

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



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel Sobczak, AICP-C, Planner I

Meeting Date: August 20th, 2020

Application: **Conditional Use** - 730 Emma Street (RE # 00013810-000000) - A request for a conditional use to allow the conversion of a low intensity commercial retail use to a restaurant use 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 conditional use in the HNC-3 zoning district to convert an existing low intensity commercial retail use to a carry-out and catering only restaurant use.

Applicant: Amy LaBeet

Property Owner: Charles Major

Location: 730 Emma Street (RE # 0013810-000000)



Background:

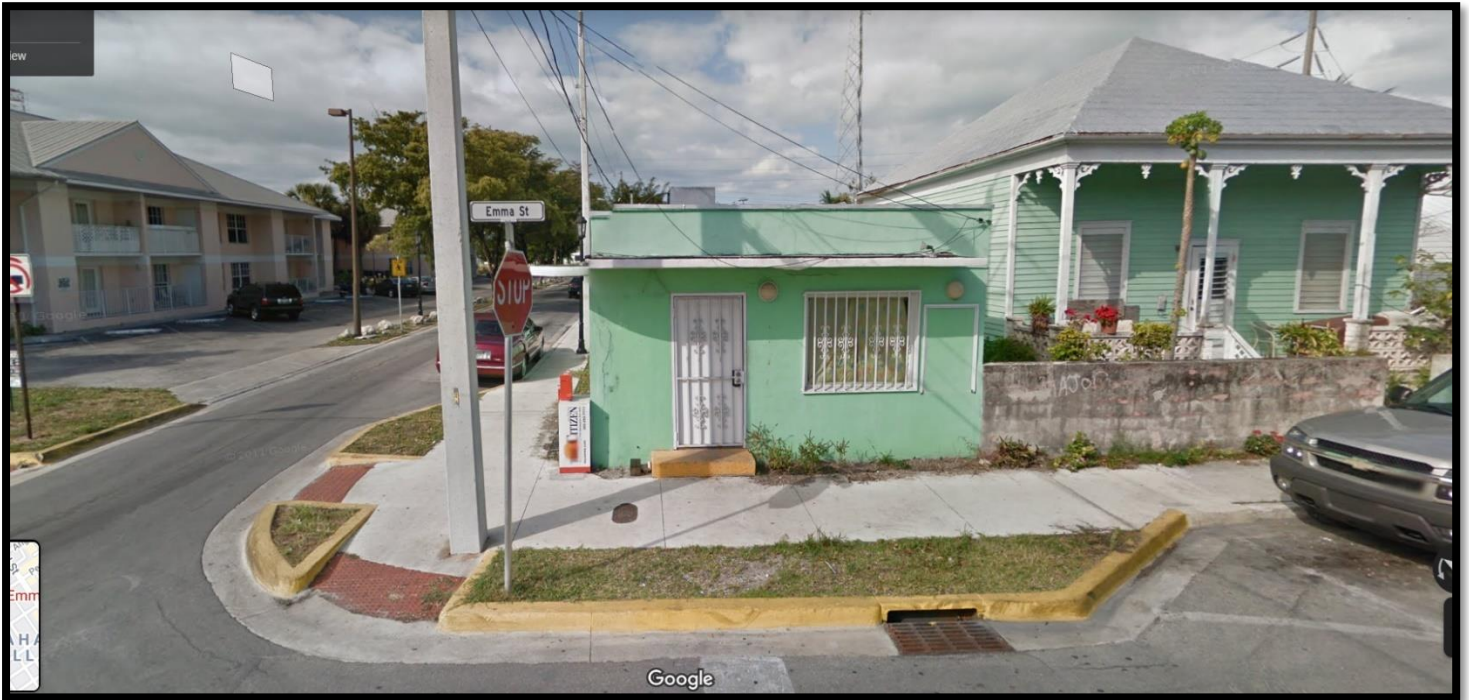
The structure located at 730 Emma Street has historically been a commercial structure with multiple uses since being erected in 1943. Most recently the structure has been used as a beauty supply shop, a low intensity retail use per City Code. The property was previously used as a small grocery market and food service establishment as far back as the 1950s. The City has located licenses for food service at the property as early as 1996 and has noted intermittent food service uses until Julian’s Grocery ceased operations in 2011. In 2012, Island Beauty Supply took over 730 Emma for retail use and ceased operations in 2019.

