

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



To: Chair and Planning Board Members

From: Melissa Paul-Leto, Planner I

Through: Patrick Wright, Planning Director

Meeting Date: January 17, 2019

Agenda Item: **Amendment to Conditional Use – 506 Southard Street (RE #00012290-000000)** - A request to amend conditional use approval to expand the consumption area to the second floor on property located in the Historic Residential Commercial Core (HRCC-1) zoning district pursuant to Sections 122-62 and 122-688(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: To allow for an amendment of an existing Conditional Use approval to include the expansion of consumption area to the second-floor, include indoor music, and alter hours of operation on Wednesday and Thursday from 10:00 am – 2:00 am to 10:00 am – 4:00 am.

Applicant: Wayne LaRue Smith, Esq.

Property Owner: 1075 Duval Street, 212 C21

Location: 506 Southard Street – (RE# 00012290-000000)

Zoning: Historic Residential Commercial Core (HRCC-1) zoning district



Background:

The subject property is 506 Southard Street, one lot of record which includes two structures on the parcel. The two-story framed building is the subject structure for this amendment and is considered a contributing resource to the historic district. The structure is located directly behind 601 Duval street, a two-story concrete block structure on the corner of Duval and Southard Street. Currently, the property is known as the Irish Oak Barrel and serves beer, wine and liquor to their customers within a bar and lounge use limited to the first floor interior and exterior consumption area. The establishment was granted 25 seats on the first floor including the porch, and one table with two chairs located at the outdoor ADA seating area to the side of the parcel. The hours of operation are as follows: Monday through Thursday 10 am to 2 am and Friday and Saturday from 10 am to 4 am and Sundays from 12 pm to 2 am. There is currently no amplified music allowed.

On March 17, 2011 the property received its first Conditional Use approval (Resolution No. 2011-14) to serve as a beer and wine bar and lounge establishment. The consumption area was limited to a total of 379 square feet, including 93 square feet of outdoor and 286 square feet of indoor consumption area. Hours of operation were limited to the following: Monday through Thursday 10 am to 2 am and Friday and Saturday from 10 am to 4 am and Sundays 12 pm to 2 am.

On February 20, 2014 the property received an Amendment to the Conditional Use approval (Resolution No. 2014-14) to include liquor sales at the bar and lounge use.

The applicant is requesting to amend the previous Amendment to a Conditional Use approval (Resolution No. 2014-14) to expand consumption area to the second floor, include indoor music on the first floor, and alter hours of operation as follows: Monday and Tuesday from 10 am to 2 am, Wednesday, Thursday, Friday and Saturday from 10 am to 4 am, and Sundays from 12 pm to 2 am.

Surrounding Zoning and Uses:

North: HNC-1, Residential and government use

South: HRO, Residential and office uses

East: HRCC-3, Restaurant, hotels, and offices

West: HRCC-1, residential and commercial uses

Process:

Development Review Committee: December 20, 2018

Planning Board: January 17, 2019

Local Appeal Period: 10 days

DEO Review: Up to 45 days

Conditional Use Review

The purpose of conditional use review, pursuant to City Code Section 122-61, is to ensure that a conditional use shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity. City Code Chapter 122, Article III sets forth provisions and criteria for consideration of conditional uses on specific sites. Conditional uses shall be permitted only upon a finding that the proposed use satisfies this article.

Conditional Use Specific Criteria pursuant to Code Section 122-62

(a) Findings

Code Section 122-62(a) provides, in part, that “a conditional use shall be permitted upon a finding by the Planning Board that the proposed use, application, and, if applicable, development plan complies with the criteria specified in this section, including specific conditions established by the Planning Board and/or the City Commission during review of the respective application to ensure compliance with the Comprehensive Plan and land development regulations.” This section also specifies that “a conditional use shall be denied if the city determines that the proposed use does not meet the criteria provided in this section and, further, is averse to the public’s interest.

(b) Characteristics of use

The proposed use for a bar and lounge that serves beer, wine and liquor is a conditional use in the HRCC-1 zoning district.

