

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



To: Chairman and Planning Board Members

From: Nathaniel Echeverria, Senior Planner

Through: Katie Halloran, Planning Director

Meeting Date: December 17th, 2020

Agenda Item: **Conditional Use - 803 Whitehead Street (RE# 00017050-000000)**
A request for conditional use approval to allow a twenty-three (23) seat restaurant in the Historic Neighborhood Commercial (HNC-3) zoning district pursuant to sections 122-868 and 122-62 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

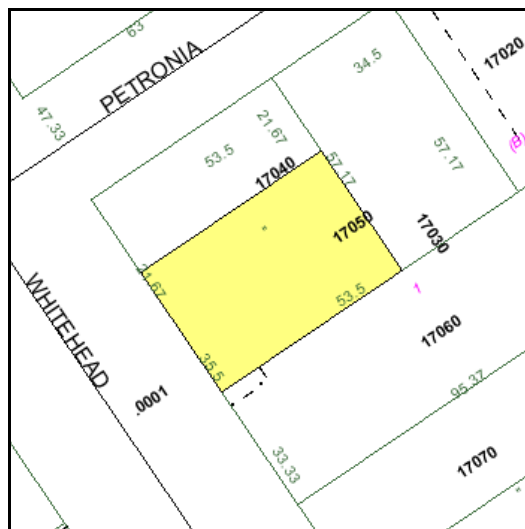
Request: To allow a twenty-three (23) seat restaurant in an existing mixed-use structure with one existing dwelling unit.

Applicant: Richard J. Milelli

Property Owner: Bonita Burke

Location: 803 Whitehead Street
RE# 00017050-000000

Zoning: Historic Neighborhood Commercial (HNC-3) Zoning District



Background:

The subject property is the site of an existing mixed-use structure with approximately 1,518 square feet of nonresidential floor area (both interior and exterior) and one residential dwelling unit on the second floor. There is currently an existing commercial space in one half of the first floor of the structure totaling 809 square feet. There is a vacant commercial space of 709 square feet in the other half of the structure, formerly a retail use, which is the location of the proposed project. Approximately 208 square feet of the project will be allocated for indoor consumption and 294 square feet will be allocated for outdoor consumption area. The previous retail use historically utilized both the indoor and outdoor areas for commercial purposes, resulting in no new floor area of commercial use created. The site is located within the HNC-3 zoning district, which conditionally allows restaurants to be granted by the Planning Board, provided that the proposed use meets the criteria for conditional use and, further, that the proposed conditional use is not adverse to the public interest.

The structure is a Contributing Structure in the Historic District and located in the Historic Commercial Pedestrian Oriented Area (per section 108-573). The Historic Commercial Pedestrian Oriented Area allows the change of existing commercial pedestrian-oriented uses without requiring additional off-street parking if the commercial use does not expand the existing floor area or intensity of use.

Request:

The applicant is requesting to convert 709 square feet of the 1,518 square feet of commercial area on the site to a 23-seat restaurant.

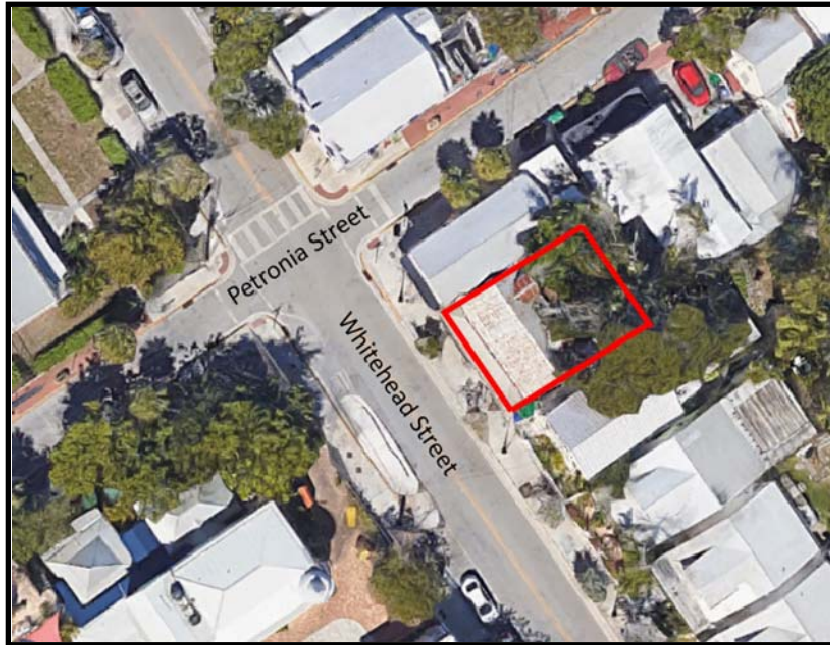
Surrounding Zoning and Uses:

North: HNC-3: Commercial Mixed-Use
South: HMDR: Multi-family Residential
East: HNC-3: Residential
West: HNC-3: Commercial Restaurant

Process:

Development Review Committee Meeting: November 18, 2010
Planning Board Meeting: December 17, 2010

Site Aerial



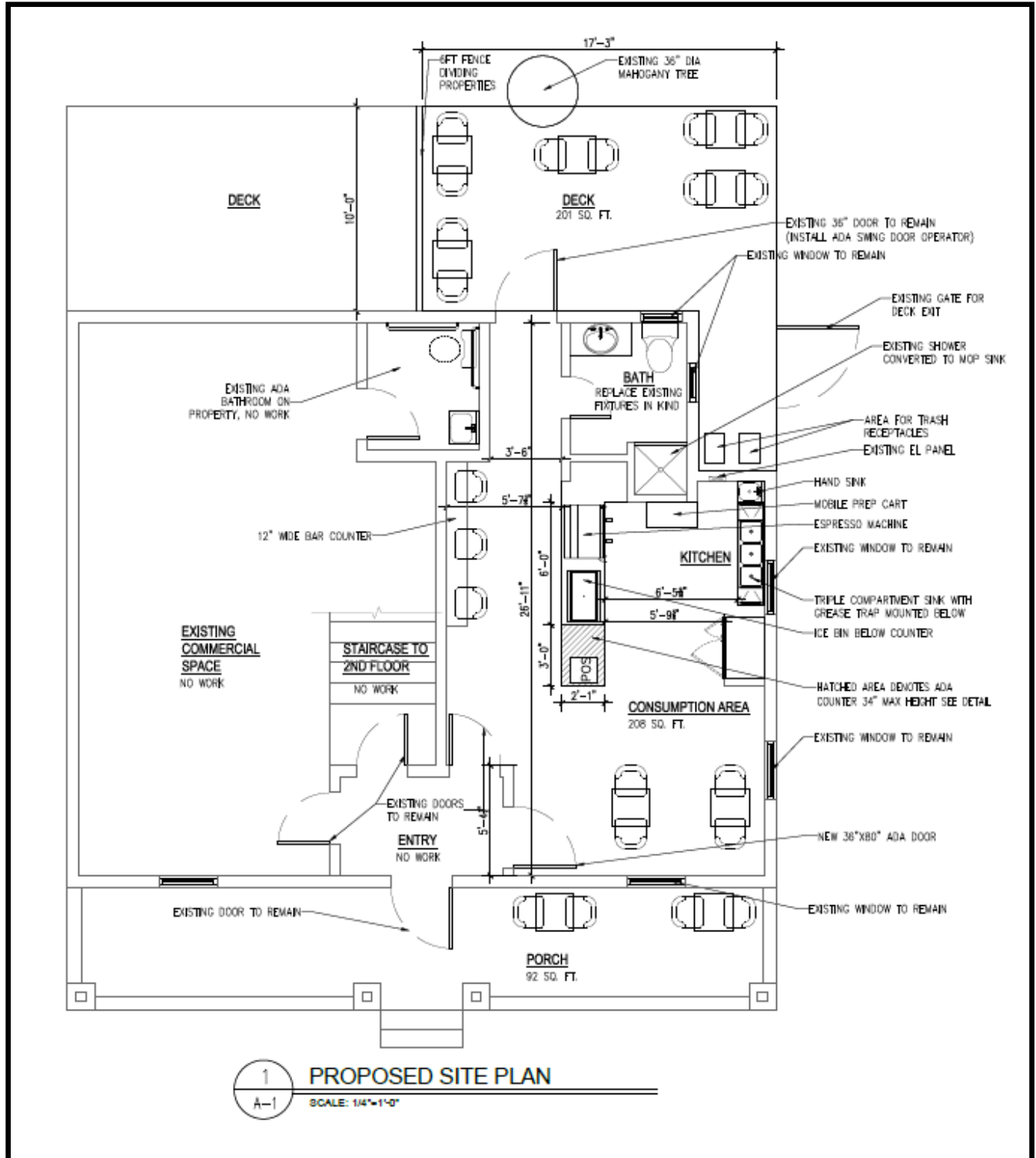
Site Visit Photos – 11.5.20

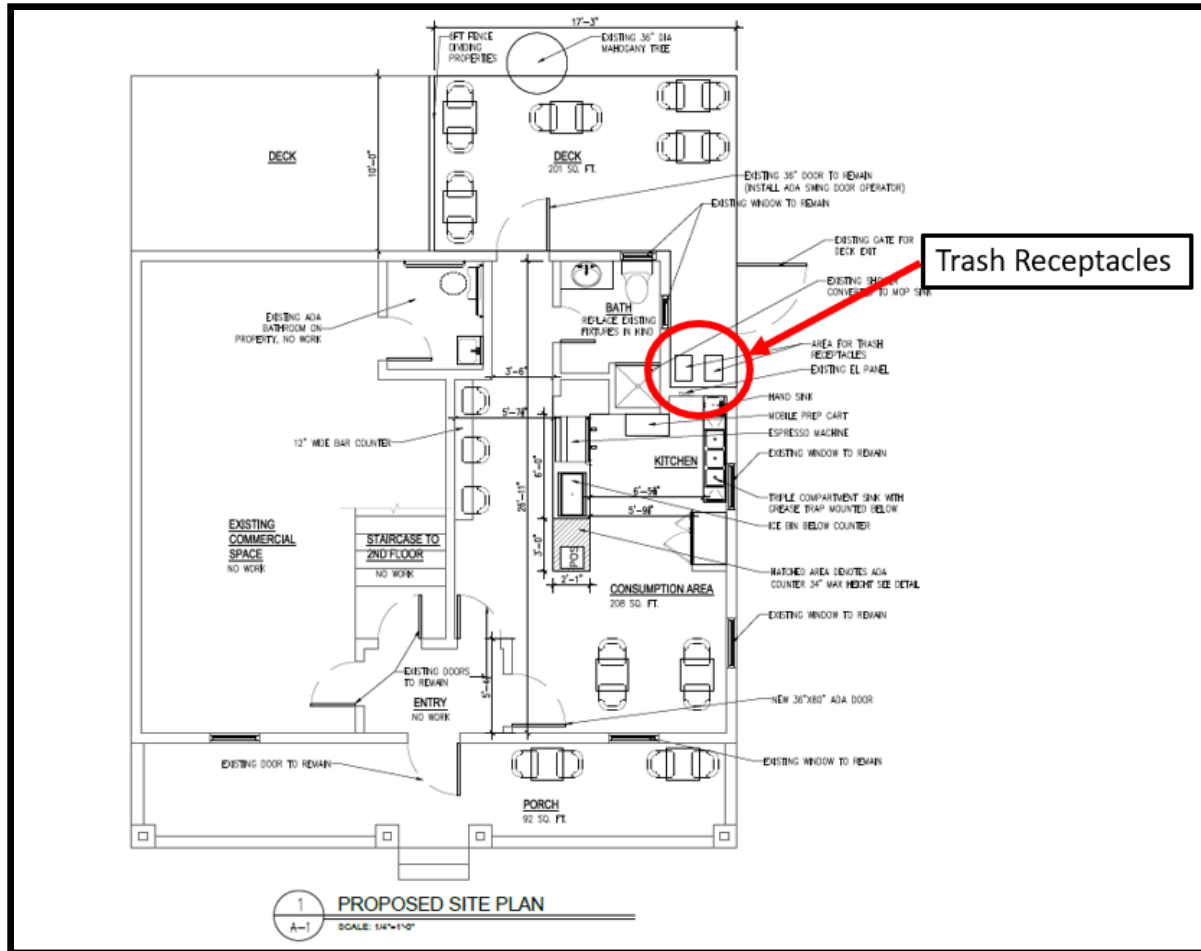


Site Visit Photos – 11.5.20 (cont.)



