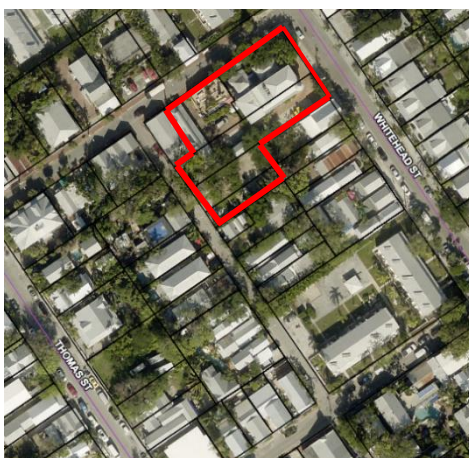


The City of Key West
Planning Board
Staff Report



To: Chair and Planning Board Members
From: Melissa Paul-Leto, Planner I
Through: Katie P. Halloran, Planning Director
Meeting Date: December 17, 2020
Agenda Item: **Amendment to Conditional Use - 318-324 Petronia Street; 802-806 Whitehead Street; and 809-811 Terry Lane - (RE# 00014010-000000; 00014050-000000; 00014060-000000) -A request for an amendment to a conditional use approval for a restaurant on property located within the Historic Neighborhood Commercial-Bahama Village Commercial Core (HNC-3) and the Historic Medium Density Residential (HMDR) Zoning Districts pursuant to Sections 122-62, and 122-868 (9) of the Code of Ordinances of the City of Key West, Florida.**

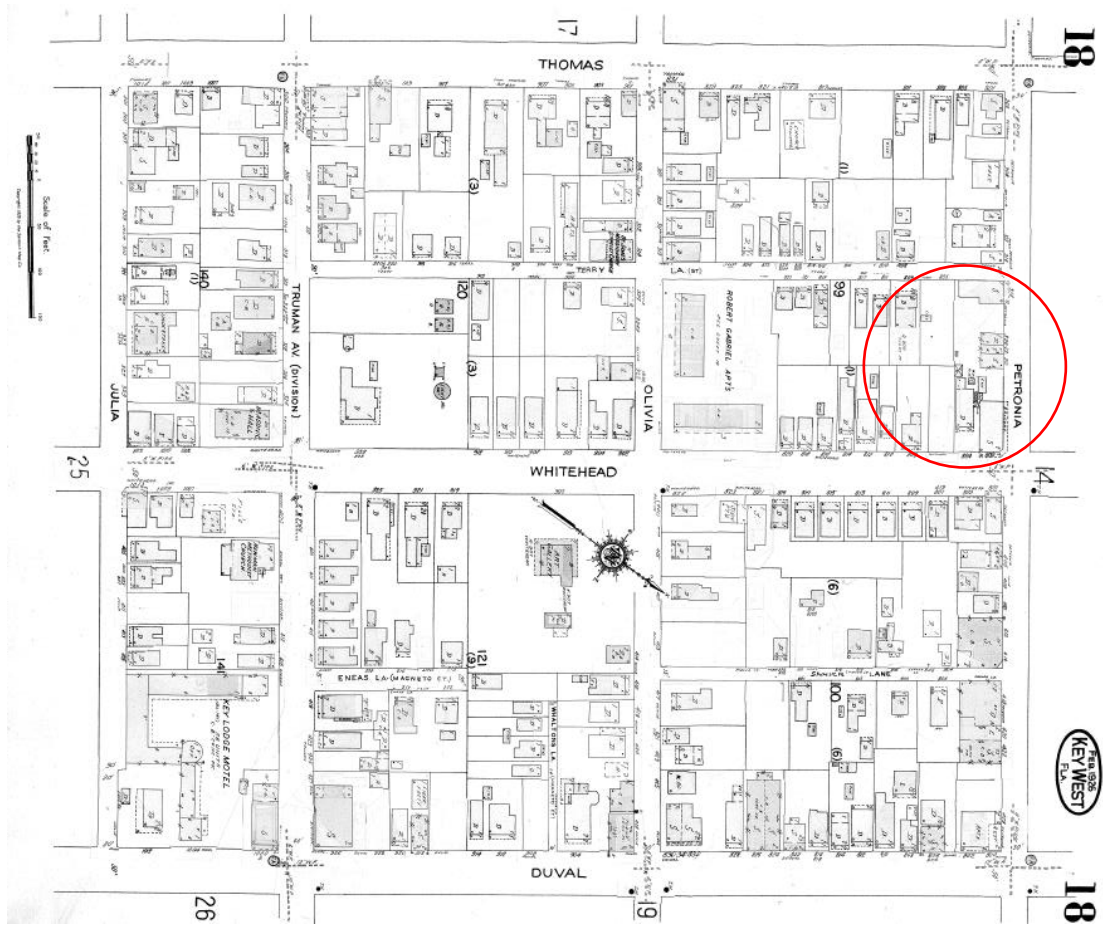
Request: To allow for an amendment of an existing conditional use approval to modify four (4) specific conditions.
Applicant: Richard McChesney, Spottswood, Spottswood, Spottswood and Sterling, PLLC
Property Owner: RH Southernmost, LLC
Location: 318-324 Petronia Street; 802-806 Whitehead Street; and 809-811 Terry Lane – (RE# 00014010-000000; 00014010-000000; 00014050-000000; 00014060 000000)
Zoning: Historic Neighborhood Commercial-Bahama Village Commercial Core (HNC-3) and the Historic Medium Density Residential (HMDR) Zoning Districts.



Subject Property

Background:

The subject property is on the corner of Petronia Street and Whitehead Street. The restaurant uses currently operating at this location is Rams Head Southernmost. The property is located within the Historic Neighborhood Commercial-Bahama Village Commercial Core (HNC-3) zoning district.