(1) Scale and intensity of the proposed conditional use as measured by the following:

a. Floor area ratio (FAR):

There is no change in floor area from the original conditional use approval.

b. Traffic generation:

There is no change in traffic generation from the original conditional use approval.

c. Square feet of enclosed space for each specific use:

The original Conditional Use approval is for a total of 379 square feet on the first floor including 93 square feet of outdoor and 286 square feet of indoor consumption area. The proposed amendment will reduce the first-floor consumption area by 100 square feet. The proposed first floor has 186 square feet of interior consumption area and 93 square feet of exterior consumption area. The proposed second-floor consumption area will add an additional 370 square feet of consumption area; 282 square feet of second floor interior, and 88 square feet of exterior second-floor balcony space. The total consumption area proposed is 649 square feet.

d. Proposed employment:

The applicant proposes two additional employees that will work the second-floor bar.

e. Proposed number and type of service vehicles:

The applicant is expecting no additional service vehicles to be making trips to the area, but they may be receiving a larger order within the existing deliveries. Deliveries to the establishment are made by the same vehicles that currently deliver to establishments in the vicinity.

f. Off-street parking needs:

The property is located within the historic commercial pedestrian-oriented area and no off-street parking is required as per Sec. 108-573(c). This section provides that no additional off-street parking shall be required within the historic commercial pedestrian-oriented area if a commercial structure is the subject of a change of commercial use if additional floor area is not added. No additional floor area is being constructed on the site.

(2) On- or off-site improvement needs generated by the proposed conditional use and not identified above including the following:

a. Utilities

No changes proposed.

b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in City Code Chapter 94

None expected.

c. Roadway or signalization improvements, or other similar improvements

None expected.

d. Accessory structures or facilities

None proposed.

e. Other unique facilities/structures proposed as part of site improvements

None proposed.

(3) On-site amenities proposed to enhance site and planned improvements, including mitigative techniques such as:

a. Open space:

No changes.

b. Setbacks from adjacent properties:

No changes are proposed that would alter structural setbacks.

c. Screening and buffers:

No changes proposed.

d. Landscaping berms proposed to mitigate against adverse impacts to adjacent sites:

No changes proposed.

e. Mitigative techniques for abating smoke, odor, noise and other noxious impacts:

The proposed amendment to the Conditional Use approval includes indoor music permitted subject to all City noise ordinance restrictions.

(c) Criteria for conditional use review and approval

Pursuant to City Code Section 122-62(c), applications for a conditional use shall clearly demonstrate the following:

(1) Land use compatibility:

Bar and lounges are a conditional use in the HRCC-1 zoning district. The proposal is to expand the consumption area to the second-floor, expand hours of operation an additional two hours on Wednesday and Thursday, and include indoor live music. Currently, the bar and lounge serve beer, wine and liquor within the first floor indoor and outdoor consumption area. Adjacent land uses are residential, commercial (restaurant and retail). The proposed amendment to the conditional use is compatible and harmonious with the surrounding uses.

(2) Sufficient site size, adequate site specifications and infrastructure to accommodate the proposed use:

The existing site and infrastructure are adequate to accommodate the amendment request. The 506 Southard Street property has operated as a bar and lounge since 2011.

(3) Proper use of mitigative techniques:

The applicant is maintaining the no outdoor music condition to minimize noise.

(4) Hazardous waste:

None expected or proposed.

(5) Compliance with applicable laws and ordinances:

Compliance with all applicable laws and regulations would be required.

(6) Additional criteria applicable to specific land uses:

Applicants for conditional use approval shall demonstrate that the proposed conditional use satisfies the following specific criteria designed to ensure against potential adverse impacts which may be associated with the proposed land use:

a. Land uses within a conservation area: N/A

b. Residential development: N/A

c. Commercial or mixed-use development: No negative impacts expected.

d. Development within or adjacent to historic district:

The property is located within the Historic District and will require HARC for any additional signage or exterior changes.

e. Public facilities or institutional development: N/A

f. Commercial structures, uses and related activities within tidal waters: N/A

g. Adult entertainment establishments: N/A.

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request for Conditional Use be **APPROVED** with the following conditions:

General conditions:

1. No more than one table and two chairs shall remain at the outdoor ADA seating area by the call button.
2. The applicant will 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:

1. Hours of operation are limited to Monday and Tuesday from 10:00 am to 2:00 am, Wednesday, Thursday, Friday and Saturday from 10:00 am to 4:00 am, and Sundays from 12:00 pm to 2:00 am.
2. The use is approved for the sale of beer, wine and liquor.
3. There will be no outdoor amplified music on the premises.
4. 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 assuring compliance with the conditions contained herein.