

THE CITY OF KEY WEST
PLANNING BOARD
Staff Report



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel Sobczak, Planner I

Meeting Date: March 19, 2020 (Cancelled)
April 16, 2020 (Cancelled)
April 28, 2020 (Special)

Application: **Exception for Outdoor Merchandise Display – 417-419 Greene Street (RE # 0000602-000000)** – A request for an Exception for Outdoor Merchandise Display on property located within the Historic Residential Commercial Core Duval Street Gulfside (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 tourist items and flags attached to the metal doors at the entrance of The Happy Rooster for a 60-month time span.

Applicant: Dekel Elbaz / Mark Sanouf

Property Owner: New Ideas, INC.

Location: 417-419 Greene Street (RE 0000602-000000)



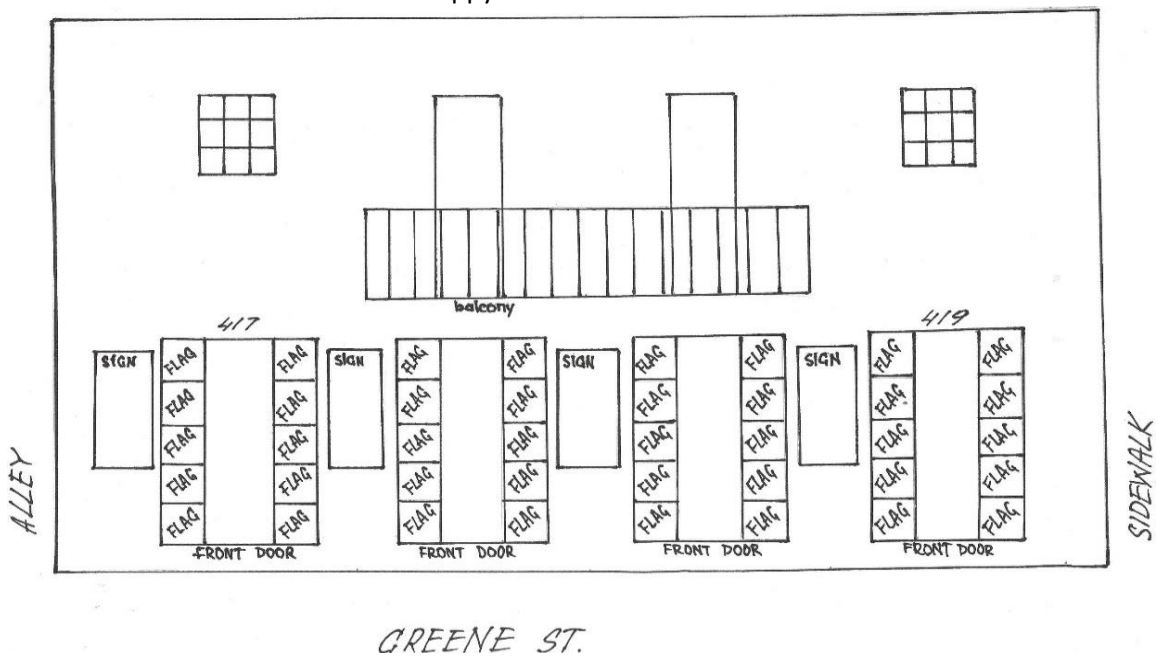
Background:

Happy Rooster is located at 417-419 Greene Street, on the corner of Greene Street and Fitzpatrick Street. Happy Rooster is at the entrance of Kino Plaza, and located within the Key West Historic District, however it is not a contributing building to the district. According to the Monroe County Property Appraiser, the building was constructed in 1978 and reconstructed in 1996. Happy Rooster and the entire Kino Plaza complex is adorned with metal work used for doors, windows, balconies, gates, and other architectural features around the Kino Plaza Complex. The store features tourist items, apparel, and flags. The city has no record of a previous Outdoor Merchandise Display for The Happy Rooster.

Staff conducted a site visit on February 18th, 2020 and took photographs of the front façade and the currently unpermitted outdoor merchandise displays. Happy Rooster currently has no exterior racks but rather all merchandise is displayed on the front façade of the building.



Happy Rooster Store Front





Other store fronts in Kino Plaza with similar architectural features

Staff Analysis - Evaluation:

There are two main sections in the Land Development Regulations of the City of Key West that address merchandise displays in the Historic District, Section 102-282 and Section 106-51.