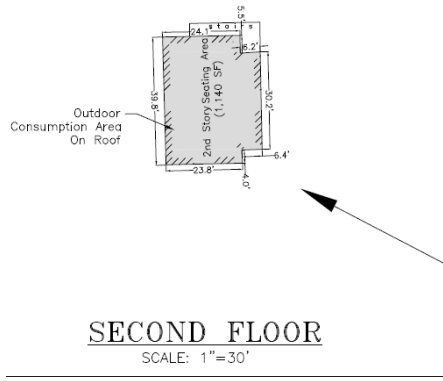
Sanborn Map 1961

This location has received the following approvals:

- February 12, 1990- The Board of Adjustment approved Resolution No. 90-91 – Special Exception – The property received a special exception to HP-3, Light Commercial Historic Preservation district to allow restaurant and multi-family use.
- February 12, 1990- The City Commission approved Resolution No. 90-92 – Variance – The property received a variance to HP-3, Light Commercial Historic Preservation district to construct a 65-seat restaurant and three dwelling units, 35 units/acre density (16 units /acre density allowed) , 45% lot coverage (40% allowed), 1-foot front setback, 5-foot side setback, 10-

foot rear setback, 3 parking spaces (25 required), units to be subject to GMO affordability criteria for 10 years.

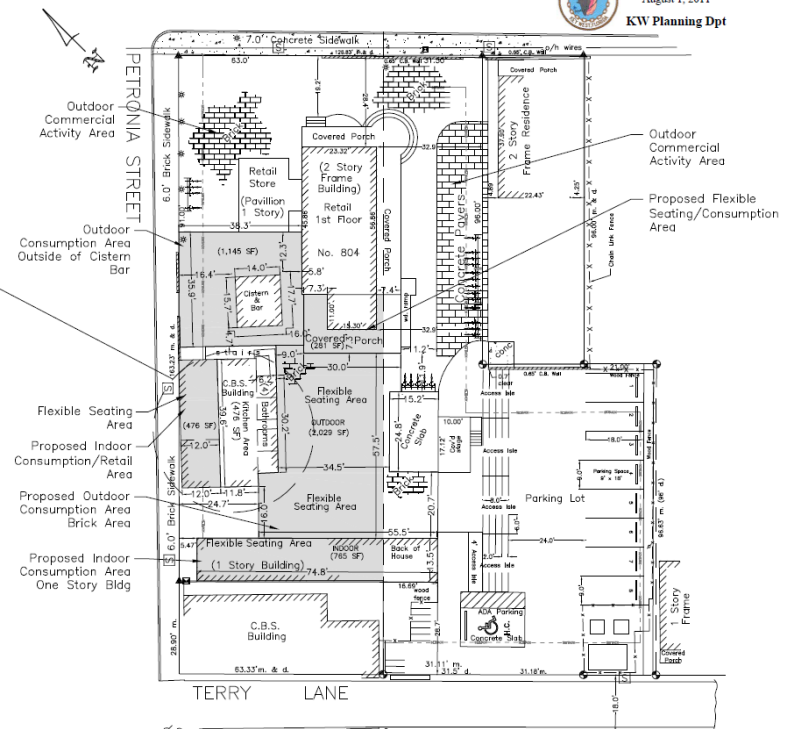
- February 12th, 1990- The Board of Adjustment approved Resolution No. 90-96 – Special Exception – The property received a special exception to HP-3, Light Commercial Historic Preservation district to allow installation of approximately 15 food and crafts booths along Petronia Street between Whitehead Street and Terry Lane.
- February 5, 1997- The Board of Adjustment approved Resolution No. 97-72 – Variance - 804 Whitehead, 809, 811 Terry Lane – The property was granted a variance to HP-3, Light Commercial Historic district to allow a zero right side setback (25' is required) for the reconstruction of existing buildings; and a special exception to allow a restaurant use up to 45 seats in an HNC-3/HP-3 land Use district.
- February 5, 1997- The Board of Adjustment approved Resolution No. 97-73 – Special Exception – 804 Whitehead Street, 809, 811 Terry Lane. The property was granted a special exception to allow small scale commercial use (retail sales / restaurant / parking) on three lots with a future land use designation of HMDR.
- February 12, 1998 – The Planning Board approved Resolution No. 98-44 – Variance – 804 Whitehead Street, 809, 811 Terry Lane. The properties were granted a variance to allow : 5 foot right side corner setback (15 feet required) and 1.33 feet rear setback (16 feet required) to allow construction of a new one-story commercial structure of 1,025 square feet; and, a variance to allow zero feet left side setback (15 feet required) and zero feet rear setback (15 feet required) for air conditioning equipment at two locations.
- December 15, 2005 – The Planning Board approved Resolution 2005-043 - Minor Development Plan for the demolition of a portion of the existing retail and replacement of two (2) residential units, conversion of restaurant space to residential and conversion of retail space and three (3) apartments into a single family home and provide parking. The development approval has expired and was never built.
- February 8, 2006 - The City Commission approved Resolution 06-045 - Minor Development Plan in order to demolish existing retail and replace two (2) residential units and convert restaurant space into residential, conversion of retail space and three (3) apartments into a single-family home and provide parking. There would be a total of six (6) houses and retail at the corner of Whitehead and Petronia Streets. The development approval has expired and was never built.
- November 17, 2011 – The Planning Board approved Resolution No. 2011-59 to allow for a restaurant with a maximum of 150 seats.



