

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



To: Chairman and Planning Board Members

From: Angela Budde, Planner I

Through: Roy Bishop, Planning Director

Meeting Date: October 17, 2019

Agenda Item: **Exception for Outdoor Merchandise Display - 205 Elizabeth Street, Unit F (RE# 00072082-003904)** – A request to allow the display of merchandise sold in-store, for AER Photography Inc., located on Lazy Way Lane, Unit F in the HRCC-1 zoning district per Section 106-52 of the Land Development Regulations of the Code of Ordinances of the City of Key West

Request: The applicant is requesting an Exception for Outdoor Merchandise Display to allow the use of shelving on the double doors, four (4) V-shaped flip-through display racks, one (1) umbrella, one (1) free-standing table, and shelves on exterior of building for display of merchandise at AER Photography Inc along Lazy Way Lane.

Applicant: Alicia Renner

Property Owner: City of Key West

Location: 205 Elizabeth Street – Lazy Way Lane, Unit F

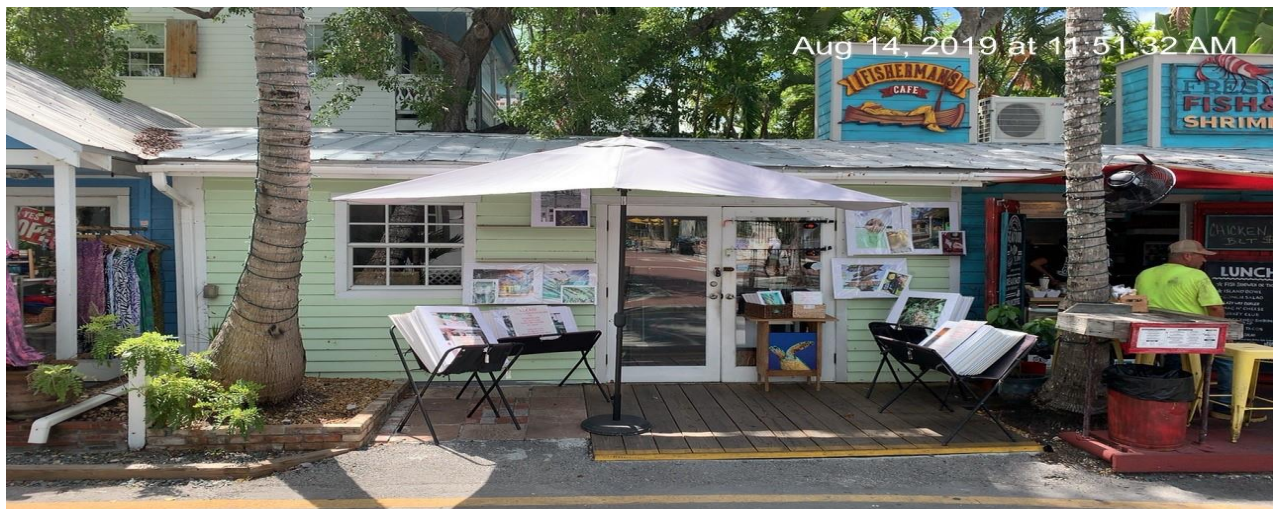


Map

Background

The shops on Lazy Way Lane were designed as part of the original 1996 Bight Master Plan and are owned by the City. According to the Plan the shops on Lazy Way Lane are envisioned to be an old-world market place area where pedestrians can meander through the various small craft shops while enjoying the harbor area. Currently, units A through F share a front wood deck that is broken up by palm trees. Units G and H have private cement entrance areas and gardens. Although the small interior floor areas and shared decking promotes pedestrian flow and outdoor market space as envisioned, the Historic Preservation Guidelines strictly prohibit outdoor display. In an effort to bring the area into compliance with the Land Development Regulations through a request for a Special Exception, staff as the property owner, has worked carefully to promote the continuity and organization of each display with respect to the visibility of the structural features themselves and the historic fabric of the area; although, each application is specific to the character of the current owner of the individual business. Please see the attached Outline regarding the parameters of acceptable display options that were given to the tenants of Lazy Way Lane.

The applicant is the leaseholder of Unit F the Lazy Way Lane shops, also known as AER Photography Inc. The unit is located on the interior of Lazy Way Lane and has a window and glass paned double doors that open onto a shared deck. The types of merchandise currently sold at AER Photography, Inc. includes framed and mounted artwork photographs, silk screen marine life print apparel, and hand-crafted metal sculpture and jewelry. In 2011, the applicant was granted an Exception for Outdoor Merchandise Display by the previous Planning Board in Planning Board Resolution 2011-056.



