

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



**To:** Chairman and Planning Board Members

**From:** Melissa Paul-Leto, Planner Analyst

**Through:** Patrick Wright, Planning Director

**Meeting Date:** November 16, 2017

**Agenda Item:** **Amending an Alcohol Sales Special Exception – 511 Eaton Street (RE # 00004330-000000)** – A request to amend approved Resolution 2017-40 for a special exception to the prohibition of alcoholic beverage sales within 300 feet of a church, school, cemetery or funeral property located within the Historic Residential Commercial Core (HRCC-1) Zoning District pursuant to Sections 18-28(b) 2, of the Land Development Regulations of the code of Ordinances of the City of Key West, Florida.

**Request:** To amend the approved Resolution 2017-40 to include Zerby Hotel LLC with Zerby Old Town LLC for a special exception to sell beer, wine and liquor for special events at the hotel -within 300 feet of a church.

**Applicant:** Zerby Hotel, LLC joined by Zerby Old Town, LLC

**Property Owner:** Zerby Old Town, LLC

**Location:** 511 Eaton Street (RE # 00004330-000000)

**Zoning:** Historic Residential Commercial Core (HRCC-1) Zoning District



**Background and Request:**

Zerby Old Town, LLC was granted an Alcohol Sales Exception on August 17th, 2017 for the subject property 511 Eaton Street known as, Old Town Manor Hotel. The Division of Alcoholic Beverages and Tobacco (DABT) will not accept the tenant’s alcoholic beverage application because the resolution is exclusively granting the alcohol special exception to the landlord, Zerby Old Town, LLC and not to the tenant, Zerby Hotel, LLC. The property owner requests to amend Resolution 2017-40 to include the applicant, Zerby Hotel, LLC as joined grantee.

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 of Key West, 401 Duval Street

**Process:**

<b>Planning Board Meeting:</b>	November 16, 2017
<b>Local Appeal Period:</b>	30 days
<b>DEO Review Period:</b>	up to 45 days

(Below unchanged from August 17, 2017 Planning Board staff report)

**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 of 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 “characterized by specialty shops, sidewalk-oriented restaurants, lounges and bars with inviting live entertainment; and transient residential

accommodations.” The applicant is requesting that the Planning board allow alcohol to be sold for special events at the hotel.

City staff took measurements utilizing a GIS geospatial measurement. The result is 50 feet starting from the property line to 511 Eaton Street and ending at the property line of the St. Paul’s Episcopal Church, 401 Duval Street.

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 St. Paul’s Episcopal Church indicates that the parish is open to the public: Monday through Sunday 7:00 a.m. to 8:00 p.m.

**C. Mitigation measures agreed to be implemented by the applicant;**

The applicant has reached out to St. Paul’s Episcopal Church and received a letter of support from them. (Letter is included in the package).

**D. Public input;**

As of the date of this report, the Planning Department has received no apposing public comments and 1 letter of support regarding this application. The applicant has submitted a letter written by Reverend Larry D. Hooper, Authorized member of St. Paul’s Episcopal Church. The letter states that the St. Paul’s Episcopal Church does not oppose the application and granting of a liquor license to Zerby Old Town, LLC, located at 511 Eaton 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, there have been no objections to the applicants request to sell beer, wine and liquor for special events.

**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.

(Conditions revised for November 16, 2017 Planning Board meeting)

**If approved staff recommends the following conditions:**

1. The amended Alcohol Sales Exception is granted exclusively to Zerby Hotel, LLC joined by Zerby Old Town, LLC and shall not be transferable.
2. The special exception shall only be effective in conjunction with a 6COPs alcoholic beverage license for special events sale of beer, wine and liquor.