

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING MODIFICATION TO THE MAJOR DEVELOPMENT PLAN AND CONDITIONAL USE PREVIOUSLY APPROVED IN RESOLUTION 09-242, AND AMENDED IN RESOLUTION 11-274 TO AMEND THE LAYOUT OF THE COMMERCIAL FLOOR AREA, REDUCE RETAIL SPACE, AND CONVERT RETAIL AREA TO MIXED RETAIL AND BAR/LOUNGE CONSUMPTION AREA FOR THE PROPERTY LOCATED AT 512 GREENE STREET (RE #00001170-000000); PROVIDING CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, section 108-91C(3) and (4) of the Code of Ordinances allows applicants to request major modifications to major development plans, including changes to specific conditions of development approvals, and those requests are required to be treated in the same manner as the original approval; and

WHEREAS, the Key West City Commission approved a major development plan and conditional use for the property in Resolution No. 09-242 on October 13, 2009, and amendments to that major development plan and conditional use in Resolution No. 11-274 on September 20, 2011; and

WHEREAS, the applicant requested to modify the design of the Major Development Plan and modify conditions of City Commission

approval 09-242 and 11-274; and

WHEREAS, in Planning Board Resolution No. 2013-04 the Planning Board of the City of Key West recommended approval and found the modifications to the Major Development Plan to be in harmony with the general purpose and intent of the Land Development Regulations, and not injurious to the neighborhood, or otherwise detrimental to the public welfare;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the proposed major modification to major development plan and conditional use for 512 Greene Street is hereby approved, with conditions as described herein.

Section 2: That approval to the requested modification is conditioned upon the following supplemental and modified requirements:

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

1. 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.

2. City Staff will confirm that the sound system is functioning as provided for in Condition one (1), above.
3. No landscaping be removed from the site.
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 No. 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 a responsible person will be present during the hours of operation.
8. Waste handling shall be consistent with the Solid Waste Management plan included in Planning Board Resolution 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 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 seventy-five (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 acoustic), 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).

Section 3: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission and 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.

Passed and adopted by the City Commission at a meeting held this _____ day of _____, 2013.

Authenticated by the presiding officer and Clerk of the Commission on _____, 2013.

Filed with the Clerk _____, 2013.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK