

Minutes of the Key West Planning Board

February 21, 2013 DRAFT ACTION MINUTES

Chairman Richard Klitenick called the Key West Planning Board Meeting of February 21, 2013 to order at 6:01 pm at Old City Hall, in the antechamber at 510 Greene Street, Key West.

ROLL CALL

Present were: Chairman Richard Klitenick, Vice-Chairman Tim Root, Lisa Tennyson, James Gilleran, Greg Oropeza and Ex-Officio, Ron Demes.

Excused absence: Sam Holland and Michael Browning.

Also in attendance were: Planning Director, Donald Craig; Assistant City Attorney, Ron Ramsingh; Fire Department, Jason Barroso; Code Compliance, Jim Young; Planning Department staff: Ginny Haller, Brendon Cunningham, Nicole Malo and Jo Bennett.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

A motion to approve the agenda was made by Vice-Chairman Root and seconded by Mr. Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

APPROVAL OF MINUTES

January 17, 2013

A motion to postpone the January 17, 2013 meeting minutes was made by Vice-Chairman Root and seconded by Mr. Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

RESOLUTIONS

Old Business

- 1. Modification to a Major Development Plan & Conditional Use – 512 Greene Street (RE# 00001170-000000) – A 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.**

Ms. Haller gave members an overview of the Major Development Plan and Conditional Use request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the third modification request of the Conditional use and Major Development Plan be approved with the following conditions:

Minutes of the Key West Planning Board
February 21, 2013 DRAFT ACTION MINUTES

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 be not more than seventy-five (75).

Mr. Gilleran confirmed there is one real estate number for the parcel.

Vice-Chairman Root confirmed that the applicant can come before the commission for approval for fundraisers and charity events.

Minutes of the Key West Planning Board
February 21, 2013 DRAFT ACTION MINUTES

The applicant's representative, Owen Trepanier, Trepanier & Associates gave an overview of the request.

Chairman Klitenick requested Mr. Trepanier give an overview of the project history.

The Tenant, Bill LaRose, gave an overview of the request. He stated that special events annoyed neighbors; therefore, he gave neighbors his cell phone number to contact him with any noise issues.

Hanya Riveria, 2412 Fogarty Avenue, Manager of Shots and Giggles, gave members an overview.

The following members of the public spoke on the matter:

Phil Cooke, 269 Southard Street
Ben Hennington, 1307 Truman
Michael Pollack, 261 Margaret
Roland Granger 610 Angela
Joe Meier, 258 Spanish Main
Sue Franks, 511 Greene
Joe Weatherby, 2627 Staples
Clayton Chelley, 810 Duval
Alan Gold, 3333 Duck
Dan Traveny, 1100 Whitehead
Rob O'Neal, 1612 Washington
Cecil Witt, 3029 N. Roosevelt
Joe Messina, 529 Caroline
Dean Carlson, 729 Truman
Patrick Currie, 2622 Staples
Jeremy Ashby, 1223 White
Blades Robinson, 2136 (unable to read address provided)

A motion to approve the Modification to the Major Development Plan & Conditional Use request with the Planning Department's recommended conditions was made by Vice-Chairman Root and seconded by Mr. Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

New Business

- 2. Administrative Variance Ordinance - Consideration of a resolution of the City of Key West recommending an ordinance to the City Commission amending Chapter 90 of the Code of Ordinances entitled "Administration" by amending Section 90-392 and by adding Section 90-398 to authorize the Planning Director to issue administrative variances; establishing a procedure for providing notice to adjoining property owners of the Planning Director's intent to issue an administrative variance; establishing criteria for the issuance of administrative variances; establishing a procedure for public hearings on applications for administrative variances; amending Chapter 122 entitled "Zoning" by amending Section 122-28 and adding Section 122-32(g) for establishing procedures for nonconformities; providing for severability; providing for repeal of inconsistent provisions; providing for an effective date.**

Minutes of the Key West Planning Board
February 21, 2013 DRAFT ACTION MINUTES

Ms. Haller gave members an overview of the Administrative Variance Ordinance request. The Planning Department recommended approval of the resolution for an ordinance amending Chapter 90 and Chapter 122 of the Land Development Regulations.

Mr. Craig gave an overview of the request and application procedures.

There were no public comments.

A motion to approve the Administrative Variance Ordinance request was made by Mr. Gilleran and seconded by Mr. Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

3. **After-the-Fact Variance – 510 Margaret Street (RE# 00008220-000000) – A request for side yard setback to allow for a cooling condenser unit (“AC Unit”) in the HHDR zoning district per Section 90-391, Section 122-630(6)b of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Mr. Oropeza recused himself, due to his firm’s representation of the applicant.

Ms. Haller gave members an overview of the After-the-Fact Variance request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommended the request for after-the-fact variance be denied.

However, if the Planning Board chooses to approve the variance application, the Planning Department recommended the following condition:

1. When the second, existing A/C unit is replaced, the owner shall locate the unit towards the rear of the property immediately adjacent to the location of the A/C location approved for this variance.
2. The gate on the right side of the house remains unlocked at all times for side access to the rear of the property for fire safety reasons.

Chairman Klitenick confirmed that the gate must be unlocked.

