

**PLANNING BOARD
RESOLUTION No. 2013-31**

A RESOLUTION OF THE KEY WEST PLANNING BOARD FOR A VARIANCE APPROVAL FOR PARKING FOR THREE (3) SINGLE-FAMILY DRIVEWAYS, IMPERVIOUS SURFACE RATIO, AND LANDSCAPE WAIVER FOR STREET FRONTAGE AND PERIMETER LANDSCAPING ON PROPERTY LOCATED AT 1015-1025 SIMONTON STREET IN THE HNC-1 ZONING DISTRICT AS PER SECTIONS 108-648, 122-810(4)B, 108-413(B), AND 108-415(A) OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST.

WHEREAS, the subject property is located in the Historic Neighborhood Commercial District – Truman/Simonton (HNC-1) zoning district; and

WHEREAS, Section 90-391 allows an applicant to request a variance if the literal enforcement of the LDR's will cause unnecessary hardship; and

WHEREAS, 108-648 of the Code of Ordinances provides that the internal circulation system, including drives and maneuvering areas, shall be designed to permit convenient maneuvering of cars and service vehicles into and out of each parking and loading space and shall be arranged so that no vehicle need back into a public right-of-way; and

WHEREAS, Section 122-810(4)b of the Code of Ordinances provides that the maximum impervious surface ratio is 60% in the HNC-1 zoning district; the applicant requested 61.45% to the

 Chairman

 Planning Director

existing 60%; and

WHEREAS, Section 108-413(b) of the Code of Ordinances provides that the minimum street frontage on Simonton and Virginia Streets be 20 feet; the applicant requested 5 foot wide barrier; and

WHEREAS, Section 108-415(a) of the Code of Ordinances provides that the minimum perimeter landscape requirement along the east property line be 7.5 feet; the applicant requested 4 foot width; and

WHEREAS, Section 108-415(a) of the Code of Ordinances provides that the minimum perimeter landscape requirement along the north property line be 7.5 feet; the applicant requested 6 foot 6 inch width; and

WHEREAS, Section 108-648 of the Code of Ordinances provides that parking and loading spaces shall be arranged so that no vehicle need back onto a public right-of-way; and

WHEREAS, that twenty-one parking spaces are proposed for the twenty-one single-family units, and three of the parking spaces are driveways proposed to back onto Virginia Street; and

WHEREAS, the Planning Board finds the trailer park has been at this location for approximately 50 years; and eleven of the 44 trailers in the park have been encroaching 15 feet into

the City's right-of-way on Virginia Street for many years. The applicant is proposing to remove all of the existing trailers, RVs and mobile homes and the two non-historic buildings from the property and replace them with 21 single family homes. The location of the three proposed driveways along Virginia Street allows adequate room for their individual off-street parking spaces, however, the Code states that the driveways be situated so that no vehicle shall back onto a public right-of-way. The existing houses across Virginia Street that have off-street parking back onto Virginia Street. Also, the additional impervious surface area is a 144 square foot attached room on Unit 21 and was requested by the City's Historic Preservationist.

WHEREAS, the Planning Board finds that the applicant's request to redevelop the property creates the need for the variance requests, however the special conditions are not the result of negligence by the applicant; and

WHEREAS, the Planning Board finds that the proposed plan eliminates the 15 foot encroachment of the trailer court onto the Virginia Street right-of-way. The existing site has approximately the same lot coverage. Granting the variance request will confer upon the applicant special privileges otherwise denied by the LDRs to other lands, buildings, or structures in the HNC-1 zoning district; and

WHEREAS, the Planning Board finds that the applicant has use of the site without the variances, therefore, hardship conditions do not exist; and

WHEREAS, the Planning Board finds that The variances requested are the minimum necessary to carry out the redevelopment of the Southernmost Cabana Resort in the historic district; and

WHEREAS, the Planning Board finds that if the granting of the off-street parking space variances along Virginia Street could be injurious to the public welfare since the three automobiles will back out over the sidewalk and onto the street. However, off-street parking exists on the other side of Virginia Street that may back onto the street. Also this block of Virginia Street does not have through traffic since it terminates at the Archdiocese property; and

WHEREAS, the Planning Board finds that the existing nonconforming uses of other properties, use of neighboring lands, structures, or buildings in the same district, or other zoning districts, are not the basis for this approval; and

