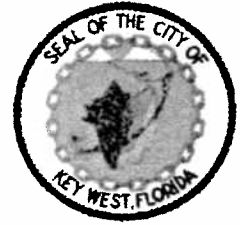


Staff Report

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



To: Chairman and Planning Board Members

From: Nicole Malo *NMM*

Through: Amy Kimball-Murley, AICP, Planning Director

Meeting Date: June 17, 2010

Agenda Item: A Major Modification to a Major Development Plan and Conditional Use approval to reconfigure a parking lot, eliminate an access easement and relocate the garbage area for property located at 512 Greene Street in the Historic Residential Commercial Core Gulf Side (HRCC-1) zoning district per Section 108-91C(3) and (4) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida (RE 00001170-000000).

Request: To allow modifications to a Major Development Plan and Conditional Use approved via City Commission Resolution 09-242 which would enable a reconfiguration of the parking lot, elimination of an ingress and egress easement and relocation of garbage storage and pick-up areas.

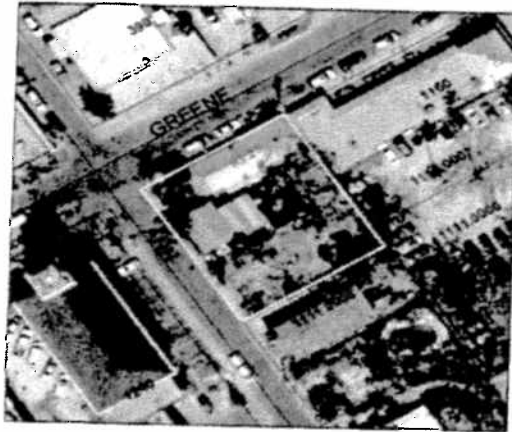
Applicant: Susan M. Cardenas, Esq.

Authorized Representative:
Susan M. Cardenas, Esq.

Property Owner: 512 Greene Street, LLC; Peter Brawn, Managing Member

Location: 512 Greene Street
RE# 00001170-000000

Zoning: Historic Residential Commercial Core, Gulf Side (HRCC-1)



Background: This property is located at the northeast corner of the intersection of Greene Street and Ann Street. The parcel is approximately 9,800 square feet and prior to recent redevelopment approvals supported commercial uses (including a former restaurant and retail store), commercial surface parking area and a single family home. In 2009 the City Commission approved redevelopment of the site to allow 1,045 square feet of indoor bar and lounge consumption area, 1,256 square feet of retail floor area located in several historic structures, and associated parking consisting of seven spaces. In order to assure vehicular egress from the parking area as well as garbage storage and handling access, the City Commission required a perpetual two-way easement across the adjacent lot as one of seven conditions associated with the approval. After considerable investment in redevelopment efforts on the site, the property owner decided not to execute the required easement on the adjacent parcel and instead to request an amendment to the existing approvals with the aim of eliminate the need for an easement. As such, completion of site development activities have been on hold until the Planning Board and City Commission have the opportunity to review the modified request.

The applicant submitted a series of modified site plans starting in February 2010 which continued to evolve through June 1, 2010. Modifications to the site plans focused on showing proposed increases to bar and lounge consumption area and various parking lot designs. On May 26, 2010, the applicant provided site plans showing the proposed elimination of the outdoor consumption area and on June 1, 2010 the applicant submitted an amended request consistent with the revised plan.

Prior Approvals: The prior approvals included 1,045 square feet of indoor bar and lounge consumption area, 1,256 square feet of retail floor area located in several historic structures, and associated parking consisting of seven spaces. In order to address neighborhood concerns regarding noise and other impacts associated with garbage storage and pick-up, the applicant agreed to store garbage on an adjacent lot. The site also includes a restored historic three-hole outhouse, bicycle and moped parking areas and a parking lot with one handicap space and six standard parking spaces positioned at a 45 degree angle. The approved development plan showed the parking lot with a one-way aisle, entering the site from Ann Street and exiting across an adjacent parcel onto Simonton Street. Condition number six of approval 09-242 requires that a perpetual two-way easement on the adjacent property leading out to Simonton Street be executed

prior to issuance of a building permit. The easement was also intended to provide access from Simonton Street for commercial trash and recycling removal.

