

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



To: Chairman and Planning Board Members

From: Nicole Malo

Through: Donald Leland Craig, AICP, Planning Director

Meeting Date: July 21, 2011

Agenda Item: A request for Modifications to a Major Development Plan and Conditional Use approval via City Commission Resolution 09-242 to enable a reconfiguration of the parking lot, elimination of an ingress and egress easement and relocation of garbage storage and pick-up areas and to modify conditions associated with the approval to allow outdoor consumption 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 approval: City Commission Resolution 09-242, which would enable an increase in outdoor bar and lounge consumption area, reconfiguration of the parking lot, elimination of an ingress and egress easement and relocation of garbage storage and pick-up areas

Applicant and 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 with indoor and outdoor consumption area 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 within 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 requested an amendment to the existing approvals with the aim of eliminating the need for an easement. On June 17, 2010 the Planning Board approved a modification to the approved development plan through Resolution 2010-024, however the City Commission tabled the item until such time that the site could be redesigned to eliminate the proposed compact car spaces and accommodate standard parking spaces. In an effort to satisfy the requests of numerous parties involved in the development process, the applicant sought continuances for the project from the City Commission.

While in the process of redesigning the parking lot the applicant decided to amend the request to also include outdoor consumption area. Because the bar and lounge use is conditional in the zoning district the new request requires Planning Board review.

Request: This Modification to a Major Development Plan and Conditional Use approval application request includes the following key elements:

- Site design changes to the parking lot in order to eliminate the need for egress (and an associated easement) across an adjacent property;
- Stormwater management plan and associated landscaping;
- Relocation of garbage storage and pick-up areas; and,
- An additional 90 square feet of consumption area, all outdoors.

The applicant's request to increase bar and lounge consumption area is for a 90 square foot outdoor area on the corner of Ann and Greene Streets. The applicant provided adequate

information showing that 90 square feet of outdoor restaurant consumption area, on that corner, was preexisting for the purposes of assessing parking requirements, and had not been abandoned based on Code Section 86-9.

The preexisting restaurant consumption area exempts the applicant from parking requirements, however it does not enable the applicant to substitute a bar and lounge use in that area without Conditional Use approval.

Because the original development plan modification was approved by the Planning Board with public input and because the approved site plan is similar to the currently proposed parking lot (albeit drainage plan), the relevant conditions of Resolution 2010- 024 have been maintained and incorporated herein.

The proposed drainage plan has been approved by the city's engineering division, however a paving material that is jointly approved by HARC and the engineering division has not been reconciled to date. This is noted on the drainage plan and considered as a condition of approval.

Current Process

DRC Meeting	December 17, 2010
HARC	December 30, 2010
Tree Commission Meeting	May 9, 2011
Planning Board	July 21, 2011
City Commission Meeting	TBD

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
DRC Meeting	February 25, 2010
HARC	April 5, 2010 - H10-03-31-35
Planning Board	April 29, 2010 – postponed
	May 20, 2010 - postponed
	July 7, 2010 - approved
City Commission Meeting	September 7, 2010 - postponed
	December 7, 2010 - postponed
	February 15, 2011 – postponed

Prior Approvals

- August 6, 2009 - Planning Board Resolution 09-030, Conditional Use and Major Development Plan recommendation of approval.
- October 13, 2009 - City Commission Resolution 09-242, Major Development Plan and Conditional Use approval. The approval includes:
 - 1,045 square feet of indoor bar and lounge consumption area;
 - 1,256 square feet of retail floor area located in several historic structures;
 - Restored historic three-hole outhouse;

- Bicycle parking areas;
- Parking consisting of seven spaces - one handicap space and six standard parking spaces positioned at a 45 degree angle, 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; and
- July 7, 2010 - Planning Board Resolution 2010-024, Modification to a Major Development Plan recommendation of approval. The approval includes:
 - Site design changes to the parking lot in order to eliminate the need for egress (and an associated easement) across an adjacent property;
 - Relocation of garbage storage and pick-up areas and associated landscaping; and

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

Conditional Use Review

Code Sec. 122-62 (a) provides, in part, that “a conditional use shall be permitted upon a finding by the Planning Board that the proposed use, application, and, if applicable, development plan comply with the criteria specified in this section, including specific conditions established by the Planning Board and or the City Commission during review of the respective application in order to ensure compliance with the Comprehensive Plan and Land Development Regulations.” The same section also specifies that “a conditional use shall be denied if the city determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is adverse to the public’s interest.”

