

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



To: Chair and Planning Board Members

From: Melissa Paul-Leto, Planner I

Through: Patrick Wright, Planning Director

Meeting Date: January 17, 2019

Agenda Item: **Amendment to Conditional Use – 821 Duval Street (RE # 00016820-000000) -** A request to amend conditional use approval to incorporate a 5COP liquor license as an accessory use to the bar and lounge on property located in the Duval Street Oceanside (HRCC-3) zoning district pursuant to Sections 122-62 and 122-748(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: To allow the amendment of an existing Conditional Use approval to include beer, wine and liquor sales within an existing bar and lounge.

Applicant: Wayne LaRue Smith, Esq.

Property Owner: SUBA 821, LLC

Location: 821 Duval Street – (RE# 00016820-000000)

Zoning: Duval Street Oceanside (HRCC-3) zoning district

821 Duval Street
(Subject Property)



Background:

The subject property is the Little Jazz Club is located on the corner on the 800 block of Duval Street and near the corner of Olivia Street. Currently, 821 Duval Street serves beer and wine to their customers within a bar and lounge use. The first floor is commercial space and the second floor is a non-transient residential apartment. The applicant is requesting to amend a Conditional Use approval (Resolution No. 2011-061) to include liquor sales within the bar/lounge use.

The Conditional Use approval with the Alcohol Sales Exception of Resolution No. 2011-061 was to allow for a bar and lounge to sell beer and wine at 821 Duval Street.

Surrounding Zoning and Uses:

North: HNC-1, Residential and government use

South: HMDR, Residential uses

East: HCT, Restaurant, motel,
and commercial uses

West: HRCC-1, residential and commercial uses

Process:

Development Review Committee:	October 25, 2018
Planning Board:	December 20, 2018 (cancelled meeting)
Planning Board:	January 17, 2019
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 complies with the criteria specified in this section, including specific conditions established by the Planning Board and/or the City Commission during review of the respective application 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 proposed use for a bar and lounge that serves beer, wine and liquor is a conditional use in the HRCC-3 zoning district.

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

a. Floor area ratio (FAR):

There is no change in floor area from the original conditional use approval. The applicant was approved for a wine bar and lounge with 1,459 square feet of indoor and 408 square feet of outdoor consumption area for a total of 1,867 square feet of consumption area. The property was approved for 120 seats.

b. Traffic generation:

There is no change in traffic generation from the original conditional use approval.

c. Square feet of enclosed space for each specific use:

No change in square feet from the original conditional use approval.

d. Proposed employment:

The Little Jazz Club currently has two-three employees working on the site. There is no proposed change for this amendment request.

e. Proposed number and type of service vehicles:

The applicant is expecting no additional service vehicles to be making trips to the area. Currently, three to four weekly deliveries are conducted for the bar and lounge use. Deliveries to the establishment are made by the same vehicles that currently deliver to establishments in the vicinity.

f. Off-street parking needs:

The property is located within the historic commercial pedestrian-oriented area and no off-street parking is required as per Sec. 108-573(c). this section provides that no additional off-street parking shall be required within the historic commercial pedestrian-oriented area if a commercial structure is the subject of a change of commercial use, if additional floor area is not added. No additional floor area is being constructed on the site.

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

a. Utilities

No changes proposed.

b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in City Code Chapter 94

None expected.

c. Roadway or signalization improvements, or other similar improvements

None expected.

d. Accessory structures or facilities

None proposed.

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:

No changes.

b. Setbacks from adjacent properties:

No changes are proposed that would alter structural setbacks.

c. Screening and buffers:

No changes proposed.

d. Landscaping berms proposed to mitigate against adverse impacts to adjacent sites:

No changes proposed.

e. Mitigative techniques for abating smoke, odor, noise and other noxious impacts:

No change from the original conditional use approval which includes to mitigate potential noise concerns the applicant is not proposing outdoor amplified music.

(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:

(1) Land use compatibility:

Bar and lounges are a conditional use in the HRCC-3 zoning district. The proposal is to include liquor sales. Currently, the bar and lounge are approved to sell beer and wine only. Adjacent land uses are residential, commercial (restaurant and retail). The proposed amendment to the conditional use is compatible and harmonious with the surrounding uses.

(2) Sufficient site size, adequate site specifications and infrastructure to accommodate the proposed use:

The existing site and infrastructure are adequate to accommodate the amendment request. The 821 Duval Street property has operated as a bar and lounge since 2011.

(3) Proper use of mitigative techniques:

The applicant is maintaining the no outdoor music condition to minimize noise.

(4) Hazardous waste:

None expected or proposed.

(5) Compliance with applicable laws and ordinances:

Compliance with all applicable laws and regulations would be required.

(6) 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: N/A

b. Residential development: N/A

c. Commercial or mixed-use development: No negative impacts expected.

d. Development within or adjacent to historic district: The property is located within the Historic District and will require HARC for any additional signage or exterior changes.

e. Public facilities or institutional development: N/A

f. Commercial structures, uses and related activities within tidal waters: N/A

g. Adult entertainment establishments: N/A.

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 the following conditions:

General conditions:

1. ADA access is provided and maintained.
2. The applicant will 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 is provided to the City.

Conditions subject to a Conditional Approval Permit, per Ordinance 10-22. Conditions subject to an associated annual inspection:

3. Hours of operation are limited to Sunday through Thursday 10 a.m. to 2 a.m. and Friday and Saturday from 10 a.m. to 4 a.m.
4. The use is approved for the sale of beer, wine and liquor.
5. There will be no outdoor amplified music.
6. There will be no additional seats allowed without further City approvals.
7. The applicant expressly agrees to provide the City’s agents unfettered access to the computer-generated reports and full, real-time web-based access to the digital monitoring of on-site acoustics for assuring compliance with the conditions contained herein.