

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



To: Chairman and Planning Board Members

From: Angela Budde, Planner

Through: Katie P. Halloran, Planning Director

Meeting Date: May 21, 2020

Agenda Item: **Alcohol Sales Special Exception – 825 Duval Street (RE # 00016830-000000)** – A request for special exception to the prohibition of alcoholic beverage sales within 300 feet of a church, school, cemetery or funeral home for property located within the Historic Residential Commercial Core - Duval Street Oceanside (HRCC-3) Zoning District pursuant to Section 18-28(b) of the Code of Ordinances of the City of Key West, Florida

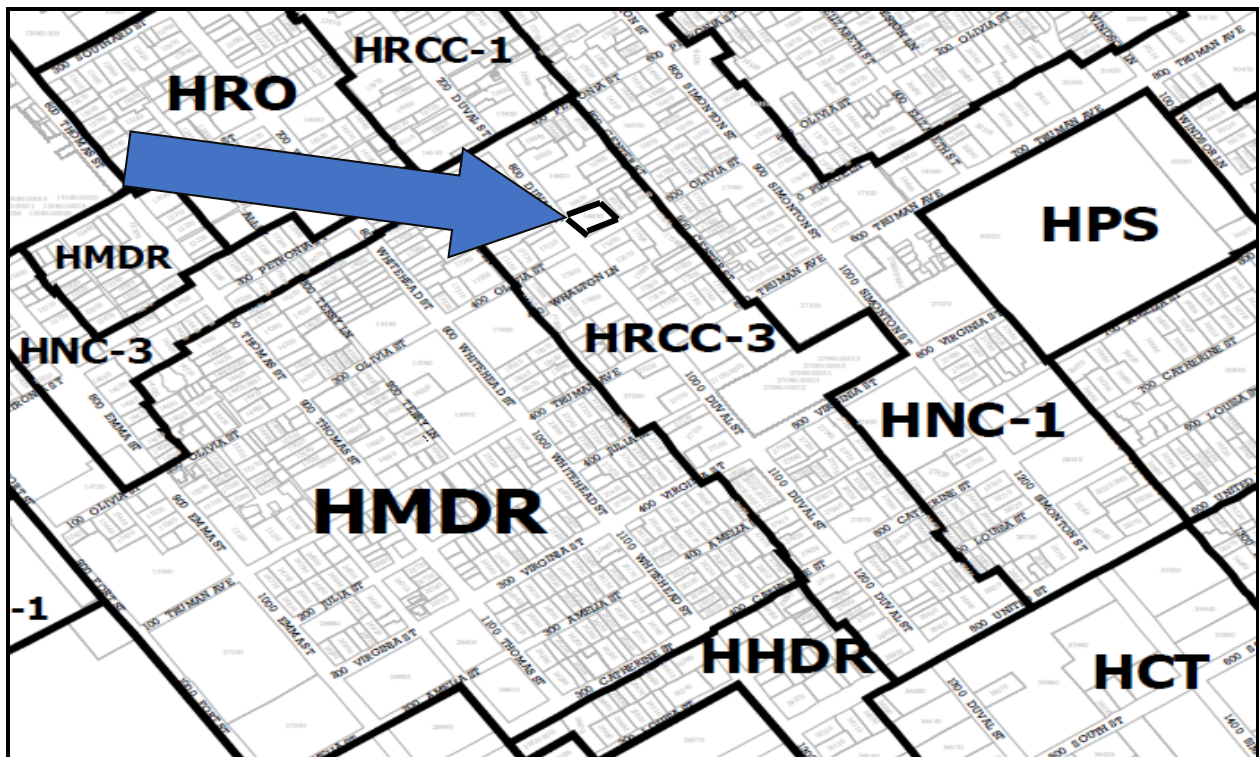
Request: To grant a special exception to sell alcoholic beverages at Robusto Bar by Island Cigar Factory restaurant within 300 feet of a church.

Applicant: Robusto Bar by Island Cigar Factory

Property Owner: Suzanne D. Banks, c/o SUBA 825 LLC

Location: 825 Duval Street – Unit 2 (RE # 00016830-000000)

Zoning: Historic Residential Commercial Core–Duval Street Oceanside (HRCC-3)



District Zone map

Background and Request:

The subject property is located at 825 Duval Street within the Historic Residential Commercial Core– Duval Street Oceanside (HRCC-3) zoning district. The principal structure was built circa 1953 and is considered historic and contributing to the Key West Historic District. The property has hosted several businesses through the years, such as automotive repair (see images provided), a museum featuring artwork made from recycled material, retail clothing, grocery stores, professional offices and restaurants with indoor and outdoor consumption.



