

October 5, 2019 Mallory Square Major Development Plan

Summary:

The proposed development includes areas which have been defined based on leasehold areas within the larger context of Mallory Square. Mallory Square has evolved from a historic industrial waterfront into an important cruise ship port and public plaza which includes a number of historic and non-historic commercial and culturally-oriented buildings, monuments, memorials, sculpture gardens, deep water ship berth, and multiuse open space.

The evenings are characterized by the vibrant sunset celebrations, consisting of performers and commercial retail and food vendors; this nightly event occupies the waterfront portion of the community park is an internationally famous event showcasing the quirky, artistic and nature loving traits of Key West. This celebration attracts tens of thousands of visitors annually.

The project proposes to rebuild an existing restaurant to comply fully with ADA and FEMA requirements and create ADA access to the historic Hospitality House. A portion of an existing cable tank will be preserved and incorporated into the restaurant seating area as feasible. Completion of the project will result in improvements to existing active outdoor recreation, increases in landscaping, reductions in impervious surface, improved water management and open space provisions, additional public restrooms, significant rental income to the City, and a long overdue rehabilitation of the critically important Waterfront Park and tourist destination at of Mallory Square. The project will use the Historic Hospitality House as a museum. It will build a park and green space. It will preserve the historic elements of the cable tank and will rebuild and re-use the existing non-conforming restaurant.

The project is on publicly owned land (Mallory Square). The structure will comply with FEMA elevation requirements. The flood zone was officially and legally corrected after engineers and Tropical Soup petitioned FEMA to modify it in order to allow the re-construction of the proposed restaurant. No variances are being requested. This project is being built with private funds but will become the property of the City of Key West.

Analysis:

The following is a complete analysis of the proposed project including development plan review and approval criteria. Existing development is depicted in attached surveys and plans, including:

- Size of site
- Buildings
- Structures
- Parking
- FEMA flood zones
- Topography
- Easements
- Utility locations
- Existing vegetation
- Existing stormwater
- Adjacent land uses
- Adjacent buildings
- Adjacent driveways

Proposed development is depicted in attached plans prepared by licensed engineers and architects, including:

- Buildings
- Setbacks
- Parking
- Driveway dimensions and material
- Utility locations
- Garbage and recycling
- Signs
- Lighting
- Project Statistics
- Building Elevations
- Height of buildings
- Finished floor elevations
- Height of existing and proposed grades
- Drainage plan
- Landscape Plan

Title block (Sec. 108-227)

Name of development: Mallory Fish Company and Mallory Steamship Company Museum
 Owner/developer: City of Key West/ Tropical Soup Corp.
 Scale: "To-scale" Architectural and Engineering plans provided
 Preparation and revision dates: As noted on plans
 Location: Mallory Square

Key persons and entities involved in this project are as follows:

Owner: City of Key West
 Authorized Agent: Tropical Soup Corporation/Trepanier & Associates Inc.
 Architect: Seth Neal
 Surveyor: Frederick H. Hildebrandt, Inc
 Landscape Architect: Tyler Nielsen- Nielsen Landscape Architects
 Attorney: Van Fischer
 Legal and Equitable Owners: City of Key West

Solutions Statement:

The proposed development is consistent with the LDRS and the Comprehensive Plan and is not anticipated to cause conflict in relation to existing facilities.

Mallory Square is a large parcel; the proposed redevelopment is located on a small portion, hereinafter referred to as the "leasehold". The leasehold currently contains a restaurant built around and including a non-contributing structurally compromised cable storage well cover. The applicant is seeking to convert the structure into a new FEMA-compliant restaurant with a mix of indoor and outdoor café style seating. The cistern will be incorporated into the new design. The new proposed structure will comply with the Base Flood Elevation in the AE flood zone. A "Dark Sky" lighting scheme will be employed along with energy efficient lighting and water saving features. A recycling program will be implemented. The project will comply with F.S. 255.2575(2) as confirmed through an accepted 3rd party environmental standard. The project will result in a decrease in impervious surface, an increase in landscaping, open space and improved storm water management.

The subject property lies within the Historic Commercial Pedestrian-Oriented Area. No additional consumption area is proposed for immediate use and therefore no additional parking is required. However, we do seek approval of additional seats. The restaurant use at

Mallory is an existing nonconforming use. An expansion of a nonconforming use is not encouraged by the LDRs, however, we seek the City’s review and conditional approval of future expanded consumption area at such time that the code may permit expansion. A sensible correction in zoning for the parcel was anticipated and requested in Tropical Soup’s response to the RFP. This sensible change would address the numerous inconsistent, non-conforming and non-permitted uses at Mallory Square.

The property has an existing restaurant with 2,344 sq. ft. of consumption area. The existing consumption area permits 156 seats. The redeveloped restaurant seeks a future operation of 240 seats. However, under a literal interpretation of the existing LDRs only 156 seats may be permitted at this time. Therefore, we seek approval of a proposed 240 seats, with the condition that no more than 156 may be used until such time that an expansion to the full 240 may be permitted under the code.