City Commission Resolution 09-242 has seven conditions, as follows:

1. Tree Commission approval must be obtained prior to building permit issuance;
2. The applicant voluntarily agrees to donate the 1.0 Equivalent Single Family Unit associated with the single family residence to the City of Key West through the execution of a donation waiver;
3. 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 available to the city upon request;
4. There will be no live music, disc jockeys, or karaoke at the site unless approved under a special event permit per Section 6-86 of the Code of Ordinances;
5. Security cameras will be provided on site and security personnel will be present during the hours of operation;
6. A perpetual two-way easement in a form acceptable to the City Attorney will be executed prior to the issuance of a building permit, to provide access from Simonton Street for commercial trash and recycling removal from 512 Greene Street, and to provide for ingress and egress from Simonton Street to Greene Street;
7. Additionally, compliance with the plans dated August 5, 2009 is a condition of approval and specifically incorporated herein.

Request: This Modification to a Major Development Plan and Conditional Use approval application request includes site design changes to the parking lot in order to eliminate the need for egress (and an associated easement) across an adjacent property and the relocation of garbage storage and pick-up areas

Because the request includes substandard aisle widths it requires a staff recommendation and City Commission approval per Section 108-641. The relevant language in that section reads as follows: "the City Commission may approve modifications upon demonstrated need by the applicant and based on recommendations of the city staff. In considering modification to the specifications required by this subdivision, the City Commission shall be guided by the current edition of the Architectural Graphic Standards by Ramsey and Sleeper or an equivalent commonly accepted source of standards." After coordination with the City Engineer, whose was

initially concerned about the safety of reduced aisle widths, particularly when vehicles backed out towards an onsite pedestrian corridor, the applicant proposed reducing the number of parking spaces to four parking spaces, with one parking space ADA compliant and the remaining three spaces compact car spaces. Both the reduced aisle width and the design using compact car stall spaces require City Commission approval under the afore mentioned code section. On May 18, 2010, the City Engineer recommended approval of the parking lot design with a series of conditions which have been incorporated into the site plan dated May 26, 2010.

The applicant's original request as submitted February, 2010, to increase outdoor bar and lounge consumption area was withdrawn in the amended application submitted June 1, 2010. As a result the applicant is no longer required to seek a parking variance, which was withdrawn through a letter to the department at the same time.

Previous City Actions

DRC Meeting	May 28, 2009
HARC	June 9, 2009
Tree Commission Meeting	August 10, 2009
Planning Board	August 6, 2009, Resolution 2009-030
City Commission Meeting	October 13, 2009, Resolution 09-242

Process

DRC Meeting	February 25, 2010
HARC	April 5, 2010 - H10-03-31-350
Tree Commission Meeting	N/A
City Commission Meeting	TBA

Surrounding Zoning and Uses:

North:	HRCC-1- Restaurant and retail
East:	HRCC-1- Retail and parking lot
South:	HRCC-1- Residential apartments, parking lot and Old City Hall
West:	HRCC-1- Take out and Old City Hall

Uses Permitted:

- (1) Single-family and two-family residential dwellings
- (2) Multiple-family residential dwellings
- (3) Group homes with less than or equal to six residents as provided in section 122-1246
- (4) Places of worship
- (5) Business and professional offices
- (6) Commercial retail low and medium intensity less than or equal to 5,000 square feet as provided in division 11 of article V of this chapter
- (7) Commercial retail high intensity less than or equal to 2,500 square feet as provided in division 11 of article V of this chapter
- (8) Hotels, motels, and transient lodging
- (9) Medical services
- (10) Parking lots and facilities
- (11) Restaurants, excluding drive-through

- (12) Veterinary medical services without outside kennels
- (13) Adult entertainment establishments (see section 122-1533)

Conditional Uses:

- (1) Group homes with seven to 14 residents as provided in section 122-1246
- (2) Cultural and civic activities
- (3) Community centers, clubs, and lodges
- (4) Educational institutions and day care
- (5) Nursing homes, rest homes and convalescent homes
- (6) Parks and recreation, active and passive
- (7) Protective services
- (8) Public and private utilities
- (9) Bars and lounges, including those associated with adult entertainment establishments
- (10) Boat sales and service
- (11) Commercial amusement, except adult entertainment establishments
- (12) Commercial low and medium intensity greater than 5,000 square feet as provided in division 11 of article V of this chapter
- (13) Commercial retail high intensity greater than 2,500 square feet as provided in division 11 of article V of this chapter
- (14) Funeral homes
- (15) Light industrial
- (16) Marinas
- (17) Small recreational power-driven equipment rentals

Major Development Plan Review

Analysis – Evaluation for Compliance With The Land Development Regulations:

Section 108-91 (C)1 and 2 of the City of Key West Land Development Regulations regulates the types of modifications to development plans that can be considered for administrative approval or rise to an additional level of review for Minor Modifications to Development Plans. Section 108-91 (C)3 of the City of Key West Land Development Regulations requires that any Major Modification to a Development Plan be treated in the same manner as the original approval. Additionally, Section 108-91 (C)4 of the Land Development Regulations stipulates that any changes to specific conditions of the original approval be approved by the administrative body that originally approved the development.

