



EXECUTIVE SUMMARY

To: Bob Vitas, City Manager
Through: Donald Leland Craig, AICP, Planning Director
From: Ginny Haller, Planner
Date: April 2, 2013

ACTION STATEMENT:

Modification to a Major Development Plan & Conditional Use – 512 Greene Street (RE# 00001170-000000) – Request for Modifications to a Major Development Plan and Conditional Use approval via City Commission Resolution 11-274 to alter the layout of the commercial floor area, reduce retail space and convert retail area to mixed retail and bar/lounge consumption area for property located in the Historic Residential Commercial Core Gulf Side (HRCC-1) zoning district per Section 108-91C(3) and (4) and Section 122-688(9) of the Land Development Regulations of the Code of Ordinances of the City of Key West.

Location: 512 Greene Street (RE # 00001170-000000)

Zoning: HRCC-1 (Historic residential Commercial Core, Gulf Side)



BACKGROUND:

This property is located at the northeast corner of the intersection of Greene Street and Ann Street. The parcel is approximately 9,800 square feet and prior to recent redevelopment approvals it supported commercial uses (including a former restaurant and retail store), and a single family home. The request is the 3rd Modification to the Major Development Plan and Conditional Use (MDP/CU) for the property.

The original MDP/CU request was approved by the Planning Board July 30, 2009 (PB Res. 2009-030) and approved by the City Commission on September 15, 2009 (CC Res. 09-242) and the approval was to allow the existing restaurant to change to a bar and lounge with 1,045 square feet of consumption area, allow for the redevelopment of the existing parking lot and a change of use from a single family home to a commercial retail structure, and a change in use for two (2) existing small commercial structures into two (2) commercial retail structures.

The first Modification of the MDP/CU was approved by the Planning Board June 17, 2010 (PB Res. 2010-024) for the redesign of the approved parking lot to eliminate an access easement and relocate the garbage area, including the modifications of conditions and modification to required aisle width and parking stall size.

The second Modification of the MDP/CU was approved by the Planning Board July 21, 2011 (PB Res. 2011-035) for 90 square feet of outdoor consumption area.

The first and second modifications of the MDP/CU were approved by the City Commission September 20, 2011 (CC Res. 11-274) to permit the reconfiguration of the parking lot, eliminate previously required ingress and egress easement, relocation of the garbage storage and pick-up areas, and to modify conditions to permit outdoor consumption area.

City Actions:

3rd Modification to Major Development Plan & Conditional Use
(Alter Retail/Consumption Area)

- DRC Meeting: July 26, 2012
- Planning Board Meeting: January 17, 2013
- City Commission Meeting: April 2, 2013

2nd Modification to Major Development Plan & Conditional Use
(Increase Consumption Area)

- DRC Meeting: December 17, 2010
- HARC: December 30, 2010
- Tree Commission Meeting: May 9, 2011
- Planning Board: July 21, 2011, PB Resolution 2011-035
- City Commission Meeting: September 20, 2011, CC Resolution 11-274

1st Modification to Major Development Plan & Conditional Use
(Reconfigure Parking Lot)

- DRC Meeting: February 25, 2010
- HARC: April 5, 2010 - H10-03-31-35

Planning Board
City Commission Meeting

June 17, 2010 - PB Resolution 2010-024
September 20, 2011, CC Resolution 11-274

Major Development Plan & Conditional Use

DRC Meeting
HARC
Tree Commission Meeting
Planning Board
City Commission Meeting

May 28, 2009
June 9, 2009
August 10, 2009
July 30, 2009, PB Resolution 2009-030
September 15, 2009, CC Resolution 09-242

PLANNING STAFF ANALYSIS:

This request was continued from the January 17, 2013 Planning Board meeting to the February 21, 2013 meeting to allow time for the applicant to address a neighbor's concerns about the project. The applicant met with the neighbors and submitted a letter dated February 12, 2013 to the Planning staff with proposed revisions to conditions that are agreed to by the applicant and the neighbors (letter is attached as "Correspondence from applicant February 12, 2013"). The applicant understood after the meeting that the neighbor is concerned about the exterior noise from the property.

