

**THE CITY OF KEY WEST
PLANNING BOARD
Staff Report**



To: Chairman and Planning Board Members

From: Patrick Wright, Senior Planner II

Through: Thaddeus Cohen, Planning Director

Meeting Date: September 15, 2016

Agenda Item: **Major Development Plan – Mallory Square (RE# 00072082-001100, 00072082-001400 and 0072082-003700)** – A Major Development Plan application for redevelopment of a restaurant and adjacent property located 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.

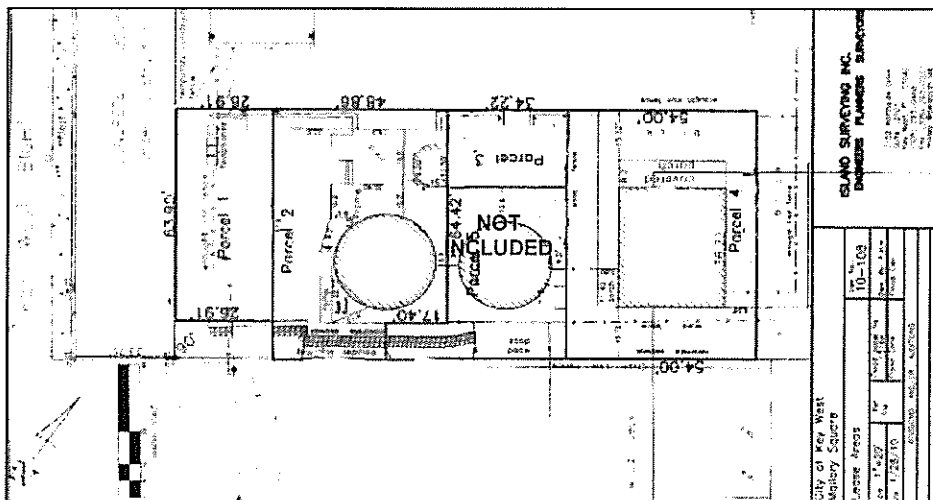
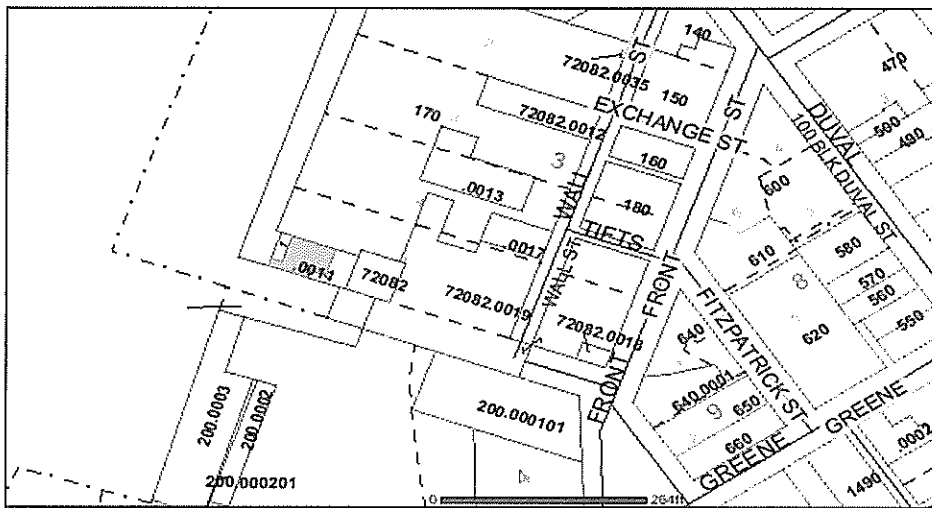
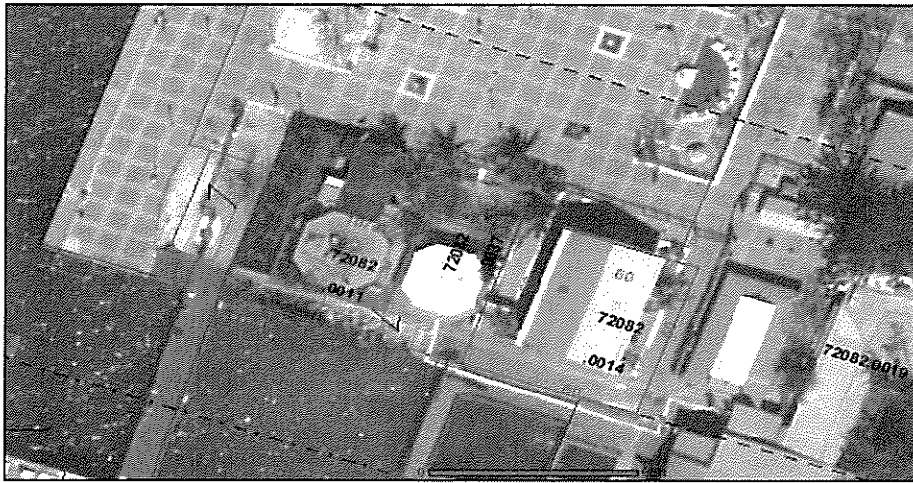
Request: Reconstruction of a restaurant containing 2,344 square feet of consumption area