Proposed Site Plan

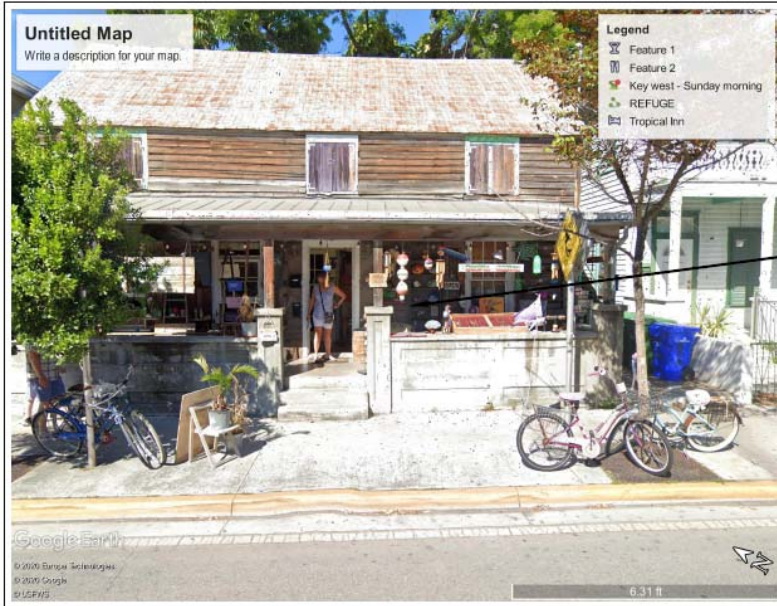




Project Data Table

SITE DATA	COFFEE SHOP	T-SHIRT BUSINESS	2ND FLOOR (RESIDENTIAL)	TOTAL
TOTAL SITE AREA				1,899.25 SQ. FT.
SF OF ENTIRE STRUCTURE INDOOR/OUTDOOR/ BOTH FLOORS	709 SQ. FT.	809 SQ. FT.	700 SQ. FT.	2,218 SQ. FT.
TOTAL SQ. FT. OF AREA OF WORK	709 SQ. FT.	N/A	N/A	709 SQ. FT.
PROPOSED INDOOR CONSUMPTION AREA	208 SQ. FT.	N/A	N/A	208 SQ. FT.
OUTDOOR CONSUMPTION SPACE	294 SQ. FT.	N/A	N/A	294 SQ. FT.
OUTDOOR COMMERCIAL AREA	299 SQ. FT.	280 SQ. FT.	N/A	579 SQ. FT.
INDOOR COMMERCIAL AREA	410 SQ. FT.	527 SQ. FT.	N/A	937 SQ. FT.

Front Elevation



**NO CHANGE TO EXTERIOR
ELEVATION, NO PAINT, NO
CHANGE TO DOORS AND
WINDOWS**

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A-1 **STREET VIEW PHOTO**
SCALE: 1/4"=1'-0"

Staff Analysis - Evaluation:

The subject parcel is located in the Historic Neighborhood Commercial District (HNC-3), which allows for restaurant use as a conditional use. The intent of the HNC-3 zoning district is to preserve, enrich, and revitalize the Bahama Village Neighborhood Commercial Area. Development in the district shall be directed toward maintaining and/or revitalizing existing structures, and the application for a restaurant use at this location meets this intent of the underlying district.

Section 86-9 of the Code of Ordinances of the City of Key West defines land use classifications and states that a restaurant is “any establishment, which is not a drive-through service establishment, where the principal business is the sale of food, desserts and beverages to the customer in a ready-to-consume state.”

The applicant is modifying the kitchen area and making minor improvements to meet health and safety codes. Use of existing outdoor areas, which were utilized as outdoor commercial space by the previous tenant, will be continued with minor safety related improvements. The applicant has stated that the hours of operation will be from 8AM to 4PM. There will be no amplified music outside at any time. Garbage and recycling receptacles will be placed in the rear of the property, out of sight of the public right-of-way and from neighboring properties (see Site Plan for location of garbage and recycling receptacles).

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. Granting or denying a proposed Conditional Use on a case-by-case basis gives the Planning Board the discretion to review the proposed conditional use based on the following criteria:

Characteristics of use described:

- (1) Scale and intensity
 - a. Floor Area Ratio:
 - i. Permitted: 1.0 (1,899 SF)
 - ii. Proposed: 0.37 (709 SF)
 - b. Traffic Generation:
 - i. Per Section 122-776, land-use activities in the Historic Neighborhood Commercial District (HNC-3) shall generate no more than 50 trips per 1,000 square feet of gross leasable floor area per day. Trip generation rates derived from the 10th Edition of the ITE Trip Generation Manual for a “Bread/Donut/Bagel Shop without Drive-Through Window” with a size of 709 SF are anticipated at 49.37 trips per day.
 - ii. The subject property is located within the Historic Pedestrian Oriented Area, Section 108-573 (c). The Planning Department does not anticipate

any significant increase in traffic generation over the previous low-intensity retail use.

