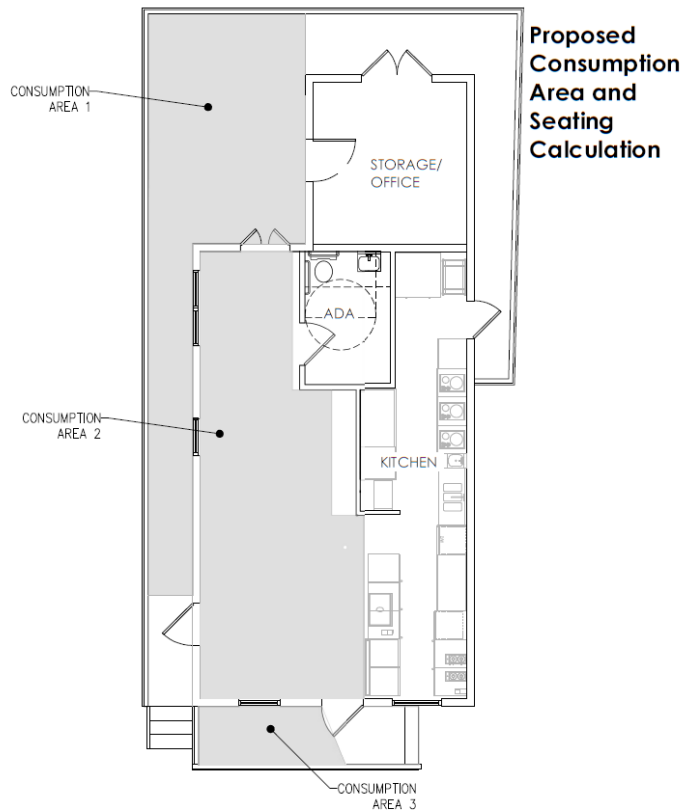
In July 2011, under City Resolution Number 2011-037, the property was granted approval of a conditional use request for the operation of a restaurant with a 194 square foot (SF) consumption area, including 40 SF of outdoor and 154 SF of indoor consumption area.

Restaurants, excluding drive-through, are permitted as a conditional use in the HNC-1 zoning district. Per Section 122-63(e) the applicant is requesting a revision to the existing conditional use approval in order to expand the current consumption area by 398 SF, for a total of 592 SF including 298 SF of indoor and 294 SF of outdoor consumption area.

The property is located in the Historic Commercial Pedestrian-Oriented area. The increase in consumption area triggers additional parking requirements. The applicant is requesting parking variances in a concurrent application.

