



THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report

**To:** Chair and Planning Board Members

**Through:** Katie P. Halloran, Planning Director

**From:** Kimberly Barua, AICP, The Corradino Group

**Meeting Date:** July 21, 2022

**Agenda Item:** **Conditional Use – 529 Eaton Street (RE# 00004140-000000):** A request for conditional use approval to allow for the use of the property for small events and gatherings, located in the Historic Neighborhood Commercial One (HNC-1) Zoning District, pursuant to Section 122-808(3), Section 122-776(d), and Section 108-573 of the City of Key West Land Development Regulations

**Request:** To allow for civic, cultural and entertainment activities as an accessory use in the courtyard of an existing residential structure.

**Applicant:** Studios of Key West Inc.

**Property Owners:** Studios of Key West Inc.

**Location:** 529 Eaton Street (RE# 00004140-000000)

**Zoning:** Historic Neighborhood Commercial One (HNC-1)





Pictures of the proposed outdoor event space (paved courtyard and covered porch, 1,400 sq. ft.)

**Background:**

The subject property is in the 500 block of Eaton Street near the corner of Simonton Street. The building was originally built in 1938. The two residential unit building is located within the Historic Neighborhood Commercial Truman/Simon (HNC-1) zoning district and is currently used to house visiting artists on a month-to-month basis, as both a transient and non-transient rental property. The Studios of Key West has a transient license attached to one of the two units that is occasionally rented short-term in the off-season. The second unit is a non-transient unit. The property has a driveway that can accommodate 2 vehicles. Currently it is not open to the public.

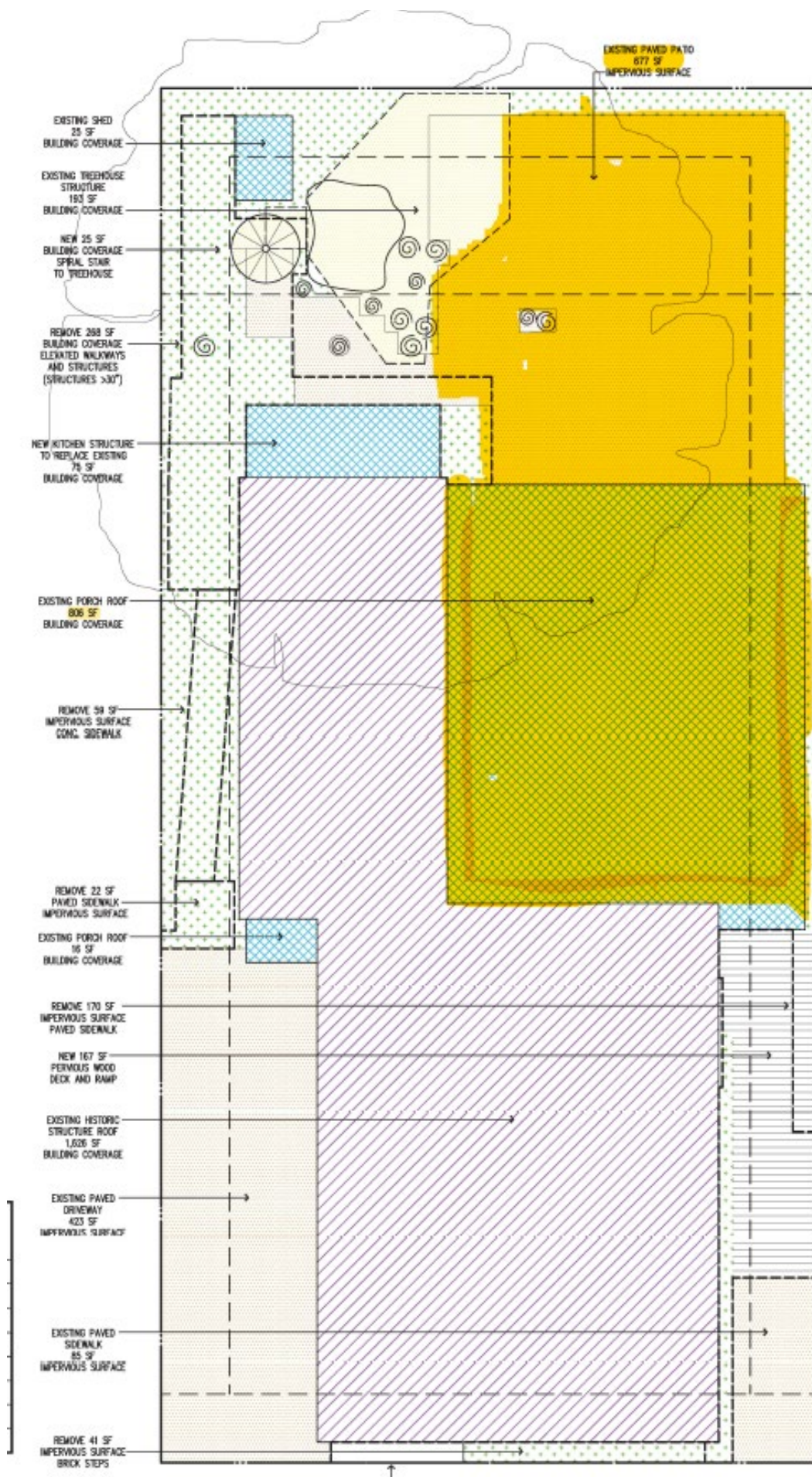
The applicant purchased the property which was previously known as “The Carriage Trade House” that was used as transient lodging, a hair salon, and a private supper club. The property has a food service license with the State of Florida, however the State prohibits public food service operations to be conducted within a private residence. The courtyard was historically used for a private supper club, serving weekly dinners to invited guests. However, the Carriage Trade House let their Food Service license with the City expire in 2018, and stopped serving food at that time.

