

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



**To:** Chair and Planning Board Members

**From:** Vanessa Sellers, Planner II

**Through:** Patrick Wright, Planning Director

**Meeting Date:** April 18, 2019

**Agenda Item:** **Conditional Use – 403-405 Caroline Street (RE # 00001610-000000; AK # 1001660)** – A request for conditional use approval to allow for cultural and civic activities with associated/accessory commercial sales on a parcel located within the Historic Residential/Office (HRO) zoning district pursuant to the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

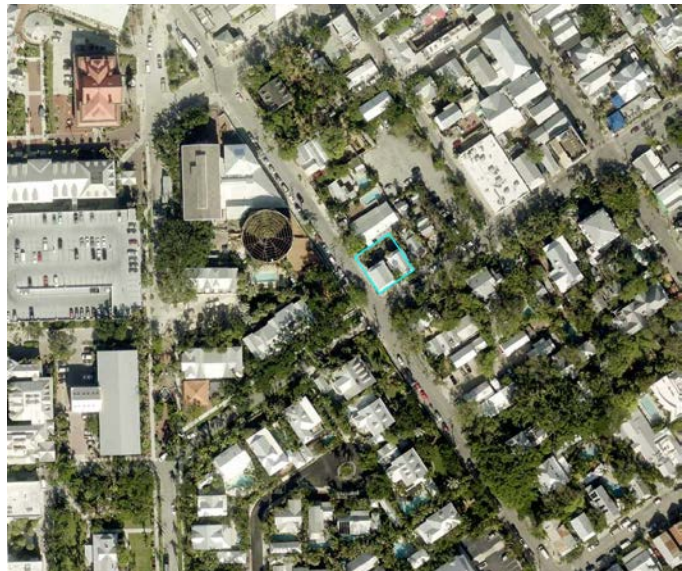
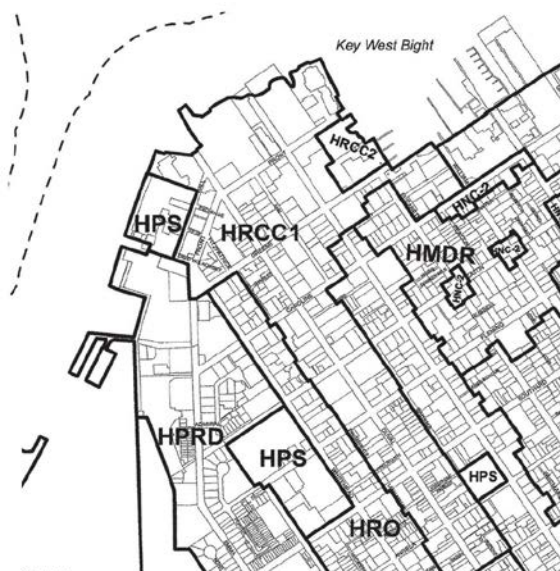
**Request:** A conditional use approval to allow for cultural and civic activities with associated/accessory commercial sales.

**Applicant:** Trepanier & Associates, Inc.

**Property Owner:** Valsin Marmillion and Juan Pisani

**Location:** 403-405 Caroline Street, Key West

**Zoning:** Historic Residential/Office (HRO)



**Background:**

The property at 403-405 Caroline Street currently contains three (3) single-family residential dwelling units. The applicant is proposing to eliminate two (2) of the residential dwelling units and redevelop the property to include one (1) single-family dwelling unit and one (1) commercial unit.

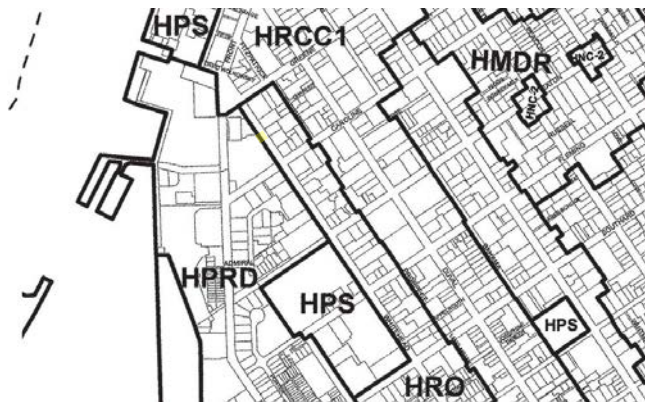
The applicant is requesting a conditional use permit in order to operate a for-profit business focused on cultural and civic activities with associated/accessory commercial sales within the newly created commercial unit. Cultural and civic activities with or without associated/accessory commercial sales on Whitehead Street from Greene Street to Southard Street is a conditional use of the Historic Residential/Office (HRO) zoning district. The use will be in addition to the parcel’s current residential use, minus the two (2) dwelling units that will be eliminated.

Pursuant to section 86-9 of the city code, *cultural and civic activities* means activities typically performed by public or private not-for-profit private entities for the promotion of a common cultural or civic objective such as historical, literary, scientific, musical, dramatic, artistic or similar objectives,

According to the applicant, the name of the proposed business will be “The Peace Store.” The first room will be dedicated to the display and sale of literary works by American presidents. The front porch will be made available to allow individuals to read the books on display. “Peace” related memorabilia and fashion items will be for sale throughout the space. The business will also host onsite workshops to design apparel and fashion items advertising and promoting “peace.” The entrance and the design studio will be decorated with quotes from presidents. Several examples of quotes were included with the application.

**Surrounding Zoning and Uses:**

- North:** HRO – transient and non-transient residential dwelling unit compound
- South:** HRO – a 150-seat restaurant and bar with minimal accessory retail sales
- East:** HRO – non-transient residential dwelling unit
- West:** HPRD – non-transient residential dwelling units



**Process:**

Development Review Committee:	February 28, 2019
Planning Board:	April 18, 2019
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 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 adverse to the public’s interest.”

***(b) Characteristics of use***

The proposed use is a commercial for-profit business focused on cultural and civic activities with associated/accessory commercial sales. The subject property is currently divided into three (3) residential dwelling units. The applicant is proposing to remove two of the residential units, convert the property into one single-family home, and reconstruct 497-square-feet of first floor area to be used for the proposed for-profit business.

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

**a. Floor area ratio (FAR):**

The proposed reconstruction and additional use will not add additional floor area to the property.

**b. Traffic generation:**

According to the application, the existing use (residential) generates 20.16 trips per day on a weekday, 19.17 trips per Saturday, and 17.58 trips per Sunday. The trip generation land use and code cited in the application is Apartment (220).

According to the application, the proposed use will generate 22.02 trips per day on a weekday, 20.89 trips per Saturday, and 10.15 trips per Sunday. The trip generation land use and code cited in the application is Specialty Retail Center (814).

Staff does not anticipate the proposed use will generate an unreasonable or significant change in trip generation at the property above the current use. Pursuant to section 122-926, the city shall limit the intensity of development within the HRO district to activities generating no more than 50 trips per 1,000 square feet of gross leasable floor area per day (or no more than 25 trips per day for the proposed 497-square-foot commercial unit).

**c. Square feet of enclosed space for each specific use:**

The property currently contains three (3) single-family dwelling units. As depicted in the plans and application, the new additional use will be separate from the existing use and will have enclosed space totaling 497-square-feet.

**d. Proposed employment:**

There is no proposed outside employment at this time. The business will be owner-operated.

**e. Proposed number and type of service vehicles:**

Staff does not anticipate any adverse impacts from service vehicles.

**f. Off-street parking needs:**

The parcel contains a total of one (1) paved standard-sized off-street parking stall. The subject property is currently non-conforming as the parking requirement for three (3) residential units in the historic unit is three (3) off-street parking spaces.

The subject property is located within the historic commercial pedestrian-oriented area. However, pursuant to section 108-573 (b) (3), parking requirements shall be applied to a parcel within the pedestrian-oriented area whenever the amount of nonresidential floor area is increased due to expansion of existing structure or conversion of residential floor area to nonresidential floor area. The applicant is proposing to convert existing residential floor area into nonresidential floor area, therefore, a parking variance approval will be required before the conditional use may be approved.

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

**a. Utilities:**

Based on comments at the DRC, Keys Energy has no objections to this conditional use request.

**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. Based on comments at the DRC, it does not appear the conditional use will trigger any public facility capacity issues.

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

**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:**

Pursuant to section 108-346, residential uses shall provide a minimum of thirty-five percent (35%) open space, and nonresidential uses shall provide a minimum of twenty-percent (20%) open space. The total open space provided by mixed uses shall be based on the percent of total square feet of floor area on site allotted to the respective residential and nonresidential uses. The proposed use will not affect the current open space ratio.