Monroe County Public Library - 1965 photo



Monroe County Public Library - 1985 photo



City of Key West Planning Staff – 2018 photo

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 specified in Section 18-28(b)(2) of the City’s code are met. The applicant has requested a special exception in order to obtain a 2COP alcohol license, which would allow on-premises beer and wine consumption at the restaurant / bar. The property, which is located at the southwest corner of Duval and Olivia Streets, is within 300 feet of one (1) church. Staff conducted a site visit on April 30, 2020 and took the following photos of the church located in the vicinity of 300 feet:

- St. Peter’s Episcopal Church, 800 & 807-809 Center Street



Photos contributed by the City of Key West - Planning staff

There are no schools, cemeteries or funeral homes within 300 feet of the property. The application states that the restaurant will serve cold tapas from 9:00 AM to 12 Midnight.



Process:

Planning Board Meeting:	May 21, 2020
Local Appeal Period:	10 days
Planning renders to DEO for review:	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 within 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;

Out of the 103 parcels within 300 feet of the subject property, the Monroe County Property Appraiser classifies 34.0% as single family residential, 18.4% as hotel or motel, 14.6% as multifamily residential, 14.6% as a mix of residential and commercial uses, 2.9 % as restaurant uses, 2.9% as parking lot uses, 2.9% as stores-one story, and 2.9% as church uses. Zoning districts within 300 feet include HRCC-1, HNC-3, HNC-1, and HMDR. Despite the predominately residential nature of the immediate vicinity, the property has had established restaurant use for at least 8 years.

The property, located in the 800 block of Duval Street, is within the Historic Residential Commercial Corridor - Duval Street Oceanside (HRCC-3) zoning district, which allows restaurants as a permitted use. According to City licensing records, beginning in 2012, the property was licensed for food service with up to 10 interior seats for a now defunct “Lemon Deli, LLC” restaurant, but apparently did not seek an alcohol license. In 2017, the property was licensed for food service with up to 15 seats interior and 30 seats exterior for a now defunct “Le Petite Paris, LLC.” with a note by the former Chief Licensing Official that sale of alcohol requires a special exception, which did not occur. Thus, the requested alcohol license for on-premises consumption of beer and wine would be a continuation of an established restaurant use but a first on the property for the proposed Alcohol Sales Special Exception to Robusto Bar by Island Cigar Factory. There are several bars and restaurants located within 300 feet of the 800 block of Duval Street, therefore, this would not be incompatible with the surrounding existing uses.



Photos contributed by the City of Key West – Planning Staff

B. The extent of conflict between the proposed use and the hours of operation of the facilities described in section (a) above;

According to the application, the restaurant will be open serving cold tapas, between 9:00 AM – 12 Midnight. Services at the nearby church occur on Sunday and Thursday mornings. City Code Section 18-27(a) prohibits alcoholic beverages from being sold, served or consumed within the city limits between the hours of 4:00 AM and 7:00 AM.

Based on the proposed use, the regular church service times and the City’s restriction on hours of alcohol sales, there would be overlaps between when alcohol sales and church services would occur. However, the applicant is proffering not to sell any alcohol for off-premises consumption. Thus, there is not anticipated to be significant conflict due to the fact the Church is located on Center Street and does not intersect with Duval Street and given the relatively small size of the proposed restaurant.

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

The applicant is seeking a 2COP alcohol license, which would allow beer and wine consumption on-premises for the proposed, relatively small size restaurant. The applicant has indicated there would be no sales of alcohol “to go” and no alcohol leaving the property or allowed outside of the property. The application also states that there is no loud or live entertainment.

D. Public input;

To date, the Planning Department received one (1) letter from St. Peter’s Episcopal Church not objecting to this proposed application. However, the Church requested the granting of this license be attached to the owner(s) of the property and not the parcel.

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;

Staff contacted St. Peter’s Episcopal Church to advise the Planning Department received an application for a special exception to Alcohol Sales. The Planning Department received one (1) letter from St. Peter’s Episcopal Church as a result of staff contacting them and they are not objecting to the proposed application. However, the Church requested the granting of this license (exception) be attached to the owner(s) of the property and not the parcel.

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 applicant 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, if public input at the public hearing were to occur, 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.

Based on the information provided to the Planning Department, the standards for special exceptions established by City Code Section 18-28(b) have been met by the applicant.

RECOMMENDATION:

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

1. The special exception is granted exclusively to the applicant, Robusto Bar by Island Cigar Factory, and shall not be transferable.
2. The special exception shall only be effective in conjunction with a 2COP alcoholic beverage license for on-premises consumption of beer and wine for restaurant use of the property.
3. The applicant shall comply with all the Land Development Regulations (LDRs) to ensure compliance with the City's definitions for restaurant use, which is a permitted use in the Historic Residential Commercial Core- Duval Street Oceanside (HRCC-3) zoning district.