

**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: June 20, 2019

Agenda Item: **Conditional Use – 1327 Duval Street – (00036190-000100)** - A request for a conditional use to include a bar as an accessory use to the hotel on property located in the Historic Commercial Tourist (HCT) Zoning District pursuant to Sections 122-62 and 122-898 (9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: To allow a bar as an accessory use within the hotel premises.

Applicant: Richard McChesney – Spottswood, Spottswood, Spottswood, & Sterling

Property Owner: Santiago Family Partnership LTD

Location: 1327 Duval Street– (00036190-000100)

Zoning: Historic Commercial Tourist (HCT)



Background:

The subject property is on the 1300 block of Duval Street on the corner of South Street. It is one lot of record and consists of a one two-story wood framed structure and an accessory structure that is a one- & two-story concrete block structure with wood framing. The property is located within the Historic Commercial Tourist (HCT) Zoning District and currently operates as a hotel, The Southernmost Point Guest House. The applicant is proposing to create a bar accessory to the hotel. The granting of the condition use will be in accordance with Florida Statutes Section 561.20 (2)(a). The bar will be in a new accessory structure that will provide ADA compliant bathrooms in addition to the portion that will house the bar. The applicant is proposing 289 square feet for the accessory structure including the bar and bathroom. The consumption proposed is 150 square feet.

Surrounding Zoning and Uses:

North: HRCC-3, Restaurants, and Tourist Accommodation Uses

South: C-OW, The Atlantic Ocean

East: HRO, Business, and Professional Office Uses

West: HHDR, Single-family, Duplex, and Multi-family Uses

Process:

Development Review Committee: May 23, 2019

Planning Board: June 20, 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 comply 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 in order 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, that the proposed conditional use is averse to the public’s interest.”

(b) Characteristics of use

Bars and lounges accessory to and located within a motel, hotel or other transient facility having at least 20 units, are a conditional use in the HCT zoning district. Our code states there should be a minimum of 20 units to allow a conditional use of a bar and lounge to occur. However, the Florida State Statute FS 561.20 (attached) states the following,” provided that this subparagraph shall supersede local laws requiring a greater number of hotel rooms”. The Historic Commercial Tourist zoning district is defined as a district comprised of areas having high concentration of hotels, motels, and/or transient lodging facilities together with primary tourist-oriented commercial services. The proposed bar is located within the hotel to the rear of the parcel.

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

a. Floor area ratio (FAR):

The proposed use will add additional floor area to the property. The existing FAR is .37 (5,370.0 square feet). The proposed FAR of the entire consumption area is .39 (5,660.0 square feet) which consists of the enclosed bar and bathrooms accessory structure not the additional outdoor consumption area. The area of the Conditional Use will occupy approximately 289 square feet of the already existing 14,556.09 square foot lot.

b. Traffic generation:

The applicant states most of the patrons will be the hotel’s guests, tourists and/or locals passing by foot.

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

The proposed square footage of the accessory structure which includes a bar and two (2) ADA bathrooms is 289 square feet.

d. Proposed employment:

There will be no additional employees for this conditional use request.

e. Proposed number and type of service vehicles:

There are no proposed service trucks.

f. Off-street parking needs:

Currently the property has sixteen (17) parking spaces plus one (1) ADA parking space and six (6) bike racks. Section 108-572 states one hotel room requires one parking space. The properties at 1327 Duval Street have ten (10) transient units, and 407 South Street have three (3) transient units + one (1) manager unit providing a total of 14 rooms = 14 parking spaces plus five (5) bike spaces (35%). Parking requirements for the bar are one (1) parking space per 45 square feet of consumption area. The additional 150 square feet of outdoor consumption area will require three (3) parking spaces plus five (1) bike space (25%). The total required parking spaces for the proposed use and existing uses are seventeen (17) parking spaces plus six (6) bike spaces. The property meets the minimum parking requirements.

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

a. Utilities

None expected.