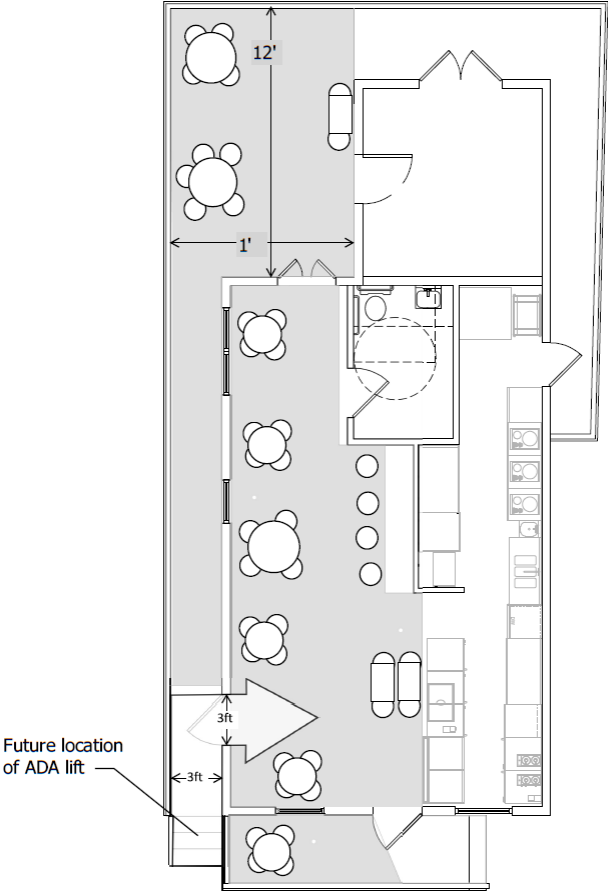


**Proposed Consumption Area Floor Plan:**



CONSUMPTION AREA 1 = 255 SF  
 CONSUMPTION AREA 2 = 298 SF  
 CONSUMPTION AREA 3 = 39 SF  
 TOTAL = 592 SF  
 ASSEMBLY OCCUPANCY UNCONC. TABLES AND  
 CHAIRS = 15 NET (FBC TABLE 1004.5)  
 TOTAL OCCUPANCY =  $592/15 = 39.5$  (39 PEOPLE)

**Proposed Seating Floor Plan:**



529 United Street  
Seating Sketch

**Site Data Table:**

Site Data Table for 529 United Street				
	Code Required	Existing	Proposed	Variance Requested
Zoning	HNC-1			n/a
Flood Zone	AE – 6			n/a
Minimum Lot Size	4,000 SF	1,563 SF,	n/a	Legal nonconforming
Height	35 FT,	< 35 FT,	n/a	n/a
Front Setback	5 FT.	0 FT,	n/a	Legal nonconforming
Side Setback	5 FT.	2.1 FT.	n/a	Legal nonconforming
Side Setback	5 FT.	0 FT.	n/a	Legal nonconforming
Rear Setback	15 FT.	6.5 FT.	n/a	Legal nonconforming
Maximum Building Coverage	50% -- 781.5 SF.	62% -- 971 SF.	n/a	Legal nonconforming
Maximum Impervious Surface	60% -- 973 SF	87% -- 1,357 SF.	n/a	Legal nonconforming
Consumption Area	n/a	190 SF.	592 SF.	n/a
Parking	1/45 SF of consumption area	0	0	14 spaces*
Bicycle Parking	25%	0	0	4 spaces*

*\*Sec. 108-575(2): Interpretation of computation with fractions. When calculation of required parking results in requiring a fractional space, any fraction shall be rounded off to the next highest number.*

**Surrounding Zoning and Uses:**

- North:** H20 Suites; HNC-1 (1212 Simonton Street)
- South:** Southernmost Beach Resort; HCT (1319 Duval Street)
- East:** The Southernmost Inn; HNC-1 (531 United Street)
- West:** The Southernmost Inn; HNC-1 (521 United Street)

**Process:**

- Development Review Committee: May 27, 2021\*
- Planning Board: February 17, 2022
- HARC: TBD
- Local Appeal Period: 10 days

DEO Review: Up to 45 days

\* Project did not move to the Planning Board due to the concerns brought forward prior to and during the DRC meeting. The applicant submitted a revised application reviewed by City Staff December 2021.

**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 a 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 averse to the public’s interest.”

*(b) Characteristics of Use*

Restaurants, excluding drive-throughs, are a conditional use in the HNC-1 zoning district. The Historic Neighborhood Commercial – Truman/Simonton zoning district is restricted to uses like medical and professional offices, residential dwellings, hotels, lodging, and commercial development up to 2500 SF or less. The HNC-1 generally includes larger scale commercial uses oriented to the motoring public.

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

**a. Floor area ratio (FAR):** No changes are proposed to F.A.R.

**b. Traffic generation:** The trip generation analysis prepared by KBP Consulting, Inc. determined 61.25 daily trips are generated per 1,000 SF of restaurant floor area (800 SF). The HNC-1 district permits land uses with a maximum trip generation of 100 daily trips per 1000 SF, or less.

**c. Square feet of enclosed space for each specific use:** 592 SF total consumption area: 298 SF indoors and 294 SF outdoors.