Conditional Use Criteria per Code Section 122-62

- (a) Findings:** The Planning Board may find that it meets the Code purpose of ensuring that “a conditional use shall only be permitted on specific sites where the proposed use may be adequately accommodated without generating adverse impacts on properties and land uses within the immediate vicinity.”

The subject property, zoned HRCC-1, has a permitted bar and lounge specifically approved for indoor consumption area only, and retail commercial uses in addition to a parking lot. The proposed outdoor consumption area appears to be generally compatible with the intent of the zoning classification that supports high intensity land uses, such as the proposed bar with indoor/outdoor consumption area. However, in prior public meetings noise and garbage impacts (both from storage and collection) were raised which may be aggravated by the proposed increase in consumption area and the revised solid waste management plan.

Mitigative techniques such as a drainage plan to accommodate stormwater runoff from the parking lot and additional landscaping will provide a buffer from neighboring properties.

The proposed conditional use application for outdoor consumption area shall be in the public interest and shall meet the following criteria as described below:

- (b) Characteristics of use:**

The proposed modification to the approved conditional use includes outdoor consumption area and garbage storage and handling changes, as well as modifications to the parking lot and associated ingress and egress plans. Each key area is assessed below.

1) Scale and intensity

- a. **Floor Area Ratio (F.A.R):** Existing F.A.R is .32; outdoor consumption area does not constitute new structural floor area. However, the consumption area is considered commercial activity as defined by Sections 86-9, and therefore is an intensification of the site and subject to the approval of the Planning Board with appropriate conditions and limitations to respond to the impacts of the site intensification. The F.A.R for the HRCC-1 is 1.0. The proposed use conforms to the requirement.
- b. **Traffic Generation:** According to the Institute of Transportation Engineers Trip Generation Manual, 7th Edition, the trip generation of bars is based on gross floor area. Outdoor consumption area is not considered floor area. However, it is likely that in those peak times the outdoor consumption area for bars and lounges may add to the trip generation of the site. The new outdoor consumption area for bars and lounges of 90 square feet could potentially increase trips from an existing thirty trips on a Saturday peak hour to thirty-nine trips per peak hour. Because of the location of the proposed bar and lounge in the pedestrian oriented district, traffic generation is expected to be primarily pedestrian.
- c. **Square Feet of Enclosed Space For Each Specific Use:**
The existing indoor consumption area is 1,045 square feet; total consumption area is proposed to increase by 90 square feet. The existing retail areas include a total of 1,256 square feet and are not impacted by the proposed modification.
- d. **Proposed Employment:**
No additional employees are anticipated due to the proposed increase on outdoor consumption area. The applicant estimates there will be five persons employed at the bar and lounge.
- e. **Proposed Number of Service Vehicles:**
No additional service vehicles are expected due to the proposed outdoor consumption area. The applicant expects service vehicles to be making deliveries through the parking lot at the rear of the bar 3-6 times a week as needed. Garbage pick up will be on Ann Street to be determined on an as needed basis as confirmed by Waste Management. Waste Management currently collects garbage and recycling between the hours of 4am and 6am up to seven days a week on the block.
- f. **Off-Street Parking:**
The parking lot on site was approved for seven parking spaces of which 3.6 are required and designated for the retail uses. Four spaces are proposed with the new plan, inclusive of one handicap space. This property is within the parking waiver district and the applicant claims the pre-existing outdoor consumption area