Request

The applicant is requesting an Exception for Outdoor Merchandise Display for the maximum timeframe of 60 months for the front deck area as follows:

- Shelving on the double doors to display prints and framed apparel;
- Four (4) V-shaped flip-through display racks;
- Shelving on exterior of building to display merchandise;
- One (1) umbrella
- One (1) free-standing table

Analysis

The outdoor display of merchandise in the historic zoning districts of the City is prohibited unless an Exception is granted by the Planning Board, as provided in Section 106-52 of the City Code. Pursuant to Section 106-51 of the City Code, merchandise shall mean any good or product or sample or likeness of any good or product offered for sale by a business. If the Exception for an Outdoor Display is approved by the Planning Board, and if at any time during the display of merchandise the applicant is out of compliance with any conditions of approval, the approval can be revoked by the Planning Board under Section 106-52(4) of the City Code. The Planning Board has the authority to choose to approve the proposed Exception for a lesser term than the maximum amount of time that has been requested. Granting or denying the proposed Exception on a case-by-case basis gives the Planning Board the discretion to approve or deny proposed displays based on the following criteria:

(1) Factors favoring the Exception are as follows:

- a. The location of the proposed Exception, while outdoors, is an interior courtyard of a building or buildings, or is a space specifically designed and permitted for use by outdoor merchants.**

The proposed Exception is located on a pedestrian passageway, exterior of the storefront on Lazy Way Lane. The property includes several storefronts, leased from the City of Key West, which are small structures that share small wooden front decks that are characteristic of exteriors utilized for the display of goods. Further, according to the Bight Master Plan, the shops on Lazy Way Lane are envisioned to be an old-world market place area where pedestrians can meander through the various small craft shops while enjoying the harbor area.

- b. The Exception (for either the type of merchandise or the type of display) is compatible or in visual harmony with the character of the neighborhood.**

The exception is proposed in the HRCC-1 zoning district where the intent of the district is to incorporate the City's intensely vibrant tourist commercial entertainment center which is characterized by specialty shops and sidewalk-oriented restaurants. The exception for the type of merchandise is compatible with the character of the neighborhood. Further, the artwork and hand-crafted goods are typical of an outdoor marketplace as envisioned in the Bight Master Plan. The proposed display makes good use of the limited space without cluttering the area or blocking the architectural features of the structure.

- c. The Exception's visual incongruity with the historic character of the neighborhood is reduced by substantial setback from public places and rights-of-way.**

The location of the proposed display is visible from the public right-of-way; however, it is well organized and limited in scope so that it is not visually incongruous with the character of the historic waterfront district.

(2) Factors disfavoring the Exception are as follows:

a. Architecture contributing to the historical fabric or visual character of the neighborhood is obscured by the Exception.

During the initial approval of the Outdoor Merchandise Display for this property, specific display designs were required by all the Lazy Way Lane applicants to be met to further enhance the visibility of the structure and proposed characteristics compatible of the historic waterfront district.

b. The location of the proposed Exception abuts, with minimal setback, a street of the historic district, thus the Exception is visible from heavily used public places and rights-of-way.

Lazy Way Lane is not a dedicated right-of-way; therefore, the proposed exception does not abut a street of the historic district. However, the exception is visible from the Greene Street waterfront plaza and some aspects will be visible from the right-of-way.

c. The Exception presents a hazard to public safety.

The exception does not pose a hazard to public safety as long as the merchandise and display items remain placed outside the required 36" ingress and egress areas.

(3) Exceptions to Section 106-51 granted by the Planning Board shall be for a term of no more than 60 consecutive months and may be granted subject to terms and conditions specified by the Board in order to protect the architectural heritage and visual character of the district.

Visibility from the public right-of-way is limited to the items shown on the submitted site photos; therefore, the visual impact to the character of the district is lessened than it would be if the entire site was being used.

(4) Exceptions to Section 106-51 may be revoked by the Planning Board after notice and hearing on grounds that:

- a. The applicant has failed to comply with terms and conditions specified pursuant to the grant of an exception in this section; and
- b. The exception was granted pursuant to mistaken or misleading information; and
- c. The exception is not compatible or in visual harmony, with development of the neighborhood occurring subsequent to grant of the exception.

If the exception for Outdoor Display is approved by the Planning Board, and if at any time the applicant is out of compliance with any conditions of approval, the approval can be revoked by the Planning Board, under Section 106-52 (4) of the City Code.

RECOMMENDATION

The Planning Department, based on criteria established by the City's Comprehensive Plan and Land Development Regulations, recommends the request for Exception to the Outdoor Merchandise Display be **approved** per the proposed plan with the following conditions:

1. The exception is specific to the current tenant, Alicia Renner, dba AER Photography, Inc. and granted for sixty (60) consecutive months.
2. The exception will not be placed in the City right-of-way, as shown on the site plan, and is limited to:
 - Shelving on double doors to display prints and framed apparel;
 - Four (4) V-shaped flip-through display racks;
 - One (1) umbrella;
 - Shelving on exterior of building to display merchandise;
 - One (1) free-standing table.
3. The exception will only be present during hours of operation.
4. The exception will not be attached to any fence or tree.
5. A Certificate of Appropriateness will be required for signage, or any other elements of the site plan that are required pursuant to the Historical Architectural Review Commission (HARC) guidelines.
6. The exception is limited to retail merchandise, locally made art, accessories and retail clothing.
7. Seating and furniture are not outdoor displays and shall not be counted as such. Display items can be rotated but cannot be increased.
8. The exception will provide clear access for ADA and fire accessibility, with a minimum pathway of thirty-six (36) inches.