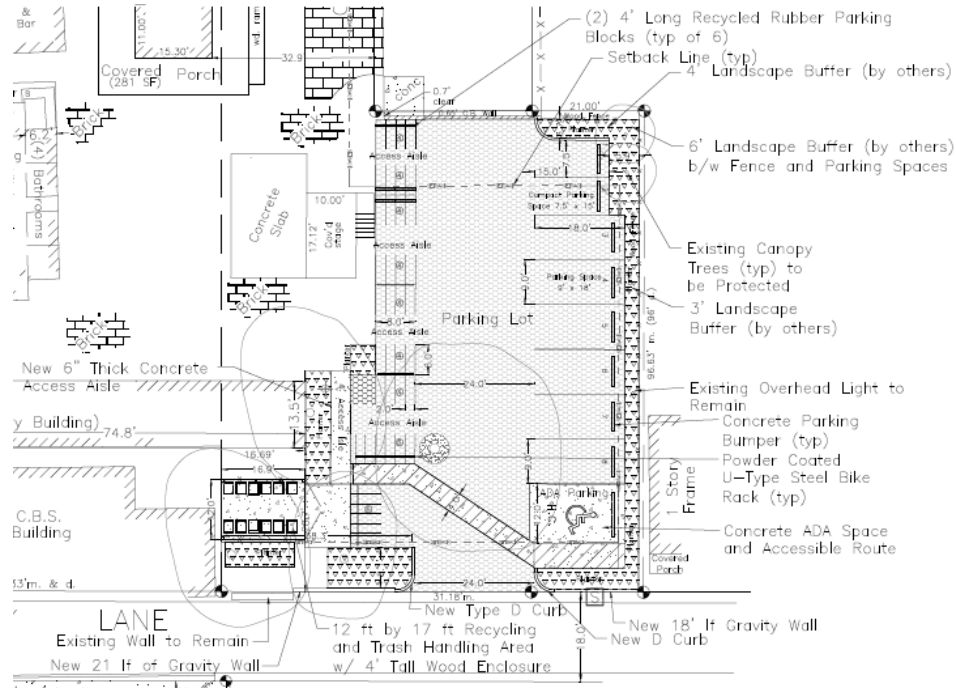
LEGEND



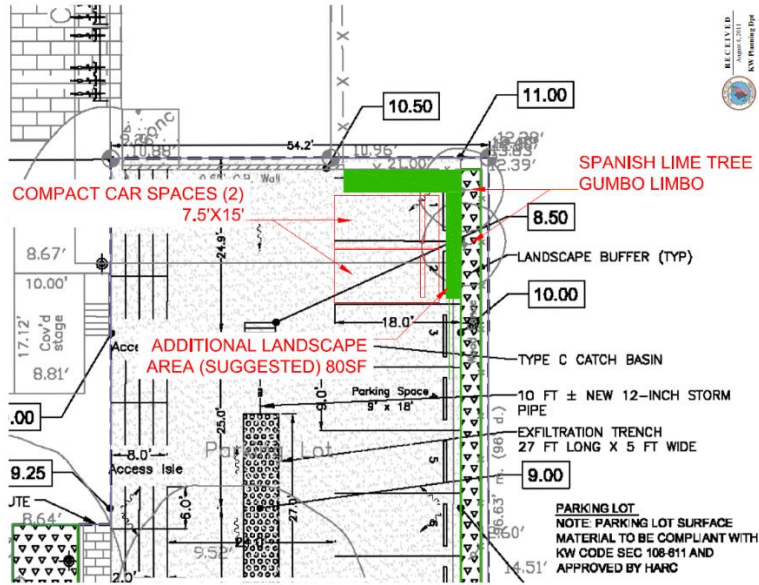
CONSUMPTION AREAS:
 PREVIOUS (ROOF DECK AND CISTERN BAR): 2,285 SF
 PROPOSED:
 COVERED PORCH: 281 SF
 OUTDOOR BRICK AREA: 2,029 SF
 INDOOR ONE-STORY BLDG: 765 SF
 INDOOR TWO-STORY BLDG: 476 SF
 TOTAL PREVIOUS AND PROPOSED: 5,836 SF



