

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



To: Chairman and Planning Board Members

From: Melissa Paul-Leto, Planner I

Through: Patrick Wright, Planning Director

Meeting Date: August 15, 2019

Agenda Item: **Alcohol Sales Exception – 707 Truman Avenue – (RE#00020360-000000)** – 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 guests of the hotel on property located within the Historic Neighborhood Commercial (HNC-1) and the Historic High Density Residential (HHDR) zoning districts pursuant to Sections 18-28(b) 2, of the Land Development Regulations of the code of Ordinances of the City of Key West, Florida.

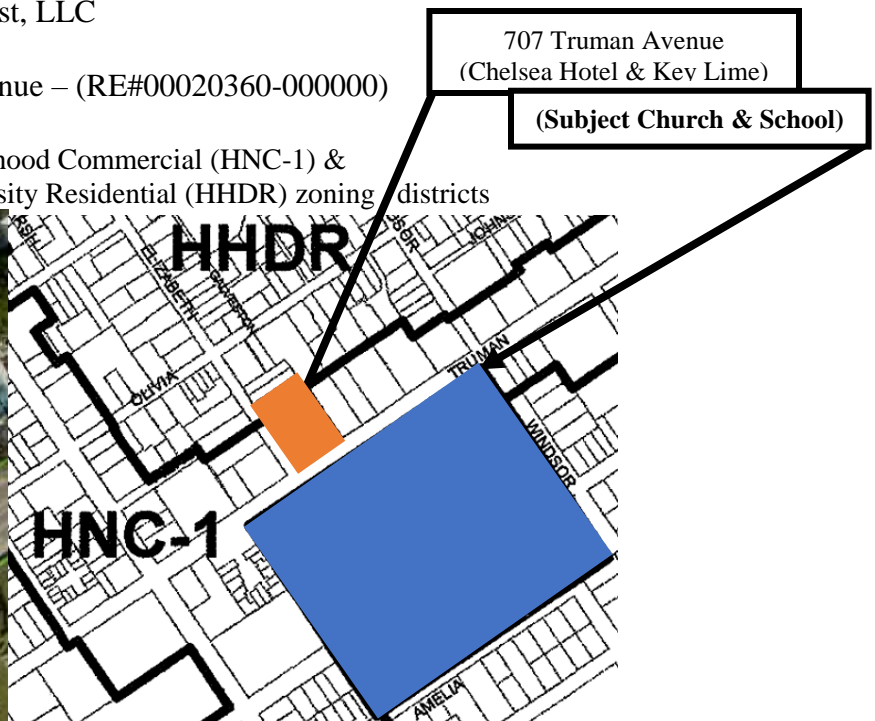
Request: To allow the on-site sale and consumption of beer, wine, and liquor within a historic hotel located within 300 feet of a church.

Applicant: Barton W. Smith, Esq., Smith Hawks, P.L.

Property Owner: KHP IV Key West, LLC

Location: 707 Truman Avenue – (RE#00020360-000000)

Zoning: Historic Neighborhood Commercial (HNC-1) & Historic High Density Residential (HHDR) zoning districts



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 Exception is granted exclusively to the applicant and is not transferable. The current applicant has requested a special exception to obtain an alcohol license, which would allow the sale and consumption of beer, wine, and liquor to the hotel guests only. The property consists of two hotels: Chelsea House and Key Lime Inn. The parcel is located within the 700 block of Truman Avenue on the corner of Elizabeth Street. There are no funeral homes, or cemeteries within 300 feet of the property. The property is within 300 feet of one church and school:

- The Basilica of Saint Mary Star of the Sea, 1010 Windsor Lane
- The Basilica School of Saint Mary Star of the Sea, 700 Truman Avenue

Process:**Planning Board Meeting:****August 15, 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 (HNC-1) & the Historic High Density Residential (HHDR) zoning districts. The (HNC-1) district consists of hotels, commercial retail, single family/multi family, and professional

offices. The (HHDR) district consists of single family/ multi-family as well as transient uses.

City staff took measurements utilizing a GIS geospatial measurement. The results are the following: 50 feet starting from the property line from Truman Avenue and ending at the property line of the following properties: The Basilica School of Saint Mary Star of the Sea, 700 Truman Avenue and The Basilica of Saint Mary Star of the Sea, 1010 Windsor Lane.

The measurements confirm the subject site is located within 300 feet of the, The Basilica School of Saint Mary Star of the Sea, and The Basilica of Saint Mary Star of the Sea; 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 the request for the Alcohol Sales Exception is for the hotel guests only. The alcohol will be available through the hotel staff via the kitchen and outdoor patio bar. There are no operation hours selected.

The Basilica School of Saint Mary Star of the Sea, 700 Truman Avenue; Church hours are Monday through Friday 7:30 a.m. to 9:00 p.m., Saturday 4:30 p.m. to 9:00 p.m., Sunday 7:30 a.m. to 5:00 p.m.

The Basilica of Saint Mary Star of the Sea, 1010 Windsor Lane; School hours of operation are Monday through Friday 8:00 a.m. to 4:00 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 received one letter of public support from Reverend John C. Baker.

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 applicants request to sell beer, wine, and liquor to the guests of the Chelsea House and Key Lime Inn.

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.

If approved staff recommends the following conditions:

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