The original Major Development Plan and Conditional Use approval was recommended for approval by the Planning Board on August 6, 2009, with seven conditions of approval and subsequently approved by the City Commission, October 13, 2009, with seven conditions of approval in accordance with the following requirements:

Section 108-91 A(2)(b) of the City of Key West Land Development Regulations requires that any proposed non-residential development within the historic district greater than 2,500 square feet submit an application for a Major Development Plan. Section 108-196(a) of the Land Development Regulations states "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.”

Section 108-198 of the Land Development Regulations states that the City Commission shall approve with or without conditions or disapprove the development plan based on specific development review criteria contained in the Land Development Regulations and based on the intent of the Land Development Regulations and Comprehensive Plan. The City Commission may attach to its approval of a development plan any reasonable conditions, limitations or requirements that are found necessary, in its judgment, to effectuate the purpose of this article and carry out the spirit and purpose of the Comprehensive Plan and the Land Development Regulations. Any condition shall be made a written record and affixed to the development plan as approved. If the City Commission disapproves a development plan, the reasons shall be stated in writing."

Planning staff, as required by Chapter 108 of the City of Key West Land Development Regulations, has reviewed the following site information for compliance with the City's LDRs and Comprehensive Plan:

Project Data							
	Required/ Allowed	Existing	Proposed	Variance Request			
Zoning	HRCC-1	No Changes Proposed					
Flood Zone	AE						
Size of Site	9,827 s.f						
Front Setback (Front Street)	None						
West Side Setbacks	2.5'						
East Side Setback	2.5'						
Street Side Setback (Fitzpatrick Street)	None						
Rear Setback	10'						
FAR	1.0				.32	No Changes Proposed	
Building Coverage	50%				33% (3,257 s.f)		
Impervious Surface	70%	74% (7,335 s.f)					
Open Space/ Landscaping	20%	22% (2,162 s.f)					
Parking							
Bicycle/ Scooter Parking	4	10					
Parking	4	7	4	None Required			

Concurrency Facilities and Other Utilities or Service:

As required by Objective 9-1.5 of the Comprehensive Plan and Section 108-233 of the Land Development Regulations development plans shall satisfy concurrency management regulations

to ensure that facilities and services needed to support the proposed development meet the City's level of service standards.

The applicant has provided a Concurrency Management report for the parcel of approximately 9,827 square feet or 0.225846 acres which is used to determine service levels. The proposed project is commercial in nature and will incorporate a total of ten employees on site. As existing, the site is concurrent with Chapter 94 of the Code. No changes are proposed to the site that impacts the existing standards including garbage and recycling areas, and facilities that meet ADA standards. The applicant has obtained city engineer approval of the revised site plan to ensure that it still meets stormwater management requirements.

1. The anticipated public facility impacts of the proposed development:

The applicant has provided a Concurrency Management analysis. The proposed development is not anticipated to generate any public facility impacts.

2. The ability of existing facilities to accommodate the proposed development at the adopted level of service standards:

The Concurrency Management analysis concluded that the existing facilities are expected to accommodate the proposed redevelopment project at the adopted level of service standards.

3. Any existing facility deficiencies that will need to be corrected prior to the completion of the proposed development:

The Concurrency Management analysis found that there are no existing facility deficiencies which will need to be corrected prior to the completion of the proposed development.

4. The facility improvements or additions necessary to accommodate the impact of the proposed development at the adopted level of service standards and the entities responsible for the design and installation of all required facility improvements or additions; and

There are no facility improvements or additions that are necessary to accommodate the impact of the proposed redevelopment.

5. The date such facility improvements or additions will need to be completed to be concurrent with the impacts on such facilities created by the proposed development:

This criterion is not applicable, as there are no known facility improvements or additions that will need to be completed for the modification to the development plan.

Fire Protection:

Fire protection was initially improved through increased open space in the courtyard between all four structures. The applicant has submitted a life safety plan for the proposed bar that was approved by the Fire Marshal's Office at the time of the original approval. In addition, the Fire Marshal approved a reduced aisle width for the property as proposed on the site plans dated May 26, 2010 (see attachment).

