

From: john.p.oleary@ubs.com [<mailto:john.p.oleary@ubs.com>]

Sent: Thursday, September 17, 2015 3:00 PM

To: mbingramarchitect@gmail.com; Patrick Wright

Cc: jessicabjohnson@yahoo.com; komom412@aol.com

Subject: 700 Eaton Street

Dear Mr. Wright and Mr. Ingram,

We have owned a home at 412 Elizabeth Street for over 10 years which is located within 200 feet of the above mentioned property. In reviewing the proposed plans we feel it will be an improvement for our neighborhood and are in full support of the project that Mike and Jessica have submitted. Please feel free to contact us if you have any questions.

Respectfully,

Karen and John O'Leary

John P. O'Leary, CDFA

Senior Vice President - Wealth Management

Senior Portfolio Manager

Certified Divorce Financial Analyst (CDFA™)

O'Leary Partners

UBS Financial Services, Inc.

1251 Avenue of Americas, 2nd Fl

New York, NY 10020

Tel: (212) 626-8733

Fax: (855) 270-9456

www.ubs.com/team/olearypartners

john.p.oleary@ubs.com

From: Dana Day <danalday@earthlink.net>
Date: September 16, 2015 at 8:58:59 PM EDT
To: <pwright@cityofkeywest-fl.gov>
Cc: <mbingramarchitect@gmail.com>, Jessica Johnson <jessicabjohnson@yahoo.com>
Subject: 700 Eaton St.

Mr. Wright:

Our neighbors, Jessica Johnson and Mike Downer have kept us apprised of their plans for the Eaton/Elizabeth corner lot (700 Eaton). We are pleased to endorse their plans. We understand sophisticated drainage is planned to address any impervious surface issues and observe the building is sited so auto ingress/egress is from Elizabeth Street thus keeping Eaton St. flowing freely.

We are delighted to see a thoughtful project that is in keeping with the historic character of the surrounding neighborhood in terms of size, scale, design, materials, color and texture. The massing, scale and proportion are similar to other buildings in our historical zone. Projects such as this, proposed by owners respectful of the character and appearance of the historic district, should be supported and approved.

We encourage both the Plan Commission and HARC to support this proposal.

Thank you.

Dana and Stan Day
416 Elizabeth Street

From: Kempcoinc@aol.com [<mailto:Kempcoinc@aol.com>]
Sent: Wednesday, September 16, 2015 2:39 PM
To: Patrick Wright
Subject: Objection - 700 Eaton St Variance - RE # 00006120-000000

To: Planning Board
City of Key West

From: James and Patricia Kemp

730 Eaton Street
Key West, FL 33040

We object to the 700 Eaton St variance because the applicant should be able to comply with the City rules and regulations on new construction on an empty lot. The applicant proposes to stuff too much building on the lot sacrificing parking and green space. This also results in a building that is ugly and does not fit in our neighborhood. It does not belong in our area of historic houses. We ask that you turn down this request.

Thank you

Jim and Patti Kemp

From: J [<mailto:jleefox8@aol.com>]

Sent: Wednesday, September 16, 2015 10:21 AM

To: Patrick Wright

Subject: New Project on eaton street

Good afternoon, Mr, Wright,

I am writing this email in regards to the property at 700 Eaton Street in Key West. I have read and discussed the plans with the owners of this property Mike Downer and Jessica Johnson and I am very excited to have this project approved. I live in the historic downtown area and have lived in Key West for 38 years. I would love to see this property resuscitate in a great way. Thank you for your time.

Warm regards,

Jennifer

From: keylimeclean@gmail.com [<mailto:keylimeclean@gmail.com>]

Sent: Wednesday, September 16, 2015 10:06 AM

To: Patrick Wright

Subject: 700 Eaton

Dear Mr Wright,

I've lived in Key West for almost 40 years. I've seen the plans for 700 Eaton and commend the new owners who clearly want to improve the property and community in a way that's complimentary to Old Town. That property has been an eyesore and for too long. The new owners need approvals for the project and I'm in favor of granting them.

Sincerely,

Jodi Leah

518 Margaret

Sent from my iPhone

William M. Barry & Clara L. Taylor
Resident & Home Owner
628 Fleming Street
Key West, FL 33040
Ph. 305.240.0898 / wmbarry@outlook.com

September 16, 2015

Emailed to: pwright@cityofkeywest-fl.gov
Patrick Wright
Planner
City of Key West Planning Department 3140 Flagler Ave Key West, FL 33040

Re: Objection to 700 Eaton St Development Plan & Variance Note: We reside on the corner of Elizabeth and Fleming one-block from the proposed development

Dear Mr. Wright,

The variance request for new construction at 700 Eaton Street is unnecessary.

The city has planning development codes for a reason. The planning code enables city officials to protect a neighborhood from a property being developed into a conflicting use that will impair the quality of life and the economic value of the neighboring properties.

A variance allows the city to employ common sense to permit a minor alteration to a property outside of the development code to address a public safety issue or to assist a handicap person, etc. The variance option does not exist to sanction greed.

