

THE CITY OF KEY WEST
PLANNING BOARD
Staff Report



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel Sobczak, AICP-C, Planner I

Meeting Date: December 17th, 2020

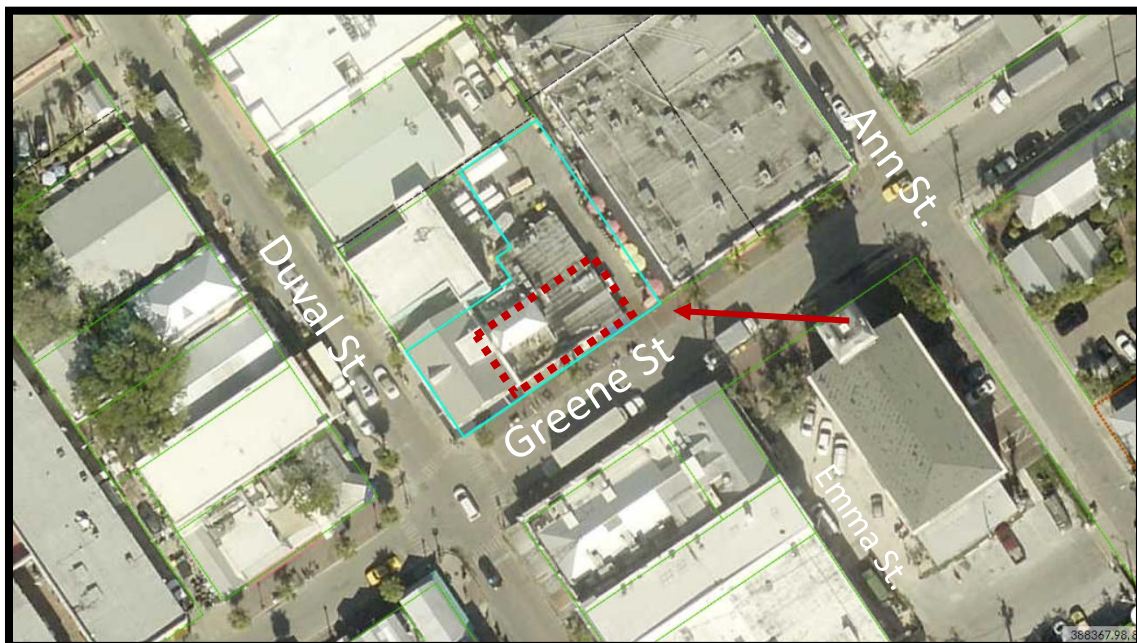
Application: **Conditional Use Amendment-** 501 Greene Street (RE# 00000520-000000) – A request for an amendment to a conditional use to allow outdoor amplified music on a parcel located in the Historic Residential Commercial Core (HRCC-1) zoning district pursuant to Section 18-57, Section 26-192 and 122-62 of the Code of Ordinances of the City of Key West, Florida.

Request: To amend a conditional use permit to allow outdoor amplified music to a bar/lounge use. The amplified music would be confined to the second story open air portion of the establishment. The applicant proposes live music on the rooftop deck every day from 8pm – 12am.

Applicant: The Green Room

Property Owner: 135 Duval Company

Location: 501 Greene Street (RE# 00000520-000000)



Background:

The main structure at 501 Greene Street was constructed in the late 1800s. The structure has had a series of uses including a general merchandise store and the office of the Key West Electric Company. The Key West Electric Company constructed a one-story addition to the east of their structure as a stock room. The one-story addition has been altered through the years to include a roof-top deck. The roof-top deck is the area in which the Green Room proposes to have alfresco amplified music. The current façade of the one-story structure has been altered several times since being built in the early 1900s and is no longer considered a contributing historic structure; the main structure is historically contributing.