The third modification request to the MDP/CU is to change the existing use of the retail/commercial floor area of the small historic structure on Ann Street to a mix of bar/lounge consumption and retail floor area. The applicant does not propose changes to the existing approval conditions of the past modifications of the MDP/CU, or changes to any physical structures including the impervious surface ratio. The applicant states that the original design and approval of the structure on Ann Street was expected to be used as retail, but the retail use has been unsuccessful. The application was initially a minor modification of the use of the existing floor area, however, upon review, it was the position of the City that since the original conditional use went to the City Commission as part of a major development plan, making any changes requires it to go through the same process: as a modification to a MDP/CU as outlined in Sec. 122-62(a).

Options / Advantages / Disadvantages:

Option 1: Approve the 3rd Modification of the Major Development Plan & Conditional Use.

1. **Consistency with the City's Strategic Plan, Vision and Mission:** This action is consistent with the City's Strategic Plan, Vision, and Mission.
2. **Financial Impact:** There is an indirect financial benefit to the City through increase assessed valuation of the proposed 3rd Modification of the Major Development Plan & Conditional Use.

Option 2: Deny the 3rd Modification of the Major Development Plan & Conditional Use.

1. **Consistency with the City's Strategic Plan, Vision and Mission:** The denial of the request is not consistent with the City's Strategic Plan, Vision, and Mission.

2. **Financial Impact:** There is an indirect financial impact to the City if the proposed 3rd Modification of the Major Development Plan & Conditional Use is not approved through forgoing increased property valuation.

RECOMMENDATION: Staff Recommends the City Commission approve Option 1 with the following conditions:

Conditions to be completed prior to the issuance of certificate of occupancy:

1. The applicant maintain a programmable distributive sound system consistent with that described in the document prepared by The Audio Bug and submitted on July 25, 2009, to assure compliance with the "unreasonable noise" definition of Section 26-191 of the Code of Ordinances, and that such referenced document shall be updated to include that a computerized sound monitoring system is installed and real time monitoring access is provided to the City.
2. No landscaping be removed from the site.
3. City Staff will confirm that the sound system is maintained and functioning as provided for in Condition one (1).
4. Compliance with the plans dated October 4, 2012 is a condition of approval and specifically incorporated herein.
5. The property is fully ADA (Americans with Disabilities Act of 1990) accessible.

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

6. Outdoor speakers of any kind are prohibited on the property and on any vehicle parking at the property which is owned by the applicant or associated with events at the property, wherein the vehicle is under the control, rental or licensing by the applicant.
7. Security cameras will be provided on site and responsible person will be present during the hours of operation.
8. Waste handling shall be consistent with the Solid Waste Management plan included in Res. No. 2010-024. The applicant will recycle materials accepted by the city's waste handling contractor.
9. Compliance with the plans dated October 4, 2012 is a condition of approval and specifically incorporated herein;
10. The outdoor consumption area is limited to only the side yard area on the immediate corner of Greene and Ann Streets, this is an area of 90 square feet and shall not contain more than six (6) seats which is inclusive of the 75 total seats. Outdoor consumption is also strictly prohibited from the rear courtyard area and the front porch of the small historic structure on Ann Street.

General Conditions:

11. 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 the purpose of assuring compliance with the conditions contained herein.
12. There shall be no live music, disc jockeys, or karaoke anywhere on the site unless located indoors and approved under a special event permit per Section 6-86 of the Code of Ordinances. Under no circumstances will these venues be allowed outdoors.
13. There shall be no music (amplified or vocal), entertainment, or special events of any kind permitted outdoors on this site.
14. There shall be no outdoor consumption on the front porch area of the small historic structure on Ann Street.
15. The total number of seats in the consumption area of the property shall not be more than seventy-five (75).