

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



To: Chairman and Planning Board Members

Through: Katie Halloran, Planning Director

From: Nicholas Perez-Alvarez, AICP, Stantec

Meeting Date: October 19, 2023

Agenda Item: **Variance – 1605 N. Roosevelt Blvd (RE# 00023280-000100)** – A request for a variance to minimum parking requirements to allow for the expansion of a food service establishment on property located within the General Commercial (CG) Zoning District pursuant to Sections 90-395, 108-572, and 108-575 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 of an existing restaurant. The minimum required 1 parking space per 45 sq. ft. of consumption area totals 26 parking spaces for the proposed 1,163 sq. ft. consumption area; The parking requirement for all businesses operating at the shopping strip is 53 spaces, where 17 existing spaces serve the overall development.

Applicant: Richard McChesney / Spottswood Law Firm

Property Owner: Garrison Bright Investors LLC

Location: 1605 N. Roosevelt Blvd , Key West, Florida
(RE # 00023280-000100)



Figure 1 Aerial Map of the Subject Property



Background:

The subject property, with a total lot size of 6,167.9 sq. ft., is in the General Commercial (CG) Zoning District. The restaurant is part of a shopping strip (built in 1976), consisting of five tenant spaces, 2 of which are leased by the restaurant.

The applicant wishes to resolve an existing code violation inherited from the previous business owner; the restaurant is currently licensed for 9 seats, whereas 62 seats were counted at the previous business. The applicant is proposing that the increased consumption area (combined

1,163 sq. ft. between indoor and outdoor dining spaces) be allowed to remain with the existing parking on site, totaling 17 spaces serving the overall shopping strip, 8 of which the property owner has indicated is dedicated to restaurant use. The restaurant is currently permitted for 9 seats and the applicant has requested to permit up to 74. The Key West Fire Department allows that this restaurant be permitted for maximum indoor occupancy of 47 persons and 5 employees and exterior occupancy of 113 persons.

According to the property card, this property last transferred ownership in July 2015.

The City of Key West has issued Business Tax Receipts for the following businesses operating at 1605 N. Roosevelt Blvd.:

- Mac's Place (subject restaurant)
- Cruisin Tikis Key West LLC
- Good Times Key West LLC
- Mellow Enterprises Key West Inc
- Mellow Ventures
- Red Mangrove Kayaking LLC
- Your Island Charter LLC

The western portion of the shopping strip is addressed 1601 N Roosevelt Blvd. and consists of three tenant spaces with a combined 2,240 sq. ft. of gross floor area according to the Monroe County Property Appraiser. Table 1 below provides an overview of the parking requirement and existing deficiencies for the overall site:

Table 1: Parking Analysis for 1601-1605 N Roosevelt Blvd					
Business	Use	Area / Intensity	Parking Requirement	Total Required Parking	Total Existing Parking
<i>1605 N Roosevelt</i>					
Mac's Place	Restaurant	1,163 sq ft consumption area	1 space/45 sq. ft. consumption area	26	
Cruisin Tikis Key West LLC	Marina	Six 6-passenger vessels	1 space per 3 passengers based on the total capacity of commercially licensed vessels	12	
Good Times Key West LLC	Marina	One 6-passenger vessel		2	
Mellow Enterprises Key West Inc	Marina	One 6-passenger vessel		2	
Red Mangrove Kayaking LLC	Marina	One 6-passenger vessel		2	
Your Island Charter LLC	Marina	One 6-passenger vessel		2	
Mellow Ventures	Paddleboard Rental	Accessory use	None	0	
Mellow Ventures	Retail	Accessory use	None	0	
<i>SUBTOTAL</i>				46	8

<i>1601 N Roosevelt</i>					
Tenant Space 1	Retail stores and service establishments	2,240 sq ft finished sq ft	1 space / 300 sq. ft. of gross floor area	7	
Tenant Space 2					
Tenant Space 3					
SUBTOTAL				7	9
TOTAL				53	17

The proposed increase in consumption area for the restaurant yields a parking requirement of 26 spaces. The parking requirement for all businesses operating at the shopping strip is 53 spaces, where 17 existing spaces serve the overall development. Therefore, a variance of 36 spaces is required.

