## RESOLUTION NUMBER 2011-002


#### Abstract

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING MAJOR DEVELOPMENT PLAN APPROVAL PER SECTIONS 108-91 AND 108-96 THROUGH 108957 FOR PROPERTY LOCATED AT MALLORY SQUARE (RE\# 00072082-001100, $00072082-001400$ and 0072082-003700), KEY WEST FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.


WHEREAS, the subject property is located in the Historic Public Service Gulfside (HPS) zoning district; and

WHEREAS, Section 108-91 of the Code of Ordinances provides that within the HPS District a Major Development Plan is required for the addition or reconstruction of equal or greater than 2,500 square feet of gross floor area; and

WHERAS, the applicant proposed a Major Development Plan to redevelop four city-owned areas on Mallory Square to include a new structure with a restaurant (using established legally nonconforming consumption area), public plazas and open space, and use of an existing historic structure; and

WHEREAS, Section 108-196(a) requires the Planning Board to review and approve,

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approve with conditions, or deny the proposed Major Development Plan; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on January 20, 2011; and

WHEREAS, the granting of a Major Development Plan application is consistent with the criteria of the Code of Ordinances; and

WHEREAS, the granting of a Major Development application is in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. That a Major Development Plan application for redevelopment of a restaurant and adjacent property located in Mallory Square in the HPS zoning district per Section 108-91 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida (RE\# 00072082-001100,00072082-001400 and 0072082-003700), as shown in the attached plans dated

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QC Interim Planning Director

November 11, 2010 with the following conditions of approval:

1. A total of 2,344 square feet of restaurant consumption area which equates to 156 seats is allowed within the area known as Area 2, shown as Parcel 2 on the January 28,2010 site survey. The location of the consumption area within the restaurant may be modified relative to final determinations regarding the cable hut located within the parcel. Alcohol sales are permitted as accessory to the principal restaurant business. The sale of food, dessert, and non-alcoholic beverages must constitute $51 \%$ or more of business and the sale of food must occur during the time in which service is being provided to the public.
2. That variance requests required to construct the building are approved by the Planning Board or the need for such variances eliminated through design modifications.
3. That a variance request to height requirements for non-habitable space is approved by the Board of Adjustment.
4. The project will comply with green building standards established by Chapter 255.2575(2), F.S., and will also provide for recycling of solid waste and meet "dark sky" lighting standards.
5. Stormwater plans must be approved by the General Services Department prior to Building Permit issuance.

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Vice Chairman


Interim Planning Director
6. The proposed structures will be included in the final leasehold area determined by the City at the City's discretion.
7. Public access to plazas and public access ways along Mallory Dock and the bridge to the Westin Marina shall remain unimpeded in perpetuity by the applicant. The city reserves the right to address access for public safety purposes.
8. The applicant will abide by Port Security requirements as required by the Port Facility Security Officer, including requirements deriving from the United States Navy when military vessels are berthed at this location.
9. Hours of operation are limited to the hours of 11 am until 11 pm ; except in the case that a special event permit is issued.

Section 3. Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.

Section 4. This Minor Development Plan application approval by the Planning Board does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of the applicant's assertion of legal authority respecting the property.

Section 5. This resolution shall go into effect immediately upon its passage and adoption and

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Interim Planning Director
authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

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Read and passed on first reading at a regularly scheduled meeting held this 20th day of January, 2011.

Authenticated by the Vice Chairman of the Planning Board and the Interim Planning Director.


Filed with the Clerk:







## rex



$(1)$ LANDSCAPE PLAN

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