- c. Square feet of enclosed building for each specific use:
 - i. Restaurant Use – 410 square feet
- d. Proposed Employment:
 - i. Owner-operated. Two employees.
- e. Proposed number and type of service vehicles:
 - i. No service vehicles proposed
- f. Off-street parking needs:
 - i. No additional parking is needed per Section 108-573 (c).

(2) On- or off-site improvement needs generated by the proposed conditional use

- a. Utilities
 - i. The applicant will install a grease trap and necessary kitchen infrastructure to meet health and safety codes. A hooded ventilation system is not required based on the proposed scale and operation of the restaurant.
 - ii. The installation of emergency exit and occupancy load signs are required before a certificate of occupancy may be awarded.
- b. Public facilities:
 - i. No improvements specified.
- c. Roadway or signalization improvements:
 - i. No improvements specified.
- d. Accessory structures or facilities
 - i. A six-foot fence is proposed in the rear seating area to delineate the outdoor space of the new restaurant/café and the existing commercial use.
 - ii. A small storage shed in rear is proposed for demolition, conditional on HARC approval.
- e. Other unique facilities/structures proposed as part of site improvements
 - i. Trash and recycling receptacles will be moved from view and stored at the rear of the structure. Trash and recycling receptacles will be shielded from the public right-of-way and from nearby residential uses.

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

- a. Open Space
 - i. Outdoor seating is proposed on both the front porch area and back deck. The total proposed area for outdoor seating and consumption is 294 SF.
- b. Setbacks from adjacent properties
 - i. None proposed.
- c. Screens and buffers
 - i. The applicant has proposed to place trash and recycling containers at the rear of the building, screening receptacles from the public right-of-way.
 - ii. The applicant will construct a six-foot fence to delineate the outdoor space of the new restaurant/café and the existing commercial use.
- d. Landscaped berms
 - i. None proposed.

- e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts:
 - i. The applicant has a limited menu that will not require a hooded ventilation system and will not create excessive amounts of odor or smoke.
 - ii. The applicant is proposing low-level music to be played indoors during hours of operation. No outdoor amplified music is proposed.
 - iii. The applicant is agreeable to limiting hours of operation from 8AM to 4PM.
 - iv. The applicant is agreeable to limiting total seating capacity at twenty-three (23) seats.

Criteria for conditional use review and approval

(1) Land Use Compatibility:

- a. The applicant proposes to utilize a portion of the historic structure as a food service establishment. The historic neighborhood commercial zoning district allows both commercial and residential uses. There are both commercial and residential uses on-site and within 300-feet of the proposed conditional use. No outdoor amplified music is proposed. Hours of operation are proposed between 8AM-4PM.

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

- a. The size and shape of the site will remain the same as it is in its current state. The site was previously used as a commercial space with outdoor commercial elements. The commercial kitchen will include all necessary infrastructure as required by health and safety codes.

(3) Proper use of mitigative techniques:

- a. The applicant will construct a six-foot fence to delineate the outdoor space of the new restaurant/café and the existing commercial use.
- b. No outdoor amplified music is proposed.

(4) Hazardous waste

- a. The applicant has stated that no hazardous waste will be produced on the property.

(5) Compliance with applicable laws and ordinances

- a. The applicant complies with minimum parking standards due to their location in the Historic Pedestrian Oriented Area.

(6) Additional criteria applicable to specific land uses

- a. No additional criteria are applicable.

Recommendation:

The proposed conditional use for 803 Whitehead Street conforms with all applicable criteria for a restaurant use in the Historic Neighborhood Commercial Zoning District. Based on a review of the application according to the stringent evaluation criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for a conditional use be APPROVED with the following conditions:

1. The restaurant shall not utilize outdoor amplified music nor host events with third-parties in which amplified music is utilized.
2. Plans for the restaurant are to be consistent with the plans submitted and attached to the Resolution for a conditional use, unless approval is granted by the Planning Department.
3. All trash and recycling receptacles shall be screened from the public right-of-way.
4. All other code requirements shall be met in relation to health, safety and accessibility (ADA).
5. Daily hours of operation shall be restricted to 8AM to 4PM only.
6. Restaurant capacity shall be restricted to a total of twenty-three (23) seats.