

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



To: Chairman and Planning Board Members

Through: Roy Bishop, Planning Director

From: Daniel Sobczak, Planner I

Meeting Date: February 20, 2020

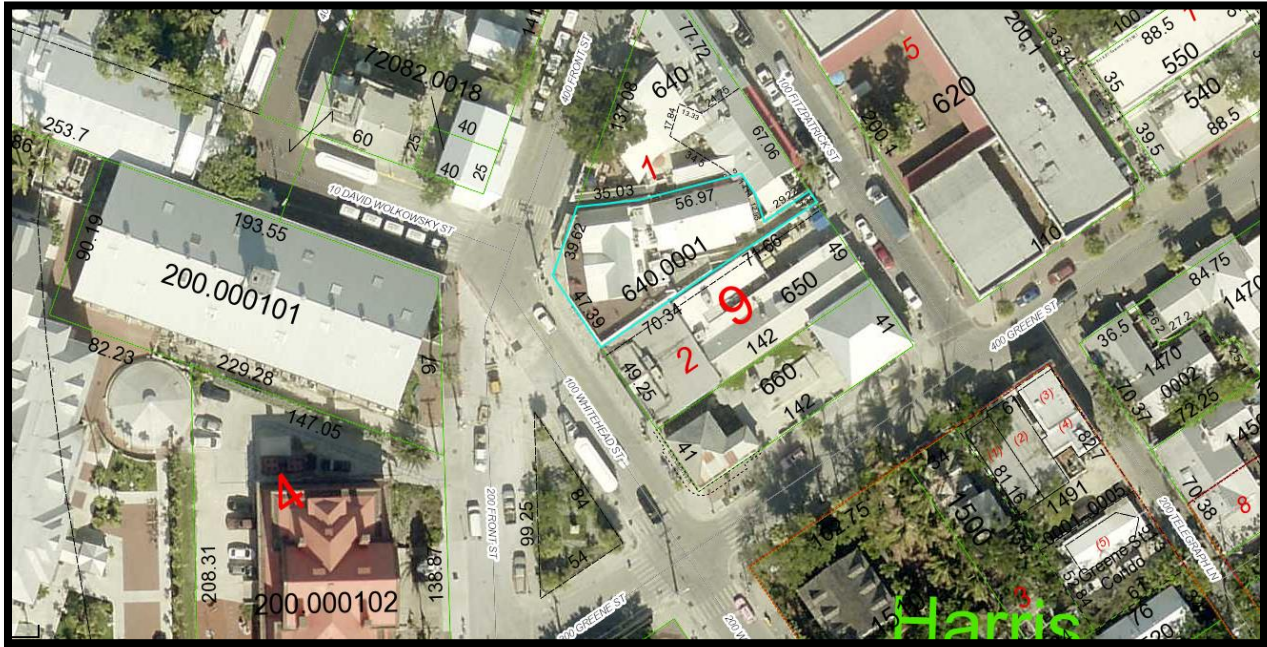
Application: **Exception for Outdoor Merchandise Display – 300 Front Street (RE # 0000640-000100)** – A request for an Exception for Outdoor Merchandise Display on property located within the Historic Residential Commercial Core Duval Street Gulf side (HRCC-1) district pursuant to the Land Development Regulations of the Code of Ordinances of the City of Key West.

Request: To allow an Exception for Outdoor Merchandise Display of retail clothing items on non-permanent, portable racks for merchandise sold in the store through a 24-month time span.

Applicant: 230 East 7<sup>th</sup> Street Associates

Property Owner: Joseph Cohen

Location: 300 Front Street (RE # 0000640-000100)



**Background:**

The Play Time Apparel, Inc. is located at 300 Front Street bisected by David Wolkowsky Street and Whitehead Street, across from the U.S. Coast Guard Headquarters. According to Monroe County Property Appraiser, the building was constructed in 1963 and reconstructed in 1998. The building is a non-contributing structure to the Historic District. The store features tourist items and apparel.

Staff conducted a site visit on January 23<sup>rd</sup>, 2020, 1/23/2020, and took photographs of the front façade and the current outdoor merchandise displays. Play Time Apparel currently has two clothing racks displaying various apparel sold in store. Additionally, there were several racks hanging off the front façade of the building displaying t-shirts sold inside the store as well. Section 102-282 of the Land Development Regulations prohibit this: *Merchandising may not be mounted or displayed on the exterior surface of the front façade.* Upon alerting the store manager to this via e-mail, she assured the Planning Department that these would be taken down.



