



THE CITY OF KEY WEST
PLANNING BOARD
Staff Report

To: Chair and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Kimberly Barua, AICP, The Corradino Group

Meeting Date: July 21, 2022

Agenda Item: **Conditional Use – 431 Front Street (RE# 000001500-000000)** A request for a conditional use for operation of a walk-up frozen drink bar in the Historic Residential Commercial Core (HRCC-1) zoning district, pursuant to Section 122-62, Section 122-686 (a), and Section 122-688 (9) pursuant to of the City of Key West Land Development Regulations.

Request: A request for conditional use approval to allow for the use of the operation of a Fat Tuesday frozen drink bar selling frozen alcoholic beverages and beer

Applicant: Rutlege-Ecencia P.A.

Property Owners: Key Caribe LLC

Location: 431 Front Street (RE# 000001500-000000)

Zoning: Historic Residential Commercial Core (HRCC-1)



Aerial Photo of Site-Duval Street highlighted in blue



Front of Site



Front of Site



Front of Site

Background:

The subject property is in the 400 block of Front Street near the corner of Duval Street. The building is located within the Historic Residential Commercial Core -1 (HRCC-1) zoning district and is currently vacant. Past tenants included Starbucks and Graze and Craze (a boutique food shop). The subject site is within the Historic Commercial Pedestrian Oriented Area. There is no dedicated parking specifically for the shopping center, as confirmed by the landlord. There is on-street metered parking nearby, as well as the Mallory Square parking lot and the Westin Resort and Marina Parking Garage (where parking is available to non-guests).

The applicant is requesting a conditional use permit to open a frozen drink bar in the existing structure. Bars and lounges, including those associated with adult entertainment establishments, are permitted as a conditional use in the HRCC-1 zoning district.

Surrounding Zoning and Uses:

North: HRCC-1. Conch Tour Train

South: HRCC-1. Island Boutique

East: HRCC-1. Commercial Plaza, CVS Pharmacy

West: HPS. Mallory Square

Process:

Development Review Committee: May 26, 2022

Planning Board: July 21, 2022

Local Appeal Period: 10 days

DEO Review: Up to 45 days

Conditional Use Review: The purpose of conditional use review, pursuant to City Code Section 122-61, is to ensure that a conditional use shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity. City Code Chapter 122, Article III sets forth provisions and criteria for consideration of conditional uses on specific sites. Conditional uses shall be permitted only upon a finding that the proposed use satisfies this article.

Conditional Use Specific Criteria pursuant to Code Section 122-62:

(a) *Findings*

Code Section 122-62(a) provides, in part, that “a conditional use shall be permitted upon a finding by the Planning Board that the proposed use, application, and, if applicable, development plan comply with the criteria specified in this section, including specific conditions established by the Planning Board and/or the City Commission during a review of the respective application in order to ensure compliance with the comprehensive plan and land development regulations.” This section also specifies that “a conditional use shall be denied if the city determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is averse to the public’s interest.”

(b) Characteristics of Use

The city's intensely vibrant tourist commercial entertainment center is characterized by specialty shops, sidewalk-oriented restaurants, lounges and bars with inviting live entertainment, and transient residential accommodations.

(1) Scale and intensity of the proposed conditional use as measured by the following:

a. Floor area ratio (FAR): $1,361/11,074 = .1229$ (.12x)

b. Traffic generation: It is anticipated that the proposed use will not generate additional vehicle traffic, or parking demand beyond previous tenants that have occupied the same space. Previous uses have also been commercial uses of similar intensity, including a Starbucks coffee shop that occupied the space for 5 years (2015-2020). The proposed tenant would have similar intensity and use.

c. Square feet of enclosed space for each specific use: 1,636 sq ft. Consumption area = 262 sq ft. The maximum of 17 seats.

d. Proposed employment: 12-15 employees

e. Proposed number and type of service vehicles: There are two proposed delivery trucks. 1 – Alcohol vendor, and 2- Supply vendor (cups, cleaning supplies, mixes). Each delivers once weekly. Delivery trucks will park in front of the store location. Alcohol vendor has represented if they service multiple locations, they park in delivery zone on Duval, or corner of Duval and Fleming (e.g., parking in one location and deliver multiple accounts). Alcohol vendor will deliver on Tuesday or Thursday, supply vendor Wednesday or Friday. Those are the delivery days to Key West per the area vendors.

f. Off-street parking needs: There are no off-street parking needs. Given that the applicant is not expanding floor area, a parking variance is not needed pursuant to City of Key West Code Section 108-573. In regard to Sec. 108-573(c)(2), the past uses have also been commercial in nature including a charcuterie store (2021-2022) and a Starbucks coffee shop (2015-2020).