The applicant’s representative, Bart Smith, Barton Smith, P.L., spoke on behalf of the applicant.

Mr. Barroso confirmed the conditions.

There were no public comments.

A motion to approve the After-the-Fact Variance request with the Planning Department’s recommended conditions was made by Mr. Gilleran and seconded by Ms. Tennyson.

Motion carried by unanimous voice vote.

SO ORDERED.

Mr. Oropeza returned to the dias.

Minutes of the Key West Planning Board
February 21, 2013 DRAFT ACTION MINUTES

4. **Exception for Outdoor Merchandise Display – 628 Duval Street (aka 626 Duval Street RE# 00012480-000000) - A request to allow the display of merchandise sold in-store in the HRCC-1 zoning district per Section 106-52 of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Mr. Cunningham gave members an overview of the Exception for Outdoor Merchandise Display request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommended 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 for the Outdoor Merchandise Display is limited to the open doors of the shop and the model cart/shelf unit, and will not be placed in the City right-of-way.
2. The Exception for the Outdoor Merchandise Display will only be present during hours of operation.
3. The Exception for the Outdoor Merchandise Display is specific to the current tenant Historic Tours of America, Inc.; dba Tropical Shell and Gift, and granted for 60 months.
4. The Exception will provide for clear access for ADA and fire accessibility, with a minimum pathway of thirty-six inches around each display.
5. The Exception is limited to two (2) barrels in front of two (2) open doors and one (1) model cart/shelf unit.

The applicant’s representative, Frank Herrada, FMH Builders, Inc., spoke on behalf of the applicant.

There were no public comments.

A motion to approve the Exception for Outdoor Merchandise Display request with the Planning Department’s recommended conditions was made by Mr. Gilleran and seconded by Ms. Tennyson.

Motion carried by unanimous voice vote.

SO ORDERED.

5. **Transient License Transfer – 1105 Truman Avenue (aka 1103 Truman Avenue RE# 00021040-000100) to 506 Catherine Street (RE# 00028500-000000) – A request for a Transient License Transfer from property in the HNC-1 zoning district to property in the HRCC-3 zoning district per Section 122-1339(b) of the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Mr. Cunningham gave members an overview of the Transient License Transfer request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommended approval of the transfer of one transient rental license originally located at 1105 Truman Avenue to 506 Catherine Street.

Adele Stones, Stones & Cardenas, representing both the sender and receiver, gave an overview of the request.

There were no public comments.

A motion to approve the Transient License Transfer request with the Planning Department’s recommended conditions was made by Mr. Oropeza and seconded by Vice-Chairman Root.

Motion carried by unanimous voice vote.

SO ORDERED.

Minutes of the Key West Planning Board
February 21, 2013 DRAFT ACTION MINUTES

6. **Special Exception Request- 420 Eaton Street (aka 400 Duval Street RE# 00006580-000000) - A request for a special exception to the prohibition of alcoholic beverage sales within 300 feet of a church for property located within the HRCC-1 zoning district, pursuant to Section 18-28 (b)(2) of the Code of Ordinances of the City of Key West.**

Mr. Cunningham gave members an overview of the Special Exception Request. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for Special Exception be approved with the following conditions:

1. The exception is granted exclusively to Jonathan & Megan Pidgeon while they are 51% majority owners of the “Glazed Donuts LLC”, and is not transferable.
2. The sale of alcohol is accessory to the existing sale of food. The revenue ratios are 51% food to 49% alcohol.
3. The sale of alcohol shall be limited to beer and wine. Any attempt to secure a 5COP license will require additional review by the Planning Board.

The applicant’s attorney, Alan Fowler, Alan Fowler Law, gave members an overview of the request.

Ms. Tennyson inquired about the hours of operation 24 hours a day with alcohol sale exception from 4:00am to 7:00am.

The following member of the public spoke on the matter:
Chris Shultz, 1025 Roberts

A motion to approve the Special Exception Request with the Planning Department’s recommended conditions was made by Mr. Gilleran and seconded by Mr. Oropeza.

Motion carried by unanimous voice vote.

SO ORDERED.

7. **Landscape Waiver – Fort Street Parking Lot (RE# 00001630-000801) – A request to waive the landscape requirements of Section 108-347 for required screening for parking lots for property located in the HPS-1 zoning district per section 108-517 the Land Development Regulations of the Code of Ordinances of the City of Key West.**

Ms. Malo gave members an overview of the Landscape Waiver. Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommended the request for the Landscape Waiver be approved.

There were no public comments.

A motion to approve the Landscape Waiver request with the Planning Department’s recommended conditions was made by Vice-Chairman Root and seconded by Ms. Tennyson.

Motion carried by unanimous voice vote.

SO ORDERED

PLANNER’S REPORT

Minutes of the Key West Planning Board
February 21, 2013 DRAFT ACTION MINUTES

Mr. Craig gave members an overview of upcoming meetings.

ADJOURNMENT

A motion to adjourn was made by Vice-Chairman Root and seconded by Ms. Tennyson.

Motion was carried by unanimous voice vote.

SO ORDERED.

Meeting adjourned at 8:37 pm.

**Respectfully submitted by,
Karen de Berjeois
Administrative Assistant II
Planning Department**