Proposed Consumption Area - 2011

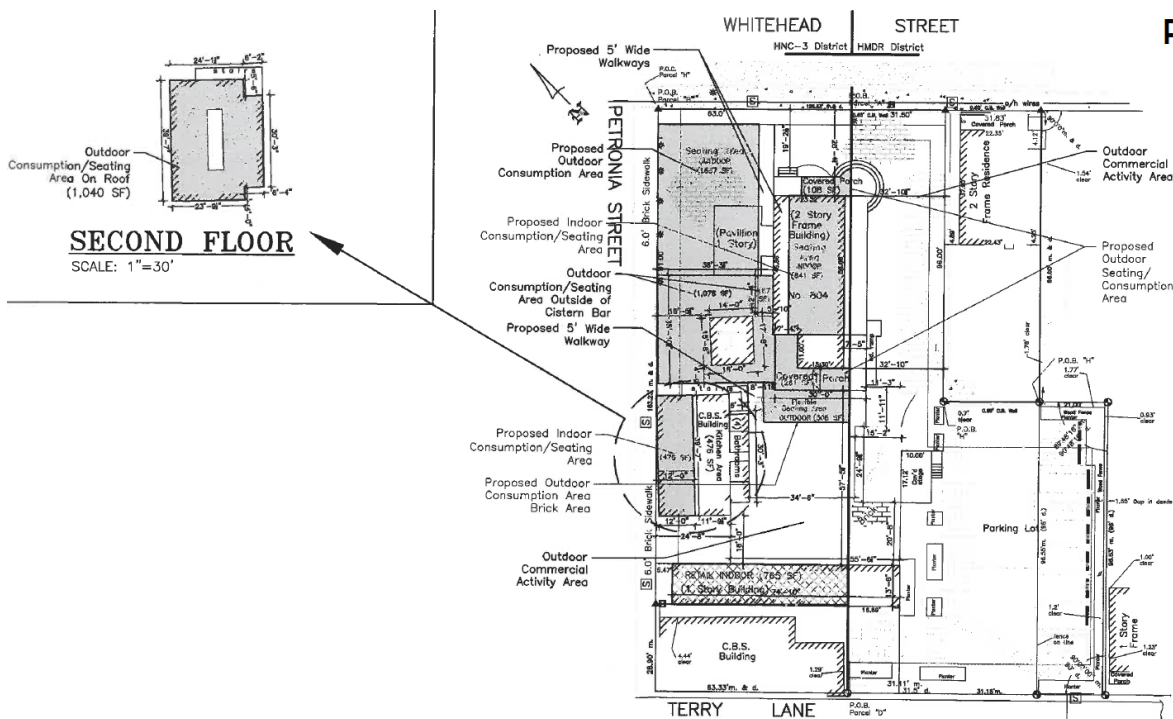


Trash and Parking Site Plan - 2014



2011 Plan

- March 17, 2015 – Administrative approval of a Minor Modification of Conditional Use Approval PB Res. No. 2011-059. The approval was to reduce the outdoor consumption area by 76 square feet and increase the indoor consumption area by 76 square feet, maintaining the same overall consumption area of 5,836 square feet. The applicant was approved to move most of the consumption area forward towards the more commercialized corner of Petronia and Whitehead Streets and to the interior of the existing mixed-use building at 802-804 Whitehead Street.



2015 - Modification to Conditional Use

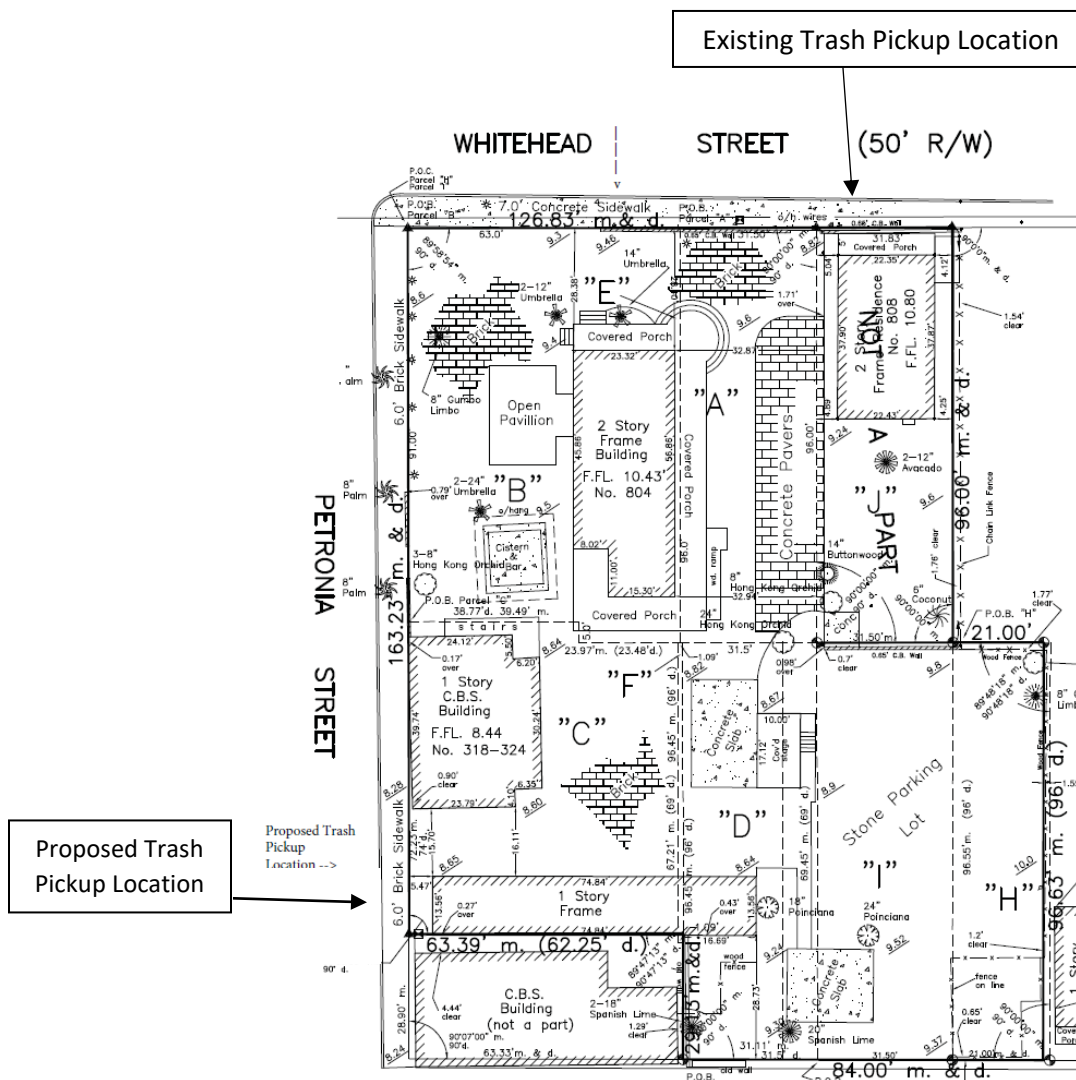
The applicant is now requesting a revision / amendment to the conditional use approval. The specific proposed amendments are outlined below. Proposed deletions are ~~crossed out~~ and new language is underlined. The application shall be reviewed as per Section 122-63 (e); it shall be based on the criteria of Section 122-62 (6) and (c).

Condition #2- Site Plan – Relocation of two (2) bicycle parking spaces near the trash area to elsewhere on site.

Condition #3 - The waste and recycling handling shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides with ~~a roof and~~ doors for access.