Other Public Facilities:

Educational facilities, police protection, fire protection, electric power, health care, disaster preparedness and recreational facilities will not experience a change in usage due to the modified proposal because these facilities are currently in place.

Appearance, design and compatibility (Section 108-234)

1. Compliance with Chapter 102; Articles 111, IV and V:

Articles III and V are not applicable to the proposed project. The project is in compliance with Article IV of the City Code. Proposed development associated with this modification request was issued a Certificate of Appropriateness from the Historic Architectural Review Commission for new lighting, site plan redesign of parking lot, landscaping and new fencing has been approved for this project through approval H10-03-31-350.

2. Compliance with Section 108-956:

The requirements for domestic water and wastewater have been addressed in the concurrency management report submitted by the applicant.

3. Chapter 110; Article II:

Should any archeologically significant resources be discovered during the development of the site, the applicant shall be required to comply with this article of the Land Development Regulations.

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

This site is located in the heart of the HRCC-1 zoning district which permits bars and lounges only as a conditional use. The character of the zoning district incorporates side walk-oriented lounges and bars and the most intense activity center in the commercial core of the city. Although the surrounding properties are also primarily commercial in nature, the site is proximate to nearby residential units as well as Old City Hall. Issues identified in the public hearing in 2009 included noise generation, garbage handling and storage impacts, and ingress and egress impacts. Although the applicant was able to resolve these issues at the time, this application changes items that were of specific concern to neighbors during the last approval process.

The Planning Department has strongly encouraged the applicant to meet with neighbors, particularly those associated with nearby transient and residential areas, and attempt to resolve issues prior to presenting the item before the board on June 17, 2010. Letters from neighbors indicate that noise and parking impacts are a concern (see attached letters). In response to these concerns, as of June 1, 2010, the applicant has withdrawn the request for outdoor consumption area which may address issues raised by neighbors.

For the previous approval the applicant hired noise experts to examine noise generating from the proposed bar which may affect business at Old City Hall or surrounding residential units. The noise experts advised proper techniques for mitigating and redirecting potential noise generation. Conditions of approval 09-042 are recommended to be maintained as conditions of this request. No outdoor music is proposed by the modification to the application. The existing approval conditions are as follows:

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 available to the city upon request;
2. There will be no live music, disc jockeys, or karaoke at the site unless approved under a special event permit per Section 6-86 of the Code of Ordinances.

The applicant has removed the outdoor consumption area request, included mitigative noise measures for indoor music, and has agreed to the condition that there be no outdoor speakers in order to control noise. The applicant has installed a two-sided shadow box wooden fence between the parking lot and the adjacent residential property. Additionally, there are no windows on the rear of the bar structure. The solid waste storage area appears to be adequate in size and is proposed to be screened with fencing and vegetation. The applicant has included a waste handling plan to address staff and neighborhood questions concerning neighborhood pick-up times and frequency. However, letters from neighbors indicate that the waste handling may still be an issue.

1. **Appearance of site and structures (Section 108-236 and Section 108-278):**
No design changes are proposed for the structures on the site. The existing historical structures are in harmony with neighboring structures. The appearance of the proposed parking lot plan, landscaping, lighting and garbage area appears compatible with the overall environment and land uses in the immediate vicinity and the project has met the requirements outlined in this Section of the City Code.
2. **Location and screening of mechanical equipment, utility hardware and waste storage areas (Section 108-279):**
Waste and recycling storage is proposed to be relocated as part of this site plan modification. Waste is proposed to be kept on the southeastern vegetated area of the property buffered by fencing and landscaping at the rear of the parking lot. Garbage will be removed on an as needed basis based as explained by Waste Management officials. Please see attached section labeled Solid Waste Management Plan for details. All mechanical equipment and utility hardware areas will be in compliance with Section 108-279 of the Code and screened.
3. **Utility lines (Section 108-282):**
No new construction is proposed that requires the placement of underground utility lines. Landscaping with shrubs and plants shall be provided to screen pad-mounted transformers if they are installed on site, as required in Section 108-282. Keys Energy has provided a letter of no objection for this property and existing electric lines will be utilized.

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

No outdoor business is proposed. All business will take place within each proposed commercial venue. The proposed storage area is inside the building towards the center of the site. Storage areas are identified on the site plans.

5. Exterior Lighting (Section 108-284)

A lighting plan was approved as part of the original proposal and is depicted on the proposed site plan. Modified lighting has been approved by HARC and complies with the referenced Code Section.