The future consumption area (~1,260 sq.ft.) will require 28 parking spaces (1 space / 45 sq. ft.). There is sufficient existing undedicated parking capacity located on the property Mallory Square to accommodate the proposed expansion. Mallory Square accommodates an approximately 100-space parking lot, of which, only 1 space which is currently dedicated for a specific use⁴. The zoning for Mallory Square is HPS. As such, the retail and restaurant uses that comprise most of Mallory Square are not permitted under the code. We have been pointing out this illogical inconsistency in the City’s Zoning districts for ten years.

Site Data Table:

Site Data	Permitted/ Required	Existing ²	Proposed	Compliance
Site Size	Not applicable	154,988 sf	154,988 sf	<i>Complies</i>
Zoning	--	HPS	No Change	<i>Complies</i>
F.A.R.	1.0	0.25 (38,795 sf)	0.28 (43,910 sf)	<i>Complies</i> ³
Max Height	25'	28'8"	23'	<i>Complies</i> ⁴
Building Coverage	40% (61,995 sf)	21% = 33,162 sf	25% = 38,277 sf	<i>Complies</i>
Impervious Area	50% (77,494 sf)	90.85% = 140,815 sf	90.83% = 140,780 sf	<i>Complies</i> ⁵
Landscape Area	20% min. (30,997sf)	9.14%= 14,173 sf	9.14%= 14,208 sf	<i>Complies</i> ⁶
Open Space	20% min (30,997sf)	9.14%= 14,173 sf	9.14%= 14,208 sf	<i>Complies</i> ⁷
Consumption Area ⁸	Grandfathered	2,344 sf	2,344 sf (156 seats)	<i>Complies</i> ⁹
Setbacks:				
CCCL	30'	11'11"	7'10"	<i>Complies</i> ¹⁰
Front	20'	261'4"	256'3"	<i>Complies</i>
South Side	greater of 5 feet or 10 percent of lot width to a maximum of 15 feet.	14'	7'8"	<i>Complies</i> ¹¹
North Side	greater of 5 feet or 10 percent of lot width to a maximum of 15 feet.	420'4"	388'4"	<i>Complies</i>
Rear	20'	44'1"	24'4"	<i>Complies</i>
Parking ¹²	N/A	100 ¹³	100	<i>Complies</i> ¹⁴

³ 'All ... municipal ... buildings shall be constructed to comply with a sustainable building rating system or a national model green building code. This section applies to ... municipal ... buildings the architectural plans of which are commenced after July 1, 2008'.

⁵ Assuming no change since City staff report dated 1/20/2011

⁷ PB Variance Resolution 2011-025

⁸ PB Variance Resolution 2011-025

⁹ PB Variance Resolution 2011-025

¹⁰ Based on building department records

¹¹ The entire project is located within the Historic Commercial Pedestrian-Oriented Area. No new consumption area related to the restaurant is proposed to be used until such time as expansion is permitted; further, the square footage and proposed use of the historic Hospitality House is expected to remain consistent with recent uses. Remaining development consists of improvement to public spaces; therefore, no additional parking is required for the project. Mallory Square contains a 100 space parking lot of which only 1 space is dedicated for a specific commercial use.

¹² Pursuant to Sec. 108-571 additional parking is only required if there is an increase in intensity.

Other Project Information (Sec. 108-230):

- The target date for commencement shall follow entitlement approvals as quickly as possible.
- Construction is targeted to begin within 6 months of this development approval and expected to be complete within 10 months of commencement.
- The proposed buildings will comply with all flood and FEMA-related requirements.

Intergovernmental Coordination (Sec. 108-232):

Required intergovernmental coordination shall be handled within the DRC process.

Schedule and Process:

The applicant has worked continuously in good faith for successful development of the intended use, generally evidenced as follows:

Date	Action Taken
01/24/10	City of Key West ("City") issues RFP for Cable Hut and Hospitality House
05/18/10	City awards RFP to Tropical Soup Corporation pursuant to Res No. 10-167.
10/04/10	Tropical Soup makes application to the City for Major Conditional Use approval.
01/20/11	City's Planning Board finds the use is not abandoned and recommends approval of the Major Development Plan to the City Commission pursuant to Res. No. 2011-002.
06/20/11	Appeal of the Planning Board Decision filed by Tannex Corporation .
08/02/11	Further approval action postponed by the City pending appeal outcome.
02/09/12	Appeal is denied by the 3rd District Court of Appeals.
02/20/13	City Commission denies Major Development Plan application based on mass and scale.
04/10/13	City of Key West and Tropical Soup Corporation begin meeting to identify objectionable issues related to the first design proposal.
08/30/13	Tropical Soup begins redesign of the project pursuant to comments of the City Commission and meetings with City staff.
06/04/14	Tropical Soup and City, jointly, apply to for a FEMA flood map revision to analyze the flood zone. The goal being to change the flood zone to allow the structure to be built on the ground thereby reducing the mass and scale.
10/15/14	FEMA issues a Letter of Map Revision converting the property from a "V"-zone to an "AE" zone, thereby permitting a proposed structure to be built on ground level. Effective date of LOMR: 2/26/15.
3/2/2015	Tropical Soup submits revisions to the City based on reduced mass and scale.
04/01/15	Tropical Soup makes application to the City for Major Development Plan approval based on reduced mass and scale.
4/23/2015	City Development Review Committee provides staff review & technical comments.
6/9/2015	City Tree Commission provides conceptual approval of the project.
4/28/2016	DRC meeting. Tropical Soup points out that there are ongoing significant negative financial, and reputational damages to the City and Mallory Square with the existing blighted area and continuing deterioration of historic properties.
8/1/2016	After consultation with City staff, alternate Plans developed to eliminate need for variances.
10/20/2016	Planning Board Meeting Major Development Plan approved.
12/12/2016	Tropical Soup, its architects and artist make Art in Public Places conceptual proposal.
12/14/2016	HARC meeting. Demolition Plan denied. Major Development Plan not heard due to denial of demolition.

