

**PLANNING BOARD  
RESOLUTION No. 2019-**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING AN EXCEPTION FOR OUTDOOR MERCHANDISE DISPLAY WITHIN THE HISTORIC RESIDENTIAL COMMERCIAL CORE DUVAL STREET GULFSIDE (HRCC-1) ZONING DISTRICT PER SECTION 106-52 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES FOR PROPERTY LOCATED AT 217 DUVAL STREET (RE# 00001300-000000), KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the subject property is located in the Historic Residential Commercial Core Duval Street Gulfside (HRCC-1) Zoning District; and

**WHEREAS**, Section 106-51 of the City Code of Ordinances imposes certain conditions on the display of merchandise where visible from any public place, right-of-way, street or sidewalk; and

**WHEREAS**, Section 106-52 of the City Code of Ordinances provides that exceptions to the general prohibition may be granted upon application to the Planning Board; and

**WHEREAS**, a request was submitted for Planning Board consideration to clarify that clothing items on non-permanent, portable racks for merchandise sold in the store can be displayed within the approved Exception area; and

**WHEREAS**, the Planning Board met on June 20, 2019 to consider factors favoring and disfavoring the Exception pursuant to Chapter 106-52 of the Land Development Regulations.

\_\_\_\_\_Chairman

\_\_\_\_\_Planning Director

**NOW THEREFORE BE IT RESOLVED** by the Planning Board of the City of Key West, Florida:

**Section 1.** That the above recitals are incorporated by reference as if fully set forth herein.

**Section 2.** That an Exception for Outdoor Display under the Code of Ordinances of the City of Key West, Florida, is hereby granted as follows: allowing the outdoor display of merchandise, locally made art, retail clothing and accessories to be placed on non-permanent, portable racks, and mannequins, within the entranceway of the store located at 217 Duval Street (RE# 00001300-000000), with the following conditions, and per the site survey, location sketch, with site photos taken on May 15, 2019:

1. The Exception is specific to the current tenant, Elena Mashtakov dba Funky Flamingo, and granted for sixty (60) 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 than one (1) foot to the sidewalk.
3. The Exception will all be free-standing and not attached to any house, fence or tree.
4. Any signage on the premises shall require a Certificate of Appropriateness from HARC.
5. The Exception will only be present during hours of operation.
6. A Certificate of Appropriateness from HARC is required for the allowance of a 8.2-foot cart in the area as shown on the proposed sketch and will not be placed within 5 feet from property line or in the city right-of-way as required per Section 102-282.
7. The Exception is limited to retail merchandise, locally made art, retail clothing and accessories.

\_\_\_\_\_Chairman

\_\_\_\_\_Planning Director

8. Seating and furniture are not outdoor displays and shall not be counted as such. Display items can be rotated but cannot be increased.
9. The Exception will provide clear access for ADA and fire accessibility, with a minimum pathway of thirty-six (36) inches.

**Section 3.** Exceptions to 106-51 may be revoked by the Planning Board after notice and hearing on grounds:

- 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.

**Section 4.** The City Manager or the Planning Board, upon any 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.

**Section 5.** This Exception for Outdoor Display does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

**Section 6.** This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

\_\_\_\_\_Chairman

\_\_\_\_\_Planning Director

**Section 7.** This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit will be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 9J-1, F.A.C., this permit is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty-five (45) day review period the DEO can appeal the permit to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regularly scheduled meeting held on June 20, 2019.

Authenticated by the Chairman of the Planning Board and the Planning Director.

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Sam Holland, Planning Board Chairman Date

**Attest:**

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Patrick Wright, Planning Director Date

**Filed with the Clerk:**

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Cheryl Smith, City Clerk Date

\_\_\_\_\_ Chairman

\_\_\_\_\_ Planning Director