

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



**To:** Chairman, and Planning Board Members

**Through:** Katie Halloran, Planning Director

**From:** Ben Gagnon, Planner I

**Meeting Date:** April 18, 2024

**Agenda Items:** **Conditional Use – 801 Eaton Street (RE# 00003340-000000)** – A request for conditional use approval to allow for the expansion of a food service establishment and an amendment to the Planning Board Resolution Number 2015-33 to increase the number of seats and consumption area, located in the Historic Neighborhood Commercial 2 (HNC-2) Zoning District pursuant to Chapter 122 (Zoning), Article III (Conditional Uses) and Chapter 122 (Zoning) Article IV (Districts), Division 8 (Historic Neighborhood Commercial Districts), Subdivision III (HNC-2) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** A request for a variance to the minimum parking requirements to allow for an expansion of consumption area at a food service establishment, in conjunction with a request for a conditional use approval to allow for the amendment of Planning Board Resolution #2015-33 to increase the number of seats from 9 to 16.

**Applicant:** Oropeza, Stone & Cardenas, PLLC

**Property Owner:** 801 Eaton Street, LLC

**Location:** 801 Eaton St, Key West, Florida  
(RE # 00003340-000000)

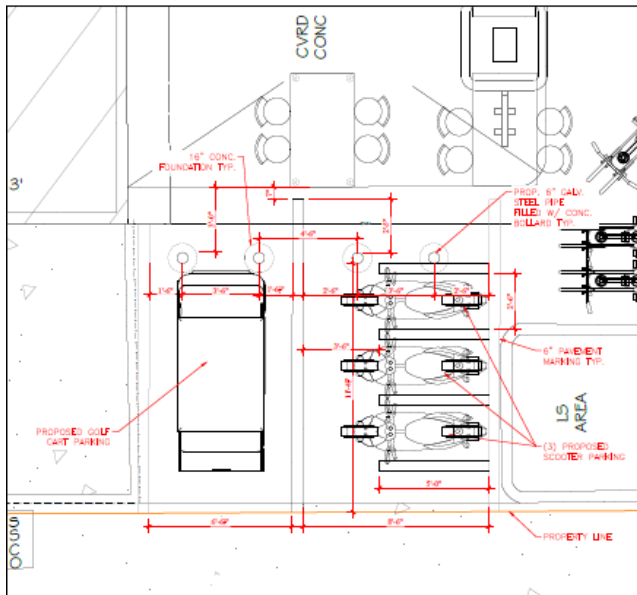
**Background:**



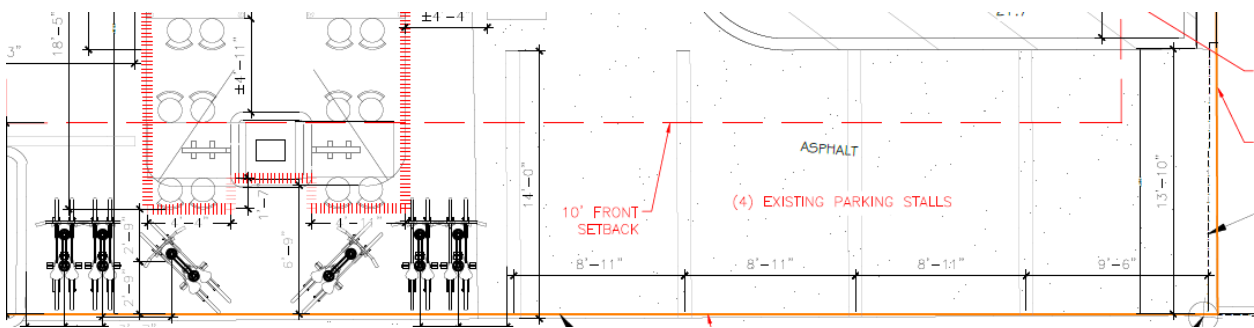
The subject property, with a total lot size of 2,847 sq. ft., is situated in the Historic Neighborhood Commercial-2 Zoning District. The restaurant is located in a historic contributing gas station originally built in 1945. According to the property card, this property last transferred ownership in March of 2017.

The applicant is seeking to amend Planning Board Resolution 2015-033, which granted conditional use approval for the operation of a restaurant in the HNC-2 District. The resolution was signed into effect on August 1<sup>st</sup>, 2015, allowing the operation of a restaurant with up to nine (9) seats and a consumption area not exceeding 135 sq. ft. The applicant would like to modify Condition #9 to add eleven (11) additional seats to the restaurant for a total of sixteen (20) seats. 7 outdoor seats, and 4 stools at a counter inside. The applicant is proposing to expand the existing outdoor consumption area of 135 sq. ft. by 107.5 sq. ft. for a total of 242.5 sq. ft. of outdoor consumption area in order to fit the additional seats.