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

None expected. Compliance with building codes and life safety codes would be required prior to building permit issuance.

c. Roadway or signalization improvements, or other similar improvements

None required.

d. Accessory structures or facilities

The proposed bar use will include construction of an accessory structure that houses the bar as well as two (2) ADA bathrooms.

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

The addition of two (2) ADA bathrooms installed in the accessory structure is unique to the site.

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

a. Open space

The parcel is currently conforming to commercial open space requirements (27.50%). No changes are proposed.

b. Setbacks from adjacent properties

The accessory structure meets all setback requirements.

c. Screening and buffers

No changes proposed.

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

No landscape berms proposed.

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

The property is proposing to add an outdoor bar to the rear of the main two-story structure. The bar will not have any outdoor music for the outdoor consumption area. No proposed new/additional amplified music is proposed inside of the bar.

(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

The proposed use would be in the HCT zoning district. Bars and lounges accessory to and located within a motel, hotel or other transient facility having at least 20 units, are a conditional use in the HCT zoning district. Per Section 122-896 the intent of the Historic Commercial Tourist zoning district is defined as a district comprised of areas having high concentration of hotels, motels, and/or transient lodging facilities together with primary tourist-oriented commercial services, including specialty shops, restaurant and drinking establishments, personal services, offices, and other similar activities.

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

The size and shape of the site are adequate to accommodate the proposed scale and intensity of the conditional use requested.

(3) Proper use of mitigative techniques

None have been proposed as the proposed bar will be located within the hotel property.

(4) Hazardous waste

None expected or proposed.

(5) Compliance with applicable laws and ordinances

The use will comply 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:** The site is not located in a conservation area.
- b. Residential development:** No residential development is proposed.
- c. Commercial or mixed-use development:** No negative impacts expected.
- d. Development within or adjacent to historic district:** Any signage or other building permits necessary will be required to have HARC approval.
- e. Public facilities or institutional development:** No development of public facilities or institutions are proposed.
- f. Commercial structures use and related activities within tidal waters:** The site is not located within tidal areas.

- g. Adult entertainment establishments:** No adult entertainment is being proposed.

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 CONDITIONS** as follows:

General conditions:

1. The conditional use and proposed bar shall match the approved plans signed and dated: June 16, 2019 by, Serge Mashtakov, P.E.

Conditions prior to issuance of a Certificate of Occupancy and/or Business Tax Receipt:

2. The owner shall obtain and maintain a Conditional Approval Permit, pursuant to City Code Chapter 18, Article XII, Division 1. The City Code Compliance shall inspect the property on an annual basis upon reasonable notice to determine compliance with the conditions of the Planning Board resolution.

FS 561.20

(2)(a) The limitation of the number of licenses as provided in this section does not prohibit the issuance of a special license to:

1. Any bona fide hotel, motel, or motor court of not fewer than 80 guest rooms in any county having a population of less than 50,000 residents, and of not fewer than 100 guest rooms in any county having a population of 50,000 residents or greater; or any bona fide hotel or motel located in a historic structure, as defined in s. [561.01](#)(21), with fewer than 100 guest rooms which derives at least 51 percent of its gross revenue from the rental of hotel or motel rooms, which is licensed as a public lodging establishment by the Division of Hotels and Restaurants; provided, however, that a bona fide hotel or motel with no fewer than 10 and no more than 25 guest rooms which is a historic structure, as defined in s. [561.01](#)(21), in a municipality that on the effective date of this act has a population, according to the University of Florida's Bureau of Economic and Business Research Estimates of Population for 1998, of no fewer than 25,000 and no more than 35,000 residents and that is within a constitutionally chartered county may be issued a special license. This special license shall allow the sale and consumption of alcoholic beverages only on the licensed premises of the hotel or motel. In addition, the hotel or motel must derive at least 60 percent of its gross revenue from the rental of hotel or motel rooms and the sale of food and nonalcoholic beverages; **provided that this subparagraph shall supersede local laws requiring a greater number of hotel rooms;**