Condition #7 - Hours of operation are limited from 7:30 a.m. 9 a.m. to 11 p.m. daily except during special city sanctioned events such as Fantasy Fest and Goombay.

Condition #9 - All waste pickup shall be daily via Petronia Whitehead Street.



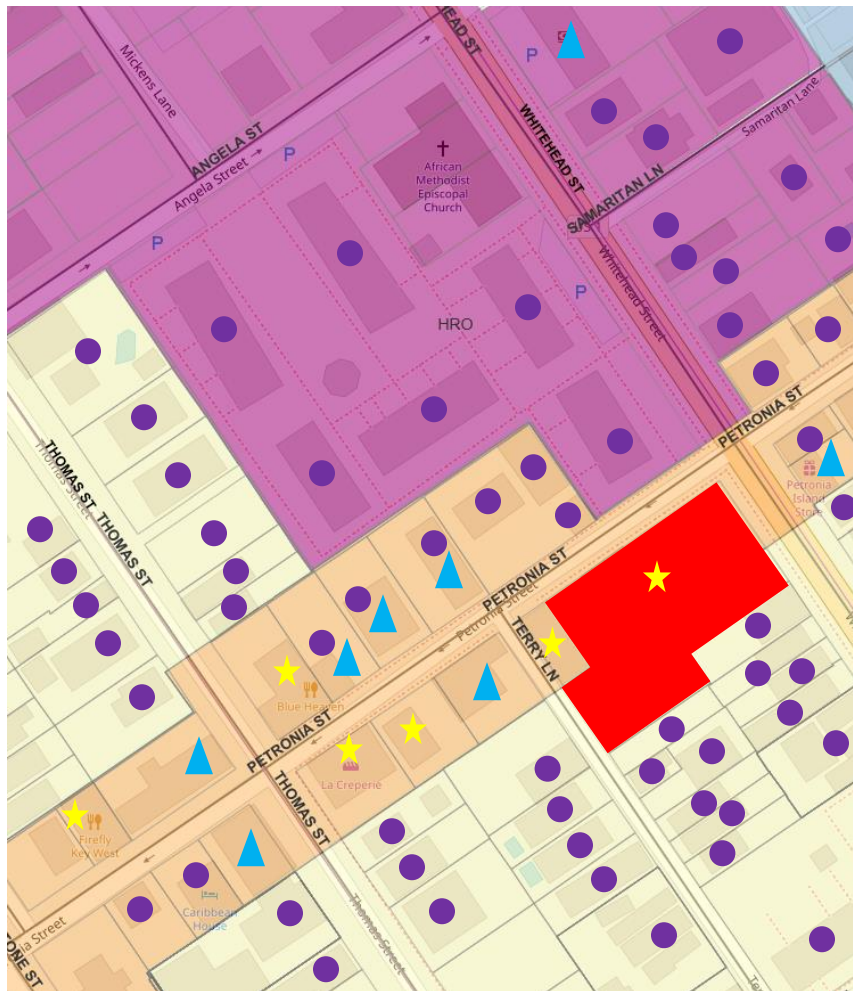
Surrounding Zoning and Uses:

North: Historic Neighborhood Commercial District (HNC-3), Residential and Commercial Retail Uses

South: Historic Neighborhood Commercial District (HNC-3), Residential and Commercial Retail Uses

East: Historic Residential / Office District (HRO), Housing Authority of the City of Key West, Residential uses

West: Historic Medium Density Residential District (HMDR), single family, duplex, and multi-family residential structures



- Residential
- ▲ Retail
- ★ Restaurant

Process:

- Development Review Committee: April 23, 2020
- Planning Board: June 18, 2020 (postponed by staff)
- Planning Board: July 16, 2020 (postponed by staff)

Planning Board:	August 20, 2020 (postponed by staff)
Planning Board:	September 17, 2020 (postponed by staff)
Planning Board:	October 15, 2020 (postponed by staff)
Planning Board:	November 19, 2020 (postponed by staff)
Planning Board:	December 17, 2020
Local Appeal Period:	10 days
DEO Review:	Up to 45 days

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 generation of 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 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

The City of Key West Land Development Regulations per Section 122-866 states, “The historic neighborhood commercial district (HNC-3) consists of the Bahama Village commercial core. The HNC-3 Bahama Village commercial core district includes the Bahama Village neighborhood commercial core along Petronia Street, approximately 200 feet southwest of Duval Street, and extends southwestward to the rear property lines of lots abutting the southwest side of Emma Street. The village area is a redevelopment area, including a commercial center linked to Duval Street. Consistent with the comprehensive plan, development in the district shall be directed toward maintaining and/or revitalizing existing housing structures, preventing displacement of residents, and compliance with concurrency management.”

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

- a. **Floor are ratio (FAR):** No additional floor area is proposed.

b. Traffic generation: No changes in the traffic generation are proposed.

c. Square feet of enclosed space for each specific use: No changes in the enclosed spaces.

d. Proposed employment: No change in employees.

e. Proposed number of types of service vehicles: There will be no change in in the amount of service vehicles.

f. Off-street parking needs: There are no changes to off-street parking. The restaurant is located within the Historic Commercial Pedestrian-Oriented Area, no additional floor area is being proposed. In the 2011 approval no additional parking was required per Code Section 108-573, due to the change of use from the established commercial/restaurant uses to one restaurant use.

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

a. Utilities: None expected.

b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in City Code Chapter 94: None expected.

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

d. Accessory structures or facilities: None proposed.