501 Greene Street, 1900s



Aerial View of 501 Greene St., 1960s

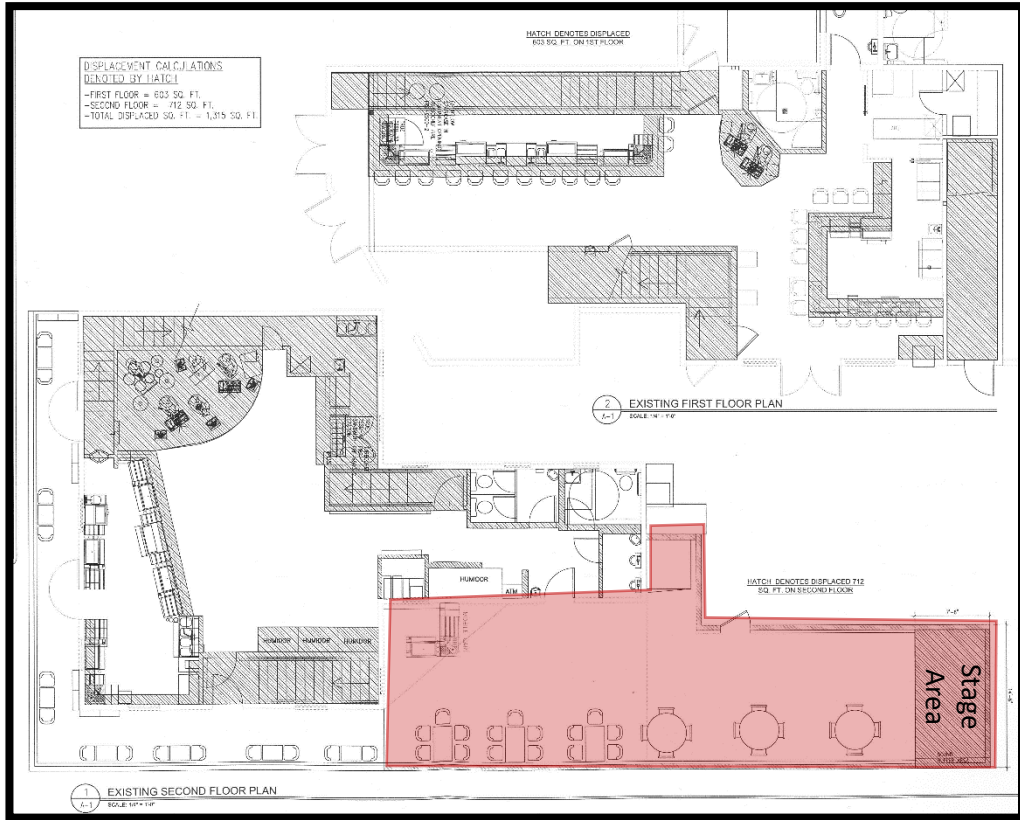


The Green Room submitted a conditional use application for a bar/lounge in 2016. The application proposed; converting the third-floor transient residential space to office and storage, expanding the bar/lounge use to the second floor, and adding additional consumption area by creating a second story outdoor deck. The total proposed floor area of the entire building was 7,424 square feet (5,471 square feet of the Green Room) with 1,695 square feet of consumption area for the bar/lounge. The conditional use was approved by the Planning Board with the following conditions:

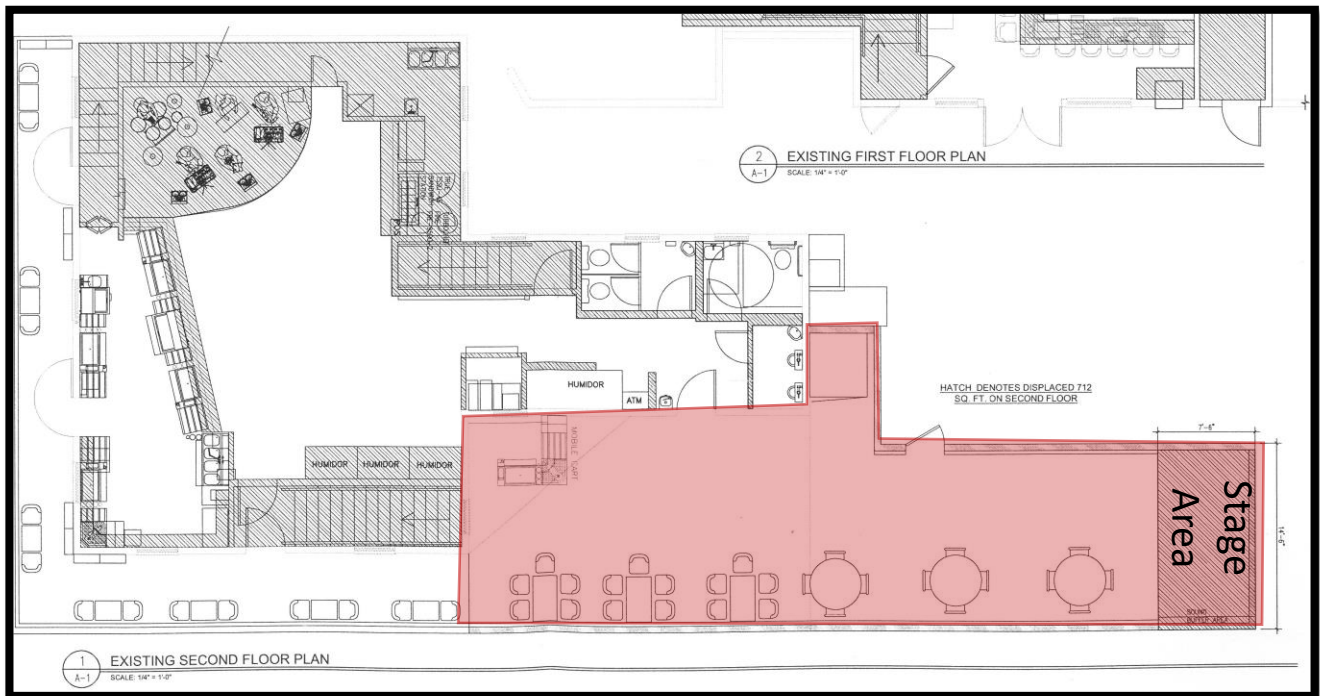
1. The kitchen facilities will be used for take-out food only. On site consumption of food will require additional seating impact fee charges. All impact fees and required business tax receipts shall be coordinated with the City Licensing Official.
2. The approved use shall be consistent with the attached plans by Richard J. Milelli date April 8, 2016.
3. All required Certificates of Appropriateness shall be obtained for the proposed development.
4. **No outdoor amplified music is to be permitted on the property.**
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 shall inspect the property on an annual basis upon reasonable notice to determine compliance with the conditions of the Planning Board resolution.

The applicant would like to revise their conditional use permit in order to remove condition of approval #4: No outdoor amplified music is to be permitted on the property.

Existing Plans of The Greene Room, Meridian Engineering, 2020



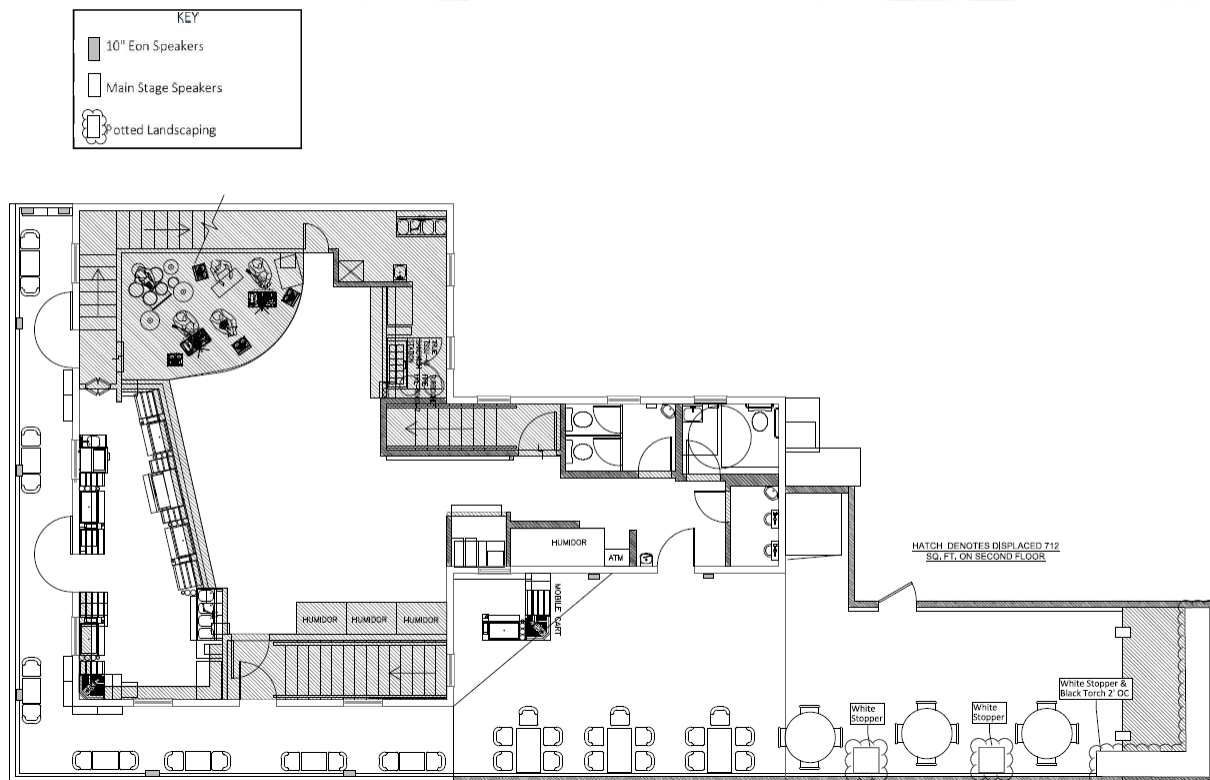
Rooftop Deck Plans, Meridian Engineering, 2020