**d. Proposed employment:** 2 to 4 employees.

**e. Proposed number and type of service vehicles:** No change anticipated to existing delivery service, approximately 2 per week.

**f. Off-street parking needs:** The property is located in the City’s Historic Commercial Pedestrian-Oriented area. Sec 108-575 of the Code provides that expansions to consumption areas trigger a

requirement for parking deficiencies to come into compliance. The proposed expansion requires 14 vehicle and 4 bicycle parking spaces. The applicant is requesting a parking variance in an accompanying application. While parking is a concern, parking needs are partially mitigated by the fact that many of the restaurant's patrons are tourists and visitors associated with nearby hotels that likely arrive on foot.

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

**a. Utilities:** The restaurant has existing utility services in place.

**b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in City Code Chapter 94:** There are no expected changes regarding level of service for potable water, sanitary sewer, or drainage. Additionally, the proposed expansion is not anticipated to have an adverse impact on roadway capacity or trip generation. Solid waste is managed through a commercial account and is handled on an as-needed basis. Compliance with building codes and life safety codes would be required prior to building permit issuance.

**c. Roadway or signalization improvements, or other similar improvements:** None.

**d. Accessory structures or facilities:** None.

**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:** No change to open space proposed.

**b. Setbacks from adjacent properties:** Existing. No change proposed.

**c. Screening and buffers:** No change to screening or buffering is proposed.

**d. Landscaping berms proposed to mitigate against adverse impacts to adjacent sites:** No landscape berms proposed.

**e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts:** This property has existing mitigative techniques, including existing screening. The applicant will modify garbage services as-needed to address the anticipated patronage at the site.

**(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 existing restaurant complements the surrounding uses in the area, which are predominately categorized by hotel and commercial lodging accommodations. The

neighborhood is also made up of commercial and residential uses and is heavily tourist- and pedestrian-oriented. The surrounding area contains on-street parking.

**Enough site size, adequate site specifications and infrastructure to accommodate the proposed use** The existing infrastructure and the size of the site can accommodate an expansion. However, the applicant is not currently in full compliance with respect ADA accessibility but has plans to install accessibility features. The use of the expanded consumption area will require a condition that the owner equip the property with ADA accessibility features prior to the use of the new consumption area.

- (2) **Proper use of mitigative techniques:** The applicant is reviewing ADA accessibility site features.
- (3) **Hazardous waste:** None expected or proposed.
- (4) **Compliance with applicable laws and ordinances:** The use must comply with all applicable laws and regulations.
- (5) **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:** The site is not located in a conservation area.
  - b. **Residential development:** No residential development is proposed.
  - c. **Commercial or mixed-use development:** The proposed use is compatible with similar uses within this zoning district as well as district regulations, but requires a parking variance.
  - d. **Development within or adjacent to historic district:** The conditional use application is within the historic district; the project may require subsequent HARC review depending on proposed improvements.
  - e. **Public facilities or institutional development:** No development of public facilities or institutions are proposed.
  - f. **Commercial structures use and related activities within tidal waters:** The site is not located within tidal areas.
  - g. **Adult entertainment establishments:** No adult entertainment is being proposed.

**RECOMMENDATION:**

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 **APPROVED WITH CONDITIONS** as follows:

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

- 1. Prior to obtaining a Conditional Use Approval Permit to use the expanded consumption area, the owner shall equip the building with an ADA lift or accessible ramp in compliance with any state and federal regulations.



2. The owner shall obtain and maintain a Conditional Use 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.
3. The total onsite consumption area is 592 SF: 298 SF indoors and 294 SF outdoors. Consumption area and seating shall be as depicted on the attached seating plan and consumption area diagram.
4. The applicant will subsidize bicycle racks to be placed off-site nearby; a \$1,000 contribution would subsidize approximately four (4) bicycle racks per the City's Engineering Department.
5. The applicant shall surrender one non-transient residential dwelling unit to the City of Key West to be added to the BPAS Beneficial Use pool from property at 529 United Street (RE# 00028790-000100).