

**RESOLUTION NUMBER 2011-061**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A CONDITIONAL USE APPROVAL AND SPECIAL EXCEPTION FOR THE SALE OF ALCOHOL WITHIN 300 FEET OF A CHURCH PER SECTIONS 122-62 AND 122-63 AND 18-28 OF THE CODE OF ORDINANCES FOR A BAR AND LOUNGE LOCATED AT 821 DUVAL STREET (RE# 00016820-000000) IN THE HISTORIC RESIDENTIAL COMMERCIAL CORE – DUVAL STREET/GULFSIDE (HRCC-3) ZONING DISTRICT, PURSUANT TO SECTION 122-748(9) OF THE CODE OF ORDINANCES, KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the subject property is located in the Historic Residential Commercial Core – Duval Street Gulfside (HRCC-3) zoning district; and

**WHEREAS**, Section 122-748(9) of the Code of Ordinances provides that bars and lounges are allowed as a conditional use within the Historic Residential Commercial Core- Duval Street Gulfside (HRCC-3) zoning district; and

**WHEREAS**, Section 18-28 (a) prohibits the sale of alcohol within 300 feet of a church; and

**WHEREAS**, the applicant filed a conditional use application for a bar and lounge to sell beer

  
Chairman  
  
Planning Director

and wine at 821 Duval Street; and

**WHEREAS**, Section 122-62 outlines the criteria for reviewing a conditional use application by the Planning Board; and

**WHEREAS**, Section 18-28 (b) allows an applicant "aggrieved by subsection (a)" to apply for a special exception for the sale of alcohol within 300 feet of a church in conjunction with an approved conditional use application that includes consideration for the public welfare; and

**WHEREAS**, this matter came before the Planning Board at a duly noticed public hearing on November 17, 2011; and

**WHEREAS**, the Planning Board found that the proposed use complies with the criteria in Section 122-62 18-28 (b)(1)&(2); and

**WHEREAS**, the approval of the conditional use and special exception application will be in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and

**NOW THEREFORE, BE IT RESOLVED** by the Planning Board of the City of Key West,

  
Chairman  
  
Planning Director

Florida:

**Section 1.** That the above recitals are incorporated by reference as fully set forth herein.

**Section 2.** That a conditional use and special exception request, under the Code of Ordinances of the City of Key West, Florida, per Section 122-688(9) is hereby approved as follows: allowing a 1,867 square foot consumption area for a bar and lounge including, 408 square feet of outdoor and 1,459 square feet of indoor consumption area, for property located at 821 Duval Street (RE# 00016820-000000), Key West, Florida, as shown in the attached floor plan and survey received October 28 and November 8, 2011 with the following conditions:

**Condition to be completed prior to the issuance of a certificate of occupancy:**

1. ADA access is provided and maintained.
2. 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.

**Conditions subject to a Conditional Approval Permit, per Ordinance 10-22. Conditions subject to an associated annual inspection:**

3. Hours of operation are limited to Sunday through Thursday 10am to 2am and Friday and Saturday from 10am to 4am.

  
Chairman  
  
Planning Director

4. The use is approved for the sale of beer and wine only.
5. There will be no amplified outdoor music on the premises.
6. There will be no additional seats allowed without further City approvals.
7. 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.

**Section 3.** Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.

**Section 4.** This conditional use approval does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

**Section 5.** This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

**Section 6.** This resolution is subject to appeal periods as provided by the City of Key West

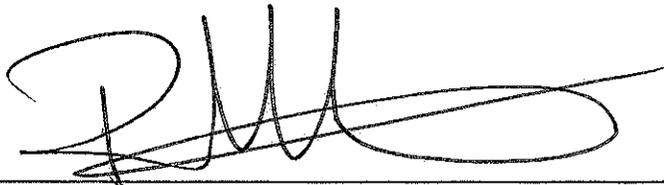
  
Chairman  
  
Planning Director

Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

**Section 7.** The applicant shall obtain and maintain a Conditional Approval Permit from the City prior to issuance of a Certificate of Occupancy per Ordinance Number 10-22.

Read and passed on first reading at a regular meeting held this 17th day of March, 2011.

Authenticated by the Chairman of the Planning Board and the Planning Director.