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 changes are proposed.

b. Setbacks from adjacent properties: No changes proposed. However, staff has noted that the garbage and recycling area is currently out of compliance in that it is encompassing an expanded area, larger than the 12 x 17-foot, trash and recycling area with 4 foot tall wood enclosure. This area needs to be re-delineated, fenced and should not expand closer to the residential right-of-way on Terry Lane. See section (c) below.

c. Screening and buffers: No changes proposed. However, the approximately 10-12-foot buffer between Terry Lane and the trash / recycling area must be reestablished including rebuilding the wall or other acceptable fence or landscaping. In addition, the required landscaped area adjacent to the large Sapodilla tree must be re-established to ensure site plan stipulations in-compliance for visual buffers Sec. 108-347 (a) and as per Planning board Resolution No. 2011-059. Sec. 108-482 (b) - three Spanish Stopper trees of specified size must be planted at that location.

d. Landscaping berms proposed to mitigate against adverse impacts to adjacent sites:

The applicant will plant three (3) Spanish Stopper trees, fence the 12' x 17' recycling and trash area, and maintain the deteriorating concrete wall facing Terry Lane.

e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts: No changes proposed. See section (b) and (c) related to the trash and recycling area. The applicant has revised their Waste Management contract to follow the condition that all waste be picked up daily. However, the applicant is requesting to have the trash/recycling picked up on Petronia instead of Whitehead Street. Petronia Street is a one-way street with sidewalks that share space with permanent brick planters and pedestrians' access. Placement of trash bins on the sidewalk would hinder pedestrian access and possibly require pedestrians to walk in the street. Trucks retrieving refuse would fully block vehicle circulation. Other restaurants use Petronia for refuse retrieval but have smaller garbage / recycling container footprints.

(c) Criteria for conditional use review and approval:

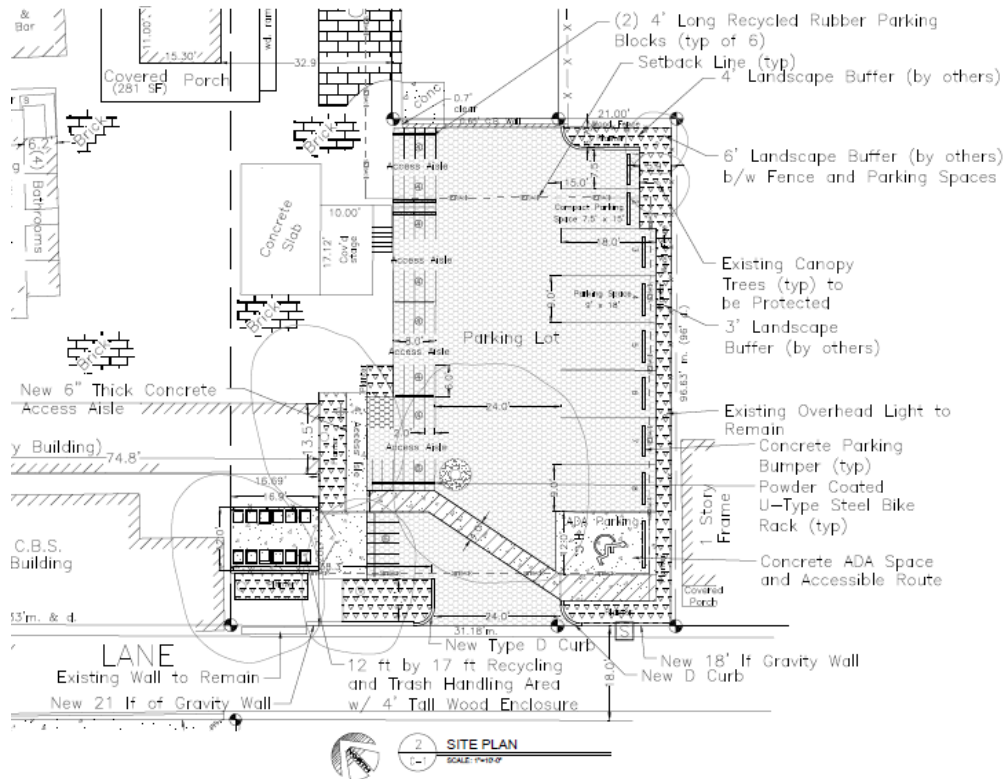
Pursuant to City Code Section 122-62(c), applications for a conditional use shall clearly demonstrate the following:

(1) Land use compatibility:

The applicant is requesting four modifications to conditions that were placed within the original conditional use approval in 2011 per Resolution No. 2011-59.

1. The first request is to remove the original condition that mandates the applicant to place a roof over the screened garbage area facing Terry Lane and the parking lot, "The waste and recycling handling shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides with a ~~roof and~~ doors for access.

Planning staff recognizes that the property has not been in compliance with this conditional use requirement. The purpose of placing a roof over the garbage area is to eliminate any possible odors from that area towards the residential properties or pedestrians on Terry Lane. It is likely that daily garbage and recycling pick-up would be a sufficient measure, along with appropriate regular maintenance and cleaning of the garbage storage area, to minimize nuisance from odors.



2014 - Shows the dimensioned trash location with landscaped area facing Terry Lane



Photo showing existence of three Spanish Stopper trees.

Site Visit – Karen Demaria, City of Key West Urban Forrester



Site Visit – Photo depicting area with missing trees (three Spanish Stoppers), and fence posts which would enclose an expanded garbage/ recycling area; that expansion has not been requested or approved.



Site Visit – Photo depicts damaged wall that must be repaired or replaced with HARC approval for a new wall or fence.

2. The second request is to change the hours of operation. The applicant is requesting that the hours of operation be expanded to allow the restaurant to open at 7:30 a.m. instead of 9 a.m. daily.

Planning staff has evaluated the surrounding restaurants and the standard opening time is 8 a.m. Staff recommends opening hours be 8 a.m. Outdoor sound must comply with Sec. 26-192 with the HNC-3 zoning district considered a commercial property and the HMDR zoning district considered a residential property.