(2) On- or off-site improvement needs generated by the proposed conditional use and not identified above including the following:

a. Utilities: The property has adequate utilities to support the proposed use.

b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in City Code Chapter 94: None expected. Compliance with building codes and life safety codes would be required prior to building permit issuance.

c. Roadway or signalization improvements, or other similar improvements: None

d. Accessory structures or facilities: None

e. Other unique facilities/structures proposed as part of site improvements: None proposed.

(3) On-site amenities proposed to enhance site and planned improvements, including mitigative techniques such as:

a. Open space: N/A **Interior Space:** 1,636 sq ft

b. Setbacks from adjacent properties: Zero setback from direct neighbor. In same shopping plaza.

c. Screening and buffers: Appropriate screening is proposed for the trash/recycling area.

d. Landscaping berms proposed to mitigate against adverse impacts to adjacent sites: None

e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts: There is no expected noise, odor, heat, or smoke from the business. There will be no outdoor speakers. There will be no food cooked or served on the premises. Per Elizabeth Ignoffo, Utilities Department, the application has met the requirements for solid waste disposal, where all the trash and recycle, materials will go to the Mallory Square compactor. There will be no storage of trash or recycle materials onsite (Fat Tuesday location). The applicant will setup a solid waste account with Waste Management. The applicant is eligible to dispose of solid waste and recycling materials in the Mallory Square compactor. The City of Key West has a new recycling master plan with the goal of increasing the recycling rate, maximizing waste diversion, and creating a pathway towards a zero-waste community. The applicant plans to recycle when possible, such as using 64 gallon toter recycling bins for the glass and cardboard that will be bundled for recycle pick-up.

(c) Criteria for conditional use review and approval

Pursuant to City Code Section 122-62(c), applications for a conditional use shall clearly demonstrate the following:

Land use compatibility: The conditional use as a bar is compatible with the surrounding areas. The city's intensely vibrant tourist commercial entertainment center is characterized by specialty shops, sidewalk-oriented restaurants, lounges and bars with inviting live entertainment, and transient residential accommodations. The neighborhood also includes transient uses and is heavily tourist-oriented with pedestrian traffic.

(1) Enough site size, adequate site specifications and infrastructure to accommodate the proposed use: The size and shape of the site are more than adequate to accommodate the proposed scale and intensity of the conditional use requested. The applicant demonstrates that all infrastructure currently exists to support the proposed use.

- (2) **Proper use of mitigative techniques:** N/A
- (3) **Hazardous waste:** None expected or anticipated.
- (4) **Compliance with applicable laws and ordinances:** The use will comply with all applicable laws and regulations.
- (5) **Additional criteria applicable to specific land uses:** Applicants for conditional use approval shall demonstrate that the proposed conditional use satisfies the following specific criteria designed to ensure against potential adverse impacts which may be associated with the proposed land use:
 - a. **Land uses within a conservation area:** The site is not located in a conservation area.
 - b. **Residential development:** No residential development is proposed.
 - c. **Commercial or mixed-use development:** The proposed use is compatible with similar uses within this zoning district as well as district regulations.
 - d. **Development within or adjacent to historic district:** The conditional use application is within the historic district.
 - e. **Public facilities or institutional development:** No development of public facilities or institutions are proposed.
 - f. **Commercial structures use and related activities within tidal waters:** The site is not located within tidal areas.
 - g. **Adult entertainment establishments:** No adult entertainment is being proposed

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request for Conditional Use be **APPROVED WITH CONDITIONS** as follows:

General conditions:

1. Operating hours are to stay within 11:00am- midnight. Minor exceptions include Fantasy Fest, New Years Eve and city sanctioned street fairs and events.
2. The bar and lounge conditional use permit is for 1,636 square feet.
3. The compactor site at the Mallory Sq lot may be used, upon agreement with Waste Management, as long as the compactor is in use at said site. If the service ceases to exist at this location the City is under no obligation to provide any such alternate locations and all solid waste & recycling receptacles must be stored onsite at 431 Front Street.
4. Commercial recycling is highly encouraged by the City of Key West. All bins and materials must be stored onsite at 431 Front Street.

Conditions prior to issuance of a Certificate of Occupancy and/or Business Tax Receipt:

5. The owner shall obtain and maintain a Conditional Approval Permit, pursuant to City Code Chapter 18, Article XII, Division 1. The City Code Compliance Department shall inspect the property on an annual basis upon reasonable notice to determine compliance with the conditions of the Planning Board resolution.

