

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



To: Chairman and Planning Board Members

Through: Roy Bishop, Planning Director

From: Angela Budde, Planner I

Meeting Date: December 19, 2019 (*Revised for 2-20-2020*)

Agenda Item: **Exception for Outdoor Merchandise Display – 718 Duval Street (RE # 00016100-000000)** - A request for exception for outdoor merchandise display on property located within the Historic Residential Commercial Core (HRCC-1) Zoning District pursuant to Section 106-52 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

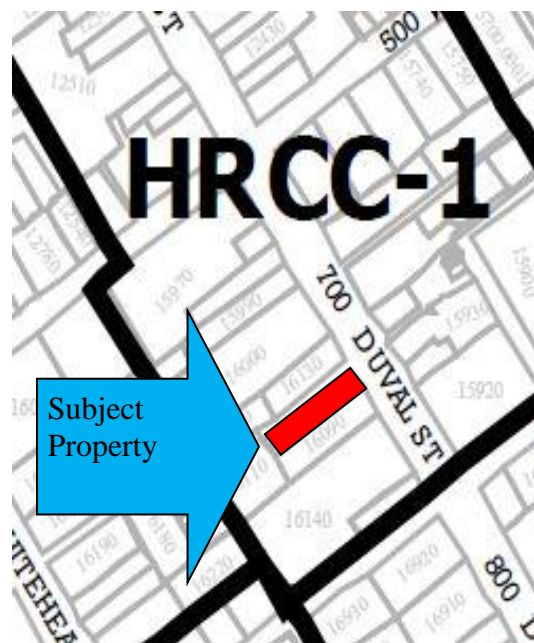
Request: The applicant is requesting an Exception for Outdoor Merchandise Display to allow the display of merchandise in the exterior of the business.

Applicant: Liudmyla Pacelli, dba Key West USA, Inc.

Property Owner: Robert S. Bacon, 965 Sea Cliff Drive, Fairhope, Alaska

Location: 718 Duval Street (RE # 00016100-000000)

Zoning: Historic Residential Commercial Core (HRCC-1)



Background:

The subject property is located on Duval Street between Petronia and Angela Streets, located in the Key West Historic District. The building is historic, built circa 1935, and is recognized as

contributing to the Historic District. The proposed outdoor commercial retail use is a permitted use in the HRCC-1 Zoning District. The store features tourist related merchandise and apparel for sale. The applicant is seeking to display merchandise within the exterior of the building, for the maximum allowed timeframe of ~~sixty (60)~~ *twelve (12) months*.

Staff conducted a site visit on December 2, 2019 and took photographs of the current outdoor merchandise displays. An additional site visit was conducted on February 13, 2020 where staff and the applicant met to discuss the maximum allowed timeframe originally requested. After the discussion, the applicant amended their timeframe request to twelve (12) months.



Process:

Planning Board Meeting:

December 19, 2019 (Postponed)

February 20, 2020

Local Appeal Period:

10 days

DEO Review Period:

up to 45 days

Analysis – Evaluation for Compliance with the Land Development Regulations:

According to Section 106-52 of the City Code, the outdoor display of merchandise in the historic zoning districts is prohibited unless an Exception is granted by the Planning Board. Pursuant to Section 106-52 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. Outdoor display shall mean the placement of merchandise on the exterior of a business structure, including a wall, roof, overhang, entranceway, or window. Granting or denying on a case-by-case basis a proposed exception 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 business structure in the 700 block of Duval Street. The applicant is requesting to display and sell merchandise, retail clothing and accessories within the exterior 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.***

The Exception for the type of merchandise and the type of display is compatible with the character of the neighborhood. The exception is proposed in the HRCC-1 zoning district. Pursuant to Section 122-686 of the City Code, the Duval Street Gulfside District incorporates 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. Commercial retail activity is a permitted use.

- 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 the HRCC-1 zoning district, 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.***

When reviewing this specific request, the Planning Department determined that the proposed exception will not obscure the surrounding architecture contributing to the historic fabric or visual character of the neighborhood.

- 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 minimum front yard setback in the HRCC-1 zoning district is zero (0)-feet. The exterior of the business, where the merchandise is proposed for display, is conforming to the minimum front yard setback requirement. The visible display will be within the entranceway so that the applicant will conduct business on private property.

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

The Exception does not present a hazard to public safety as long as ingress and egress are maintained.

(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. Applications for Exceptions shall be accompanied by a

nonrefundable fee of \$100.00 to cover the costs to the City of processing the application and investigating the applicant.

Exceptions to Outdoor Merchandise Display are granted specifically to an individual applicant. Exceptions for Outdoor Merchandise Display do not run with the land, but instead, have very specific terms of expiration established upon approval by the Planning Board. The applicant has requested an Exception for the maximum amount of time allowed under the Code for Exceptions to Outdoor Merchandise Display, or for ~~sixty (60)~~ twelve (12) consecutive months. It is important to note that 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.

- (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;*
 - b. *The Exception was granted pursuant to mistaken or misleading information; or*
 - c. *The Exception is not compatible, or in visual harmony, with development of the neighborhood occurring subsequent to grant of this Exception.*

If the Exception for an Outdoor Merchandise 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.

- (5) *The City Manager or the Planning Board upon written petition by any City resident may cause issuance of a notice of hearing on revocation of an Exception, which notice shall be issued by the City Clerk.*

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends the request for Exception to the Outdoor Merchandise Display at 718 Duval Street (RE # 00016100-000000) located in the Key West Historic District be **granted** with the following conditions:

1. The Exception is specific to the current tenant, Liudmyla Pacelli, dba Key West, USA, and granted for ~~sixty (60)~~ twelve (12) consecutive months.
2. 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.
3. The Exception will all be free-standing and not attached to any house, fence or tree.
4. The Exception will only be present during hours of operation.
5. The Exception is limited to merchandise, locally made art, retail clothing and accessories.
6. Seating and furniture are not outdoor displays and shall not be counted as such. Display items can be rotated but cannot be increased.
7. The Exception will provide clear access for ADA and fire accessibility, with a minimum pathway of thirty-six (36) inches.