

**PLANNING BOARD
RESOLUTION No. 2013-04**

A RESOLUTION OF THE KEY WEST PLANNING BOARD FOR GRANTING APPROVAL TO A MODIFICATION OF A MAJOR DEVELOPMENT PLAN AND CONDITIONAL USE APPROVAL ON PROPERTY LOCATED AT 512 GREENE STREET IN THE HRCC-1 ZONING DISTRICT PER SECTIONS 108-91C(3) AND (4), AND 122-688(9); (RE# 00001170-000000), KEY WEST, FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 108-91C(3) and (4) of the Code of Ordinances allows applicants to request modifications of Major Development Plan (MDP/CU) approval and that changes to specific conditions required by the original approval shall require approval by the administrative body that originally approved the development; and

WHEREAS, 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 it supported commercial uses (including a former restaurant and retail store), and a single family home. The request is the 3rd Modification to the Major Development Plan and Conditional Use (MDP/CU) for the property; and

WHEREAS, the original MDP/CU request was approved by the Planning Board July 30, 2009 (Res. No. 2009-030) and approved by the City Commission on September 15, 2009 (Res. No. 09-242) and the approval was to allow the existing restaurant to change to a bar and lounge with



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1,045 square feet of consumption area, allow for the redevelopment of the existing parking lot and a change of use from a single family home to a commercial retail structure, and a change in use for two (2) existing small commercial structures into two (2) commercial retail structures; and

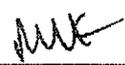
WHEREAS, the first Modification of the MDP/CU was approved by the Planning Board June 17, 2010 (Res. No. 2010-024) for the redesign of the approved parking lot to eliminate an access easement and relocate the garbage area, including the modifications of conditions and modification to required aisle width and parking stall size; and

WHEREAS, the second Modification of the MDP/CU was approved by the Planning Board July 21, 2011 (Res. No. 2011-035) for 90 square feet of outdoor consumption area; and

WHEREAS, the first and second modifications of the MDP/CU were approved by the City Commission September 20, 2011 (Res. No. 11-274) to permit the reconfiguration of the parking lot, eliminate previously required ingress and egress easement, relocation of the garbage storage and pick-up areas, and to modify conditions to permit outdoor consumption area; and

WHEREAS, the conditions that were passed at the February 21, 2013 to be completed prior to the issuance of certificate of occupancy:

1. The applicant 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;
2. No landscaping be removed from the site;


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3. City Staff will confirm that the sound system is maintained and functioning as provided for in Condition one (1);

4. Compliance with the plans dated October 4, 2012 is a condition of approval and specifically incorporated herein;

5. The property is fully ADA (Americans with Disabilities Act of 1990) accessible;

WHEREAS, the conditions subject to a Conditional Approval Permit, per Ordinance Number 10-22: Conditions subject to associated annual inspection:

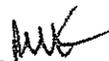
6. Outdoor speakers of any kind are prohibited on the property and on any vehicle parking at the property which is owned by the applicant or associated with events at the property, wherein the vehicle is under the control, rental or licensing by the applicant;

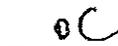
7. Security cameras will be provided on site and a responsible person will be present during the hours of operation;

8. Waste handling shall be consistent with the Solid Waste Management plan included in Res. No. 2010-024. The applicant will recycle materials accepted by the city's waste handling contractor;

9. Compliance with the plans dated October 4, 2012 is a condition of approval and specifically incorporated herein;

10. The outdoor consumption area is limited to only the side yard area on the immediate corner of Greene and Ann Streets, this is an area of 90 square feet and shall not contain more than six (6) seats which is inclusive of the seventy-five (75) total seats. Outdoor consumption is also strictly prohibited from the rear courtyard area and the front porch of the small historic structure on Ann

 Chairman

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Street;

WHEREAS, the General Conditions:

11. 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;

12. There shall 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;

13. There shall be no music (amplified or vocal), entertainment, or special events of any kind permitted outdoors on this site;

14. There shall be no outdoor consumption on the front porch area of the small historic structure on Ann Street;

15. The total number of seats in the consumption area of the property shall be not more than seventy-five (75).

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on February 21, 2013; and

WHEREAS, the granting of a Modification of a combined Conditional Use and Major Development Plan is consistent with the criteria in the Code; and

WHEREAS, the recommendation of approval of the combined Modification of a Conditional Use and Major Development Plan is in harmony with the general purpose and intent of

the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare, and

WHEREAS, the approval is consistent with the criteria in the Code; and

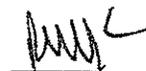
NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

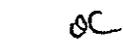
Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. This Modification of a Conditional Use request and Major Development Plan application recommended for approval to the City Commission, does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 3. This resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 4. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DEO with all exhibits and


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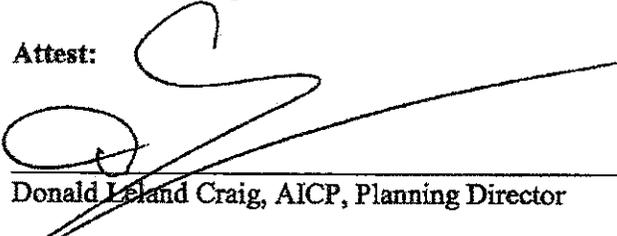

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applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regularly scheduled meeting held this 21st day of February, 2013.