1/17/2017- New smaller design preserving cable tank developed. Multiple meetings with HARC staff, City FEMA coordinator and CBO. Discussions relating to the City's interpretation of historic features of the West Cable Tank and the applicability of FEMA regulations to its restoration.

3/1/2017 Application with new even smaller design in response to staff input, including plan for restoration of the West Cable Tank timely submitted to HARC staff for the April meeting.

5/23/2017 Design denied by HARC. New design rehabilitates and adaptively re-uses existing restaurant kitchen. Design rehabilitates Hospitality House and minimizes obstructions and impediments to the Key West harbor and sunset view. No suggestions made about how the project could comply with the board's interpretation of the guidelines.

8/30/2017 Appeal argued before Special Magistrate. Special Magistrate decides in Tropical Soup's favor.

10/18/2017 Special Magistrate signs order finding that HARC decision improperly denied the project and was in error.

11/15/2017 City seeks a clarification and narrowing in scope of Special Magistrate decision.

11/17/2017 City legal staff files writ of Certiorari requesting Circuit Court review of Special magistrate decision.

11/20/2017 Tropical Soup applies with updated landscape plans for the December 12 Tree Commission agenda.

11/28/2017 City files a 22 page appeal of the Special Magistrate's order, requesting review by the Circuit Court and litigating against the project.

1/10/2018 City requests Circuit Court relinquish jurisdiction back to Special magistrate so that he may re-hear the case.

2/28/2018 City requested re-hearing and clarification of the Special Master's decision of August 2017. Special Magistrate finds the same facts.

3/5/2018 Special Magistrate signs order affirming his previous decision of August 30, 2017 and his previous order of October 18, 2017 that a Certificate of Appropriateness be issued.

3/13/2018 Final landscape plan approved by City tree Commission.

8/20/2018 Planning staff write executive summary recommending approval of development plan.

8/27/2018 City files a motion requesting reinstatement of jurisdiction with the Circuit Court.

9/5/2018 Development Plan on City Commission agenda. Postponed at request of the City Attorney.

10/2/2018 Development Plan on City Commission agenda. Postponed at request of the City Attorney.

10/16/2018 Development Plan on City Commission agenda. Postponed at request of the City Attorney.

12/4/2018 Development Plan on City Commission agenda. Postponed at request of the City Attorney.

12/6/2018 Circuit Court hearing on City's appeal

1/15/2019 Development Plan on City Commission agenda. Postponed at request of the City Attorney.

2/20/2019 Development Plan on City Commission agenda. Postponed at request of the City Attorney.

3/4/2019 Circuit Court issues order denying City appeal. Special Magistrate order and HARC approval stand.

4/2/2019 Planning staff write executive summary recommending approval of development plan.

5/7/2019 Development Plan on City Commission agenda. Planning Director writes letter stating that development plan should be reviewed by Planning Board again.

9/4/2019 Board of adjustment refers development plan back to planning board to be heard again.

The development approval process has followed an arduous path. Approval steps and date achieved or expected:

- 1 Planning Board approval 10/20/2016
- 2 Tree Commission (final approval) 3/13/2018
- 3 Certificate of Appropriateness ordered 8/30/2017 re-affirmed several times
4. Planning Board meeting 10/17/2019
5. City Commission meeting 11/19/2019

Appearance, design, and compatibility (Section 108-234):