WHEREAS, the Planning Board finds that it does not appear that granting the variances will be injurious to the area involved or otherwise detrimental to the public interest or welfare. In fact, granting the variances will be in the public interest and welfare by providing sufficient room for the Key West Cemetery archives and family room to take care of loved ones while making arrangements; and

WHEREAS, the Planning Board finds that existing nonconforming uses of other properties,

use of neighboring lands, structures, or buildings in the same district, or other zoning districts, are not the basis for this approval; and

WHEREAS, the redevelopment on the site prevent the applicant from meeting minimum standards for landscaping along the right-of-ways and perimeters as specified by Sections 108-413 and 108-415 of the LDRs. The Code requires that sites 20 foot buffers along Simonton and Virginia Streets; and 7.5 feet of landscaping along the north and east perimeters of the property; and

WHEREAS, the criteria for evaluating a landscape waiver are listed in Section 108-517(b) of the LDRs. The planning board may approve or grant the waiver or modification only if it determines that the waivers or modifications are not contrary to the intent of the subdivision and that a literal enforcement of the standards of this subdivision would be impracticable; and

WHEREAS, conditions to be completed:

1. That Certificates of Elevations shall be provided to confirm that the structures meet FEMA base flood elevation requirements;
2. That a landscape plan consistent with the site plan shall be submitted and a final landscape plan be approved by the Tree Commission.

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on June 20, 2013; and

WHEREAS, the Planning Board finds that the applicant has demonstrated a “good neighbor policy” by contacting or making a reasonable attempt to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by those neighbors;

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. An approval by resolution of the Key West Planning Board for variances to allow the redevelopment of the Southernmost Cabana Resort on the property located at 1015-1025 Simonton Street (RE# 00027070-000000; Alt. Key 1027847) in the HNC-1 zoning district per Section 108-648, Section 122-810(4)b, Section 108-413 (b), and Section 108-415 (a) of the Land Development Regulations of the Code of Ordinances of the City of Key West per plan set dated May 1, 2013.

Section 3. It is a condition of these variances that full, complete, and final application for all conditions of this approval for any use and occupancy for which this variance is wholly or partly necessary, shall be submitted in their entirety within two years after the date hereof; and further, that no application or shall be made after expiration of the two-year period without the applicant obtaining an extension from the Planning Board and demonstrating that no change of circumstances


Chairman

Planning Director

to the property or its underlying zoning has occurred.

Section 4. The failure to fully and completely apply the conditions of approval for permits for use and occupancy pursuant to this variance in accordance with the terms as described in Section 3 hereof, shall immediately operate to terminate this variance, which variance shall be of no force or effect.

Section 5. These variances and landscape waiver do 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 6. 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 7. 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 Economic Opportunity. 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 DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DEO 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



Chairman

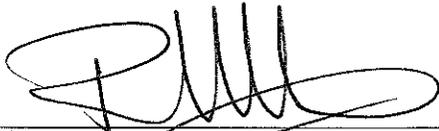


Planning Director

the appeal is resolved by agreement or order.

Read and passed on first reading at a regularly scheduled meeting held this 20th day of June, 2013.

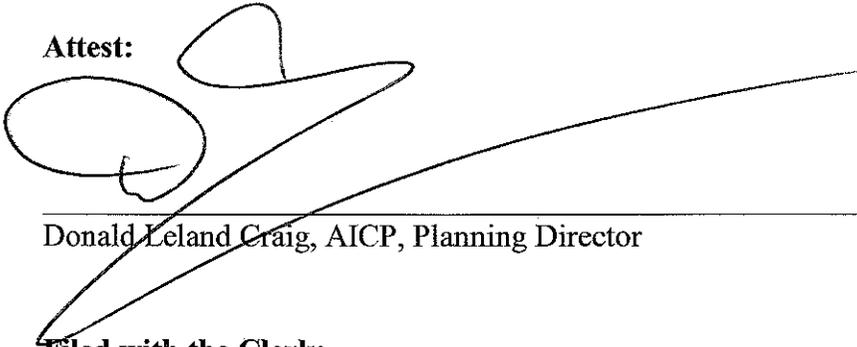
Authenticated by the Chairman of the Planning Board and the Planning Director.



Richard Klitenick
Key West Planning Board Chairman

7/16/13
Date

Attest:



Donald Leland Craig, AICP, Planning Director

7.16-13
Date

Filed with the Clerk:



Cheryl Smith, City Clerk

July 18, 2013
Date

_____ Chairman

DC Planning Director