Authenticated by the Chairman of the Planning Board and the Planning Director.


Richard Krittenick, Chairman
Key West Planning Board
Date 3/5/13

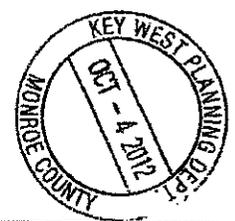
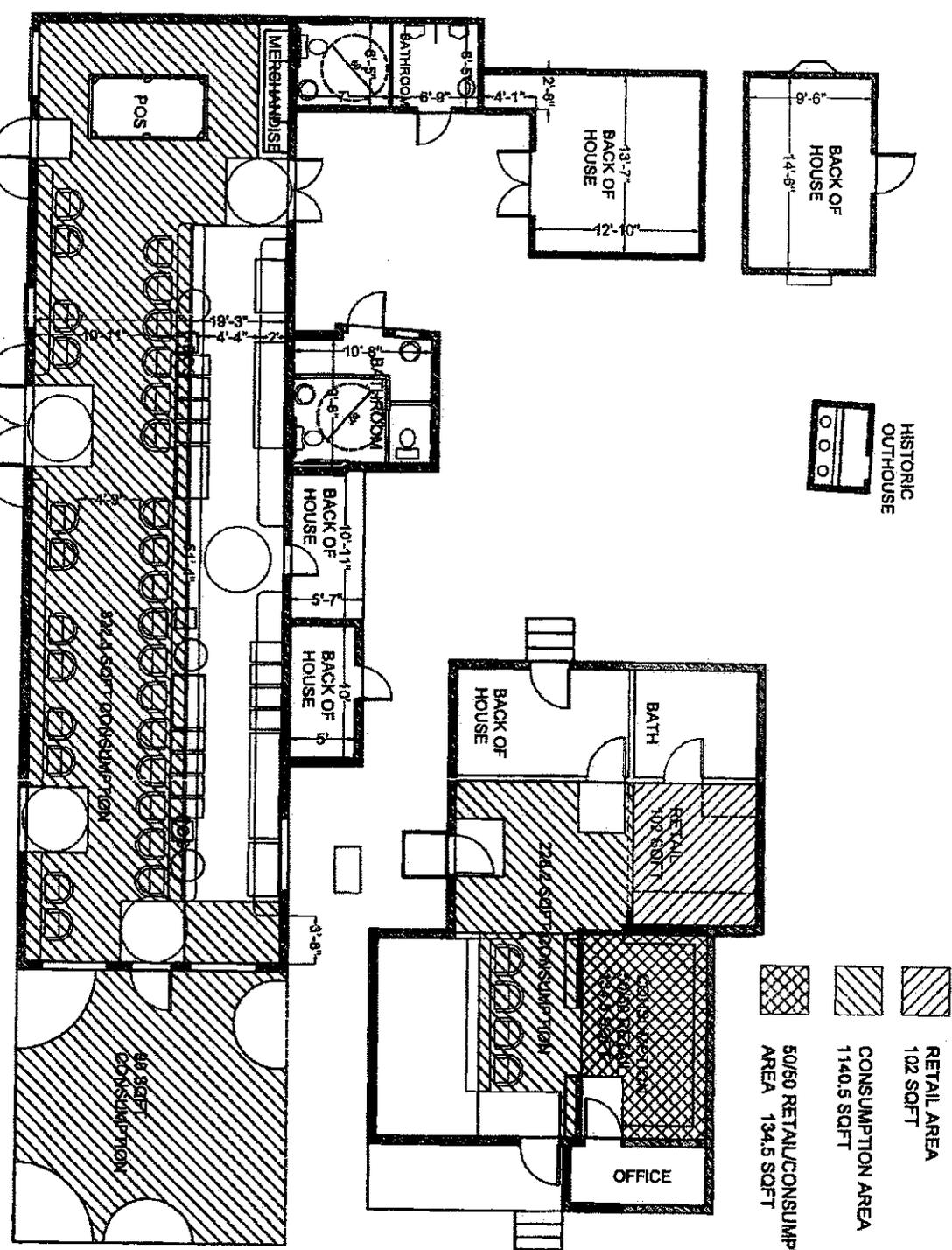
Attest:

Donald Leland Craig, AICP, Planning Director
Date 2.25.13

Filed with the Clerk:


Cheryl Smith, City Clerk
Date 3-6-2013

CONSUMPTION/RETAIL AREA PLAN - PROPOSED

3/15=1'-0"



A1

9C

ruk