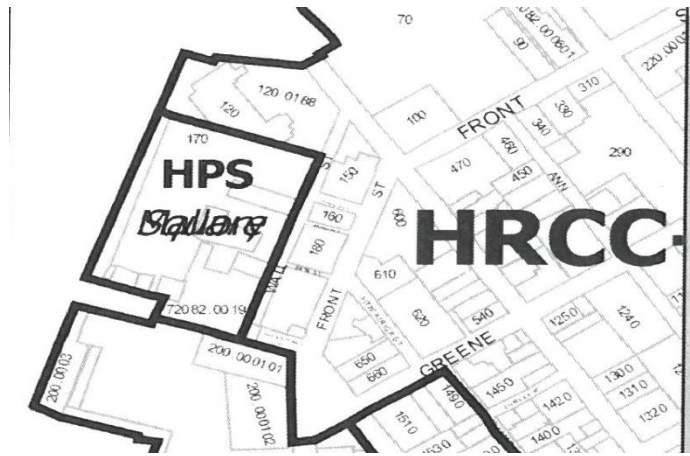
This development plan satisfies criteria established in Chapter 102; Articles III, IV and V of Chapter 108; Section 108-956; and Article II of Chapter 110 of the Key West City Code in the following manner:

- Chapter 102 – This property is located within the Historic District and has received a Certificate of Appropriateness for the design on August 30, 2017. Confirmed at re-hearing on February 28, 2018. Further confirmed with Circuit Court ruling March 4, 2019
- Articles III, IV and V of Chapter 108 – As demonstrated by the site plan, trip generation analysis, and the site data calculations, the project complies with the requirements of the Articles.
- Chapter 110 – As demonstrated in this application, the proposed development complies with the resource protection requirements of Chapter 110.

Site Location and Character of Use (Section 108-235):

(a) *Compliance.* This development plan complies with the requirements set forth in the Key West City Code as they pertain to Concurrency Management, Outdoor Displays and Nuisances, Resource Protection, Signs, and Articles I and III to IX of Chapter 108 of the Key West City Code.

(b) *Vicinity Map.*



(c) *Land Use Compatibility.* The project site is located in the Historic Public and Semipublic Services District (HPS) zoning district. The historic public and semipublic services district (HPS) is established to implement comprehensive plan policies for areas designated "HPS" on the future land use map. The HPS district shall accommodate existing public and semipublic services.

Surrounding Zoning and Uses:

North: HPS: community park, restaurant, theatre, tourist and retail shops

South: HPRD: Hotel, restaurant, retail shops.

East: HRCC1: Restaurants, retail, hotels

West: HPS: community park retail, food vendors, buskers, and open water leading to Key West Harbor

(d) *Historic and archeological resource protection.* The site is located within the Historic District. The historic components of the existing cable tank will be preserved and incorporated into the new restaurant seating area as feasible. Any archeological resources will be protected as required.

(e) *Subdivision of Land.* No subdivisions are anticipated.

Location and screening of mechanical equipment, utility hardware and waste storage areas (Section 108-279):

All mechanical equipment will be located appropriately and screened in compliance with Section 108-279. The applicant has also attempted to get the City to screen the adjacent OMI lift station

Appearance of Site and Structures (Sec. 108-236):

Attached site plan complies with Sections 108-278 through 108-288 of the Key West City Code. (See below.)

Site Plan (Sec. 108-237):

Site plan of proposed development drawn consistently with Sec. 108-237 is attached.

Architectural Drawings (Sec. 108-238):

All architecture or engineering designs were prepared and sealed by a professional architect or engineer registered in the state pursuant to F.S. Ch. 471 and 481, respectively, consistent with the provisions of this Section.

Site Amenities (Sec 108-239):

The attached site plan includes existing and proposed amenities which are required to comply with appearance, design and compatibility regulations outlined in chapter 102; articles III, IV and V of this chapter; section 108-956; and article II of chapter 110.

Site Survey (Sec 108-240):

Survey of the site is attached.

Soil Survey (Sec 108-241):

Soil surveys are not anticipated as part of this project.

Environmentally Sensitive Areas (Sec. 108-242):

No environmentally sensitive areas exist on this site. This project is not located within an environmentally sensitive area; however, significant improvements will be made to the storm water management system in and around the leasehold which are anticipated to improve near shore water quality.

Land clearing, excavation and fill, tree protection, landscaping and irrigation plan (Sec. 108-243):

Some demolition of existing structures is proposed (see attached site plans) but no clearing is proposed as anticipated in Sec. 108-243. A landscape plan was approved on March 13, 2018 consistent with code requirements.

On-site and off-site parking and vehicular, bicycle, and pedestrian circulation (Sec. 108-244):

The subject property lies within the Historic Commercial Pedestrian Area. Pursuant to Key West Code Sec. 108-73, "No additional off-street parking shall be required within the historic commercial pedestrian-oriented area if a commercial structure is the subject of a change from one type of commercial use to another type of commercial use, so long as no additional or expanded floor area is created."

Mallory Square is located within the heart of the Historic Commercial Pedestrian-Oriented Area. Mallory Square contains an approximately 100-space parking lot, of which only 1 space is dedicated for a specific commercial use.

- Number, location and size of automobile and bicycle spaces: Mallory Square has a 100-space parking lot operated by the City. Bicycle parking will be accommodated around the proposed leasehold area and is incorporated in the landscape/ open space plans.
- Handicapped spaces: This proposal does not include automobile parking provisions in excess of that currently provided for Mallory Square. The Applicant assumes the City-run parking lot complies with ADA requirements for handicapped spaces.
- Curbs or wheel stops around landscaping: Landscape protections are provided as depicted in the approved landscape plan
- Type of pavement: Pavement to complement existing materials located at Mallory Square, please see attached plans.