**Relevant Code Sections:**

The purpose of Land Development Regulation Chapter 106 I Performance Standards, Article 2, Division 2 “Outdoor Displays” outlined in Section 106-51 and 106-52 is to:

- Provide definitions regarding the prohibition of outdoor displays in historic zoning districts
- Define exceptions to the prohibition of outdoor displays including factors in favor and factors disfavoring exceptions
- Provide the maximum time that outdoor display exceptions shall be granted
- Lay out language for the Planning Board to revoke exceptions

City Code Section 106-51. Prohibited.

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. Merchandise shall mean any good or product or sample or likeness of any good or product offered for sale by a business. Outdoor display shall mean the placement of merchandise on the exterior of a business structure, including a

wall, roof, overhang, entranceway or window, or within a required setback area. For a cart, booth or arcade, outdoor display shall mean the placement of merchandise, either freestanding or by draping it, on the exterior or beyond the vertical plane of the cart, booth or arcade. In no event shall outdoor display be permitted in the public right-of-way. The prohibitions of this section shall not apply to automotive, bicycle and moped rentals and sales and to plant sales and shall not apply to art festivals or other special events duly permitted by the city commission.

City Code Section 106-52. Exceptions.

(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.
- 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.
- 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.

(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.
- 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.
- c) The exception presents a hazard to public safety.

**Analysis:**

The proposed Outdoor Merchandise Display in the historic district is prohibited by LDR Section 106-51 unless an Exception is granted by the Planning Board. Pursuant to Section 106-51 of the Code, merchandise shall mean any good or product or sample or likeness of any good or product offered for sale by a business. Granting or denying a 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 not located in an interior courtyard but is located within an existing front entranceway of an existing structure on the 300 block of Front Street. The applicant is requesting to display retail clothing on two racks on each side of the entranceway of the business.

- 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.**

Play Time Apparel is located within the HRCC-1 zoning district, the city's intensely vibrant tourist commercial entertainment center which is characterized by specialty shops, sidewalk-oriented restaurants, lounges and bars with inviting live entertainment; and transient residential accommodations.

**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 exception's visual incongruity with the historic character of the neighborhood is not reduced by a substantial setback for the public right-of-way as this business is located in HRCC-1 which has no front setback dimensional requirements

**(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.**

The building at 300 Front Street is not a contributing historical property in the Historic 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.**

The proposed location of the Exception is conforming to the front yard setback requirement. The minimum front yard setback in the HRCC-1 zoning district is zero feet. The visible display will be within the ingress/egress or entranceway of the building, so that it will be visible to the public.

**c. The Exception presents a hazard to public safety.**

The applicant states, submitted photos, and photos from a staff site visit all show the proposed location for the outdoor merchandise display to be in and around the entranceway. Both the Chief Building Official of Key West and the Fire Marshal of Key West are in agreeance and have advised that there should not be any structure obstructing the main egress, especially the furnishings such as the racks shown.

**Recommendation:**

Pursuant to Section 106-52 of the Code, there are both factors that disfavor this Outdoor Merchandise Display exception as well as factors that favor it. Staff analysis illustrates the public safety concern associated with the location of the racks in the entranceway and its affect on the ingress/egress of the building. Staff reached out to the applicant and was assured that the tenant would move all clothing racks and movable items out of the entranceway.

Based on the above analysis of the standards for the Exception to Outdoor Merchandise Display, and Section 106-51 of the Land Development Regulations, as well as confirmation from the owner of the location for the racks, the Planning Department recommends the request for the Exception to Outdoor Merchandise Display in the Key West Historic District be **granted** with the following conditions:

1. The site plan for the proposed outdoor display be amended so that it does not obstruct any part of the entranceway.
2. No furnishings of any kind be allowed to obstruct or be in the entranceway
3. The Exception is specific to the current tenant, Joseph Cohen, dba Play Time Apparel, USA, and granted for twelve (12) consecutive months.
4. The Exception is limited to the existing front entrance of the property and will not be placed in the City right-of-way. All display materials shall be no closer that (1) foot from the sidewalk.
5. The Exception will all be free-standing and not attached to any house, fence or tree.
6. The Exception will only be present during hours of operation.
7. The Exception is limited to merchandise, locally made art, retail clothing and accessories.
8. Seating and furniture are not outdoor displays and shall not be counted as such. Display items can be rotated but cannot be increased.
9. The Exception will provide clear access for ADA and fire accessibility, with a minimum pathway of thirty-six (36) inches.