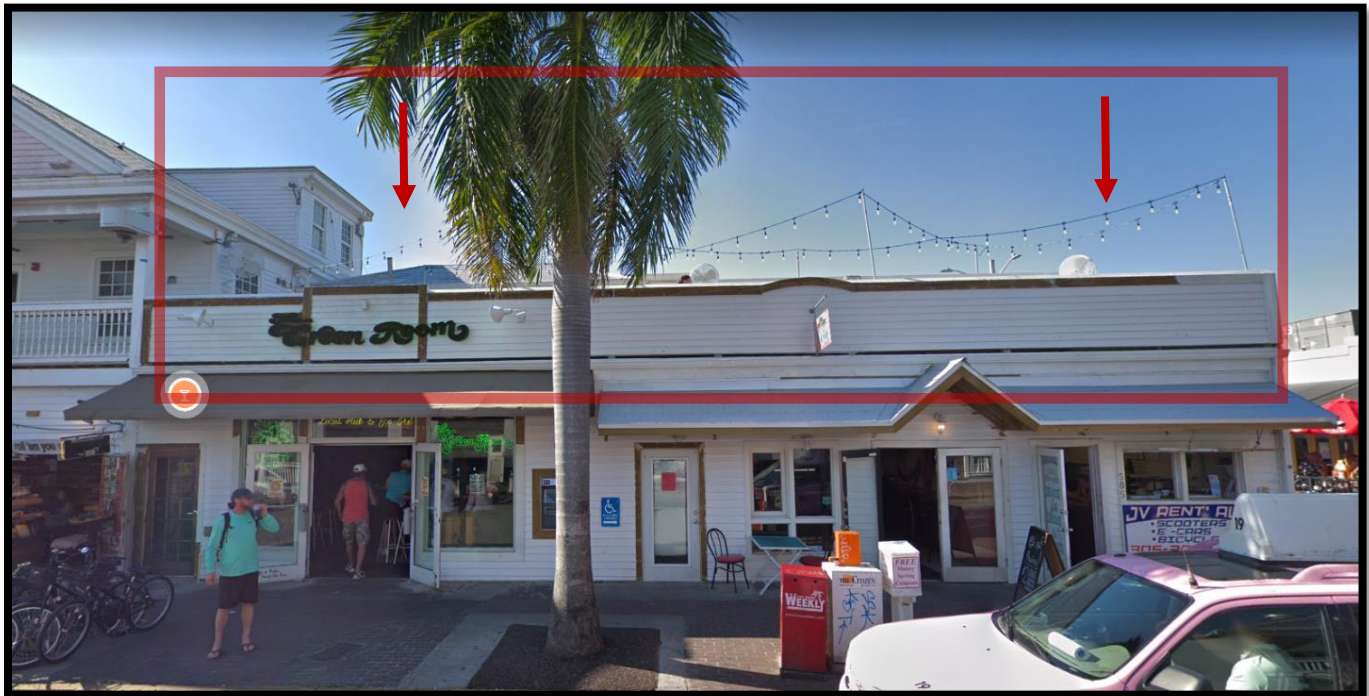
Applicant's Mitigation Proposal, 2020

The applicant has suggested one mitigation technique to reduce the overall effect of the amplified noise to the surrounding area, it is Planning's determination that multiple mitigation techniques would be most appropriate for this location. The applicant has proposed to install a computerized distributive sound system that would actively monitor the amplified noise. The applicant has discussed the possibility of using landscaping on the roof to create a sound buffer from the adjacent land uses and the amplified noise.

The City of Key West Code Compliance Department has stated that they cannot rely on distributive sound systems to achieve compliance if there is a complaint. The Planning Department believes that other sound mitigation techniques should be used in addition to a computerized distributive sound system to better mitigate any amplified noise. Therefore, the city is relying on both sound mitigation techniques as well as other mitigation techniques such as hours of operation as reliable alternatives. The applicant has submitted a stereo speaker and sound mitigation plan below showing a landscape buffer around the stage area and some tables.



View of rooftop deck from Greene Street, Google, 2020



Staff Analysis - Evaluation:

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 states that revisions or additions to a conditional use shall be reviewed based on the criteria of section 122-62(b) and (c). The HRCC-1 zoning district encourages live inviting music, the applicant has proposed the addition of live inviting music every day from the hours of 8pm-12am and has stated that they will abide by all regulations listed in the Code of Ordinances.

Conditional uses shall be permitted only upon a finding that the proposed use satisfies this article. Granting or denying a proposed Conditional Use on a case-by-case basis gives the Planning Board the discretion to review the proposed conditional use based on the following criteria:

Characteristics of use described:

(1) Scale and intensity

- a. Floor Area Ratio:
 - i. Permitted: 1.0 (8,138 sqft)
 - ii. Proposed: 0.91 (7,424 sqft)
- b. Traffic Generation:
 - i. The property is located in the historic commercial pedestrian-oriented area. The location is in the lower Duval Street area which is comprised of bar/lounge uses along with some retail and restaurants. The applicant provided a survey of current patrons and found that 90% arrived by non-automobile means. This is consistent

with most commercial uses in the HRCC-1 especially the lower Duval Street area that is the epicenter of the tourist and cruise ship thoroughfare along Duval Street.

- c. Square feet of enclosed building for each specific use:
 - i. The property is approximately 8,138 sq. ft. The total floor area of the building is 7,424 sq. ft., 5,471 sq. ft. is used by the Green Room. The first and second floors consist of 4,473 sq. ft. and are dedicated to the bar/lounge use, this includes consumption area and a small kitchen. The third floor consists of 998 sq. ft. and is used for an office and storage for the bar/lounge.
- d. Proposed Employment:
 - i. six full time employees
- e. Proposed number and type of service vehicles:
 - i. No service vehicles proposed
- f. Off-street parking needs:
 - i. The applicant's proposal will not increase off-street parking needs

(2) On- or off-site improvement needs generated by the proposed conditional use

- a. Utilities
 - i. No improvements specified.
- b. Public facilities:
 - i. No improvements specified.
- c. Roadway or signalization improvements:
 - i. No improvements specified.
- d. Accessory structures or facilities
 - i. No improvements or structures proposed
- e. Other unique facilities/structures proposed as part of site improvements
The applicant has constructed a rolling platform for performers on the rooftop deck. The applicant has proposed to have the platform surrounded by hedges and landscaping to dampen the sound. Any sound barrier is to be approved by the Planning Department and HARC.

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

- a. Open Space
 - i. Existing noncomplying, none proposed
- b. Setbacks from adjacent properties
 - i. None proposed.
- c. Screens and buffers
 - i. The applicant has proposed hedges to screen and mitigate any amplified sound
- d. Landscaped berms
 - i. None proposed.
- e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts
The applicant has proposed a computerized sound distribution system and hedges along the stage area. All mitigation techniques must be approved HARC and Planning before final approval.