The purpose of Section 102-282 of the Land Development Regulations is to regulate merchandise displays in the Historic District, and to regulate Historic preservation in the Historic District. Section 102-282 states, "Vending booths, carts, and other merchandise displays are discouraged in the front yard or side yard of any structure adjoining a public street (i.e., between the front or side facade and the public sidewalk)...Merchandising may not be mounted or displayed on the exterior surface of the front façade." It is entirely in accordance to Code for the applicant to hang merchandise inside the shop.

The applicant currently has merchandise installed on the architectural sidelights and metal barred doors on the front façade of the structure. Outdoor merchandise displays in the historic district are 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 review the proposed display 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 the front façade of the building. The building abuts a 13-foot wide sidewalk that runs along Greene Street. The request is to display retail items covering the metal bars in 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.

Happy Rooster is located within the HRCC-1 zoning district. The City of Key West Code of Ordinance establishes the intent of the HRCC-1 Duval Street Gulf side zoning district as follows, "The HRCC-1 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. While the proposed Exception is not necessarily in visual harmony with the associated building's architecture, it is in keeping with the types of window displays, sidewalk activity, and related commercial areas in this 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.

The exception's visual incongruity with the historic character of the neighborhood is not reduced by a substantial setback from the public right-of-way as this business has no front setback.

(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 architectural feature of the metalwork on the doors and sidelights will be covered by the merchandise. Although the building at 417-419 Greene Street is a noncontributing structure in the Historic District, City of Key West Code Section 102 encompasses all neighborhoods within historic districts on the island, regardless of whether a particular structure is contributing or noncontributing.

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 abuts a wide 13-foot sidewalk that is highly visible from historic streetscapes and adjacent sidewalks which are both heavily used public places and right-of-way. The merchandise will be displayed on the three entranceways of the store and will be able to be seen by pedestrians, cyclists, and car traffic.

c. The Exception presents a hazard to public safety.

The Exception would not present a hazard to public safety.

- (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:**

Within the last four (4) months, the Planning Board has recommended approval of Exception to Outdoor Merchandise Displays for a term of twelve (12) consecutive months due to the proposed review changes noted below.

The Planning Board expressed to staff their concerns regarding the evaluation of Outdoor Display Exception proposals. These proposals have a visual impact on the built environment that may create adverse effects on areas within the City of Key West Historic District. The Planning Board opined that these determinations would be more appropriately evaluated by the Historic Architectural Review Commission (HARC). Staff has begun drafting language to amend the current code to transfer review authority for Exceptions to Outdoor Merchandise Display applications to HARC. The transfer of responsibility requires a text amendment to the Code and is currently scheduled for discussion on the HARC agenda on May 26, 2020.

- (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 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:

Pursuant to analysis based on Section 106-52 of the Code, there are four factors that disfavor this Outdoor Merchandise Display exception and two factors in its favor. Staff analysis illustrates that the architectural features of the Kino Plaza building, while not a contributing building, are still a part of the Historic District of the City. These features, full length metal barred sidelights, will be covered up with merchandise and affixed directly to the front façade, which is prohibited by Section 102-282. The metalwork of the Kino Plaza building is a distinguishing feature of this area and obscuring this feature with flags would be incongruous with the historic character of the neighborhood.

Based on the above analysis of the standards for the Exception of Outdoor Merchandise Displays, and Sections 102-282 and Section 106-51 of the Land Development Regulations, the Planning Department recommends the request for the Exception to Outdoor Merchandise Display in the Key West Historic District be **denied**.

If granted by the planning board, Staff proposes the following conditions:

1. The site plan for the proposed outdoor display be amended so that it does not obscure any part of the exterior façade.
2. No furnishings of any kind be allowed to obstruct or be in the entranceway
3. The Exception is specific to the current tenant, Dekel Elbaz, dba Happy Rooster and granted for no more than twelve consecutive months.
4. The Exception shall not interfere with any entranceways so as to reduce egress, nor obscure where entranceways are located.
5. Seating and furniture are not outdoor displays and shall not be counted as such. Display items can be rotated but cannot be increased.
6. The Exception will provide clear access for ADA and fire accessibility, with a minimum pathway of thirty-six (36) inches.
7. All signage installed without benefit of a permit will be removed. Any new signage requires HARC approval.