**b. Setbacks from adjacent properties:**  
No exterior construction is proposed.

**c. Screening and buffers:**  
Screening and buffers are not proposed.

**d. Landscaping berms proposed to mitigate against adverse impacts to adjacent sites:**  
Landscaping berms are not proposed.

**e. Mitigative techniques for abating smoke, odor, noise and other noxious impacts:**  
No smoke, odor, noise, or other noxious impacts are expected.

***(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 proposed use would be located in the HRO zoning district. Per Section 122-926, the intent of the HRO zoning district is to accommodate business and professional offices as well as residential structures. Cultural and civic activities are allowed anywhere in the district and those same uses with accessory/associated commercial sales are allowed on Whitehead Street between Greene Street and Southard Street. Low-med intensity retail, transient residential, restaurants and small recreational power-driven equipment rentals are allowed along the Appelrouth Business Corridor, generally described as the properties adjacent to Appelrouth Lane within the HRO including the parcel located on the Northern

corner of Whitehead Street and Southard Street, excluding the parcel located on the South-Eastern corner of Whitehead Street and Appelrouth Lane. Customary accessory uses and community facilities may also be located within the HRO district.

Notwithstanding the Appelrouth Business Corridor, the HRO district shall not accommodate new transient lodging or guesthouses. In addition, the HRO district shall expressly exclude general retail sales, warehousing, and outdoor storage. In order to manage the impacts of future development on transportation and public facilities, the city shall limit the intensity of development within the HRO district to activities generating no more than 50 trips per 1,000 square feet of gross leasable floor area per day.

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

The size of the site and its specifications is adequate to accommodate the proposed scale and intensity of the conditional use requested.

**(3) Proper use of mitigative techniques:**

No adverse impacts anticipated.

**(4) Hazardous waste:**

None expected or proposed.

**(5) Compliance with applicable laws and ordinances:**

Compliance with all applicable laws and regulations would be required.

**(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:** Not applicable.

**b. Residential development:** Not applicable.

**c. Commercial or mixed-use development:** No negative impacts expected.

**d. Development within or adjacent to historic district:** The subject property is located within the historic district. Exterior work to accommodate the proposed use, including painting and the installation of signage, will require HARC review and approval.

**e. Public facilities or institutional development:** Not applicable.

**f. Commercial structures, uses, and related activities within tidal waters:** Not applicable.

**g. Adult entertainment establishments:** Not applicable.

## **RECOMMENDATION:**

Pursuant to section 122-926, the city shall limit the intensity of development within the HRO district to activities generating no more than 50 trips per 1,000 square feet of gross leasable floor area per day.

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**.

### **General conditions:**

1. The proposed development shall match the floor plans dated March 15, 2019. Pursuant to section 14-37 (b) (1) of the city code, professional plans are required for work requiring a building permit and shall be prepared by and bear the seal of a state-licensed architect or structural engineer. These plans need to include site data, including the existing impervious surface ratio and the proposed impervious surface ratio.
2. The approved use is *cultural and civic activities with associated / accessory commercial sales* within a 497-square-foot area. *Accessory use* is defined in section 86-9 as a use that is clearly incidental to the principal use, that is subordinate in area extent or purpose to the principal use, and that is supportive of the principal use. An accessory use contributes to the comfort, convenience, or necessity of the principal use, and/or provides support services to the principal use and is located on the same lot with such principal building or use.
3. The conditional use shall expire if construction has not commenced within 12 months of approval.
4. The conditional use approval shall run with the land and it is transferable to successors in ownership. The use must remain compliant with all applicable rules and regulations, including any specific conditions duly mandated by the city as a condition of the original conditional use approval. At the city's option, it may enforce an alleged violation of a conditional use approval either in a court of law or in the proceedings of the code enforcement special magistrate pursuant to the procedures set forth in chapter 2, article VI of the Code of Ordinances.
5. The property owner shall obtain and maintain a conditional approval permit from the city prior to issuance of a certificate of occupancy. No facility required to obtain such permit will operate without a permit and failure to obtain a permit or renew a permit shall be subject to procedures outlined in section 18-615. The code compliance department will inspect the facility on an annual basis upon reasonable notice to determine compliance with conditions, particularly condition number two (2).