

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



To: Chairman and Planning Board Members

From: Melissa Paul-Leto, Planner Analyst

Through: Patrick Wright, Planning Director

Meeting Date: November 16, 2017

Agenda Item: **Alcohol Sales Exception – 414 Simonton Street (RE# 00006390-000200, RE# 00006460-000000, RE# 00006470-000000)** – A request for special exception to the prohibition of alcoholic beverage sales within 300 feet of a church, school, cemetery or a funeral home on property located within the Historic Neighborhood Commercial (HNC-1) Zoning District pursuant to Sections 18-28(b) 2, of the Land Development Regulations of the code of Ordinances of the City of Key West, Florida.

Request: To grant a special exception to in room sales and consumption of beer, wine, and liquor within stocked mini bars inside the fourteen guest rooms and three residential apartments located within the Marquesa Hotel -within 300 feet of two churches, and one funeral home.

Applicant: Adele V. Stones

Property Owner: Inter Ocean Holdings, LLC

Location: 414 Simonton Street (RE# 00006390-000200, RE# 00006460-000000, RE# 00006470-000000)

Zoning: Historic Neighborhood Commercial (HNC-1) Zoning District



Background and Request:

Section 18-28 of the Code of Ordinances of the City of Key West prohibits the sale of alcoholic beverages where such place of business is within 300 feet of an established church, school, cemetery or funeral home. However, the Planning Board may grant a special exception if the criteria in City Code Section 18-28(b) (2) are met. An Alcohol Exception is granted exclusively to the applicant, and is not transferable. The applicant has requested a special exception in order to obtain a 6COPs alcohol license, which would allow on-premises beer, wine and liquor through stocked mini bars located within the hotel rooms. The property, is located on the 400 block of Simonton Street. There are no schools, or cemeteries within 300 feet of the property. The property is within 300 feet of two churches and one funeral home:

- St. Paul's Episcopal Church of Key West, 401 Duval Street
- Key West United Methodist Church, 600 Eaton Street
- Dean-Lopez Funeral Home, 418 Simonton Street

Process:**Planning Board Meeting:**

November 16, 2017

Local Appeal Period:

30 days

DEO Review Period:

up to 45 days

Evaluation for Compliance with Section 18-28 of the Code of Ordinances:

(a) Pursuant to Section 18-28 of the City Code of Ordinances, no person shall conduct in the City any business involving the sale of alcoholic beverages where such place of business is 300 feet of any established church, school, cemetery, or funeral home. Such distance shall be measured by following the shortest route of ordinary fare from the nearest point of the property line of the place of business to the property line of the church, school, cemetery, or funeral home facilities. However, any person licensed to conduct and legally conducting a business involving the sale of alcoholic beverages as of January 4, 1995, shall be governed by the provisions of this section which existed at the time of the original licensure of such business.

(b) The prohibition in subsection (a) above shall not apply if a property owner is granted a special exception to specifically sell alcoholic beverages:

(1) In conjunction with an approved conditional use application that includes consideration of the public welfare factors listed in subsection (2) below; or

(2) 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;

The property is located within the Historic Neighborhood Commercial (HNC-1) Zoning District where a variety of hotels, retail shops, residential homes, offices, and places of worship are permitted uses.

The applicant is requesting that the Planning Board allow alcohol sales, and consumption within the hotel rooms.

City staff took measurements utilizing a GIS geospatial measurement. The results are the following: 30 feet starting from the property line to 414 Simonton Street and ending at the property line of the St. Paul's Episcopal Church, 401 Duval Street; 0 feet starting from the property line to 414 Simonton Street and ending at the property line of the Dean-Lopez Funeral Home, 418 Simonton Street; and 50 feet starting from the property line to 414 Simonton Street and ending the property line of the Key West United Methodist Church, 600 Eaton Street.

The measurements confirm the subject site is located within 300 feet of St. Paul's Episcopal Church, Dean-Lopez Funeral Home, and Key West United Methodist Church; however, due to the scope of requested accessory alcohol sales; staff submits that the request does not appear to be incompatible with the surrounding existing uses.

B. The extent of conflict between the proposed use and the hours of operation of the facilities described in section (a) above;

As of the date this report is written,

-St. Paul's Episcopal Church indicates that the parish is open to the public: Monday through Sunday 7:00 a.m. to 8:00 p.m.

-Dean-Lopez Funeral Home indicates that the funeral home is open by appointment. Staff office hours are Monday-Friday 9 a.m. to 4 p.m.

-Key West United Methodist Church indicates that the parish offers services on the following days and hours: Sunday 8:30 to 1 p.m., Wednesday 7p.m. to 9 p.m., Thursday 6:30 a.m.-9 a.m., and Friday 7 p.m.-9 p.m.

C. Mitigation measures agreed to be implemented by the applicant;

The applicant has reached out to the subject two churches and funeral home. All three business have expressed no objection.

D. Public input;

As of the date of this report, the Planning Department has received two letters of support from the following churches: Reverend Larry D. Hooper of St. Paul's Episcopal Church and Larry Thompson (Church Council Chairperson) from Key West United Methodist Church.

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;

As of the date of this report, there have been no objections to the applicants request to sell beer, wine and liquor for special events.

F. Any other factors the approving body determines relevant to the public's health, safety, and welfare;

According to City Code Section 18-28(c), special exceptions granted for alcoholic beverage sales within 300 feet of churches, schools, cemeteries or funeral homes may be approved with conditions, which conditions shall be monitored through a conditional approval permit in accordance with City Code Section 18-610. Should the Planning Board approve the special exception request, City Code Section 18-28(c) requires that the approval be specific to the property owner only, shall not be transferable, and shall only be effective in conjunction with the use(s) specified in the application. As a result, these operational controls would be embedded as conditions of approval. However, based on public input at the public hearing, additional conditions may be necessary to ensure continued neighborhood compatibility.

The Planning Board shall make factual findings regarding the following:

That the standards established by City Code Section 18-28(b) for special exceptions have been met by the applicant.

Per Section 18-28(e) which states “upon receipt of an application, the planning board shall hold a public hearing upon the application in accordance with the procedures cited in section 90-393 and shall render an order granting or denying such application. In granting such application the planning board must make specific findings respecting each of the matters specified in subsection (b) (2), above.”

As stated above, the Planning Board must make a specific finding on the criteria. Staff recommends to the Planning Board that the response to the criteria outlined in the staff report be taken into consideration in rendering an order to grant or deny the request.

If approved staff recommends the following conditions:

1. The special exception is granted exclusively to Inter Ocean Holdings, LLC and shall not be transferable.