The proposed use of the historic Hospitality House is expected to remain consistent with recent uses. Remaining development consists of improvement to public spaces. No additional parking is required for the project.

Housing (Sec 108-245):

This project includes no residential development; therefore, no impact on hurricane evacuation is anticipated.

Economic Resources (Sec 108-246):

Trepanier & Associates, Inc. (Tropical Soup’s agent) has contacted the Monroe County Property Appraiser’s office to seek assistance in estimating the average ad valorem tax yield from the proposed project.

Special Considerations (Sec 108-247):

In further accordance of Resolution 2011-002, the following are applicable:

1. The proposal complies with the goals, objectives and policies of the comprehensive plan and as demonstrated by this and the concurrency analysis there are no conflicts with the existing public facilities, such as wastewater treatment and transportation.
2. This project complies with all City land use plans, objectives and policies.

Construction Management Plan and Inspection Schedule (Sec 108-248):

The proposed development is single-phase. Construction is proposed to progress steadily based on Key West LDRs, building codes, and funding. Construction is expected to commence as soon as possible. The applicant will follow the Construction Management Plan Manual. The standards cannot anticipate all situations. They are intended to assist, but not substitute for competent work by design and construction professionals. The Plan does not intend to limit any innovative or creative efforts that could result in better quality, greater cost savings, or both. Any proposed departure from this Plan will be judged on the likelihood that such variance will produce a comparable result adequate for the user over the duration of the improvement/project

Truman Waterfront Port Facilities (Sec 108-249):

This project is not located at the Truman Waterfront Port

SITE PLAN

Scope (Sec 108-276):

This site plan conforms to all applicable sections of land development regulations.

Site Location and Character of Use (Sec. 108-277):

As depicted, the site has sufficient size, adequate specifications, and infrastructure to accommodate the proposed use. The infrastructure and site plan improvements are designed to mitigate potential adverse impacts of the proposed use.

Appearance of Site and Structures (Sec. 108-278):

This applications development plan exhibits harmonious overall design characteristics in compliance with the performance standards stipulated in sections 108-278 through 108-288.

Location and screening of mechanical equipment, utility hardware and waste storage areas (Section 108-279):

All mechanical equipment and utility hardware will be appropriately screened. All waste storage areas will be screened from adjacent properties. Solid waste will be hauled to the existing dumpsters that service Mallory Square uses located in the onsite parking lot.

Front-end loaded refuse container requirements (Sec. 108-280):

Three waste and recycling storage areas will be used for solid waste disposal. Solid waste will be hauled to the existing dumpsters that service Mallory Square uses located in the onsite parking lot.

Roll-off Compactor Container location requirements (Sec. 108-281):

NA - No roll-off containers proposed as part of the operation of the restaurant.

Utility lines (Section 108-282):

Utility lines shall comply with the requirements of Sec. 108-282.

Commercial and manufacturing activities conducted in enclosed buildings (Section 108-283):

All services or manufacturing or processing will take place within an enclosed building, excepting activities duly permitted by the city.

Exterior Lighting (Section 108-284):

All proposed lighting shall be shielded, and lighting sources shall be arranged to eliminate glare from roadways and streets and shall direct light away from properties lying outside the district. Shielding of lighting elements shall be accomplished by using directional fixtures or opaque shades. Lighting shall meet "dark-sky" standards¹³.

Signs (Section 108-285):

Proposed signage will be harmonious with the design theme of the project, will be aesthetically pleasing and reinforce good principles and practices of design. All signs will receive necessary HARC review and approval.

Pedestrian sidewalks (Section 108-286):

No new sidewalks are proposed other than pathways depicted on the plans.

Loading docks (Section 108-287):

No loading docks are being proposed as part of the Major Development Plan.

Storage Areas (Section 108-288):

No outdoor storage areas are proposed.

Land Clearing, Excavation, and Fill (Sec 108-289):

Any clearing will be in compliance to Sec. 108-289. Existing structures will be demolished per plans and all debris cleared from site. Site will be graded and storm water improvements made in preparation for new construction.

Open Space, Screening, Buffers and Landscaping (Article V and VI) of Chapter 108:

The project proposes modest improvements to the site as depicted in the plans; however, full compliance with the landscape and buffer requirements of Sec. 108 is not possible. The applicant believed that variances were unnecessary for open space and impervious surface for Mallory Square as a whole, since its proposal improved the open space and impervious surface ratios. Regardless, the applicant requested and was granted variances for impervious surface ratio requirements, open space requirements per Section 108-346(b), and Coastal Construction Control Line requirements via Planning Board Resolution 2011-025. This variance approval was appealed but ultimately upheld in favor of the applicant by the 3rd District Court of Appeals.