Applicant: Trepanier and Associates, Inc.; Peter Pike, Architect

Property Owner: City of Key West

Location: Mallory Square
(RE # 00072082-001100, 00072082-001400 and 0072082-003700)

Zoning: Historic Public Service (HPS)



Area 1 and 3 - RE# 00072082-003700

Area 2 - RE# 00072082-001100

Area 4 - RE# 00072082-001400

Background / Proposed Development:

The proposed development includes four 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 port and public plaza which includes a number of commercial and cultural buildings, a memorial, historic cable hut structures, a sculpture garden, deep water ship berth, and multiuse open space. In the evenings a nightly sunset celebration, consisting of performers and commercial vendors, occupies the waterfront portion of the plaza and attracts hundreds of visitors.

The four areas included in this specific request include the following existing features and entitlements:

- Area 1: This area serves as a public access way linking Mallory Square across the bridge to the Weston Hotel area. It includes an existing iron fence, telephones and a sidewalk.
- Area 2: This area consists of a former restaurant development and a historic cable hut. This entire area is subject to a lease agreement from 1999 which resolved litigation in favor of a series of uses, including restaurant consumption area. That lease forms the basis of consumption area calculations relevant to determining the legal non-conforming uses enabled in this application.
- Area 3: This area links Areas 2 and 4 and is partially developed as an open area. This area is immediately adjacent to Area 5, which is not included in this application but which features the second cable hut.
- Area 4: This area contains the Hospitality House, a contributing historic structure which was relocated to this parcel in the 1980's and formerly served as a welcome center but is currently vacant.

These four contiguous areas together form the area addressed in this application. However, because these areas are not parcels (as legally defined in the city's land development regulations) but rather lease areas within a much larger parcel, site calculations provided are for the entire Mallory Square area.

The new restaurant structure is proposed to be a single story and to include 2,344 square feet of consumption area which translates to a maximum of 156 seats. This consumption area derives from square footage associated with the 1999 lease. The calculation of consumption area from that lease excludes kitchen and bathroom areas and is considered by the Planning Department to represent a conservative approach to understanding the legally established restaurant-related entitlements. The consumption area is delineated on sheet A-3 of the attached plan set.

The proposal will link the historic hospitality house to the proposed restaurant with an ADA compliant pathway and ramp. The rear of the hospitality house will be renovated to contain ADA accessible men's and women's restrooms. A portion of Area 1 is proposed to contain an active recreation area containing space for sunset performers, artists and artwork. Public access is proposed in all open space areas and important access ways along the waterfront, particularly between the pedestrian bridge and Mallory Square, are proposed to remain.

The entire project is located within the Historic Commercial Pedestrian-Oriented Area. No new consumption area related to the restaurant is proposed; 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.

In order to allow the proposed development, the following development approvals would be necessary or are requested by the applicant:

- Major Development Plan review is required due to the reconstruction of greater than 2,500 square feet of nonresidential gross floor area, pursuant to Section 108-91.A.2.(B) of the Land Development Regulations (LDRs) of the Code of Ordinances (the “Code”) of the City of Key West (the “City”); and
- A Height Variance for non-habitable space is required to allow the proposed steel framed tower, pursuant to Sections 90-395, 122-960(3) and 122-1149 of the Land Development Regulations (LDRs) of the Code of Ordinances (the “Code”) of the City of Key West (the “City”)

Surrounding Zoning and Uses:

North: HPS: Restaurant, theatre, tourist and retail shops
South: C-OW: Open water leading to Key West Harbor
East: HPS: Public plaza and retail shops
West: HPS: Public plaza

Process:

Development Review Committee (DRC):	April 28, 2016
Preliminary Tree Commission:	Not required per Urban Forester
Planning Board:	August 18, 2016 – Postponed September 15, 2016
Final Tree Commission:	pending
City Commission:	pending
DEO review	Up to 45 days, following local appeal period

Analysis – Evaluation for Compliance With The Land Development Regulations:

Section 108-91 A(2)b of the City of Key West Land Development Regulations requires that any proposed plan within the historic district including the addition or reconstruction of equal or greater than 2,500 square feet of gross floor area shall require a Major Development plan. Section 108-196(a) of the Land Development Regulations states that “after reviewing a Major Development Plan or a Minor Development Plan for a property and staff recommendations, the Planning Board shall act by resolution to approve, approve with conditions, or disapprove it based on specific development review criteria contained in the Land Development Regulations and the intent of the Land Development Regulations and Comprehensive Plan.”

Planning staff, as required by Chapter 108 of the City Code of Ordinances, has reviewed the following for compliance with the City’s Land Development Regulations and Comprehensive Plan:

Project Data Summary				
	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Zoning	HPS			
Flood Zone	AE-10			
Size of Site	154,988 sq. ft.			
Front Setback	20'	261' 4"	256' 3"	In Compliance
South Side Setback	Greater of 5' or 10% of lot width (Max 15')	14'	15'	In Compliance
North Side Setback	Greater of 5' or 10% of lot width (Max 15')	420' 4"	388' 4"	In Compliance
Rear Setback	20'	44' 1"	24' 4"	In Compliance
Coastal Construction Control Line	30'	11' 11"	30'	In Compliance
F.A.R	1.0 (154,988 sq. ft.)	0.25 (38,795 sq. ft.)	0.28 (43,910 sq. ft.)	In Compliance
Building Coverage	40% (61,995 sq. ft.)	21% (33,162 sq. ft.)	25% (38,277 sq. ft.)	In Compliance
Impervious Surface	50% (77,494 sq. ft.)	90.85% (140,815 sq. ft.)	90.83% (140,780. sq. ft.)	Existing Nonconforming
Parking	None Required			
Open Space/ Landscaping	20% (30,997 sq. ft.)	9% (14,173 sq. ft.)	9% (14,208 sq. ft.)	Existing Nonconforming
Non-habitable Height	25'	28'8"	39'	10' 4"

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

The City’s Comprehensive Plan Objective 9-1.5 directs the City to ensure that facilities and services needed to support development are available concurrent with the impacts of new development. The analysis considers potable water, sanitary sewer, solid waste, drainage, vehicle trip generation and recreation. Section 94-36 requires a concurrency determination to be made concerning proposed development. The applicant provided a concurrency analysis as part of this application. Staff has reviewed the provided concurrency analysis report and determined that the proposed project meets the City’s requirements for concurrency management with the exception of stormwater management. The City’s Utilities Services Department has specified improvements necessary to meet code requirements and as such compliance with stormwater management requirements are addressed as a recommended condition of approval.

Appearance, design and compatibility (City Code Section 108-234)

The development plan shall satisfy criteria established in:

City Code Chapter 102 (historic preservation)

This property is located in the City's Historic District. The proposed demolition and design will require a certificate of appropriateness.

Articles III (site plan), IV (traffic impacts) and V (open space, screening and buffers) of City Code Chapter 108 (planning and development)

The proposed site plan is analyzed in greater detail below. Open space will be increasing as a result of the proposed reconstruction.

City Code Section 108-956 (potable water and wastewater)

Potable water and wastewater were found to be in compliance.

Article II (archaeological resources) of City Code Chapter 110 (resource protection)

There are no known archaeological resources on the property. If any archeological resources are discovered during construction, the Applicant would be required to comply with this article of the LDRs.

Site location and character of use (City Code Section 108-235)

- (a) *Compliance.* The submitted development plan has been reviewed for compliance with all applicable performance criteria set forth in Code Chapter 94 (concurrency management), Code Chapter 102 (historic preservation), Code Chapter 106 (performance standards), Articles I and III through IX of Code Chapter 108 (planning and development), Code Chapter 110 (resource protection) and Code Chapter 114 (signs).
- (b) *Vicinity map.* A location map is indicated on the survey.
- (c) *Land use compatibility.* Properties within 100 feet are located within the HRCC-1 and HPRD Zoning Districts. Adjacent land uses within 300 feet include restaurants, theater, public plaza and tourist related businesses. No unincorporated parts of the county are located nearby, nor would any be impacted by the proposed development.
- (d) *Historic and archeological resource protection.* The project is located in the Key West Historic District. The proposed demolition and design will require a certificate of appropriateness.
- (e) *Subdivision of land.* No subdivision of land is proposed at this time.

Appearance of site and structures (City Code Section 108-236)

The Applicant submitted a development plan that generally exhibits harmonious overall design characteristics in compliance with the performance standards stipulated in Code Sections 108-278 through 108-288, as analyzed and reflected in the staff recommendation below.

Site plan (City Code Section 108-237)

The Applicant submitted a site plan pursuant to City Code Section 108-237, which is analyzed in greater detail below.

Architectural drawings (City Code Section 108-238)

The Applicant submitted architectural drawings prepared by a professional architect registered in Florida pursuant to City Code Section 108-238.

Site amenities (City Code Section 108-239)

Proposed site amenities include increased open space and a decrease or no change in overall lot coverage for the site as well as new active recreation and park area. This project also qualifies for the 1% set-aside for public art.

Site survey (City Code Section 108-240)

The Applicant submitted a site survey pursuant to City Code Section 108-240.

Soil survey (City Code Section 108-241)

Not applicable.

Environmentally sensitive areas (City Code Section 108-242)

No environmentally sensitive areas are located on or near the property, which is located within the AE-10 flood zone.

Land clearing, excavation and fill, tree protection, landscaping and irrigation plan (City Code Section 108-243)

- (a) *Land clearing, excavation and fill.* The existing land is currently developed, no excavation or fill are being proposed.
- (b) *Tree protection.* The City's Urban Forestry Manager and the Tree Commission are reviewing the proposed tree removal and landscape plans.
- (c) *Landscaping plan.* The submitted plan indicates new landscaping incorporated throughout the site. Landscaped open space would be increased above the existing amount. The landscape plan received preliminary conceptual approval at the November 10, 2015 Tree Commission meeting. Final landscape approval will be required before the project moves to City Commission. No environmentally sensitive areas exist.
- (d) *Irrigation plan.* An irrigation plan was provided and reviewed by the Tree Commission.

On-site and off-site parking and vehicular, bicycle, and pedestrian circulation (City Code Section 108-244)

The entire project is located within the Historic Commercial Pedestrian-Oriented Area. No new consumption area related to the restaurant is proposed; 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.

Housing (City Code Section 108-245)

No housing is proposed as part of this Major Development Plan application

Economic resources (City Code Section 108-246)

An analysis of estimated average ad valorem tax yield from the proposed project was not submitted by the applicant. However, it is expected the tax yield would be greater than that from

the existing improvements on the property. No construction expenditure was given by the applicant.

Special considerations (City Code Section 108-247)

- (a) The relationship of the proposed development to the City's land use plans, objectives and policies is being evaluated as part of this analysis. The relationship of the proposed development to public facilities was evaluated above and no conflicts were identified.
- (b) The project located is located within the historic district and is in the AE-10 flood zone.
- (c) No unincorporated portions of the county would be impacted by the proposed development.
- (d) Shoreline access will not be impeded.
- (e) No special facilities are proposed to accommodate bus ridership.
- (f) No energy saving devices are being proposed
- (g) The property is located within the AE-10 flood zone
- (h) The proposed development would increase open space.
- (i) Coordination with applicable agencies is being facilitated through the DRC.
- (j) The construction of a deck on existing piers over the water is proposed. All permits must be reviewed by the City's Biologist and all State and Federal permits for construction that affects submerged land need to be obtained.

Construction management plan and inspection schedule (City Code Section 108-248)

The proposed development is not phased. The applicant would like to commence construction as soon as possible.

Truman Waterfront Port facilities (City Code Section 108-249)

Not applicable.