In summary, the property currently has one transient and one non-transient residential unit and is not open to the public as a restaurant, as such the Planning Department has determined that the conversion of residential to nonresidential space requires a parking variance pursuant to Section 108-573(B)(3). The applicant disagrees with this determination.

**Request:**

The applicant is proposing to allow the use of the property for small events and gatherings in the courtyard, as an accessory use to the primary use of housing visiting artists. The 1,400 sq. ft. paved courtyard and covered porch area is proposed to be used for small group gatherings for art programs and/or demonstrations, book readings and artist speaking engagements and small performances. The visiting artists include musicians and other entertainers that would benefit from an additional performance venue in Key West. The proposed future use would provide a unique art centric space to host special events. With the approval of this conditional use, the site will contain two residential units with a small event space as an accessory use. This conditional use is not for restaurant seats, a bar/lounge, nor for a consumption area.









**Surrounding Zoning and Uses:**

**North:** 525 Eaton St Simonton Ct. Hotel (HNC-1)

**South:** 512 Eaton St. Key West Theatre (HNC-1)

**East:** 533 Eaton St. Studios of Key West (HNC-1) and 316 Simonton St (HNC-1)

**West:** 525 Eaton St Simonton Ct hotel (HNC-1)

**Process:**

**Development Review Committee:** April 28, 2022

**Planning Board:** July 21, 2022

**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 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.

**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 a 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*

Restaurants, excluding drive throughs, are a conditional use in the HNC-2 zoning district. The HNC-2 zoning district is restricted to small offices, neighborhood shops, restaurants with very limited seating, or other commercial uses similar in character to traditional neighborhood commercial services which have very limited square footage and generate low volumes of traffic.

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

**a. Floor area ratio (FAR):** The proposed use will not add any additional permanent floor area but will convert a formerly residential courtyard into a small event venue for cultural and civic activities.

**b. Traffic generation:** As an accessory use to the principal use, it is likely that the events will generate additional vehicle traffic, and the need for parking. The site has an existing driveway that can accommodate two vehicles. However, the code would require 12 parking spaces. It is staff’s opinion that a variance would be needed for not meeting the minimum required parking per the code. It is recommended as a condition of approval that a variance application is submitted to account for the lack of on-site parking. It is further recommended that the applicant provide for



additional mobility options for the event guests, such as valet parking, and onsite bicycle parking and/or payment to the City to purchase bicycle racks for nearby bicycle parking in the ROW to mitigate for the lack of on-site parking.

**c. Square feet of enclosed space for each specific use:** The courtyard area is approximately 1,400 square feet. No other space is proposed as part of this application.

**d. Proposed employment:** N/A

**e. Proposed number and type of service vehicles:** There are no proposed service trucks.

**f. Off-street parking needs:** The property is in the Historic Commercial Pedestrian Oriented Area and although the applicant is not expanding floor area, the existing courtyard use is not commercial, it is residential. Pursuant to Sec. 108-573 this application would not necessitate review of the required parking if the existing use was commercial, and the requesting accessory use was also commercial. Therefore, there is a need to review the number of parking spaces the proposed new accessory use would require. The site has an existing driveway that can accommodate two vehicles. However, the code would require 12 parking spaces. It is staff's opinion that a variance would be needed for not meeting the minimum required parking per the code. It is recommended as a condition of approval that a variance application is submitted to account for the lack of on-site parking. It is further recommended that the applicant provide for additional mobility options for the event guests, such as valet parking, and onsite bicycle parking and/or payment to the City to purchase bicycle racks for nearby bicycle parking in the ROW to mitigate for the lack of on-site parking.

