

RESOLUTION NUMBER 2011-031

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A SPECIAL EXCEPTION TO MR. LYNN KEPHART, PROPERTY OWNER FOR 512 EATON STREET, ALLOWING FOR THE SALE OF ALCOHOL TO OCCUR WITHIN 300 FEET OF A CHURCH AND FUNERAL HOME FOR PROPERTY LOCATED WITHIN THE HNC-1 ZONING DISTRICT, PURSUANT TO SECTION 18-28 (b)(2) OF THE CODE OF ORDINANCES, FOR PROPERTY LOCATED AT 512 EATON STREET (RE# 00006500-000000), KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 18-28 (a) of the Code of Ordinances provides that no person shall conduct in the City any business involving the sale of alcoholic beverages where such place of business is within 300 feet of any established church, school, cemetery, or funeral home; and

WHEREAS, Section 18-28 (b)(2) provides that the prohibition in subsection (a) above shall not apply if a property owner is granted a special exception to specifically sell alcoholic beverages pursuant to authorization granted by the Planning Board that the use will not detrimentally impact the public health, safety or welfare after consideration of all of the following criteria:

- A. Compatibility with surrounding existing uses;
- B. The extent of conflict between the proposed use and the hours of operation of the facilities described above;
- C. Mitigation measures agreed to be implemented by the applicant;

- D. Public input;
- E. That the applicant has demonstrated a “good neighbor policy” by contacting or attempting to contact all noticed property owners who have objected to the application, and by addressing the objections expressed by these neighbors;
- F. Any other factors the approving body determines relevant to the public’s health, safety, and welfare; and

WHEREAS, the applicant requested a Special Exception to sell alcohol within 300 feet of an established church and funeral home, pursuant to Section 18-28 (b)(2); and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on June 29, 2011; and

WHEREAS, the Planning Board finds that the applicant’s proposal to sell alcohol is compatible with surrounding existing uses; and

WHEREAS, the Planning Board finds that the extent of conflict between the proposed use, church, and funeral home will be minimal; and

WHEREAS, the Planning Board considered the mitigation measures agreed to be implemented by the applicant; and



Chairman



Planning Director

WHEREAS, the Planning Board considered public input; and

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

WHEREAS, the Planning Board considered other factors determined relevant to the public’s health, safety, and welfare; 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 a Special Exception, under Section 18-28 (b) (2) of the Code of Ordinances of the City of Key West, Florida, is hereby granted as follows: EXCLUSIVE TO THE APPLICANT Lynn Kephart., TO BE LOCATED AT 512 EATON STREET (RE#00006500-000000), KEY WEST FLORIDA with the following conditions:

1. The exception is granted exclusively to the applicant and property owner, Lynn Kephart. ✓

 Chairman

 Planning Director

2. The exception is not transferable.
3. The exception is only effective with the following uses, as specified in the application: patrons of the dinner theatre, as approved in Planning Board Resolution 2009-043, 2007-042, and extended in accordance with Senate Bill 360 and Senate Bill 1752 for government issued development orders.
4. That the sale of alcohol is accessory to the restaurant use on the site, and is subject to the terms of the conditional use approval granted through Resolution 2007-042, as well as the conditional use extension granted by Planning Board Resolution 2009-043, and extended in accordance with Senate Bill 360 and Senate Bill 1752 for government issued development orders.
5. Alcohol sales cannot occur between 4:00 a.m. and 12:00 p.m. on Sundays to preserve compatibility with the two churches that are located within 300 feet of 512 Eaton Street.
6. The commercial operation on premises will cease at midnight seven days a week.

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.

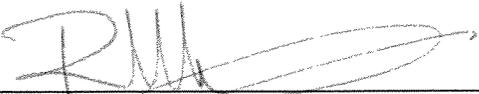
Section 4. This Special Exception does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

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 Code of Ordinances (including the Land Development Regulations).

Read and passed at a special meeting held this 29th day of June, 2011.

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



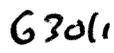
Richard Klitenick, Chairman
Key West Planning Board



Date

Attest: 

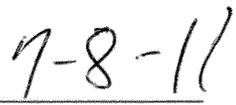
Donald Leland Craig, AICP
Planning Director



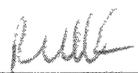
Date

Filed with the Clerk: 

Cheryl Smith, City Clerk



Date



Chairman



Planning Director