Over ruling the well thought out and reasonable planning department code by granting a variance to permit less open space and thus enable as many parking spots as possible on the property is not only against the city's planning code; it is a breach of trust to the neighborhood the city is pledged to protect through use of its planning codes – and most certainly for new construction. The planned massive structure with limited open space on a (400 sf) parcel of land does not belong in the Eaton St. and Elizabeth St. historic residential neighborhood.

I request you please require the new construction to comply with the development codes and not grant an unnecessary variance and violate the trust the citizens have placed in their city officials to protect their neighborhood.

Respectfully,

William M. Barry & Clara L. Taylor

From: Kerstin Griffith [<mailto:kerstingriffith@aol.com>]
Sent: Tuesday, September 15, 2015 10:48 PM
To: Patrick Wright
Cc: Shirley Freeman
Subject: Objection to 700 Eaton street variance.

To whom it may concern,

My husband and I are permanent residents in the 700 block of Fleming street, the same block as 700 Eaton street.

We have rules and regulations in old town and they are set to be followed, if there isn't a very special need or reason for a variance. We can't see any reason at all for giving this property a variance in this residential area with some of the oldest and most glorious mansions in our city.

Respectfully,

Kerstin and Richard Griffith

717 Fleming street Key West

From: Stacy Lunsford <stacy@dalejr.com>
Date: September 15, 2015 at 1:24:58 PM EDT
To: "pwright@cityofkeywest-fl.gov" <pwright@cityofkeywest-fl.gov>
Subject: **700 Eaton Street**

Attention: Patrick Wright

Our neighbors, Mike and Jessica, have reached out to us about the nature of their project proposed for 700 Eaton Street. We understand it requires approvals and we are sending this to show our support.

We own property directly next door (704 & 708 Eaton) to the proposed mixed use building and look forward to having a building that will fit the historic district that we love so much.

If we may offer any additional information feel free to contact us directly.

Kelley E. Miller

P.O. Box 330, Mooresville, NC 28115

Office: 704-799-4850 | Fax: 704-496-2136

From: Peter W. Obermeyer [<mailto:1petero@bellsouth.net>]

Sent: Tuesday, September 15, 2015 12:42 PM

To: Patrick Wright

Subject: 700 Eaton Street Variance.

Dear Members of the Planning Committee:
Please vote No on the 700 Eaton Street Variance.

I own 703 Eaton Street directly across the Street.

We need less commercial space in our residential area, not more.

We need more open space, not less.

Allow the developer to design a structure that meets all the code and does not require a variance. Only residential with no commercial would be preferred.

Thank you,



Peter Obermeyer

From: Bill Verge [<mailto:keyscgcutters@gmail.com>]

Sent: Tuesday, September 15, 2015 12:10 PM

To: Patrick Wright

Subject: 700 eaton st variance

I object to what is planned for 700 Eaton St. Inasmuch as this is new construction on an empty lot, there is no reason for a variance. It also must meet the requirements of the two and one half story requirement under HARC guidelines for old town.

Bill Verge
329 Peacon Lane

Bill Verge, Executive Director, USCGC INGHAM (WHEC-35) Memorial Museum a 501(c)(3) non-profit veteran operated organization. www.uscgcingham.org
305-395-9554

PLEASE visit our website at www.uscgcingham.org and donate to help us save this historic national landmark!

From: Robin Kaplan [<mailto:robinkaplanmusic@gmail.com>]

Sent: Tuesday, September 15, 2015 12:32 AM

To: Patrick Wright

Cc: mbingramarchitect@gmail.com

Subject: Support for proposed project 700 Eaton Street

Dear Planning Board,

I am a resident of 2 Hibiscus Lane Key West, Fl for 36 years and I writing you in support of the project at 700 Eaton I have seen the plans and discussed the plans with Jessica and Mike Downer; owners of said property and am in favor of it. I have known them for many years and know that they want to improve the corner lot in a way that is respectful to the historic district that we all love so much with the utmost integrity.

I urge you to approve their plans.

Thank you for your attention.

Sincerely,

Robin Kaplan

From: skincaredr@comcast.net [<mailto:skincaredr@comcast.net>]

Sent: Wednesday, September 09, 2015 8:51 PM

To: Patrick Wright

Subject: 700 Eaton Street(RE #00006120-000000; AK #1006343)

Patrick Wright,

My name is Lawrence Paolini. Myself and my wife are the owners of 623 Fleming Street.

I congratulate the owners of 700 Eaton Street. I feel the property development will be an improvement to our city.

I do feel ,however, that the property must adhere to the minimum impervious surface and minimum open space requirements. I am against the issue of any variances.

