

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

Through: Patrick Wright, Planning Director

From: Ginny Haller, Planner II

Meeting Date: August 16, 2018

Application: **Exception for Outdoor Merchandise Display – 122 Duval Street (RE # 00000580-000000)** – A request for exception for outdoor merchandise display on property located within the Historic Residential Commercial Core Duval Street Gulfside (HRCC-1) zoning 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 clothing items on non-permanent, portable racks for merchandise sold in the store.

Applicant: 122 Duval, Inc.

Property Owner Hilario Ramos Corp.

Location 122 Duval Street (RE# 00000580-000000)



BACKGROUND

The \$5 Store is located at 122 Duval Street between Front Street and Greene Street. The building was constructed between 1899 and 1912, is on the 1912 Sanborn Map, and is a contributing structure in the Historic District. The store features retail clothing and accessories.

REQUEST

The applicant is requesting that the Planning Board grant approval for the outdoor display of retail clothing and accessories to be placed on non-permanent, portable racks within the entranceway of the store.

ANALYSIS-EVALUATION- COMPLIANCE WITH CITY OF KEY WEST LAND DEVELOPMENT REGULATIONS

According to Section 106-52 of the Code, the outdoor display of merchandise in the historic zoning districts of the City is prohibited 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 approve or deny proposed displays 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 not located in an interior courtyard, but is located within an existing front entranceway of an existing structure on the 100 block of Duval Street. The applicant is requesting to display retail clothing and accessories on two racks within 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.**

The \$5 Store is located in the HRCC-1 zoning district, which is characterized by specialty shops and sidewalk-oriented retail sales, restaurants and bars. The commercial retail activity is a permitted use.

- 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 for the public right-of-way as this business is located in HRCC-1 which has no front setback dimensional requirements.

(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.**

As proposed, the Exception will not obscure the surrounding architecture contributing to the historic fabric or visual character of the neighborhood.

- 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 is conforming to the front yard setback requirement. The minimum front yard setback in the HRCC-1 zoning district is zero feet. The visible display will be within the entranceway so that the applicant will conduct business on private property.

- c. **The Exception presents a hazard to public safety.**

The applicant has provided a sketch that shows a clear path to the proposed location and approximately 36” clearance around the outdoor displays. As of the date of this report, the Department is not aware of any life safety violations. The applicant has provided a sketch that shows a clear path to the proposed location and approximately 36” clearance around the outdoor displays.

- (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.**

Section 106-52 (3) provides that applications for Exceptions to Outdoor Merchandise Display be granted specifically to an individual applicant. Exceptions for Outdoor Merchandise Display do not run with the land, but instead, have very specific terms of expiration established upon approval by the Planning Board. The applicant has requested an Exception for the maximum amount of time allowed under the Code for Exceptions to Outdoor Merchandise Display, or for sixty (60) consecutive months. It is important to note that the Planning Board has the authority to choose to approve the proposed Exception for a lesser term than the maximum amount of time that has been requested.

- (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

The Planning Department, based on criteria in the City Code, recommends the request for Exception to Outdoor Merchandise Display be approved per the proposed plan to allow merchandise as currently displayed with the following conditions:

1. The Exception is specific to the current tenant, 122 Duval, Inc., and granted for 60 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 four (4) feet to the sidewalk.
3. The Exception will all be free-standing and not attached to any house, fence or tree.
4. The Exception will only be present during hours of operation.
5. The Exception will provide clear access for ADA and fire accessibility, with a minimum pathway of thirty-six (36) inches.