

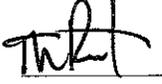
**RESOLUTION NUMBER 2011-18**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A PARKING VARIANCE FOR PROPERTY IN THE HISTORIC NEIGHBORHOOD COMMERCIAL (HNC-3) ZONING DISTRICT, UNDER THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF KEY WEST, FLORIDA, PURSUANT TO SECTIONS 108-572 (9) AND 108-574 OF THE CODE OF ORDINANCES, ALLOWING THE WAIVER OF PARKING REQUIREMENTS FOR 20 AUTOMOBILE SPACES; OF WHICH 6 AUTOMOBILE SPACES ARE REQUESTED TO BE WAIVED THROUGH BICYCLE SUBSTITUTION FOR PROPERTY LOCATED AT 305 PETRONIA STREET, 309 PETRONIA STREET, 729 THOMAS STREET, (RE# 00013250-000000, 00013270-000000, 00013260-000000), KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, 108-572 (9) of the Land Development Regulations provides that restaurants within the City must provide 1 off-street parking space per 45 square feet of serving and/or consumption area; and

**WHEREAS**, the subject property is located in the HNC-3 zoning district, which is within the historic commercial pedestrian-oriented area pursuant to Land Development Regulation Section 108-573; and

**WHEREAS**, the applicant is increasing consumption and floor area on the site, which pursuant to Section 108-573 (c)(2) requires that off-street parking regulations apply; and

 Vice-Chairman

 Planning Director

**WHEREAS**, the applicant has requested to waive 20 required off-street automobile parking spaces as a result of minor development plan and conditional use approval to expand the existing restaurant on-site by means of adding 900 square feet of consumption area, and 60 additional seats for a total of 126 seats, a combination of which are proposed indoors and outdoors; and

**WHEREAS**, 108-574 of the Land Development Regulations provides that an applicant for development plan approval may file a request for a variance to substitute additional bicycle parking (i.e., bicycle parking in excess of that required pursuant to Section 108-572); and

**WHEREAS**, the applicant has requested to utilize bicycle substitution, as provided for in Section 108-574 of the Land Development Regulations, and has proposed 24 bicycle spaces as an equivalency for 6 automobile parking spaces; and

**WHEREAS**, Section 108-574 of the Land Development Regulations provides that hardship conditions shall not be a mandatory condition of obtaining a variance to substitute additional bicycle parking; and

**WHEREAS**, the matter came before the Planning Board at a duly noticed public meeting on April 21, 2011; and

  
Vice-Chairman

  
Planning Director

**WHEREAS**, the Planning Board finds that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district; and

**WHEREAS**, the Planning Board finds that the special conditions and circumstances do not result from the action or negligence of the applicant; and

**WHEREAS**, the Planning Board finds that the granting of the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district; and

**WHEREAS**, the Planning Board finds that literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant; and

**WHEREAS**, the Planning Board finds that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and

  
Vice-Chairman  
  
Planning Director

**WHEREAS**, the Planning Board finds that the grant of the variance will be in harmony with the general intent and purpose of the Land Development Regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare; and

**WHEREAS**, the Planning Board finds that no nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance; and

**WHEREAS**, the Planning Board finds that the standards established in Section 90-395 (a) have been met by the applicant for a variance; and

**WHEREAS**, the Planning Board finds that the applicant has demonstrated a "good neighbor policy" by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors; and

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

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

**Section 2.** That the application for parking variance be conditionally approved, per Sections

 Vice-Chairman

 Planning Director

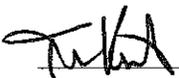
108-572 (9) and 108-574 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida, as follows: To vary the 20 off-street parking spaces through means of allowing 24 bicycle parking spaces to be substituted for 6 motorized vehicle parking spaces, and to waive the remaining 14 required off-street automobile parking spaces (RE# 00013250-000000, 00013270-000000, 00013260-000000), see attached plans with the following condition:

- The proposed bicycle parking plan shall be revised to absolve concerns raised by the Fire Department prior to building permit issuance. Written approval demonstrating satisfaction of the concerns raised in the April 12, 2011 memo from the Fire Department must be provided to the Planning Department. The revised bicycle parking plan must also be provided to the Department of Engineering and General Services, and their written approval demonstrating plan satisfaction of the revised bicycle parking must also be provided to the Planning Department.

**Section 3.** Permits associated with the development and construction contemplated by this approval shall be commenced within 12 months of the effective date of the approval, as determined to be reasonable pursuant to Section 90-395 (b) of the Land Development Regulations.

**Section 4.** This resolution 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.

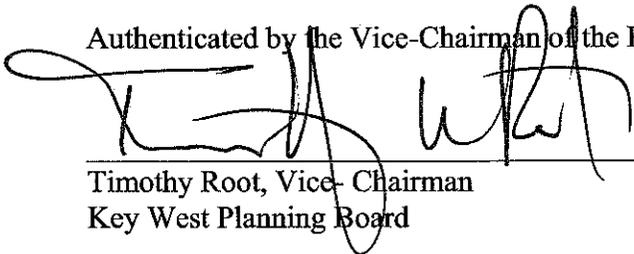
**Section 5.** This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

 Vice-Chairman  
 Planning Director

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

Read and passed at a regular meeting held this 21st day of April, 2011.

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



Timothy Root, Vice-Chairman  
Key West Planning Board

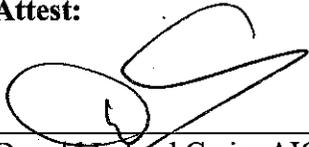
6/1/11

Date



Vice-Chairman  
  
Planning Director

**Attest:**

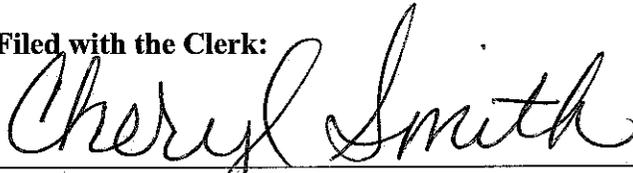


Donald Leland Craig, AICP  
Planning Director

5/3/11

Date

**Filed with the Clerk:**



Cheryl Smith, City Clerk

6-1-11

Date



Vice-Chairman



Planning Director