Off-street parking and loading (Article VII):

No improvements to the existing parking area are proposed. No loading docks are being proposed as part of the Major Development Plan.

Storm water and Surface Water Management (Article VIII):

The drainage plan by Perez Eng. demonstrates compliance with the intent of Art. VIII. Stormwater plans shall be approved by the General Services Department prior to building permit issuance.

Flood Hazard Areas- Floodplain

Management Ordinance (Section 34-122 through 34-149):

The proposed project is located in an AE flood zone¹⁶ and will comply with all FEMA requirements

Utilities (Article IX):

See Concurrency Analysis below.

CONCURRENCY ANALYSIS:

Concurrency Facilities and Other Utilities or Services (Sec. 108-233):

Section 108-233 of the LDRs requires concurrency analysis for Development Plans in accordance with Chapter 94 of the LDRs; however, in accordance with Florida Statute 163.3194, the 2013 Comprehensive Plan has legal authority over any inconsistent section(s) of the existing LDR's. Chapter 94, Article II of the LDRs is case in point. Therefore, the City's 2013 Comprehensive Plan directs the City to ensure that facilities and services needed to support development are available concurrent with the impacts of new development. The following concurrency analysis addresses the minimum acceptable Level of Service standards to be utilized in planning for capital improvement needs.

Comprehensive Plan Policy 4-1.1.3: Compliance with Level of Service Standards. As a condition of the issuance of development orders and permits, all public improvements including new facilities or replacements, expansions, or other alterations to public facilities shall be compatible with the adopted level of service standards for the facilities. Issuance of development orders or permits shall be conditioned upon demonstrated compliance with applicable federal, state, and local permit requirements for potable water, wastewater, drainage, and solid waste facilities.

The following public facilities are subject to concurrency with measurable Levels of Service (LOS):

1. Potable Water (Chapter 4)
2. Sanitary Sewage/ Wastewater (Chapter 4)
3. Solid Waste (Chapter 4)
4. Stormwater/ Water Quality (Chapter 4)
5. Roads/Trip Generation (Chapter 2)

The following analysis reflects the proposed redevelopment within a leasehold portion of Mallory Square. The entire site has an approximate lot size of 154,988 sq. ft. The leasehold area is approximately 9,404 square feet, representing approximately 6% of Mallory Square proper.

1. Comprehensive Plan Policy 4-1.1.2.C – Potable Water

Summary Response: The Potable Water Level of Service is not expected to be affected as part of the immediate proposal; the potential increase in consumption area models an approximate potential increase of 840 gallons/ day in potable water demand. Nevertheless, it is not expected that the current proposal will result in excess capacity on this public facility.

Designation	LOS	Capacity	Total
Existing	100 gal/capita/day	100 gal x 156 seats = 1,560 gal/day	1,560 gal/day
Proposed	100 gal/capita/day	100 gal x 156 seats = 1,560 gal/day	1,560 gal/day
Future Proposed	100 gal/capita/day	100 gal x 240 seats = 2,400 gal/day	2,400 gal/day

The Florida Keys Aqueduct Authority (FKAA) has the capacity to supply adequate service to the subject properties. The FKAA has the capacity to provide 23 million gallons per day to Monroe County as a result of: The South Florida Water Management District’s issuance of Water Use Permit #13-0005 which allocates 17 million gallons per day in the dry season; 17.79 million gallons per day which can be withdrawn from the Biscayne Aquifer; and six million gallons per day provided by a reverse osmosis treatment plant in Florida City. As documented above, the City is meeting its Level of Service Standard for Potable Water. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development during short and long range planning periods, so the current capacity should remain adequate. Ongoing capital improvements will be necessary to maintain and improve standards and service delivery.

2. Comprehensive Plan Policy 4-1.1.2.A- Sanitary Sewage

Summary Response: The Sanitary Sewage Level of Service is not expected to be affected as part of the immediate proposal; any potential increase in consumption area may result in a *de minimus* increase of 20 gallons per day in sanitary sewer demand. Nevertheless, it is not expected that the current proposal will result in excess capacity on this public facility.

Designation	LOS	Capacity	Total
Existing	660 gal/acre/day	660gal x 0.22 acres = 33 gal/day	142 gal/day
Proposed	660 gal/acre/day	660gal x 0.22 acres = 33 gal/day	142 gal/day
Future Proposed	660 gal/acre/day	660gal x 0.22 acres = 33 gal/day	142 gal/day

The City contracts out the operation of the Richard A. Heyman Environmental Pollution Control Facility, its wastewater treatment plant (Plant), and the associated collection system to Operations Management International, Inc. (OMI). The plant currently has the capacity to treat 10 million gallons per day, exceeding the capacity required to achieve the existing Level of Service Standard by approximately seven million gallons per day. Actual daily flow is 4.5 million gallons per day. This is a reduction from eight (8) million gallons per day due to a 67 million dollars capital improvement to the City's wastewater treatment during the past short-term planning period, including \$56 million for collection system rehabilitation. As documented above, the City is exceeding its Level of Service Standard for Wastewater. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long range planning periods, so, the current capacity should remain adequate. Ongoing capital improvements and continuing conservation efforts will continue to maintain and improve service delivery.

