

**THE CITY OF KEY WEST
PLANNING BOARD**



Staff Report

To: Chairman and Planning Board Members
Through: Katie P. Halloran, Planning Director
From: Nicholas Perez-Alvarez, Stantec
Meeting Date: September 19, 2024

Agenda Item: **Variance – 1817 Staples Avenue (RE: 00047070-000100) - A** request for variances to allow decreases in the minimum front setback from 19.8-feet to 10-feet and minimum rear setback from 19.8-feet to 10-feet to permit the construction of a two-story mixed-use structure with office space and three market rate residential units located within the Limited Commercial (CL) Zoning District pursuant to Sections 90-395 and 122-390 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

Request: This application requests variances to front and rear setbacks for the construction of a two-story mixed-use structure with office space and three market-rate residential units on an existing vacant lot currently used for storage of commercial vehicles.

Applicant: Trepanier & Associates Inc

Property Owner: Conch Tour Train Inc.

Location: 1817 Staples Ave (RE: 00047070-000100)

Zoning: Limited Commercial (CL)



Background and Analysis

The subject property, with a total lot size of 9,884 sq. ft., currently has no structures, is 100% impervious, and serves as a commercial vehicle storage lot for Conch Tour Trains. The applicant proposes the construction of a two-story, mixed-use structure, raised above a parking area. A 2,205 sq. ft. office space is proposed for the first floor and three market rate residential units with a combined 2,575 sq. ft. are proposed for the second floor. A portion of the covered parking area is also designated to continue serving as a storage lot for the Conch Tour Train vehicles. A conditional use approval is required for the proposed residential units, given that multi-family residential is a conditional use in the CL district. The applicant has also submitted a separate variance application for a reduction in the minimum front and rear setbacks. However, as further noted below, the proposed development is also out of compliance with maximum impervious surface ratio (ISR), and parking.

Section 122-1476 of the City Code, as indicated below, requires that at least 30% of units be affordable.

Section 122-1467(1)(a) *“Housing units. . . Residential or mixed use projects of less than ten residential or mixed use units shall be required to develop or redevelop at least 30 percent of units of at least 400 square feet each as affordable (median income), but may contribute a fee in*

lieu for each unit to the affordable work force housing trust fund, if approved by the city commission.

To meet the requirements of Section 122-1467, the applicant is proposing linkage to two existing, deed-restricted affordable housing units at 124 Simonton Street, Apts. 201 and 202. Section 122-1467(1)(b), indicated below, allows the 30% affordable housing requirement of 1817 Staples, which would be one deed-restricted unit out of the total three units proposed, to be built at the site of another project. However, the proposed linkage units at 124 Simonton Street do not meet the below requirements, given that these units have been deed-restricted since 2005 and no new building permits have been issued at this address since 2010. The applicant is proposing linkage to existing deed-restricted units; not a linkage to new or redeveloped affordable units.

Sec. 122-1467(1)(b) *“Linkage of projects. Two development or redevelopment projects may link to allow the affordable housing requirement of one development or redevelopment project to be built at the site of another project, so long as the affordable housing requirement of the latter development or redevelopment is fulfilled as well. Written proof of the project linkage shall be supplied by the developer to the city commission at the time of the first site plan approval. The project containing the affordable units must be built or rebuilt either before or simultaneously with the project without, or with fewer than, the required affordable units. In addition, if a developer builds or rebuilds more than the required number of affordable units at a development site, this development or redevelopment project may be linked with a subsequent development or redevelopment project to allow compliance with the subsequent development's affordable unit requirement. Written proof of the linkage must be supplied by the developer to the city commission at the time of the subsequent development's site plan approval. Linkage shall not be available if either development is entirely or in part to be constructed by public funds. Finally, all linkages under this subsection may occur within the city or on a site within the city and on a site on Stock Island in the unincorporated part of the county.”*

Proposed Development:

The site data table for the proposed development is shown below.