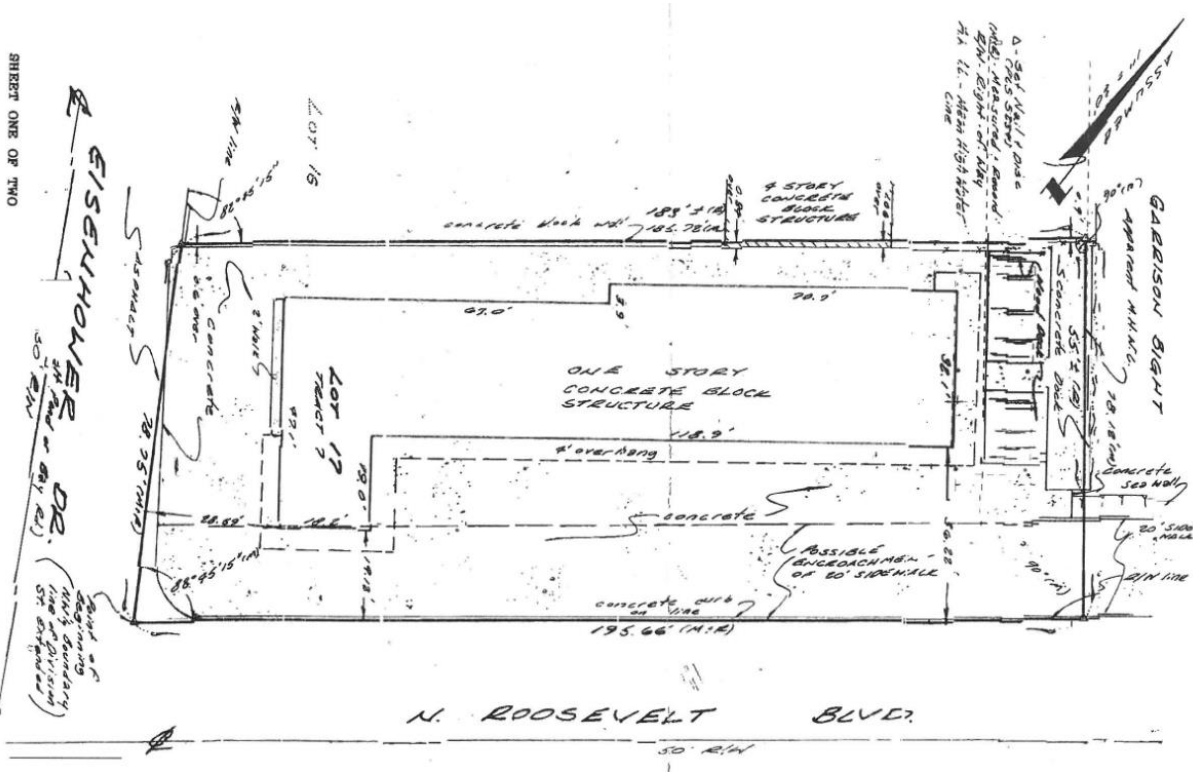


Figure 3 Existing Site Plan

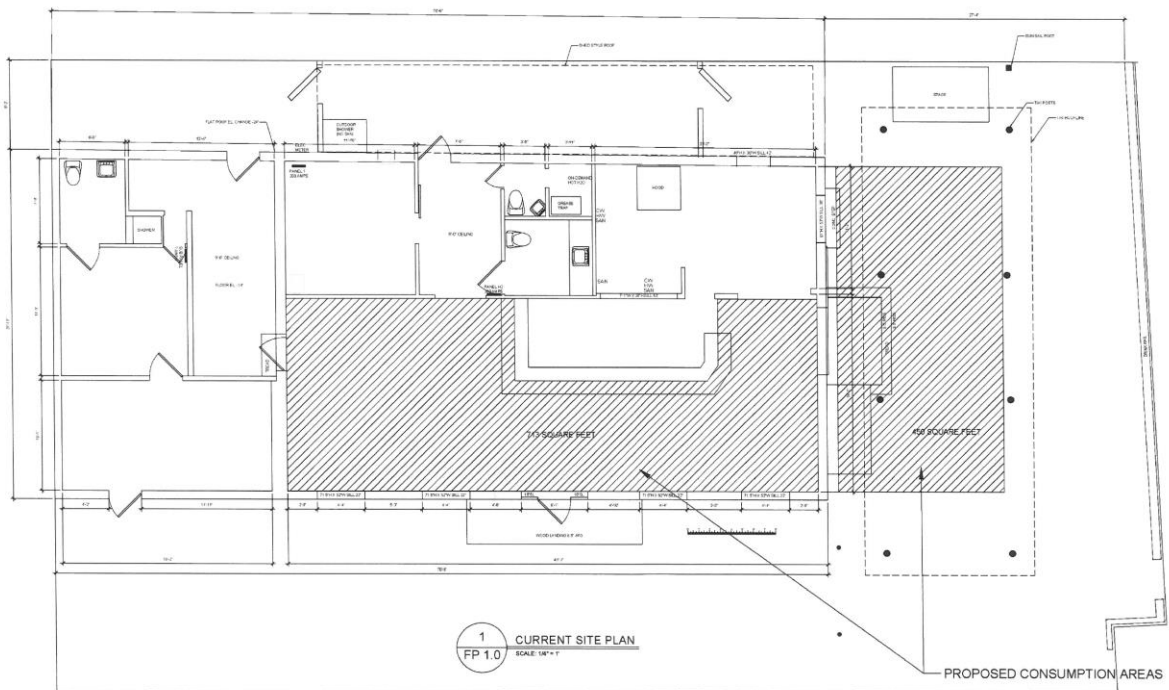


Figure 4 Proposed Floorplan

An estimated 14 bikes can be accommodated on site with the existing bike racks shown below.

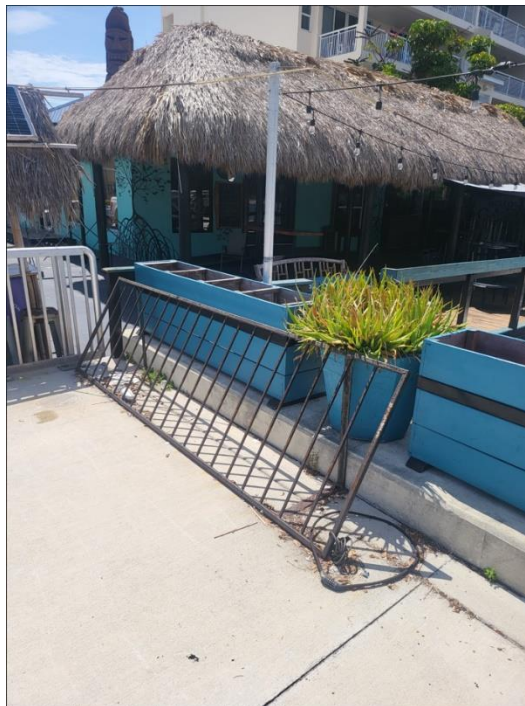


Figure 2 Existing bike racks

The site data table below provides the current and proposed site data for the property. The proposed variance is for the parking minimum requirements.

Site Data Table:				
	Code Required	Existing	Proposed	Variance Request
Vehicle Parking	53	17	17	Yes
Bicycle Parking	25% (13)	14	20	No
Consumption Area or Number of Seats	1,163 sq. ft / 74 seats	9 seats Licensed; 62 seats counted at previous business under Code violation	74 seats	N/A

Based on the plans submitted, the proposed increased consumption area, along with the existing businesses and tenant spaces operating within the shopping strip, a variance to the following requirements is required:

- **Parking Minimum:** A variance for parking minimum is required, from 53 spaces required to 17 existing / proposed.

The application was sent to the Development Review Committee (DRC) members for comment on September 22, 2023. The following responded with comments.

1. Utilities:
 - The applicant needs to work with the building owner and/or other tenants to screen the solid waste dumpsters from view, pursuant to City of Key West Land Development Regulations, Sec. 108-279.
2. Multimodal Transportation
 - The property at 1605 North Roosevelt has frontage that has been identified within a 2023 FDOT Pedestrian Safety Study of SR 5 / North Roosevelt Boulevard (FPID 250650-5-32-01). It is adjacent to a large sidewalk commonly called the promenade, identified as a multi-use path for use by recreational devices (City of Key West Code of Ordinances Section 70-1, 70-901) and is frequented by many pedestrian and bicycle users. The Safety Study identified the following characteristics:
 - At least part of the existing parking area is accessed from North Roosevelt Blvd by a 105' wide driveway.
 - Between 2020-2022, one Ped & Bike Collision occurred adjacent to the existing driveway.
 - The current parking configuration encourages vehicles exiting to reverse across the multiuse path into the functional area of the intersection of North Roosevelt Blvd and Eisenhower Dr.
 - Requirements for driveway widths are specified in Chapter 214 of the Florida Design Manual. Based on the traffic data collected at some driveways along the study area, most of the driveways are Category A (1-20 trips per day or 1-5 trips per hour) and Category B (21- 600 trips per day or 6-60 trips per hour). Category A should have a connection width of 12' minimum to 24' maximum. Category B should have a connection width of 24' minimum to 36' maximum.