3. Comprehensive Plan Policy 4-1.1.2.D Solid Waste Disposal Level of Service

Total Waste Generation

Summary Response: The Solid Waste Level of Service is not expected to be affected as part of the immediate proposal; the future potential increase in consumption area models an approximate potential increase of 535 pounds per day in solid waste generation. Nevertheless, neither the current proposal or an expansion is expected to result in excess capacity on this public facility.

Designation	LOS	Capacity	Total
Existing	6.37 lbs/capita/day	6.37 lbs x 156 seats = 993.72 lbs/day	994 lbs/day
Proposed	6.37 lbs/capita/day	6.37 lbs x 156 seats = 993.72 lbs/day	994 lbs/day
Future Proposed	6.37 lbs/capita/day	6.37 lbs x 240 seats = 1,528.8 lbs/day	1,529 lbs/day

Recyclable Waste Generation

Summary Response: The Recyclable Waste Level of Service is not expected to be affected as part of the immediate proposal; the potential increase in consumption area models a *de minimus* increase of 21 pounds per day in recyclable waste generation. Nevertheless, it is not expected that the current proposal will result in excess capacity on this public facility; Waste Management has more than enough capacity to handle the proposed capacity.

Designation	LOS	Capacity	Total
Existing	0.25 lbs/capita/day	0.25 lbs x 156 seats = 39 lbs/day	39 lbs/day
Proposed	0.25 lbs/capita/day	0.25 lbs x 156 seats = 39 lbs/day	39 lbs/day
Future Proposed	0.25 lbs/capita/day	0.25 lbs x 240 seats = 60 lbs/day	60 lbs/day

The City currently contracts with Waste Management of Florida, Inc. to collect, transfer and dispose of solid waste and residential recyclables. Commercial recyclables and other non-franchised collection services such as construction and demolition debris and yard waste are available on the open market to all licensed haulers. The City owns and operates a solid waste transfer station on Rockland Key that received 45,402.10 tons of solid waste for disposal and 3,607 tons of recyclables in 2009/10. Waste Management disposes of the solid waste

collected in Monroe County, including the City of Key West, at its Central Sanitary Landfill in Broward County. In 2009 Waste Management Inc. reported a reserve capacity of 17 years at this facility. As documented above, the City is meeting its Level of Service Standard for solid waste. The City projects a slight permanent population decrease, and only a slight increase in its functional population and non-residential development, during the short and long range planning periods, and the current capacity should remain adequate. Ongoing capital improvements will be necessary to improve standards and service delivery.

4. Policy 4-1.1.2. E- Drainage (Stormwater)

Summary Response: A plan for accommodating storm water run-off is depicted on the storm water management plans by Allen Perez; it demonstrates that the proposed drainage improvements shall accommodate storm water run-off without adversely impacting natural systems or the City's adopted level of service for storm drainage and the site will meet or exceed these minimum requirements through best management practices. The Drainage level of service standard below will be applicable to all types of development. Where two or more standards impact a specific development, the most restrictive standard shall apply:

1. Post development runoff shall not exceed the pre-development runoff rate for a 25-year storm event, up to and including an event with a 24-hour duration.

2. Stormwater treatment and disposal facilities shall be designed to meet the design and performance standards established in Chapter 62-25 Section 25.025, Florida Administrative Code, with treatment of the runoff from the first one inch of rainfall on-site to meet the water quality standards required by Chapter 62-302, Florida Administrative Code. Stormwater facilities which directly discharge into "Outstanding Florida Waters" (OFW) shall provide an additional treatment pursuant to Section 62-25.025 (9), Florida Administrative Code.

3. Stormwater facilities must be designed to not degrade the receiving water body below the minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 62-302 Florida Administrative Code.

5. Comprehensive Plan Policy 2-1.1.1 - Transportation

Policy 2-1.1.3 effectively eliminates the transportation concurrency requirement in favor of a prioritization of safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, and mixed-use development).

Policy 2-1.1.3: Dense Urban Land Area. The City of Key West is a substantially developed dense urban land area and is thereby exempted from transportation concurrency requirements for roadways. The City recognizes that its development characteristics make substantive expansion of capacity of the roadway system prohibitive. The City will therefore prioritize improving the safety and function of existing roads and multi-modal transportation improvements (i.e. transit, air, boat, bicycles, pedestrianism, mixed-use development) as its primary strategies for addressing current and projected transportation needs.

The project proposes development of additional bicycle parking and improved pedestrian- oriented facilities and amenities.

6. Recreation Level of Service

Policy 7-1.1.9- The minimum acceptable Level of Service standard for recreation and open space facilities in the City of Key West shall be: five acres of recreation and open space per 1,000 permanent residents.