- Blue Heaven Restaurant hours are Monday through Saturday from 8 a.m. - 2:30 p.m., 5 p.m. - 10 p.m. and Sunday from 8 a.m. - 2 p.m., 5 p.m. - 10 p.m.
- La Creperie French Café hours are Monday through Sunday 7:30 a.m. – 3 p.m.
- Viv Wine Bistro hours are Monday- Sunday 12 p.m. – 10 p.m., Closed on Wednesdays

3. The third request from the applicant is that all waste be picked up daily via Petronia Street instead of Whitehead Street due to the fact that the Historic Trolleys of America trolley makes a stop in front of the property on Whitehead Street and the LOOP bus also makes stops at the same location.

Based on the conditions in Resolution No. 2011-059, condition #9 states that recycling of applicable materials is required and condition # 12 states that all waste pickup shall be daily. Based on Waste Management records, the applicant modified their contract from trash pickup 4 times a week and pick up of recycling 3 times a week, to daily pickup of all materials. The applicant must continue with daily pickup to remain in compliance with the Planning Board Resolution No. 2011-059.

With respect to the applicant's request to change the location for all waste and recycling pick up from Whitehead Street to Petronia Street, staff does not recommend this modification for several reasons. There is adequate space for the garbage to be placed on Whitehead Street without interfering with the HTA trolleys and LOOP bus. Petronia Street is a one-way street with sidewalks that share space with permanent brick planters and pedestrians' access. Placement of trash bins on the sidewalk would encumber pedestrian access and possibly force a pedestrian to walk into the vehicle lane.

The applicant utilizes more than five garbage bins, eight recycling bins, plus a rolling bin for recycling. This request conflicts with various code provisions including 122-62 C.6.(c).

4. The fourth modification request is to the site plan; the applicant would like to propose relocation of two (2) bicycle parking spaces depicted by approved site plans adjacent to the trash area. The proposed site plan indicates the applicant requests to relocate these two bicycle parking spaces and add two additional loops to an existing bike rack closer into the property (Please see site plan attached). These spaces have not been installed.

Per the City's multimodal transportation coordinator, Tim Staub per Section 108-643, each bicycle parking space shall be at least two feet wide by six feet long with a seven-foot minimum vertical clearance. An access aisle at least five feet wide shall be provided and maintained beside or between rows of bicycle parking. A facility for bicycle parking shall offer security including either a lockable storage enclosure or a stationary rack to which the bicycle can be locked. Bicycle rack design must accommodate both U-shaped locks and cables and include such common shapes as an inverted "U" design or a "ribbon" design. Racks shall be securely anchored. Lighting shall also be provided in bicycle parking areas so that all bicycle facilities are thoroughly illuminated and no less illuminated than any motor vehicle parking stalls on site.

As this property is also located within the historic commercial pedestrian-oriented area, staff highly recommends the applicant reach out to FDOT to install bicycle racks within the right of way of Whitehead Street per Section 108-573. – special provisions within the historic commercial pedestrian-oriented area.

(2) Enough site size, adequate site specifications and infrastructure to accommodate the proposed use:

The size and shape of the site are adequate to accommodate the proposed scale and intensity of the amendment to the conditional use requested.

(3) Proper use of mitigative techniques:

Staff have noted neighborhood concerns regarding nighttime noise, and early morning truck delivery noise. Staff recommends the applicant comply with condition #8 which restricts all outdoor music after 10 pm per Section 26-192, Section 70-371, and Section 70-120.

(4) Hazardous waste:

None expected or proposed.

(5) Compliance with applicable laws and ordinances:

As described herein.

(6) 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:** Please reference staff analysis above related to garbage and recycling, landscaping, and noise.
- d. **Development within or adjacent to historic district:** Any signage or other building permits necessary will be required to have HARC approval.
- 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:

General conditions:

1. Approval is limited to no more than 150 seats. At no time does the request for 6,637 square feet of consumption area allow the applicant to increase seating on the site without conditional use review.

In 1997-1998, the property received approvals through development plan Resolutions 90-97, 97-72, 97-73, and 98-44 (attached in planning board package) for a 40-seat restaurant with 2,285 square feet of consumption area, indoor, outdoor commercial retail space and an associated parking lot. The 2011 conditional use approval allowed the property to increase seating capacity associated with special exception approval, Resolution 97-72, to a total of 150 seats and an indoor/outdoor consumption area of 6,537 square feet to be in the HNC-3 zoning district only. The 2015 administrative amendment to the conditional use approved a request to move 76 square feet of consumption area from the rear of the property toward the front corner of the property.

Per Code's annual inspection, the property currently provides no more than 150 seats within a 6,637 square foot consumption area.

2. The parking lot shall be reconfigured and maintained to include two (2) compact car spaces in order to protect the root system of large on the site, six (6) standard vehicular spaces, one (1) handicap space, and forty (40) bicycle/scooter spaces on the lot.

The applicant has requested to relocate two (2) bicycle parking spaces that were required near the trash area to be located closer to the parking lot. Per staff's site visit and Code's annual inspection, the required vehicle spaces are on-site. The applicant will be adding two loops to the existing bicycle rack per Section 108-643.

3. The waste and recycling handling shall be screened from adjacent properties and public rights-of-way by appropriate fences, walls, or landscaping in accordance with Code Section 108-279, and the area shall be enclosed on all four sides ~~a roof and~~ with a door for access.

Applicant must limit the 12' x 17' garbage and recycling area to that location, depicted on the approved site plans; and install (3) three Spanish Stopper Trees and maintain landscaping and setbacks within the approximately 10' x 17' buffer area as per approved site plans. Staff supports the applicant's request to remove the requirement to provide a roof over the trash and recycling area. The applicant must renovate the unsound concrete wall facing Terry Lane per HARC guidelines or demolish the wall and provide a proper screening/ fence per HARC guidelines.