- Requirements for driveway spacing and corner clearance are provided in FDM 201.4. In addition to corner clearance requirements, driveways should be located outside of the functional areas of adjacent intersections, where practical.
 - The study proposed the following changes: Split into two one-way driveways (Entry/ Exit Only). (2 lanes @ 15' wide) No outbound left-turn.
3. Engineering:
 - Does the site currently offer any bike parking to substitute for some of the missing parking spaces?
 4. Urban Forestry:
 - No comments regarding the variance request except that the public Bayview Park parking area on Jose Marti Drive is prone to flooding on full moon tides and the higher parking spots are used a lot by the neighboring Womankind business located on the corner of Truman and Eisenhower Drive.

Staff Analysis - Evaluation:

The criteria for evaluating a variance are listed in Section 90-395 of the City Code. The Planning Board, before granting a variance, must find all the following:

1. *Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.*

The applicant provides that the restaurant is located on an existing commercial lot with limited existing parking and limited additional parking opportunity; special conditions exist in the location of the property as it sits along a high-trafficked thoroughfare on one side and water on another. There is no available space to add additional parking and the property owner has created multiple businesses within a constrained commercial structure. This business owner is limited in their ability to comply with parking requirements.

IN COMPLIANCE

2. *Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.*

The applicant provides that the property was purchased with existing code violations for having more seats than they were licensed for and the conditions were therefore not created by the applicant; however, the consumption area expansion has been requested by the new business owner. The restaurant is licensed for 9 seats and requests 74 seats; this request is to continue the business at a level that, according to the applicant, will provide the revenue needed to succeed. Further analysis confers the applicant did not design the size or layout of the shopping strip or the location of the parking. Given the proposed expansion in consumption area from what the restaurant is currently licensed for, a parking review pursuant to Section 108-575 is triggered, whereby any parking deficiency shall be brought into conformity concurrently with the enlargement or change of use.

IN COMPLIANCE

3. *Special privileges not conferred. That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings, or structures in the same zoning district.*

Granting the variance requested will confer upon the applicant special privileges denied by the Land Development Regulations to other lands, buildings, or structures in the same zoning district.

NOT IN COMPLIANCE

4. *Hardship conditions exist. That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

Providing parking spaces in accordance with the zoning district is limited due to the existing footprint of the building and limited space available for parking. The applicant provides that there is ample public parking across the street (along Jose Marti Drive) and it is easily accessible to customers of the restaurant. The applicant further provides that the restaurant has been functioning well with customers parking at the alternative location. Further analysis confers that this may constitute as a hardship as it limits the rights commonly enjoyed by other properties in the same zoning district. The applicant did not construct the original building; the restaurant is permanently limited in allowable consumption area (how many customers they are able to service) due to lack of available parking onsite, which ultimately renders portions of the restaurant unusable, however the expansion request does not reflect a hardship.

NOT IN COMPLIANCE

5. *Only minimum variance granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

The variance requested is not the minimum variance required however the applicant has stated that it is the minimum required to provide the revenue needed for a successful restaurant at this location.

NOT IN COMPLIANCE

6. *Not injurious to the public welfare. That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.*

The variance requested is not directly injurious to the public welfare. It would allow for increased food service, and to an extent encourage pedestrian activity. Limited parking promotes alternative modes of travel and supports the commercial pedestrian-oriented area along an existing multi-use “promenade.”

IN COMPLIANCE

7. *Existing nonconforming uses of other property not the basis for approval. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

Existing non-conforming uses of other properties, use of neighboring lands, structures, or buildings in the same district, or other zoning districts, are not the basis for this recommendation.

IN COMPLIANCE

The Planning Board shall make factual findings regarding the following:

That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.

That the applicant has not demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors.

The standards established by Section 90-395 of the City Code **have not been fully met** by the applicant for the variance request on the minimum parking requirement.

RECOMMENDATION:

The Planning Department recommends that the request for variances to the minimum parking requirement be **DENIED**. If the Planning Board elects to approve the variance, staff recommends the following conditions:

1. The applicant shall work with the building owner and/or other tenants to screen the solid waste dumpsters from view, pursuant to City of Key West Land Development Regulations, Sec. 108-279.
2. The applicant shall work with the building owner to comply with any required parking lot reconfiguration in accordance with the recommendations of the 2023 FDOT Pedestrian Safety Study.
3. The 6 new proposed bicycle parking spaces shall be installed in accordance with the design, lighting, and security criteria of Section 108-643.