

**RESOLUTION NO. 19-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, GRANTING A MAJOR DEVELOPMENT PLAN PURSUANT TO SECTION 108-91.A.2. (b) OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA FOR REDEVELOPMENT OF A RESTAURANT AND ADJACENT PROPERTY ON PROPERTY LOCATED AT MALLORY SQUARE (RE # 00072082-001100, 00072082-001400, 0072082-003700) WITHIN THE HISTORIC PUBLIC AND SEMIPUBLIC SERVICES (HPS) ZONING DISTRICT; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 108-91 of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) provides that a Major Development Plan approval is required for the addition or reconstruction of equal to or greater than 2,500 square feet of gross floor area; and

**WHEREAS**, Code Sections 108-196 (a) provides that the Planning Board shall act by resolution to approve, approve with conditions, or disapprove of the proposed Major Development Plan in an advisory capacity to the City Commission; and

**WHEREAS**, this matter came before the Planning Board at a duly noticed public hearing on September 15, 2016; and

**WHEREAS**, the Planning Board passed Resolution no. 2016-51, advising approval with conditions to the City Commission; and

**WHEREAS**, pursuant to Code Section 108-198, the City Commission shall review and act upon Major Development Plan proposals; and

**WHEREAS**, granting of the Major Development Plan will be 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 City Commission 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.** The Major Development Plan for the redevelopment of a restaurant and adjacent property containing 2,344 square feet of consumption area at Mallory Square (RE # 00072082-001100, 00072082-001400, 0072082-003700) within the Historic Public and Semipublic Services (HPS) zoning district pursuant to Sections 108-91.A.2.(b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida, as shown in the attached plans, is hereby approved with the following conditions:

**General conditions:**

1. A total of 2,344 square feet of restaurant consumption area which equates to 156 seats is allowed within the lease hold area. The location of the consumption area within the restaurant may be modified in consultation with the City 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. During all phases of demolition and construction, temporary fencing and erosion barriers shall be installed and maintained. All adjacent City streets and sidewalks shall be kept clean and clear of construction debris.

3. 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.

4. The proposed structures will be included in the final leasehold area determined by the City at the City’s discretion.

5. 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.

6. 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.

7. Restaurant seating shall not exceed 156 seats on the site.

8. 60% or more of the existing cable hut shall be retained into the new design.

**Conditions prior to issuance of a building permit:**

9. Stormwater plans must be approved by the Utilities Department prior to Building Permit issuance.

10. Approval of a Public Art Plan shall be obtained from the AIPP Board, pursuant to City Code Section 2-487, and may include payment of an in-lieu fee.

11. On-site artwork shall be installed and inspected by the City pursuant to Code Section 2-487.

**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 Major Development Plan application approval by the City Commission 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 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 shall be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for 45 days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the 45-day review period, the DEO 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.

Read and passed by the City Commission at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Read and passed on final reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Mayor Teri Johnston \_\_\_\_\_

Commissioner Gregory Davila \_\_\_\_\_

Commissioner Mary Lou Hoover \_\_\_\_\_

Vice-Mayor Sam Kaufman \_\_\_\_\_

Commissioner Clayton Lopez \_\_\_\_\_

Commissioner Billy Wardlow \_\_\_\_\_

Commissioner Jimmy Weekley \_\_\_\_\_

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TERI JOHNSTON, MAYOR

ATTEST:

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CHERYL SMITH, CITY CLERK