Criteria for conditional use review and approval

(1) Land Use Compatibility:

- a. The conditional use amendment for amplified live music would be located on the roof deck of a structure located in the HRCC-1 zoning district. Per Section 122-686, the intent of the

HRCC-1 zoning district is defined as the city's intensely vibrant tourist commercial entertainment center which is characterized by specialty shops, sidewalk-oriented restaurants, and lounges and bars with inviting live entertainment.

(2) **Sufficient site size, adequate site specifications, and infrastructures to accommodate the proposed use**

- a. The second story outdoor deck does not currently have the proper infrastructure to accommodate the proposed use without substantial mitigative techniques. The deck is surrounded by a low parapet wall and does not currently have any other means to capture the amplified sound. Amplified music carries over a longer distance when there is no infrastructure to mitigate the sound.

The applicant has submitted proposed plans to the Planning Department that detail a proposed computerized sound system and hedges/landscaping to surround the stage area. With the updated sound proofing techniques, the applicant has proposed, the multiple residential units 200 yards to the east of the roof-top deck should not be affected by the amplified noise. The applicant has asked to work with the Planning Department and HARC for final approval of all mitigative techniques to dampen the sound.

(3) **Proper use of mitigative techniques**

- a. The applicant proposes to work with the Planning Department and HARC to implement proper mitigative techniques.

(4) **Hazardous waste**

- a. The applicant has stated that no hazardous waste will be produced on the property.

(5) **Compliance with applicable laws and ordinances**

- a. The applicant complies with minimum parking standards due to their location in the Historic Pedestrian Oriented Zone. The applicant has submitted a sound mitigation plan as required per Section 102-7 due to the introduction of audio elements that are out of character with the property and/or altering its settings.

(6) **Additional criteria applicable to specific land uses**

- a. No additional criteria are applicable.

Recommendation:

The proposed conditional use amendment for 501 Greene St. has attempted to conform to the applicable criteria for an amendment to a conditional use. The applicant has proposed a computerized distributive sound system to mitigate the amplified music, code and the applicant agree that this method does not inherently work for code compliance. The Planning Department has determined that multiple mitigation techniques should be used to achieve a proper mitigation plan for this application, such as the use of landscaping, acoustic walls, etc. With proper mitigative techniques, the Planning Department believes amplified music on the open-air deck would be appropriate for the zoning district. The applicant has submitted both landscaping and a computerized distributive sound system as a mitigative plan per Section 102-7 of City Code. The Planning Department believes that more mitigative techniques should be incorporated into the mitigation plan. The applicant has proposed a tentative schedule of live music every day on the deck from the hours of 8pm-12am and has proposed to abide by all regulations listed in the Code of Ordinances. The City believes that shortening the hours for live music from 8pm-10pm is reasonable to mitigate adverse effects. Based on a review of the application according to the stringent evaluation criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for a conditional use **approved with conditions** :

Conditions of Approval:

1. A detailed plan be submitted and approved by the Planning Department for the number of speakers installed, the location of the speakers and the direction to which they face.
2. The applicant shall install tall shrubbery in pots/planters along the perimeter of the stage and roof top deck area to create a sound barrier. Landscaping shall be maintained in perpetuity and shall be approved by the Urban Forester and the City Planner of the City of Key West.
3. Applicant must comply with all codes and regulations including Article IV of Chapter 26 of the Code of Ordinances regarding Sound Control.
4. The applicant will install and maintain a programmable distributive sound system to assure compliance with the “unreasonable noise” definition of Section 26-191 of the Code of Ordinances and shall include a computerized sound monitoring system with real time monitoring access provided to the City.
5. The applicant shall point any speakers or any sound amplification device on the rooftop deck away from neighboring and/or surrounding transient and residential properties.
6. Live music to cease at 10:00 pm every night unless approved under a special event permit per Section 6-86 of the City Code or for a special city-sanctioned event. Amplified music will be regulated by Section 26-191 of the Code of Ordinances.