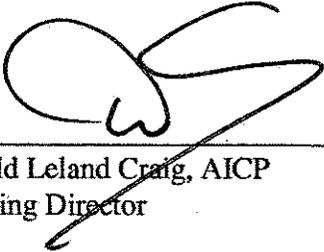
Richard Klitenick, Chairman  
Key West Planning Board

11/23/2011  
Date

**Attest:**

Page 5 of 6  
Resolution Number 2011-061

 Chairman  
 Planning Director



Donald Leland Craig, AICP  
Planning Director

11/23/2011  
Date

**Filed with the Clerk:**

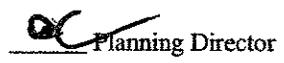


Cheryl Smith, City Clerk

11-29-11  
Date

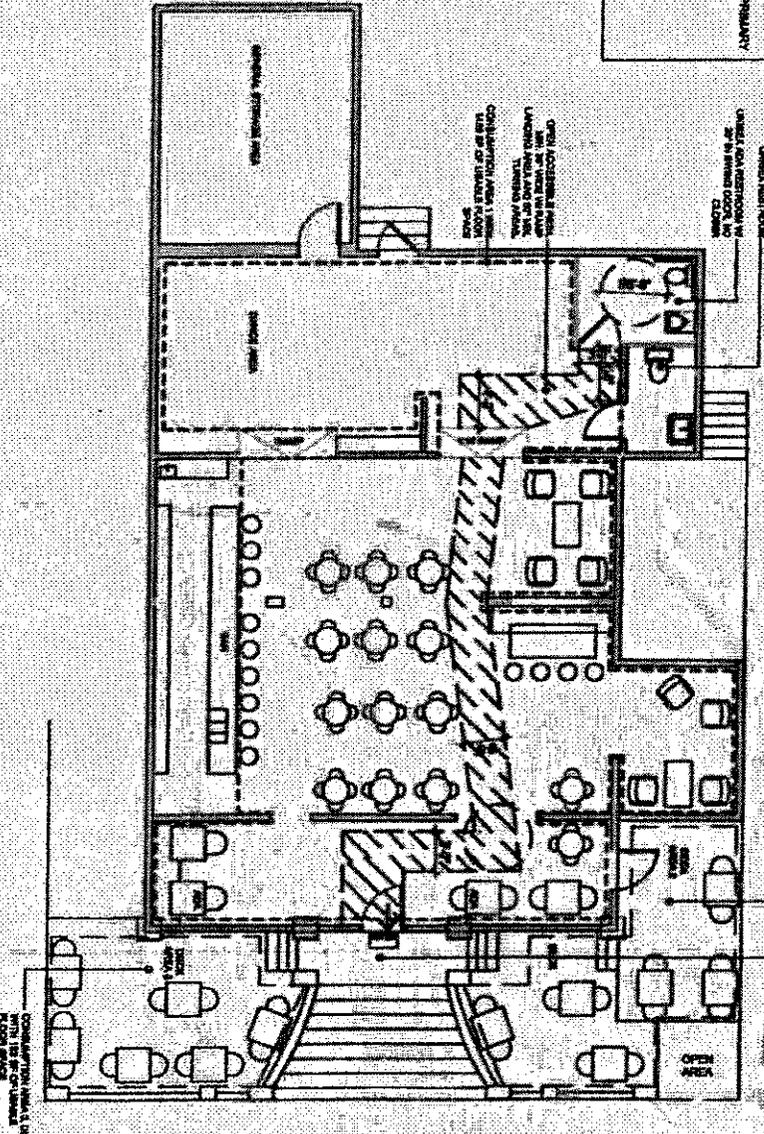


Chairman



Planning Director

COMPLETION AREA	
sq. ft. CALCULATIONS	
AREA 1	149 sq. ft.
AREA 2 DECK	228 sq. ft.
AREA 3 DECK	181 sq. ft.
TOTAL	558 sq. ft.
1807 sq. ft. / 118 sq. ft. per person = 154 PERSONS	
AREA CALCULATIONS:	
AREAS INDICATED INCLUDE A 48" WIDE PRIMARY EGRESS PATH AS SHOWN ON THE DRAWING.	
AREA 1	149 sq. ft.
AREA 2	228 sq. ft.
AREA 3	181 sq. ft.
TOTAL OCCUPANCY:	154
OCCUPANCY REQUIRED:	120



**1** PROPOSED FLOOR PLAN  
SCALE: 1/8" = 1'-0" (11 X 17)

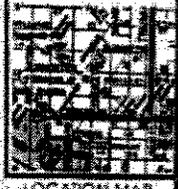
PROPOSED FLOOR PLAN  
A2.1.1  
DATE: 11/07/2011

PROPOSED FLOOR PLAN  
A2.1.1  
DATE: 11/07/2011

**JAZZ BAR  
REMODELING PROJECT  
821 Duval Street  
Key West, FL**

PROPOSED FLOOR PLAN  
A2.1.1  
DATE: 11/07/2011

*Handwritten signature: P. Runk*



**MAP OF BOUNDARY SURVEY  
PART OF LOT 4 IN SQUARE 5 OF TRACT 4  
SIMMONS AND WALL 6 ADDITION  
TO THE CITY OF KEY WEST**