4. The applicant will install and maintain a programable distributive sound system to assure compliance with the “unreasonable noise” definition of Section 26-191 of the Code of Ordinances and shall include a computerized sound monitoring system with real time monitoring access is provided to the City. The applicant expressly agrees to provide the City’s agents unfettered access to the computer-generated reports and full, real-time web-based access to the digital monitoring of on-site acoustics for the purpose of assuring compliance with the conditions contained herein.

Per Code annual inspection, the property installed and is maintaining a programable distributive sound system to assist with compliance with the “unreasonable noise” definition of Section 26-191 of the code of Ordinances.

5. Completion of all improvements as depicted on the site plan.

Some improvements as depicted on the approved 2015 and 2011 site plans have not been completed. Staff recognizes the following non-compliances:

- *The roof over the garbage and recycling area has not been constructed. The 12’ x 17’ designated trash and recycling area has been expanded and is not fenced.*
- *Three (3) Spanish stopper trees are missing along the 10’ x 17’ setback / landscaped area facing Terry Lane as part of the mitigation approval in 2011.*
- *The applicant is not receiving trash pickup on Whitehead Street.*

6. The applicant will install and maintain a programmable distributive sound system to assure compliance with the “unreasonable noise” definition of Section 26-191 of the Code of Ordinances and shall include a computerized sound monitoring system with real time monitoring access is provided to the City.

Per Code Compliance, the applicant has installed and maintains a programmable distributive sound system to assure compliance with the “unreasonable noise” definition of Section 26-191 of the Code of Ordinances and has included a computerized sound monitoring system with real time monitoring access to provide to the City.

7. The applicant shall revise and resubmit a signed and sealed Landscape Plan that reflects the modified site plan dated November 1, 2011 and Civil Plan dated November 9, 2011.

The Urban forester and the Utilities Department have reviewed the revised landscape plan and civil plan for compliance. The Urban Forrester found that the existing property is missing three Spanish Stoppers.

General Conditions:

8. No outdoor music of any kind is allowed after the hours of 10pm unless approved under a special event permit per Section 6-86 of the City Code or for a special city-sanctioned event within the Petronia Street Commercial Corridor. Amplified music will be regulated by the “unreasonable noise” definition of Section 26-191 of the Code of Ordinances.

Code has received several complaints in the past regarding noise issues on this property. The applicant shall comply with no outdoor music allowed before 8 am and after the hours of 10pm unless approved under a special event permit per Section 6-86 of the City Code or for a special city-sanctioned event within the Petronia Street Commercial Corridor. Amplified music will be regulated by the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances.

9. Recycling of applicable materials is required.

The applicant has scheduled recycling pickup for three times a week along Petronia Street. Staff recommends the recycling pickup be three times a week in front of Whitehead Street.

10. Hours of operation are limited from 8:00 a.m. ~~9 a.m.~~ to 11 p.m. daily except during special city sanctioned events such as Fantasy Fest and Goombay.

The applicant is requesting that the hours of operation to be expanded to allow the restaurant to open at 7:30 a.m. instead of 9:00 a.m.

Staff recommends based on the surrounding area restaurants, that the operational hours begin at 8 am.

11. Service vehicles are prohibited from using Petronia Street and Terry Lane and the Terry Lane parking lot for deliveries.

The Property shall have all service vehicles deliver on Whitehead Street only.

12. All waste pickup shall be daily via Whitehead Street.

The applicant is requesting that all trash and recycling be picked up daily via Petronia Street instead of Whitehead Street but at this time staff cannot support this request. Currently, the applicant has revised their waste management account from waste pickup of three times a week to waste pickup daily via Petronia Street. Again, staff cannot support the trash pickup on Petronia Street. All waste pickup shall be daily via Whitehead Street.

13. In an effort to increase employment for residents of the Bahama Village Community Redevelopment Area ("BVCRA") the restaurant operator will make good faith effort to employ a minimum of 25% of the restaurant workforce from qualified residents of the BVCRA.

"Good faith effort" means all employment opportunities will be advertised and posted in places frequented by residents of the BVCRA, such as the District 6 Commissioner's office, the Douglas Community Center, the Nutrition Center, the Martin Luther King swimming pool, neighborhood churches, neighborhood fraternal organizations, grocery stores, etc.

In the event the property owner is not the operator of the restaurant, the restaurant operator shall submit to the property owner proof of compliance with the employment requirements, on a quarterly basis. The property owner shall, in turn, provide the proof of compliance to the City of Key West, upon request. If the property owner operates the restaurant, in the event that this requirement is not complied with for any reason, the property owner shall tender to the BVCRA the amount of \$750 for each month the requirement is not met to be used to further employment programs within the Bahama Village Community.

In the event the property owner is not the operator of the restaurant, any lease, management agreement, or other document utilized to transfer operation of the restaurant shall include the provisions above along with a provision that the operator's rent will increase in the amount of \$750.00 per month for each month the requirement is not met. The property owner will in turn pay this increased amount to the BVCRA to be used to further employment programs within the Bahama Village Community Redevelopment Area. The property owner's failure to insist upon, collect, and transfer the increased amount to the City of Key West shall constitute a breach of this condition.

This requirement shall run with the conditional use and remain in place from owner to owner, Lessee to Lessee and Lessor to Lessor.

The Planning Department requested proof of compliance to condition #13, and the applicant provided record of job postings for the following locations: Ramshead - Facebook page advertisement, a posting at the Douglas Gym, and a posting at the Martin Luther King Pool.

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

1. 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 conditions of the Planning Board resolution.