associated with the former restaurant on the site should provide a partial credit against new parking requirements per Section 108-573(c). The applicant provided adequate substantiation that the consumption had not been abandoned, but did not provide substantiation regarding the amount of outdoor consumption area authorized for seating at the former restaurant. The Planning Department found documentation that six outdoor seats, or a total of 90 square feet of consumption area, were legally established on the site. Absent any further information, the Department agrees that 90 square feet is exempt from parking requirements. Please note that new retail area associated with the conversion of the single family unit into retail space (1,080 sf at one space per 300 sf) resulted in a requirement of 4 spaces as proposed. The latest site plan, dated July 12, 2011, shows four standard parking spaces, one of which is ADA compliant.

2) On or Off Site Improvements Not Previously Identified

a. Utilities:

No change in utilities are expected from this conditional use proposal. The Florida Keys Aqueduct Authority and Keys Energy Services have no objections.

b. Public facilities:

The applicant has provided a Concurrency Management report. As existing, the site is concurrent with Chapter 94 of the Code, no changes are proposed to the site that impact 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.

c. Roadway or Signal Improvements:

No changes to roadways or signal improvements are required at this time. However, a stop sign is proposed on the site.

d. Accessory Structures or Facilities:

No changes are proposed to any of the accessory structures on site.

e. Other: As part of the Modification to the Major Development Plan site improvements will include additional open space, a drainage plan, relocated garbage handling area and a parking lot that conforms to circulation and dimensional requirements.

3) On-site amenities proposed to enhance the site: Through the approved Conditional Use and Major Development Plan numerous site improvements were made to enhance the pedestrian access, open space, drainage, and landscaping of the site.

a. Open space:

The site currently complies with the 20% open space requirements of the property. The total open space exceeds 2,000 square feet of the approximately 9,800 square foot site.

b. Setbacks:

No change is proposed.

c. Screening and buffers:

A landscape buffer and a two-sided shadow box wooden fence have been installed between the parking area and residential uses in lieu of landscaping which was required by the approved plan. A 6' fence is proposed to be installed across the waste handling site to provide screening. All electrical equipment and garbage shall be located in a screened area.

d. Landscaping berms:

No landscaped berms are proposed, however the applicant has proposed a modified landscape plan and installed additional stormwater retention. The Tree Commission approved changes to the landscape design associated with the revised site plan on May 11, 2011.

e. Mitigative techniques for abating smoke, odor, noise and other noxious impacts:

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 relevant 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.

Additionally, prohibition of outdoor speakers is a condition of this conditional use request for outdoor consumption area. 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 proposal also includes a waste handling area that is buffered from sight by fencing and landscaping. 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.

(c) Criteria for conditional use review and approval: Applications for a conditional use review shall clearly demonstrate the following:

1) Land use compatibility:

The proposed Conditional Use in conjunction with the proposed Modification to the Major Development Plan appears generally compatible with nearby commercial land uses. Several adjacent residential units remain in the area, and the use may be less compatible with them. 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. Further, Old City Hall, where public hearings are held frequently, is directly across from the proposed project.

2) Sufficient site size, adequate site specifications and infrastructure to accommodate the proposed use:

The site size is over 9,000 square feet and the building coverage of all four structures is approximately 4,000 square feet, leaving 5,000 square feet for open space and the parking lot. None of the existing structures on site will be altered in size as part of this amendment request.

The proposed Modification to the Major Development Plan is conforming to and slightly increases open space requirements. The site has adequate size and site specifications to accommodate the proposed outdoor consumption area and amenities such as sidewalks and existing open space courtyards. The applicant has modified the plan to accommodate parking needs and typical parking area dimensions, particularly as they pertain to aisle width and car stall size.

3) Proper use of mitigative techniques:

The applicant has included mitigative noise measures for indoor music, and the applicant has agreed to the condition that there be no outdoor speakers in order to control noise. 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.

4) Hazardous waste:

No hazardous waste shall be generated by this conditional use.

5) Compliance with applicable laws and ordinances:

The applicant will comply with all applicable laws and regulations as a condition of approval.