ADDRESS:  
221 DUVAL STREET  
KEY WEST, FL  
33040

**NORTH**  
SCALE 1" = 20'

SCALED FROM PLAT  
ALL ANGLES SHOWN  
ARE TO DEGREE UNLESS  
OTHERWISE INDICATED  
ALL DIMENSIONS ARE  
IN FEET UNLESS  
OTHERWISE INDICATED  
BEARING DATA  
DERIVED FROM PLAT

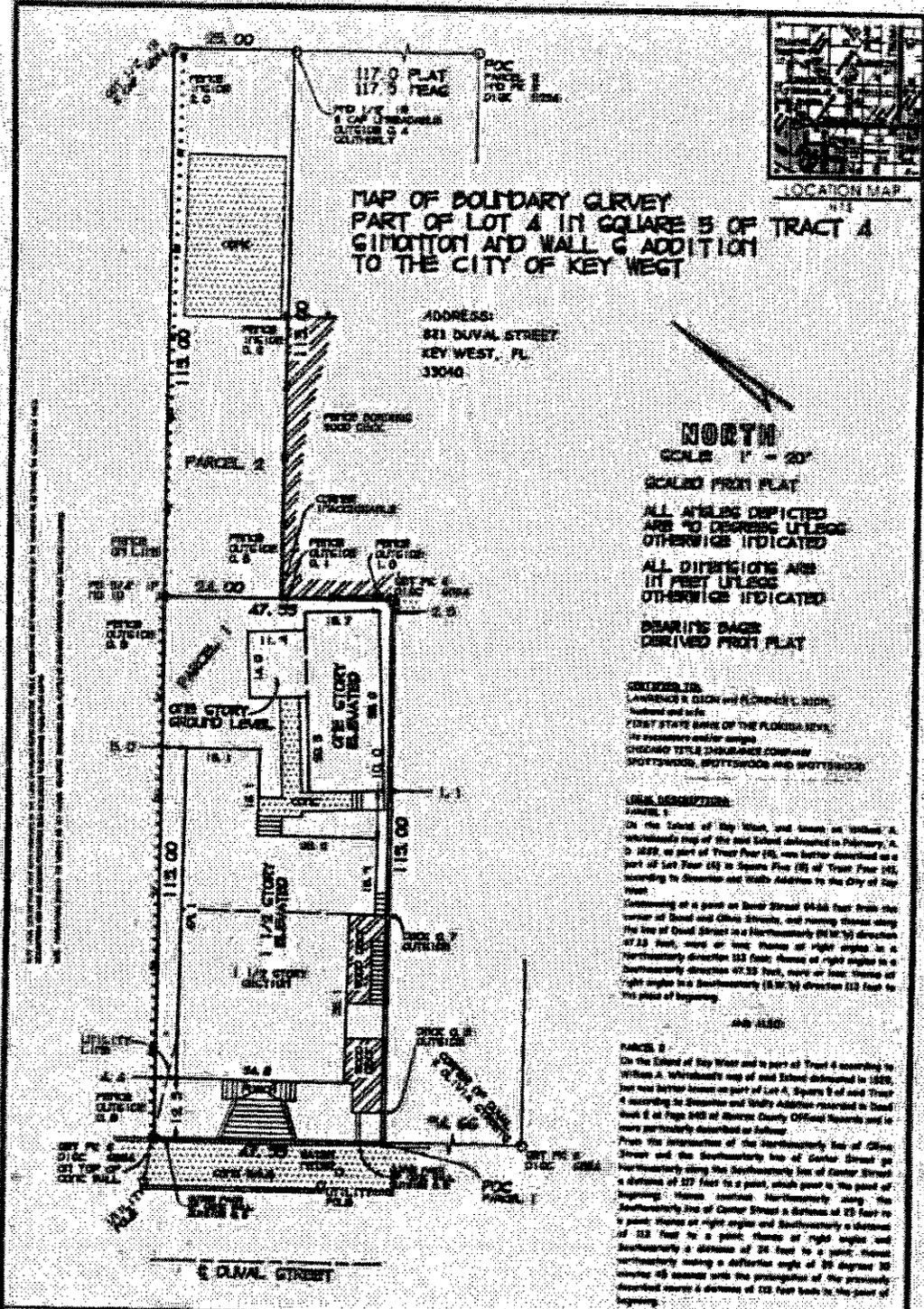
**CERTIFIED TO:**  
LAWRENCE R. DECK and G. CHANCE L. SMITH,  
Natural and sole  
FIRST STATE BANK OF THE FLORIDA KEYS,  
its successors and assigns  
CHESNEY TITLE INSURANCE COMPANY  
SPOTTSMWOOD, SPOTTSMWOOD AND SPOTTSMWOOD