Site plan (City Code Chapter 108, Article III)

The City shall not approve a site plan unless a finding is made that such site plan conforms to all applicable sections of the LDRs, pursuant to City Code Section 108-276, as analyzed below.

Site location and character of use (City Code Section 108-277)

The proposed development is either consistent with the HPS district or consists of established legally non-conforming restaurant use. Therefore it does not conflict with the intent of the land development regulations, and is not anticipated to cause any conflict in relation to existing public facilities that are in place.

Appearance of site and structures (City Code Section 108-278)

The proposed project appears to be harmonious with the surrounding Mallory Square environment. The construction and demolition will require a Certificate of Appropriateness and be required to meet Historic Architectural Review Commission guidelines and approval..

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

Mechanical equipment utility hardware and waste storage areas screening and location will be provided be depicted sheet A-1 of the plans.

Front-end loaded refuse container location requirements (City Code Section 108-280)

The City will coordinate the location and type of refuse containers with Waste Management to ensure adequate service access.

Roll-off compactor container location requirements (City Code Section 108-281)

A trash compactor is not proposed.

Utility lines (City Code Section 108-282)

No change in utility lines is being proposed. At time of building permit review KEYS Energy will do a full project review.

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

No commercial and manufacturing activities are proposed.

Exterior lighting (City Code Section 108-284)

According to the application exterior lighting will be energy efficient and to “Dark Sky” lighting standards.

Signs (City Code Section 108-285)

Any new signage would require a H.A.R.C. Certificate of Appropriateness.

Pedestrian sidewalks (City Code Section 108-286)

No pedestrian sidewalks are required or proposed as part of this Major Development Plan. The existing access area leading to the pedestrian bridge that links Mallory Square to the Westin Marina will remain accessible as a condition of this approval. Further, proposed plazas will be open to the public as well.

Loading docks (City Code Section 108-287)

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

Storage areas (City Code Section 108-288)

The waste and recycling service areas are located on at the rear of the proposed restaurant and the rear and side of the Hospitality House for temporary storage. The area is screened from view by a fence and landscaping

Land clearing, excavation or fill (City Code Section 108-289)

No work would impact a floodplain or a conservation area. A proposed stormwater management would address drainage and runoff from the site. Any vegetation removal is being reviewed by the Urban Forestry Manager and the Tree Commission. Temporary fencing and silt barriers shall be in place during demolition and construction to prevent soil and debris from running into City streets and sidewalks.

Landscaping (Code Chapter 108, Article VI)

A landscape plan is required as part of development plan review, pursuant to City Code Section 108-411. A final landscape plan approval by the Tree Commission is required prior to the project moving to City Commission.

Off-street parking and loading (Code Chapter 108, Article VII)

The entire project is located within the Historic Commercial Pedestrian-Oriented Area. No new consumption area related to the restaurant is proposed; 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.

Stormwater and surface water management (Code Chapter 108, Article VIII)

A stormwater management plan was submitted indicating that surface water management is designed for the 25-year/72-hour storm event, as required. Stormwater would be retained on-site through an exfiltration trench.

Utilities (Code Chapter 108, Article IX)

Access to potable water, access to wastewater disposal systems and conservation of potable water supply were analyzed in the above concurrency management determination and were found in compliance.

Art in Public Places (City Code Section 2-487)

The proposed development, being a Major Development Plan, qualifies for the City's Art in Public Places (AIPP) program, pursuant to City Code Section 2-487. The AIPP program requires 1% of construction costs to be set-aside for the acquisition, commission and installation of artwork on the subject property. The program applies to new construction projects exceeding \$500,000 and renovation projects exceeding \$100,000. The current construction cost estimate is \$500,000.

Utilities (Article IX):

According to information submitted to the Department, FCAA and Keys Energy Services are able to provide utilities to the site. The proposed development project will use existing utility mains for potable and sewer water and existing underground electrical lines as shown in the concurrency management report. The Utilities department has requested a Utility Connection Plan and further coordination with the department for the development.

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends the request for Major Development Plan be **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 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. 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. The proposed structures will be included in the final leasehold area determined by the City at the City’s discretion.
6. 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.
7. 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.

Conditions prior to the City Commission hearing:

8. The applicant shall obtain final landscape plan approval from the Tree Commission. The final approved plan must be signed and sealed by a registered landscape architect.

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

Conditions prior to issuance of a certificate of occupancy:

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