Minimum Required Parking: The application involves a parking variance of four (4) spaces. A minimum of eight (8) spaces are required per code. The site plan approved under Resolution 2015-33 contains six (6) parking spaces. However, to date, the applicant has failed to improve the parking spaces adjacent to William Street. The applicant is now proposing to create parking for three (3) moped spaces and one (1) golf cart space along William Street. A twelve (12) space bicycle rack is also proposed. Proposed parking is shown below:



*Proposed golf cart and moped parking along William Street*



*Proposed bicycle and vehicle parking along Eaton Street*

The application was sent to the Development Review Committee (DRC) members for comment on December 7, 2023. The following comments are notable to the Board:

**Utilities:**

- Utilities would like to condition the additional seats on the installation of gates across the dumpster enclosure area and confirmation of grease interceptor installation, such as photographs and dimensions or flow rate.
- Grease interceptor was included in Planning Board Resolution No. 2015-33 general condition #2, requiring Building permits for the installation of necessary kitchen equipment, ADA accessible restroom, fire suppression system, grease interceptor and any life/safety improvements.

**Fire:**

The applicant met with the Fire Department on site for an inspection on the proposed interior seating. The outcome of this inspection is pending.

**Staff Analysis -Conditional Use Criteria Evaluation:**

Conditional uses are regulated pursuant to Chapter 122 (Zoning), Article III (Conditional Uses). Section 122-61 of the Code states:

*“The purpose of this article 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. This article 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.”*

Section 122-62 (c) establishes six (6) criteria for evaluating conditional Uses. These criteria include:

- (1) Land Use Compatibility
- (2) Sufficient Site Size
- (3) Proper Use of Mitigative Techniques
- (4) Hazardous Waste
- (5) Compliance with Applicable laws and Ordinances
- (6) Additional Criteria Applicable to Specific Land Uses – Commercial or Mixed-use Development

Staff has carefully reviewed the applicant’s request and found the application to be in compliance with the above criteria. Specifically, the site was originally utilized as a service station and was recently converted to a restaurant. The operation of the restaurant has been compatible with surrounding development since its establishment. The addition of eleven (11) seats will not materially alter the operation of the site, which reasonably accommodates the current use. Mitigative measures have also been provided and are included as conditions of approval.

In addition, the subject property has received complaints concerning the condition of the dumpster. To address this concern, a condition is proposed which requires the property owner to maintain the dumpster screened, in accordance with City standards. Aside from the concerns with the dumpster, the applicant has been in reasonable compliance with applicable laws and ordinances. In conclusion, it is the opinion of staff that the application is in compliance with the Conditional Use Criteria contained within Section 122-62 (c) of the City Code.

**RECOMMENDATION:**

The Planning Department recommends that the request for the conditional use amendment be **Approved**. If the Planning Board elects to approve the conditional use amendment, staff recommends the following conditions:

**General conditions:**

1. The proposed design shall be consistent with the plans dated, July 19<sup>th</sup>, 2023, by James C Reynolds. for the property located at 801 Eaton St.
2. The 12 new proposed bicycle parking spaces shall be installed in accordance with the design, lighting, and security criteria of Section 108-643.
3. All required Certificates of Appropriateness shall be obtained for the proposed development prior to building permit issuance.

4. Building permits shall be obtained for the installation of the necessary kitchen equipment, ADA accessible restroom, fire suppression system, grease interceptor and any life/safety improvements to the satisfaction of the City's Building Official and Fire Marshall.
5. In order to offset the solid waste generated by the proposed use, staff recommends the owner participate in Waste Management's commercial recycling program and/or participate in a certified green business program, such as through Florida Keys Green Living & Energy Education (GLEE).
6. Except as otherwise provided herein, applicant/owner agrees to comply in all respects with State, County and local rules and regulations.

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

7. 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 above general conditions.

**Conditions subject to a Conditional Approval Permit, and subject to an associated annual inspection:**

8. The consumption area of the approved restaurant use shall not exceed ~~nine (9)~~ twenty (20) seats or ~~135~~ 259.6 square feet, whichever is greater, unless further City approvals are obtained. Impact fees shall be paid through the City Licensing Official on all restaurant seats.
9. In order to avoid any adverse impacts on surrounding residential uses, the restaurant shall close by 10:00 PM each day.
10. The applicant shall work with the building owner and/or other tenants to screen the solid waste dumpsters from view daily, pursuant to City of Key West Land Development Regulations, Sec. 108-279.