

**The City of Key West  
Planning Board  
Staff Report**



**To:** Chair and Planning Board Members

**From:** Melissa Paul-Leto, Planner I

**Through:** Roy Bishop, Planning Director

**Meeting Date:** September 19, 2019

**Agenda Item:** **Alcohol Sales Exception – 801-811 Simonton Street, 813 Simonton Street, 608 Petronia Street, 610-616 Petronia Street (RE# 00016270-000000; 00016390-000000; 00016280-000100; 00016320-000000)** – A request for special exception to the prohibition of alcoholic beverage sales within 300 feet of a church, school, cemetery or funeral property in order to serve beer, wine, and liquor to the hotel guests on property located within the Historic Neighborhood Commercial – Truman / Simonton (HNC-1) and Historic High Density Residential (HHDR) zoning districts pursuant to Section 18-28(b)(2) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** To allow for the on-site sale and consumption of beer, wine, and liquor within the hotel to guests only.

**Applicant:** Barton W. Smith, Esq., Smith Hawks PL

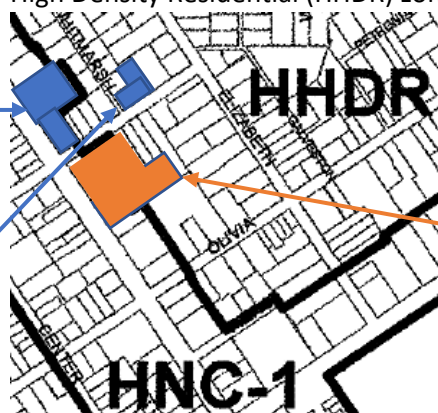
**Property Owner:** KHP IV Key West, LLC

**Location:** 801-811 Simonton Street, 813 Simonton Street, 608 Petronia Street, 610-616 Petronia Street (RE# 00016270-000000; 00016390-000000; 00016280-000100; 00016320-000000)

**Zoning:** Historic Neighborhood Commercial – Truman / Simonton (HNC-1) and Historic High Density Residential (HHDR) zoning

Trinity Presbyterian Church of Key West, Inc., 717 Simonton Street

Trinity Wesleyan Methodist Church, 619 Petronia Street



Merlin Guest House

801-811 Simonton Street, 813 Simonton Street, 608 Petronia Street, 610-616 Petronia Street

**Background and Request:**

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 in City Code Section 18-28(b) (2) are met. An Alcohol Sales Exception is granted exclusively to the applicant and is not transferable. The current applicant has requested a special exception to allow for the sale and consumption of beer, wine, and liquor to the hotel guests only. The Merlin Guesthouse is located on the corner of Simonton and Petronia Streets. There are no schools, cemeteries or funeral homes within 300 feet of the property. The property is within 300 feet of two churches:

- Trinity Presbyterian Church of Key West, Inc., 717 Simonton Street
- Trinity Wesleyan Methodist Church, 619 Petronia Street

**Process:**

**Planning Board Meeting:** September 19, 2019

**Local Appeal Period:** 30 days

**DEO Review Period:** 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 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 the following criteria:

**A. Compatibility with surrounding existing uses:**

The property is located within the Historic Neighborhood Commercial – Truman / Simonton (HNC-1) and Historic High Density Residential (HHDR) zoning districts. The HNC-1 district which is described in Section 122-776 is located along major segments of Simonton Street, from Caroline South to United Street; Truman Avenue, from Simonton Street northeast to White Street; and White Street, from Truman Avenue south to United Street; and generally, includes larger scale commercial uses oriented toward the motoring public. The HHDR district which is described in Section 122-626 shall accommodate historic high-density residential development for permanent residents, including single-family, duplex, and multiple-family residential structures. The purpose of the historic high-density residential designation is to provide a management framework for preserving the residential character and historic quality of the

Old Town central residential community. In addition, incidental accessory uses, including duly approved home occupations, and customary community facilities can be in the HHDR district. The HHDR district shall not accommodate transient residential uses, including guest homes, motels or hotels. Similarly, the area shall not accommodate freestanding commercial offices, retail, or other commercial uses. Lawfully existing office or commercial uses shall be permitted to continue to exist as lawful nonconforming uses if such uses continue to comply with conditions invoked when the respective uses were approved.

City staff took measurements utilizing a GIS geospatial measurement. The results are the following: 50 feet starting from the property line from Petronia Street and ending at the property line of the, Trinity Presbyterian Church of Key West, Inc., 717 Simonton Street.

City staff took measurements utilizing a GIS geospatial measurement. The results are the following: 50 feet starting from the property line from Petronia Street and ending at the property line of the, Trinity Wesleyan Methodist Church, 619 Petronia Street

The measurements confirm the subject site is located within 300 feet of the Trinity Presbyterian Church of Key West and Trinity Wesleyan Methodist Church; however, due to the scope of requested accessory alcohol sales; staff submits that the request does not appear to be incompatible with the surrounding existing uses.

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

As of the date this report is written, the website for, Trinity Presbyterian Church of Key West indicates that general service times are as follows: Sunday 9:30 a.m. till 4:00 p.m.; Wednesday 7:30 p.m. to 9:30 p.m.

As of the date this report is written, the website for, Trinity Wesleyan Methodist Church indicates that general service times are as follows: Monday through Sunday 9:00 a.m. to 9:00 p.m.

**C. Mitigation measures agreed to be implemented by the applicant:**

Applicant states all sales will be on premises and monitored by trained staff. Applicant will follow Florida ABT regulation on alcohol sales and is receptive to any additional suggestions for mitigation made by planning staff, planning board or from neighborhood input.

**D. Public input:**

As of the date of this report, the Planning Department has not received any public comments regarding this application. The applicant has submitted a letter written by Reverend Denise McLeod of Trinity Presbyterian Church of Key West. The letter states that the Trinity Presbyterian Church of Key West has no objection to the sale of alcohol at the guesthouse across the street known as the Merlin Guest House. The applicant also submitted a letter written by Reverend Dr. Daryll W. Robinson of Trinity Wesleyan Methodist Church. The letter states that the church has no objection to the sale of bottled alcohol to the guests to be consumed onsite at the guesthouse.

**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:**

As of the date of this report, there have been no objections to the applicant's request to sell beer, wine, and liquor to the guests of the hotel.

**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 property owner 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, based on public input at the public hearing, 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.

Per Section 18-28(e) which states "upon receipt of an application, the planning board shall hold a public hearing upon the application in accordance with the procedures cited in section 90-393 and shall render an order granting or denying such application. In granting such application the planning board must make specific findings respecting each of the matters specified in subsection (b) (2), above."

As stated above, the Planning Board must make a specific finding on the criteria. Staff recommends to the Planning Board that the response to the criteria outlined in the staff report be taken into consideration in rendering an order to grant or deny the request.

**RECOMMENDATION:**

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

1. The special exception is granted exclusively to KHP IV Key West, LLC and shall not be transferable.