6) Additional Criteria Applicable to Specific Land Uses:

Applicants shall demonstrate the proposed conditional use satisfies the following criteria:

a. Land Uses Within a Conservation Area:

N/A

b. Residential Development:

N/A

c. Commercial or Mixed Use Development:

The surrounding uses are mostly commercial and adjacent properties include commercial parking lots. However, some residential uses, as well as Old City Hall, are proximate to the site. 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.

d. Development Within or Adjacent to Historic District:

Development proposed was reviewed and approved by the Historical Architectural Review Committee on December 30, 2010, H10-01-703.

e. Public Facilities or Institutional Development:

N/A

f. Commercial Structures, Uses and Related Activities Within Tidal Waters:

N/A

g. Adult Entertainment Establishments:

N/A

Major Development Plan

Analysis – Evaluation for Compliance With The Land Development Regulations:

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 Section 108-91 A(2)(b) and Section 108-196(a) of the Land Development Regulations.

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 Parking	20%	22% (2,162 s.f)		
Bicycle Parking	4	7		
Parking	4	7	4	0

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 provided a concurrency analysis 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.

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.

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.

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 H10-01-703. HARC approval will be required for the parking lot paving material.

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. Therefore, although the proposed outdoor consumption area is similar to other open-air bars in the surrounding blocks and it may not be compatible with the neighborhood based on issues raised by nearby residents and transient businesses at the original hearing and again relative to the modifications requested.

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. 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. 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 July 12, 2011 as previously requested by the City Engineer. A separate

permit will be required for the installation of any signs which are required to comply with Chapter 114, Signs and must be approved by HARC.

7. Pedestrian sidewalks (Section 108-286):

The existing pedestrian circulation system has been modified to provide adequate driveway width for the parking lot.

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 proposal does satisfy on and off-street vehicular circulation and parking requirements for Chapter IV and VII. The City Engineer has recommended approval of the revised design.

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 May 11, 2011 the Tree Commission issued an approval for the design modifications that is also approved by the city urban landscape coordinator.

Off-street Parking and Loading (Article VII):

Article VII, Off-street Parking and Loading, has been previously addressed in this report. The proposed design accommodates ADA access according to the City's ADA coordinator, meets

dimensional requirements and stormwater retention requirements, according to the city engineer (see attached).

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

A stormwater drainage plan was designed for the parking area and approved by the City Engineer. An overall drainage plan was approved with the original development plan and shall meet all requirements of this Section of the Code.

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:

Conditions to be completed prior to or in conjunction with the issuance of building permits:

1. The parking lot surface material to be used in the parking lot must be jointly approved by the engineering division and HARC. The ADA parking space must meet Federal guidelines.

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

2. The applicant will install and maintain a programmable distributive sound system consistent with that described in the document prepared by The Audio Bug and submitted on July 25, 2009, to assure compliance with the “unreasonable noise” definition of Section 26-191 of the Code of Ordinances, and that such referenced document shall be updated to include that a computerized sound monitoring system is installed and real time monitoring access is provided to the City.
3. City Staff will confirm that the sound system is functioning as provided for in Condition two (2).

Conditions subject to a Conditional Approval Permit, per Ordinance Number 10-22:

Conditions subject to associated annual inspection:

4. Outdoor speakers are prohibited.

5. Security cameras will be provided on site and security personnel will be present during the hours of operation.
6. Waste handling shall be consistent with the Solid Waste Management plan dated July 13, 2011. The applicant will recycle materials accepted by the city's waste handling contractor.
7. Compliance with the plans dated July 12, 2011, is a condition of approval and specifically incorporated herein.
8. The outdoor consumption area is limited to the side yard area on the corner of Greene and Ann Streets only and is strictly prohibited from the rear courtyard area.

General Conditions:

9. The applicant expressly agrees to provide the City's agents unfettered access to the computer-generated reports and full, real-time web-based access to the digital monitoring of on-site acoustics for the purpose of assuring compliance with the conditions contained herein.
10. 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.