6. Signs (Section 108-285):

The applicant shows signage at the parking lot entrance and exit on the site plan submitted on May 26, 2010 as requested by the City Engineer. A separate permit will be required for the installation of any signs and the signs will be required to comply with Chapter 114, Signs and must be approved by HARC.

7. Pedestrian sidewalks (Section 108-286):

The existing pedestrian circulation system provides adequate site circulation. No new sidewalks are proposed.

8. Loading docks (Section 108-287):

N/A

9. Storage Areas (Section 108-288):

A garbage storage area is proposed on site as part of the modified plan. The area is enclosed by fencing as proposed on the site plan.

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

The number of on-site parking spaces proposed is adequate to accommodate the uses on site. However, the proposal does not satisfy on and off-street vehicular circulation and parking requirements for Chapter IV and VII, specifically Code Section 108-317 and Section 108-641 for driveways, aisles and stalls. The width of a two-way drive way with parking stalls at a 90 degree angle is required to be 24 feet and each parking stall is required to be 18' by 9'. The proposed aisle width is a minimum of 20'7". The proposed parking spaces are 15' by 9'6" to accommodate compact cars only. According to the footnote of Code Section 108-641 "the City Commission may approve modifications upon demonstrated need by the applicant and based on recommendations of the city staff. In considering modification to the specifications required by this subdivision, the city commission shall be guided by the current edition of the Architectural Graphic Standards by Ramsey and Sleeper or an equivalent commonly accepted source of standards." Additionally, Section 108-646 allows for the reduced dimensions of 7.5' by 15' for compact car spaces, however only 40 percent of spaces can be compact in size. The applicant's request is for 75% of the spaces to be compact in size.

The applicant has presented a modified site plan according to Architectural Graphic Standards by Ramsey and Sleeper (see attachment) and conducted a field test with the City Engineer on May 13, 2010. The City Engineer is recommending approval of the modified parking lot dimensions.

Housing (Section 108-245):

No proposed residential development is included in this proposal. The applicant returned one unit to the City as a condition of the previous approval.

Economic resources (Section 108-246):

The applicant will meet all Code requirements for recording tax yields, construction expenditure as applicable throughout the development phases, and projections of permanent employees using appropriate standard industry classification.

Special Conditions (Section 108-247):

The application as submitted complies with the intent of the Land Development Regulations and the City's Comprehensive Plan. The proposed development is not within any special zoning districts, adjacent to the airport or in proximity to waste treatment.

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

As proposed there are no phases of development of this project, the applicant expects to start the modifications to the site plan immediately.

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

The proposed development plan includes a landscape design prepared by a landscape architect, as required by Section 108-511(b) of the Code. On April 14, 2010 the Tree Commission issued an approval for the design modifications that is also approved by the City Urban Landscape Coordinator. Further modifications to the site plan dated May 13, 2010 were reviewed and staff approved by the Landscape Coordinator and do not require Tree Commission Approval. The modified site plans submitted May 26, 2010 did not include any changes to the landscape design.

Off-street Parking and Loading (Article VII):

The applicant expects service vehicles to be making deliveries through the on-site parking lot. There are no loading zones on Ann Street due to space constraints. The proposed design accommodates ADA access according to the City's ADA coordinator but does not meet dimensional requirements.

Stormwater and Surface Water Management (Chapter 108, Article VIII):

A stormwater plan was approved with the original development plan and shall meet all requirements of this Section of the Code. However, minor stormwater retention areas associated with the May 26, 2010 site plans were added and approved by the City Engineer.

Flood Hazard Areas (Division 4 - Sections 108-821 - 108-927):

The site is located in Flood Zone AE-8. The proposed Modification to the Major Development Plan does not trigger flood proofing.

Utilities (Article IX):

The proposed redevelopment will use existing utility mains for potable water and wastewater as shown in the concurrency management report. For irrigation purposes, rainwater captured in rain barrels on site are installed. Landscaping consists of 70% native species as shown on the proposed landscape plan.

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends the request for a modification to a Conditional Use and Major Development Plan be **approved** with the following conditions:

1. The parking lot shall be used for handicap parking and compact cars only;
2. The applicant voluntarily agrees to donate the 1.0 Equivalent Single Family Unit associated with the single family residence to the City of Key West through the execution of a donation waiver;
3. 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 available to the city upon request;
4. There will 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;
5. Security cameras will be provided on site and security personnel will be present during the hours of operation;
6. Compliance with the plans dated May 26, 2010, is a condition of approval and specifically incorporated herein; and,
7. Waste handling shall be consistent with the Solid Waste Management plan dated April 16, 2010.