The proposed change is not expected to have any adverse effect on availability of recreation services; in fact, the project is expected to have a positive impact on the City's recreational inventory through redevelopment within the Community Park at Mallory Square.

The following are other public services not measured by a Level of Service (LOS) but addressed in accordance with Section 108-233.

Policy 8-1.3.4: Coordinated Plans. The City shall coordinate the adopted Comprehensive Plan with the plans of the Monroe County School Board, Florida Keys Aqueduct Authority, and other units of local government providing services but not having regulatory authority over the use of land, and with the Comprehensive Plan of Monroe County, with the state comprehensive plan and with the South Florida Water Management District's regional water supply plan and Lower East Coast Water Supply Plan Update directs the City to ensure that facilities and services needed to support developments are available concurrent with the impacts of new development.

7. Fire Protection/ Emergency services

The proposed change is not expected to have an adverse effect on availability of emergency services and Fire Department review will be conducted as part of the building permit review process.

8. Reclaimed Water

The proposed change is not expected to have any adverse effect on reclaimed water services.

9. Similar necessary facilities and services-

The proposed change is not expected to have an adverse effect on other public facilities

Delivery schedules:

Due to the limited amount of storage and food preparation space available, the applicant will need to receive deliveries seven days a week. The applicant will utilize broad-line suppliers including Sysco Food Services, Cheney Brothers, and Gordon Food Services. These suppliers typically deliver with tractor trailers with 37' or 53' long trailers. They will likely make their deliveries prior to 10AM and park in the 400 Block of Wall Street, or in the parking lot at Mallory Square. The applicant expects that these deliveries will be substantially similar to deliveries received by El Meson de Pepe or Redfish Bluefish, with the exception that they would occur daily. Typically, these suppliers load hand trucks or a pallet jack and then walk the delivery to the restaurant. Several of these companies utilize motorized pallet jacks.

The applicant will also receive beer, wine and liquor deliveries from Republic National Distributing, Break-thru Beverage, Southern Glazers, Eagle Distributing, Gold-Coast Distributing, Cavalier Distributing, and Brown Distributing. These deliveries will likely occur two times per week. The trucks are normally 17 to 24' long and would park along Wall Street or in the parking lot at Mallory Square. Some of these trucks have hydraulic lift gates while others utilize ramps. In the applicant's experience, these deliveries may sometimes occur as late as 2PM. These deliveries to the new restaurant would also be substantially similar to the neighboring restaurants at Mallory Square with the exception again, that deliveries would need to occur with greater frequency since storage space is minimal.

Cusano's, Premier Produce, Overseas Food Distributors, Fishbusterz, Collins Fish, The Waterfront Brewery, Thompson's Fish House, Chic Filets, Fish's Wholesale, Redfish Bluefish, Bluebell Creamery, Flower's Bakery, Summerland Seafood, Sugar's, Summerland Farms, Refreshment Services Pepsi, Low Key Fisheries, and Caroline's Café are expected to deliver desserts, soft drinks, bread, fresh fish, shellfish, produce, Key Lime Pies and other value added food and beverage products. These deliveries will occur seven days a week. The vehicles making the deliveries will range in size from 49cc scooters to golf carts, to refrigerated vans to refrigerated trucks up to 17'. They will park as close as practical to the restaurant. Product will then get walked into the restaurant with hand trucks, bakers' racks, catering hot boxes, or coolers. Both Redfish Bluefish and Meson de Pepe receive orders from some of these vendors in a similar fashion.

During the design and development review process City staff or boards have several times requested or demanded that Tropical Soup reduce the size of its kitchen. These reductions will cause Tropical Soup to increase the frequency of deliveries as well as increase the value-added qualities of the food and beverage that are delivered. When any restaurant is operating it will have some level of value-added product. This is obvious and not controversial. Many restaurants in Key West do not bake their own bread. Many do not make their own sauces or ketchup or dressings. Many do not cut their own steaks, or chops or grind their own hamburger. A number do not cut their own fish. Most do not brew their own beer. A number don't bake their own desserts or grow their own produce or pluck and butcher their own chicken. Some don't shred cabbage or make coleslaw, or chop lettuce or cook their own beans. When a restaurant purchases already cooked beans in cans, or ground beef, or boneless chicken breasts, or baked Cuban bread, or chopped romaine lettuce or shredded cabbage or ranch dressing it is not obliged to calculate the square footages of the farms, or bakeries, or fish houses or factories necessary to process and add value to those food products and include that footage in its consumption area. The idea is patently absurd. In order to serve the fish tacos and ropa vieja, and Cuban style roast pork and mahi sandwiches and conch beignets and bittersweet and conch salads, and Stone Crab claws and Key west pink shrimp and Florida lobster and oysters that it will have on the menu, the Mallory Fish Company will need to have value added prep work done. Some of this work will be done at farms, factories and fish houses. Some will be done at other local restaurants. The applicant has experience with other local restaurants who utilize differing physical plants, divisions of labor and specialized skills to more efficiently produce and deliver food and beverages.