

## EXECUTIVE SUMMARY



**To:** Jim Scholl, City Manager

**Through:** Amy Kimball-Murley, AICP, Planning Director

**From:** Nicole Malo

**Meeting Date:** December 7, 2010

**RE:** A modification to conditions associated with a Major Development Plan approved via Resolution 08-064 for property located at 5100 College Road (Monroe County Property Appraiser Number Real Estate Number 00072080.001800) known as the Key West Botanical Garden Addition per Section 108-91 C.4. of the Code of Ordinances of the City of Key West

### **ACTION STATEMENT:**

Request: A modification to conditions contained in City Commission Resolution 08-064 for the Key West Botanical Garden Addition in order to make phasing expectations explicit, extend phasing deadlines for construction commencement and modify timeframes in related conditions

Location: 5100 College Road

**BACKGROUND:** In February 2008, the City Commission approved a Major Development Plan for development of the Key West Botanical Garden Addition (Garden Addition) – the 4.52 acre area that was added to the Original Key West Botanical Garden (Original Garden) through City acquisition to expand and enhance the facility. The approved plan was divided into four phases, with the first phase being the creation of a freshwater pond, wetland and boardwalk area and subsequent phases including a trailhead, education buildings, and a welcome and interpretative center. The major work included in the first phase of the project is nearly complete, and future phases are the subject of fundraising and grant application efforts by the site leasee and managers, the Key West Botanical Garden Society, Inc. Excerpts from the site plan package, including a drawing showing the entire garden area, the approved site plan, and the phasing plan, are attached to this report.

Although the 2008 Major Development Plan approval enabled development just on the 4.5 acre Garden Addition area, the conditions of approval addressed both the Garden Addition and the Original Garden area since both parcels are part of a single master plan. As such, the development approval conditions addressed a variety of issues, including requirements in the lease, which were relevant to overall garden management, not just the

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proposed development specific to the Garden Addition. Importantly, several conditions had associated timeframes which were tied to the phasing plan for the Garden Addition. Of particular note was Condition 3, which required a trailer and temporary education facility located in the Original Garden to be relocated into the Garden Addition within two years of Major Development Plan approval (the effective date of the approval was May 15, 2008). The expected development of the education center by 2010 would have created an alternative location for these elements, but funding for construction of the new education center has not been realized. Although the trailer and education facility in question were not permitted correctly and can not be allowed permanently in their current location, mitigation for environmental impacts has been performed and the educational activities occurring in these facilities provide an important public function. Therefore, consideration of an extension of the deadline to remove these facilities appears warranted and is a key element in the applicant's request.

In addition, the applicant has asked that the phased development implicit in the original approval be modified to reflect the economic conditions over the last several years, and to match the deadlines included in the city's approved management plan with the Florida Communities Trust which extends development activities to 2015. Although phasing was approved in associated site plans and discussed in the approval documents, the actual schedule of approval was not incorporated in the resolution itself. The Planning Department concurs with the applicant that the deadlines, should they be modified, should be included in the approving resolution so that they are clear in the future.

Although further conditions modifications were not requested by the applicant, a review of conditions compliance revealed that one condition associated with Phase I regarding sidewalk location required extension, since the sidewalk has not yet been designed or constructed.

In response to a staff request for additional information on overall conditions compliance, the applicant submitted a large package of materials for city review. The package was distributed to city staff who provided additional review and input. All compliance materials are attached to this document. In summary, staff found that the applicant is in compliance with the conditions of approval with the three exceptions already noted: the educational facilities were not relocated as required by Condition 3; the sidewalk location coordination needs to be continued to future phases since the sidewalk is not yet designed and constructed as noted in Condition 6; and, the remaining phases were not constructed by 2010 as shown in the phasing plan. Staff has found that the approval is still in force and effect as required in Section 108-203 of the Code, and that the request for modification and extension of timeframes was timely made.

Section 108-91 C.4. of the Land Development Regulations allows the body which approves a development plan to make changes to the approving conditions. Because the City Commission approved the Major Development Plan in 2008, the City Commission is empowered to consider these condition changes.

The applicant is only requesting changes to the Development Plan conditions of approval at this time. It is possible that future plan changes may be requested to modify structure locations, move boardwalks, or achieve better biological objectives. These possible

modifications are not considered in this request and will be subject to the provisions in Chapter 108 which govern changes to approved plans.

**Previous City Actions:**

Major Development Plan Approval

February 20, 2008

**Planning Staff Analysis:**

Staff has found that the Key West Botanical Garden Society has made important progress towards developing the Key West Botanical Garden Addition, and in recognition of this progress, the overall difficult economic times, and the general compliance with the conditions of approval, recommend that the modification as requested be approved. The specific conditions of approval contained in the original 2008 approval, with recommended cross-out and underlined changes in response to this request are listed below.

1. The applicant shall use consistent terminology for future site development and approval processes, as follows: 5210 College Road (Monroe County Property Appraiser Real Estate Number 00072082.002000) shall be called the Original Key West Botanical Garden Site; and, 5100 College Road (Monroe County Property Appraiser Number Real Estate Number 00072080.001800) shall be called the Key West Botanical Garden Addition. Phases for each site shall be identified in reference to this terminology. Proposed phases within the Key West Botanical Garden Addition and associated construction commencement dates shall be as follows:

<u>Phase 1: Freshwater Pond and Wetland</u>	<u>2008</u>
<u>Phase 2: FKOHT Trailhead and Parking</u>	<u>2015</u>
<u>Phase 3: Welcome / Interpretative Center</u>	<u>2015</u>
<u>Phase 4: Education / Research Facilities</u>	<u>2015</u>

2. All surface disturbing activities that might occur due to development shall be monitored by a professional archaeologist.
3. The trailer and temporary education facility which were located in the Original Key West Botanical Garden site (which is zoned C-UH) in 2007 shall be removed from the C-UP zoning ~~within two years of the Major Development Approval~~ upon the completion of new the education center in the Key West Botanical Garden Addition or by December 31, 2015, which ever occurs first. In addition, the applicant shall perform after-the-fact mitigation acceptable to the City for any impacts to upland hammock which occurred or will occur from the placement and/or removal of the trailer prior to building permit issuance on the Key West Botanical Garden Addition site.
4. The applicant has obtained approval for Phase I of the Key West Botanical Garden Addition from the Liaison Committee, as required by the lease with the City; however, the applicant shall obtain approval of the Liaison Committee for each future phase of development prior to issuance of building permits.
5. The applicant shall obtain approval from the City Manager for the capital improvements proposed as part of this application prior to issuance of building permits for each phase.

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6. The applicant shall obtain an after-the-fact permit from the Landscaping Department and Engineering Department for the landscaping that has been placed in the city right-of-way along College Road. Further, the applicant shall coordinate the location of the proposed sidewalk with the City Engineer, and adjust the location if necessary, prior to building permit issuance for the ~~first~~ phase sidewalk.
7. All improvements shall be ADA accessible and receive approval from the City's Bicycle/Pedestrian/ADA Coordinator.
8. The applicant shall obtain all necessary federal, state, and local permits prior to the commencement of any construction including the Botanical Garden contacting an independent engineer agreed to by the City, Key West Golf Club and Botanical Garden, to address hydrology concerns if the existing hydrology report is not acceptable to the City.
9. The applicant shall provide the City with a Floristic Evaluation of Phase I of the Key West Botanical Garden Addition which includes an inventory of plants with GPS locations within 30 days of Major Development Plan approval. GPS location specifications shall be provided as recommended by the Institute for Regional Conservation and approved by the City.
10. The applicant shall provide the City with a Floristic Evaluation of the remaining phases of the Key West Botanical Garden Addition which includes an inventory of plants with GPS locations within one year of the Major Development Plan approval. GPS location specifications shall be provided as recommended by the Institute for Regional Conservation and approved by the City.
11. The applicant shall provide the City an appropriately sourced inventory for the Original Key West Botanical Garden Site with GPS locations within one year after the Major Development Plan approval. GPS location specifications shall be provided as recommended by the Institute for Regional Conservation and approved by the City.
12. All invasive exotic plants on the Key West Botanical Garden Addition, as defined by Exotic Pest Control Council as Category I plants, will be removed or eradicated in-place.
13. Small maturing seedlings of palms and trees over three feet in height and seedlings of medium to large maturing trees of six feet in height or above within Phase 1 of the Key West Botanical Garden Addition will be transplanted prior to building permit issuance. The applicant will provide a transplantation plan to the City for approval. Future phases in the Addition will provide a seedling relocation plan to the City for approval prior to building permit approval.
14. Within 30 days of Major Development Plan approval the applicant will reconfigure existing parking to ensure that there is no parking within the drip line of trees. Compacted areas will be aerated.
15. The applicant will prepare recommendations in accordance with state and federal regulations for any required treatment or management of contaminated sediments, if such contamination is identified.
16. Phase I site feature construction will not adversely impact the environment within the drip lines of existing trees. Boardwalk footers can be field adjusted as

approved by an ISA certified arborist in field; however, one inch or larger roots systems will be avoided.

**Options/Advantages/Disadvantages:**

**Option 1:** Approve the proposed modifications to the Major Development Plan Approval.

1. **Consistency with the City’s Strategic Plan, Vision, and Mission:** The Development Plan promotes Environmental Management consistent with the City’s Strategic Plan.
2. **Financial Impact:** The proposed project is not expected to have a financial impact on the city.

**Option 2:** Deny the proposed modifications to the Major Development Plan Approval.

1. **Consistency with the City’s Strategic Plan, Vision, and Mission:** Expiration of the Development Plan would not promote Environmental Management consistent with the City’s Strategic Plan.
2. **Financial Impact:** The denial of the proposed project is not expected to have a financial impact on the city.

**Recommendation**

The Planning Department recommends **approval** of proposed Major Development Plan with the following modifications to existing conditions:

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- Addition or by December 31, 2015, which ever occurs first. In addition, the applicant shall perform after-the-fact mitigation acceptable to the City for any impacts to upland hammock which occurred or will occur from the placement and/or removal of the trailer prior to building permit issuance on the Key West Botanical Garden Addition site.
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  5. The applicant shall obtain approval from the City Manager for the capital improvements proposed as part of this application prior to issuance of building permits for each phase.
  6. The applicant shall obtain an after-the-fact permit from the Landscaping Department and Engineering Department for the landscaping that has been placed in the city right-of-way along College Road. Further, the applicant shall coordinate the location of the proposed sidewalk with the City Engineer, and adjust the location if necessary, prior to building permit issuance for the ~~first~~ phase sidewalk.
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