When the 1996 food service license was granted the parcel was located in the former Light Commercial Historic Preservation (HP-3) zoning district. The zoning ordinance at that time listed the *neighborhood grocery* use as a special exception to the HPS-3 zoning district. The city cannot locate nor was provided with a copy of the special exception granted by the Board of Adjustment that would have permitted this use. Upon the adoption of updated Land Development Regulations in 1997, the zoning was changed to the current HNC-3 and any food-service use was deemed a conditional use in the HNC-3 district. The parcel is also located in the Historic Pedestrian Oriented Zone specified in Section 108-573 of the City of Key West Code. The Historic Pedestrian Oriented Zone 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.

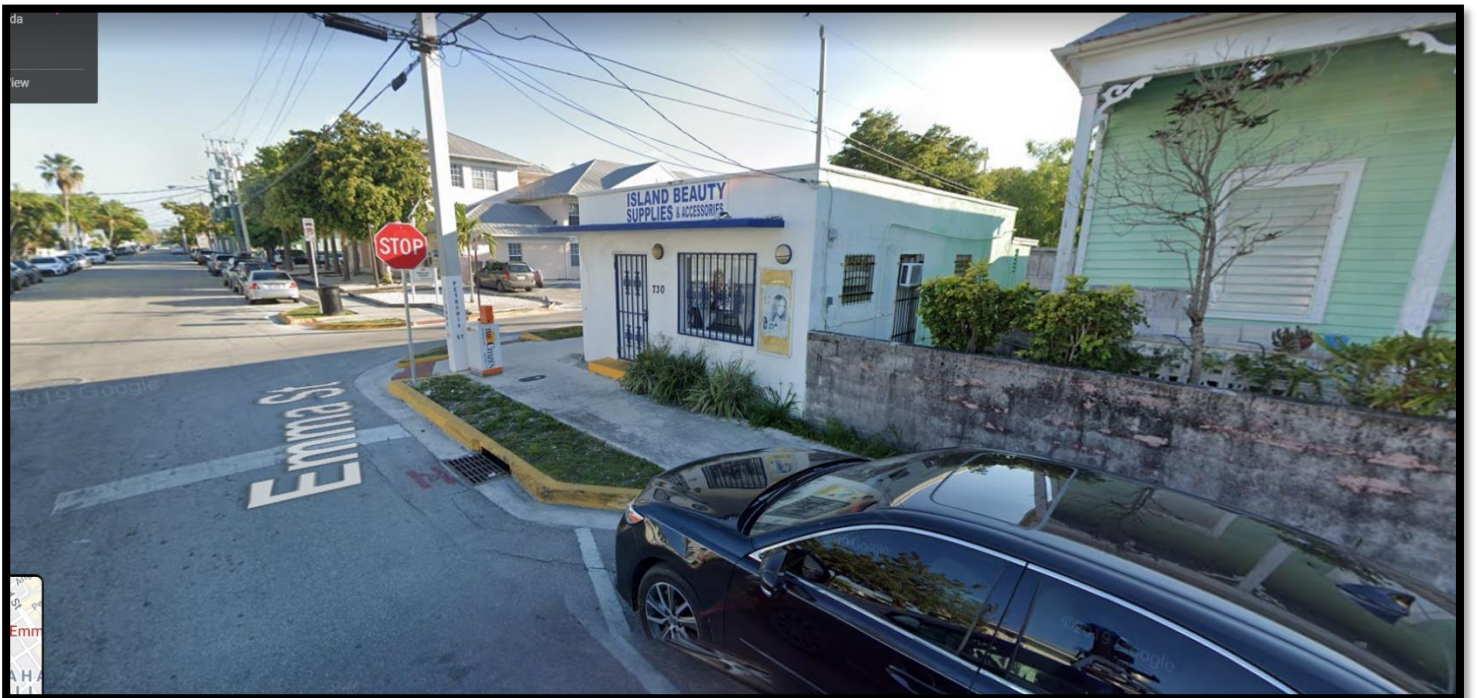
730 Emma Street, 1950s



730 Emma, 2011



730 Emma, 2019



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. 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. This includes service within the building as well as takeout or carryout service. For the purpose of this subpart B and impact fee assessments, a takeout or carryout restaurant shall be limited to no more than five chairs or bench seats without tables or counter tops.” The intent of the HNC-3 zoning district is to preserve, enrich, and revitalize the Bahama Village area. Development in the district shall be directed toward maintaining and/or revitalizing existing structures; the application for a food service establishment will revitalize the existing structure at 730 Emma.

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 (1,656 sqft)
 - ii. Proposed: 0.36 (596 sqft)
- b. Traffic Generation:
 - i. The subject property is located in the Historic Pedestrian Oriented Zone (Section 108-573 (c). The Planning Department does not anticipate any significant increase in traffic generation over the existing low-intensity retail use.
- c. Square feet of enclosed building for each specific use:
 - i. Restaurant Use – 596 sqft
- d. Proposed Employment:
 - i. One full time employee and two part time employees.
- e. Proposed number and type of service vehicles:
 - i. No service vehicles proposed
- f. Off-street parking needs:
 - i. The applicant is proposing a serving area that is 180 sq. ft., more or less, which equates to (4) four required off-street parking spaces, however, 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 property has received numerous improvements to prepare for the proposed conditional use, including permitted installation of an industrial exhaust hood system, and upgrades to the propane lines that run to kitchen equipment.

- 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. No improvements or structures proposed
- 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.