Proposed Use	Parking Requirement	Parking Proposed
<u>Residential:</u> 2 units	2	2
<u>Assembly:</u> 1,400 sf	9.33	0
<b>Total:</b>	<b>11.33</b>	<b>2</b>

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

**a. Utilities:** The property has adequate utilities to support the proposed use.

**b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in City Code Chapter 94:** None expected. Compliance with building codes and life safety codes would be required prior to building permit issuance.

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

**d. Accessory structures or facilities:** None.

**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:** Open space is being improved through site improvements approved through a variance at the April 21, 2022 Planning Board meeting. The Open space will increase by 353 sq ft.

**b. Setbacks from adjacent properties:** There is no setback between the adjacent property and the courtyard area. The adjacent property to the east is also owned by The Studios of Key West and hosts many similar events indoors and on their rooftop.

**c. Screening and buffers:** Appropriate screening is proposed for the trash/recycling area. Additional waste and recycling needs will be handled as required. The applicant has stated that they will increase Waste Management pick up or share the Studios bins.

**d. Landscaping berms proposed to mitigate against adverse impacts to adjacent sites:** Applicant was approved at the April 21, 2022 Planning Board meeting for a variance for site improvements. The variances included building coverage (241 sq ft), impervious surface (496 sq ft) and open space (353 sq ft).

**e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts:** There is no expected excessive noise, odor, heat, or smoke from the business. Although there will be some noise associated with live music and outdoor gatherings, the applicant must adhere to the code as provided in Sec. 26-192 "Unreasonably Excessive Noise Prohibited".

**(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 conditional use as accessory cultural and civic activities is compatible with the surrounding area in that the neighborhood contains multiple theatres, bars, the adjacent Studios of Key West facility, churches, and other gathering/assembly types of uses. The neighborhood is also made up of commercial and transient/uses and is heavily tourist-oriented with pedestrian traffic.

**(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 conditional use requested. As an accessory use, the applicant demonstrates that all infrastructure currently exists to support the proposed use, with the exception of the

lack of existing parking. The site should provide for additional mobility options to mitigate for the lack of on-site parking for the event guests.

- (3) **Proper use of mitigative techniques:** Staff recommends mitigating for the lack of existing parking for event guests. Mitigation could include providing onsite and/or offsite nearby bicycle parking and valet service for events.
- (4) **Hazardous waste:** None expected or anticipated.
- (5) **Compliance with applicable laws and ordinances:** The accessory use will comply with all applicable laws and regulations that would be required, including Sec. 26-192 "Unreasonably Excessive Noise Prohibited" and Sec. 26-194 "Citation Procedure and Penalties".
- (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:** The proposed use is compatible with similar uses within this zoning district as well as district regulations.
  - d. **Development within or adjacent to historic district:** The conditional use application is within the historic district.
  - 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 **DENIAL**. This recommendation is based on staff's determination that a parking variance should be processed together with this CUP.

If the Planning Board chooses to approve the Conditional Use, the Planning Department recommends the following conditions:

#### **General conditions:**

1. The conditional use for cultural and civic activities (small events and gatherings associated with The Studios of Key West) is for an outdoor courtyard area of approximately 1,400 square feet.
2. There shall be no alcohol sales from the business except if there is an off-site catering license as part of a special event. A bar and lounge is not a permitted use in this zoning district. This is not a conditional use permit for a restaurant.

3. Operating hours are to stay within 9:00 a.m. - 11:00 p.m. Minor exceptions include Fantasy Fest, New Year's Eve and City of Key West sanctioned street fairs and events.
4. Any outdoor speakers shall be oriented to minimize noise disturbances to neighboring properties. No outdoor amplified music shall be permitted after 10:00 p.m.
5. At no time shall the accessory use as an outdoor event space violate City Code of Ordinance Sec. 26-192 "Unreasonably Excessive Noise Prohibited"
6. The applicant must apply and receive board approval for a parking variance at the next available planning board meeting.
7. No more than four non-related adults may be housed in a single non-transient unit.
8. To mitigate for the lack of on-site parking, the applicant shall provide for additional mobility options for event guests such as valet parking, on-site bicycle parking, and/or payment to the City to purchase bicycle racks for nearby bicycle parking in the ROW. A \$1,000 contribution would subsidize approximately four (4) bicycle racks per the City's Engineering Department. The site is lacking 10 parking spaces based on the code requirements, and Sec. 108-574 allows for the substitution of four (4) bicycle spaces for every one (1) vehicle space not provided on site. Therefore, a contribution to the City of \$10,000 would cover the cost of sufficient bike racks to substitute for the required 10 parking spaces not provided on the site.

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

9. The owner shall obtain and maintain a Conditional Approval Permit, pursuant to City Code Chapter 18, Article XII, Division 1. The City Code Compliance Department shall inspect the property on an annual basis upon reasonable notice to determine compliance with the conditions of the Planning Board resolution.