

**The City of Key West
Planning Board
Staff Report**



To: Chair and Planning Board Members

From: Melissa Paul-Leto, Planner I

Through: Roy Bishop, Planning Director

Meeting Date: September 19, 2019

Agenda Item: **Amendment to an Alcohol Sales Exception – 417 Eaton Street (RE# 00004380-000200)** – A request to amend an existing Alcohol Sales Exception in order to increase the approved amount of seats from (30) thirty to (66) sixty-six on property located within the Historic Residential Commercial Core (HRCC-1) zoning district pursuant to Section 18-28(b)2 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

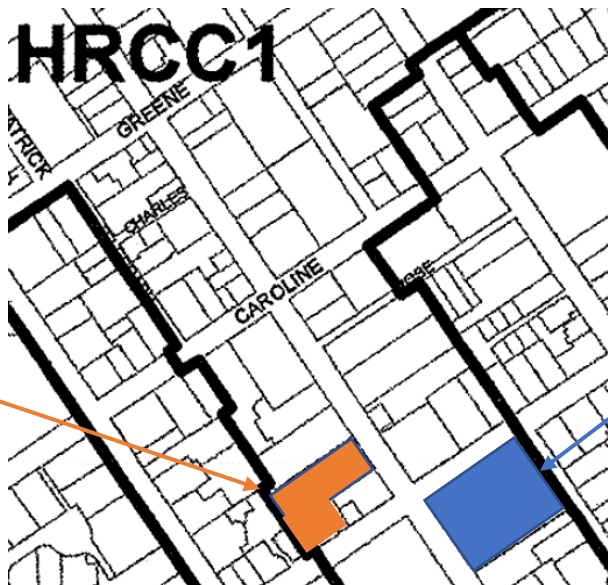
Request: To grant an amendment to increase the number of seats previously approved through a special exception to sell alcoholic beverages as an accessory use to the restaurant located within the subject hotel.

Applicant: Seaside Hospitality Corporation

Property Owner: David Mark Wyait

Location: 417 Eaton Street (RE # 00004380-000200)

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



The Saint Hotel
417 Eaton
Street

St. Paul's Episcopal Church
401 Duval Street

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. The applicant has requested an amendment to a previous Alcohol Sales Exception approval Resolution #2016-39. The previous approval allows for the hotel known as, The Saint to serve beer, wine and liquor to the public as an accessory use to the restaurant located within the hotel. Based on resolution #2016-39 a condition of thirty (30) seats within the restaurant was placed. The applicant would like to increase the approved seating from thirty (30) seats to a total of sixty-six (66) seats to enable upstairs seating on the balcony facing Duval Street. The property is located on the 400 block of Eaton Street. There are no schools, cemeteries or funeral homes within 300 feet of the property. The property is within 300 feet of one church:

- St. Paul's Episcopal Church, 401 Duval Street

Process:

Planning Board Meeting: September 19, 2019

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 the following criteria:

A. Compatibility with surrounding existing uses:

The property is located within the Historic Residential Commercial Core (HRCC-1) Zoning District which is described in Section 122-686 of the Land Development Regulations as "which is characterized by specialty shops, sidewalk-oriented restaurants, lounges and bars with inviting live entertainment; and transient residential accommodations." The applicant is requesting to add additional seating to the hotel's existing restaurant.

The applicant took measurements under the supervision of City staff

Utilizing a RolaTapeRT312. The result is 165 feet starting from the property line to The Saint Hotel and ending at the property line of the St. Paul's Episcopal Church.

The measurements confirm the subject site is located within 300 feet of the St. Paul's Episcopal 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, the website for St. Paul's Episcopal Church indicates that general service times are as follows: Sunday 7:30 a.m. and 9:30 a.m.; Monday 8:00 a.m. and 9:00a.m.; Tuesday 8:00 a.m. and 9: 00a.m; Thursday 8:00 a.m. and 9:00 a.m.; and Friday 8:00 a.m. and 9:00 a.m.

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

Based on the limited scope and nature of the accessory alcoholic beverage and additional seating request, no additional mitigated measures are suggested by City staff at this time. Nevertheless, the applicant has stated their willingness to consider additional mitigated measures that may be logically presented as part of the good neighbor outreach process.

D. Public input:

As of the date of this report, the Planning Department has not received any public comments regarding this application. The applicant has submitted a letter written by Reverend Stephen Carlsen, Interim Rector of St. Paul's Episcopal Church. The letter states that the Executive Committee of the Vestry of St. Paul's Episcopal Church will not block the application and granting to expand seating capacity to 66 seats to enable upstairs seating on the balcony overlooking Duval Street.

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, the applicant has indicated he has attempted to contact all noticing property owners. At this time, no neighbors have expressed any objections.

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.

RECOMMENDATION:

Based on the criteria established by the Comprehensive Plan and the City Code, the Planning Department recommends the request for special exception be APPROVED with the following conditions:

1. The special exception is granted exclusively to Seaside Hospitality Corp. and shall not be transferable.
2. The special exception shall only be effective in conjunction with a 6COPs alcoholic beverage license for on-premises consumption of liquor, beer and wine.
3. That the exception and therefore, the sale of alcohol, is accessory to the restaurant use located within the hotel and is limited to (66) sixty-six seats.