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

- a. Open Space
 - i. None proposed.
- b. Setbacks from adjacent properties
 - i. None proposed.
- c. Screens and buffers
 - i. The applicant has proposed to place their recycling and trash containers on the rear of the building behind, screening them from the public right-of-way.
- d. Landscaped berms
 - i. None proposed.
- e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts
 - i. The applicant has a building permit to install an industrial ventilation and hood system to mitigate any odor or smoke emanating from the kitchen. The applicant has also noted that the food service establishment will be pick-up only without seating which will limit the noise and the amount of people in the shop at one time.

Criteria for conditional use review and approval

(1) Land Use Compatibility:

- a. The applicant proposes to preserve the historic structure and use the structure as a food service establishment as it has historically been used off and on since 1943. The applicant states that the proposed food service establishment will only be used for carry-out and catering. The historic neighborhood commercial zoning district allows both commercial and residential uses. There are both commercial and residential uses within 300-feet of the proposed conditional use.

(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 has historically been used as a food service establishment. The commercial kitchen at 730 Emma has a grease interceptor, a three-receptacle wash sink, handwashing sinks, and industrial equipment. Additionally, the applicant has already been approved for permits that will allow the construction of an industrial exhaust hood and new propane gas lines. No other interior or exterior renovations are proposed at this time.

(3) Proper use of mitigative techniques

- a. No mitigative techniques have been proposed by the applicant.
- (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 Zone.
- (6) **Additional criteria applicable to specific land uses**
 - a. No additional criteria are applicable.

Recommendation:

The proposed conditional use for 730 Emma conforms with all applicable criteria for a restaurant use in the Historic Neighborhood Commercial Zoning District. The food service establishment will be carry-out/catering only which does not allow consumption on premises. 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 food service establishment be used for carry-out/catering only all additional seating must be granted by the Planning Department of Key West.
2. Plans for the food service establishment are to be consistent with the plans submitted by the applicant with the application and attached to the Resolution for a conditional use, unless approval is granted by the Planning Department of Key West.
3. All trash and recycling receptacles used must be screened from the right-of-way.