Sincerely,

Lawrence Paolini

From: abacogoldjaimi <abacogoldjaimi@aol.com>
To: pwright <pwright@cityofkeywest-fl.gov>
Cc: mbingramarchitect <mbingramarchitect@gmail.com>
Sent: Mon, Sep 14, 2015 6:15 pm
Subject: 700 Eaton Street

I have talked to the new owners and reviewed their plans and I'm in favor wholeheartedly. I have lived and worked in Key West and Old Town for 38 years. It would be a great to see the corner of Eaton and Elizabeth Street revived in a way that is respectful to the historic district as the new owners intend. One of the new owners also grew up in Key West and she and her husband truly care about improving the property in a respectful manner to their neighbors and the historic district. The prior owner neglected the property and used it as a junk yard and cat compound where she had over 20 cats living on that property and 704 Eaton in violation of the city code restricting the number of domestic animals to no more than four. The odor of cat urine was so intense that we couldn't walk by without becoming nauseated. We used to avoid walking around that corner because of the cat urine odor. The neighbors couldn't open their windows or sit outside to enjoy the fresh air because the cat urine odor was so intense. The new owners have already improved the lot by cleaning up the junk and trimming back the overgrown vegetation away from the sidewalks that were blocking the views around the corner. I think the project proposed for 700 Eaton Street will be a great improvement for the neighborhood.

Thank you,
Jaimi Joy
418 Front Street

Robert B. Goldman
Attorney at Law
Post Office Box 1001
Key West, Florida 33041

302 Southard Street, Suite 208, Key West, Florida 33040

305/296-1111
fax/292-2144

admitted to practice in Florida and Illinois

Florida Supreme Court Qualified Arbitrator

II

August 19th, 2015

Planning Board

c/o Mr. Thaddeus Cohen, Director
City Planning Department
Key West, Florida 33040

* *via electronic mail* tcohen@cityofkeywest-tl.gov *

Re: opposition to variance and minor
development plan/700 Eaton Street

Dear Members of the Planning Board:

The undersigned is counsel to certain neighbors of the proposed minor development plan and variance at 700 Eaton Street. This letter will outline the legal opposition to the variance. But practically speaking, how many more serious accidents do we want at that intersection? It is also too bad we will lose one of the most beautiful corners in Key West with every different colored pastel.

As you know, the Planning Board may grant a variance to an applicant only when all seven of the conditions of Ord. 90-395(a)(1)-(7) are met. It is purposefully a difficult standard to preserve, among other things, safe and convenient traffic "flow and vehicle parking.

The application for the variance is devoid of any competent substantial evidence of any hardship to the applicant other than economic hardship created by the applicant, which is not grounds for a variance. The applicant knew the land development regulations when he purchased the property. Am sure you are familiar with two Third

District cases directly on point: *Elwyn v. City of Miami* 113 So.2d 849 (3rd DCA, 1959) and *Burger King Corporation v. Metropolitan Dade County* 349 So. 2d 210 (3rd DCA, 1977). There is no way the applicant can satisfy Ord. 90-395(a)(2).

It is also urged that should the Planning Board grant the variance herein, that it make specific findings of fact with references to the record supporting its conclusions.

The Florida Supreme Court has adopted the Zehmer dissent (see attached Exhibit C 13) in *Irvine v. Duval County Planning Commission* 495 So.2d 167 (Fla., 1986). Judge Zehmer stated at 466 So.2d 357, 366 "It is not sufficient that the cited findings merely be general conclusions in the language of the ... ordinance because such conclusions provide no way for the court to know on judicial review whether the conclusions have sufficient foundation in findings of fact."

Thank you in advance for protecting our neighborhood.

Very truly yours,



Robert B. Goldman

encl: (1)

Page 167
495 So.2d 167
11 Fla. L. Weekly 510
Stephen B. IRVINE, Petitioner,

v.
DUVAL COUNTY PLANNING COMMISSION, et al., Respondents.
No. 67092. Supreme Court
of Florida. Oct. 2, 1986.

Barry A. Bobek of Barry A. Bobek, P.A.
and Stephen A. Hould of Flowers, Hould, Jensen
& Westling, Jacksonville, for petitioner.

Gerald A. Schneider, Gen. Counsel and
Robert G. Alexander, Asst. Counsel,
Jacksonville, for respondents.

SHAW, Justice.

We review Irvine v. Duval County
Planning Commission, 466 So.2d 357 (Fla. 1st
DCA 1985), because of direct and express
conflict with Rural New Town, Inc. v. Palm
Beach County, 315 So.2d 478 (Fla. 4th DCA
1975). Art. V, § 3(b)(3), Fla. Const.

The facts and issues of law are
comprehensively set forth in the majority and
dissenting opinions below. On the facts and
circumstances of the case, we agree with Judge

Zehmer (dissenting) that once the petitioner met
the initial burden of showing that his application
met the statutory criteria for granting such
exceptions, "the burden was upon the Planning
Commission to demonstrate, by competent
substantial evidence presented at the hearing and
made a part of the record, that the [special]
exception requested by petitioner did not meet
such standards and was, in fact, adverse to the
public interest." Irvine, 466 So.2d at 364. In our
view, the Planning Commission failed to carry
its burden. We quash the decision below and
remand for further proceedings consistent with
this opinion.

It is so ordered.

McDONALD, C.J., and ADKINS, BOYD,
OVERTON, EHRLICH and BARKETT, JJ.,
concur.