**LEGAL DESCRIPTION:**  
PARCEL 1  
On the Island of Key West, and known as Tract 4, whole and part of the plat of said Island delineated in February, A. D. 1829, as part of Tract 4, was better described as a part of lot Four (4) in Square Five (5) of Tract Four (4), according to Simmons and Wall's Addition to the City of Key West.  
Commencing at a point on Duval Street 94.44 feet from the corner of Duval Street and Center Street, and running thence along the line of Duval Street one hundred and thirty (130) feet in a southerly direction 13.33 feet, more or less, thence at right angles in a westerly direction 47.33 feet, more or less, thence at right angles in a southerly direction 13.33 feet, more or less, thence at right angles in a westerly direction 13.33 feet to the place of beginning.

**PARCEL 2**  
On the Island of Key West and to part of Tract 4 according to William A. Williams' map of said Island delineated in 1829, but not better known as part of Lot 4, Square 5 of said Tract 4 according to Simmons and Wall's Addition referred to in said plat 4 at page 242 of Deeds County Official Records and is more particularly described as follows:  
From the intersection of the southerly line of Center Street and the southerly line of Duval Street go southerly along the southerly line of Center Street a distance of 27 feet to a point, thence go to the point of beginning; thence continue southerly along the southerly line of Center Street a distance of 25 feet to a point; thence at right angles and southerly a distance of 23 feet to a point; thence at right angles and southerly a distance of 24 feet to a point; thence southerly along a distance south of 25 degrees 30 minutes 05 seconds with the prolongation of the previously described course a distance of 23 feet back to the point of beginning.



*RECE*



1. ORIGINAL SURVEY 2. CORRECTION 3. CONCRETE MONUMENT 4. CONCRETE CURB 5. CONCRETE CURB	6. BOUNDARY SURVEY 7. BOUNDARY SURVEY 8. BOUNDARY SURVEY 9. BOUNDARY SURVEY 10. BOUNDARY SURVEY 11. BOUNDARY SURVEY 12. BOUNDARY SURVEY 13. BOUNDARY SURVEY 14. BOUNDARY SURVEY 15. BOUNDARY SURVEY 16. BOUNDARY SURVEY 17. BOUNDARY SURVEY 18. BOUNDARY SURVEY 19. BOUNDARY SURVEY 20. BOUNDARY SURVEY 21. BOUNDARY SURVEY 22. BOUNDARY SURVEY 23. BOUNDARY SURVEY 24. BOUNDARY SURVEY 25. BOUNDARY SURVEY 26. BOUNDARY SURVEY 27. BOUNDARY SURVEY 28. BOUNDARY SURVEY 29. BOUNDARY SURVEY 30. BOUNDARY SURVEY 31. BOUNDARY SURVEY 32. BOUNDARY SURVEY 33. BOUNDARY SURVEY 34. BOUNDARY SURVEY 35. BOUNDARY SURVEY 36. BOUNDARY SURVEY 37. BOUNDARY SURVEY 38. BOUNDARY SURVEY 39. BOUNDARY SURVEY 40. BOUNDARY SURVEY 41. BOUNDARY SURVEY 42. BOUNDARY SURVEY 43. BOUNDARY SURVEY 44. BOUNDARY SURVEY 45. BOUNDARY SURVEY 46. BOUNDARY SURVEY 47. BOUNDARY SURVEY 48. BOUNDARY SURVEY 49. BOUNDARY SURVEY 50. BOUNDARY SURVEY 51. 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**BOUNDARY SURVEY**  
I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE MAPMAKING TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 4712.01, FLORIDA STATUTES, AND THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 4712.01, FLORIDA STATUTES. THIS SURVEY, WHEN SCHEDULE B HAS BEEN PROVIDED MEETS THE PROVISIONS OF FLORIDA STATUTES, SECTION 4712.01, SUBPARAGRAPH (1)(b) (RETRACTS), (1)(c) (ENCROACHMENTS), AND SCHEDULE "B" HAS NOT BEEN PROVIDED.

**ROBERT E. REECE, P.A.**  
PROFESSIONAL SURVEYOR  
AND MAPPER  
30677 OVERSEAS HIGHWAY  
BIG PINE KEY, FL 33043

ROBERT E. REECE, P.A.  
REGISTERED PROFESSIONAL SURVEYOR AND MAPPER  
NO. 101101