



EXECUTIVE SUMMARY

To: Jim Scholl, City Manager
Through: Donald Leland Craig, AICP, Planning Director
From: Nicole Malo, Planner
Date: September 6, 2011
RE: A request for Modifications to a Major Development Plan and Conditional Use approval via City Commission Resolution 09-242 to enable a reconfiguration of the parking lot, elimination of an ingress and egress easement and relocation of garbage storage and pick-up areas and to modify conditions associated with the approval to allow outdoor consumption area for property located at 512 Greene Street in the Historic Residential Commercial Core Gulf Side (HRCC-1) zoning district per Section 108-91C(3) and (4) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida (RE 00001170-000000).

ACTION STATEMENT:

Request: To allow modifications to a Major Development Plan and Conditional Use approval; City Commission Resolution 09-242, which would enable an increase in outdoor bar and lounge consumption area, reconfiguration of the parking lot, elimination of an ingress and egress easement and relocation of garbage storage and pick-up areas

Location: 512 Greene Street, RE # 00001170-000000

Zoning: Historic Residential Commercial Core – Duval Street Gulf Side
HRCC - 1

BACKGROUND:

Current Process

DRC Meeting	December 17, 2010
HARC	December 30, 2010
Tree Commission Meeting	May 9, 2011
Planning Board	July 21, 2011
City Commission Meeting	September 6, 2011

Previous City Actions

DRC Meeting	May 28, 2009
HARC	June 9, 2009
Tree Commission Meeting	August 10, 2009
Planning Board	August 6, 2009, Resolution 2009-030
City Commission Meeting	October 13, 2009, Resolution 09-242
DRC Meeting	February 25, 2010
HARC	April 5, 2010 - H10-03-31-35

Planning Board	April 29, 2010 – postponed May 20, 2010 - postponed July 7, 2010 - approved
City Commission Meeting	September 7, 2010 - postponed December 7, 2010 - postponed February 15, 2011 – postponed

Planning Staff Analysis:

This property is located at the southeast corner of the intersection of Greene Street and Ann Street. The parcel is approximately 9,800 square feet and prior to recent redevelopment approvals supported commercial uses (including a former restaurant with indoor and outdoor consumption area and a retail store), commercial surface parking area and a single family home. In 2009 the City Commission approved redevelopment (Resolution 09-242) of the site to allow 1,045 square feet of indoor bar and lounge consumption area, 1,256 square feet of retail floor area located within several historic structures, and associated parking consisting of seven spaces. In order to assure vehicular egress from the parking area as well as garbage storage and handling access, the City Commission required a perpetual two-way easement across the adjacent lot as one of seven conditions associated with the approval.

City Commission Resolution 09-242 has seven conditions, as follows:

1. Tree Commission approval must be obtained prior to building permit issuance;
2. The applicant voluntarily agrees to donate the 1.0 Equivalent Single Family Unit associated with the single family residence to the City of Key West through the execution of a donation waiver;
3. The applicant will install and 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 available to the city upon request;

4. There will be no live music, disc jockeys, or karaoke at the site unless approved under a special event permit per Section 6-86 of the Code of Ordinances;
5. Security cameras will be provided on site and security personnel will be present during the hours of operation;
6. A perpetual two-way easement in a form acceptable to the City Attorney will be executed prior to the issuance of a building permit, to provide access from Simonton Street for commercial trash and recycling removal from 512 Greene Street, and to provide for ingress and egress from Simonton Street to Greene Street;
7. Additionally, compliance with the plans dated August 5, 2009 is a condition of approval and specifically incorporated herein

After considerable investment in redevelopment efforts on the site, the property owner decided not to execute the required easement on the adjacent parcel and instead requested an amendment to the existing approvals with the aim of eliminating the need for an easement. On June 17, 2010 the Planning Board approved a modification to the approved development plan through Resolution 2010-024 with conditions, however the City Commission tabled the item until such time that the site could be redesigned to eliminate the proposed compact car spaces and accommodate standard parking spaces. In an effort to satisfy the requests of numerous parties involved in the development process, the applicant sought continuances for the project from the City Commission.

While in the process of redesigning the parking lot the applicant decided to amend the request to also include outdoor consumption area. Because the bar and lounge use is conditional in the zoning district the new request requires that the Planning Board review the proposal. This Modification to a Major Development Plan and Conditional Use approval application request has two parts:

1. A Major Modification of a Development Plan
2. Changes to specific conditions required by the original approval
3. Outdoor consumption area limited to the side-yard courtyard area located on Greene and Ann Streets

On July 21, 2011 the application for Modification to a Major Development Plan and Conditional Use was brought back before the Planning Board. The Planning Board found the modification request to be in compliance with the required criteria as set forth in Chapter 108, Article II, Division 7 and Article III through Article IX for Major Development Plans, Section 108-641 driveways, aisle, and stalls, and Chapter 94, and Concurrence Managements requirements, and recommends City Commission approval of the proposal with ten conditions. Relevant conditions from Planning Board Resolution 2010-024 and City Commission Resolution 09-242 have been carried over into the subsequent Planning Board Resolution 2011- 035 as follows:

Conditions to be completed prior to or in conjunction with the issuance of building permits:

1. The parking lot surface material to be used in the parking lot must be jointly approved by the engineering division and HARC. The ADA parking space must meet Federal guidelines.

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

2. The applicant will install and 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.
3. City Staff will confirm that the sound system is functioning as provided for in Condition two (2).

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

4. Outdoor speakers are prohibited.
5. Security cameras will be provided on site and security personnel will be present during the hours of operation.
6. Waste handling shall be consistent with the Solid Waste Management plan dated July 13, 2011. The applicant will recycle materials accepted by the city’s waste handling contractor.
7. Compliance with the plans received July 12, 2011, is a condition of approval and specifically incorporated herein.
8. The outdoor consumption area is limited to the side yard area on the corner of Greene and Ann Streets only and is strictly prohibited from the rear courtyard area.

General Conditions:

9. 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.
10. Any and all music shall be routed through the programmable distributive sound system consistent with that described in the document prepared by The Audio Bug. Under no circumstances is outdoor music allowed.

Please note that condition number two of City Commission Resolution 09-242 required that the 1.0 Equivalent Single Family Unit associated with the single family residence historically on the site be donated to the City of Key West through the execution of a donation waiver. On January 13, 2010 the applicant submitted a waiver request that was accepted by the licensing division as part of the original development approval that is considered fully documented by the City (see attached).

Options / Advantages / Disadvantages:

Option 1. To approve the proposed Modification to the Major Development Plan and Conditional Use approval that includes outdoor consumption area.

1. **Consistency with the City’s Strategic Plan, Vision and Mission:** The City’s Strategic Plan, Vision, and Mission does not address issues pertinent to this request.
2. **Financial Impact:** There is no direct financial impact to the City if the modification to the plan is approved.

Option 2. To deny the proposed Modification to the Major Development Plan and Conditional Use

1. **Consistency with the City’s Strategic Plan, Vision and Mission:** The City’s Strategic Plan, Vision, and Mission does not directly address issues pertinent to this request. However, the strategic plan contemplates improvements to blighted sights and the importance of historic preservation.
2. **Financial Impact:** There is no direct financial impact to the City if the modification to the plan is not approved. However, non-functioning commercial properties do not fully contribute to tax revenue.

RECOMMENDATION:

Staff recommends the approval of **Option 1**, with the following conditions:

Conditions to be completed prior to or in conjunction with the issuance of building permits:

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

2. The applicant will install and 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.
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