	<u>Required</u>		<u>Provided</u>		<u>Complies</u>
Max. Density	16 du/ac	3.63	3		Yes
Max. FAR	0.8	7,907.20	0.9	9,258.78	Yes
Max. Height	40'		39'-4"		Yes
Max. bldg coverage	40%	3,953.60	31%	3,086.20	Yes
Max. ISR	60%	5,930.40	86%	8,454.10	No
Front setback	25' or 20% of lot depth	19.8	10'		No, variance requested

Rear setback	25' or 20% of lot depth	19.8	10'	No, variance requested
Side Setback	15' or 10% of lot width up to 20' max, whichever is greater	15'	28'-6"	Yes
Side street setback	20'		30'-6"	Yes

The parking data table is shown below:

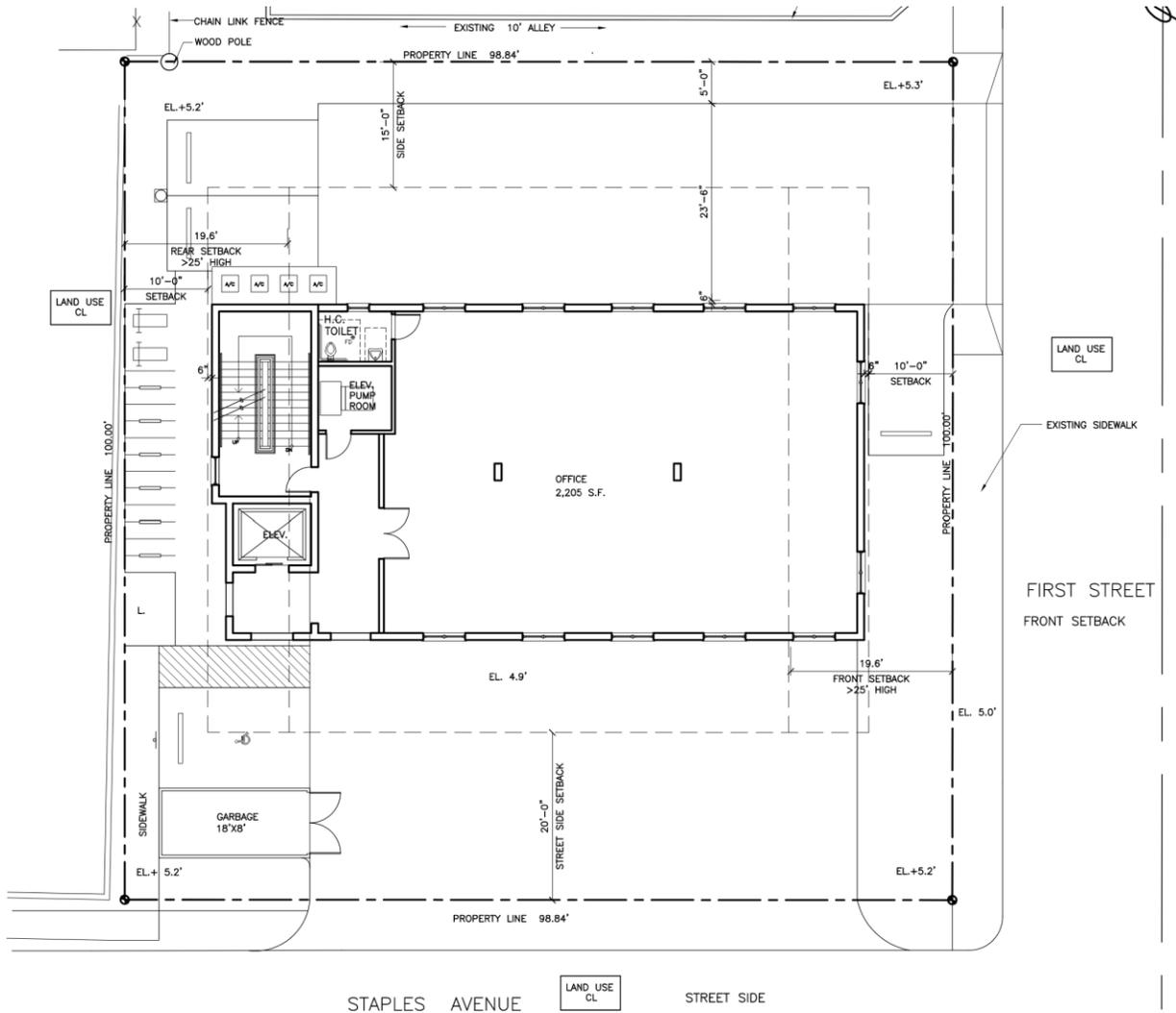
	Code	Required	Proposed	Complies
Office	1 space/300sf	7.4		
MF Residential	2 spaces/unit	6		
Total		14	8	No, 6 space deficiency

As noted above, variance applications have been submitted for reduction in the minimum front setback from 19.8-feet to 10-feet, and a reduction in the minimum rear setback from 19.8-feet to 10-feet. However, the proposed development is also out of compliance with the following additional standards:

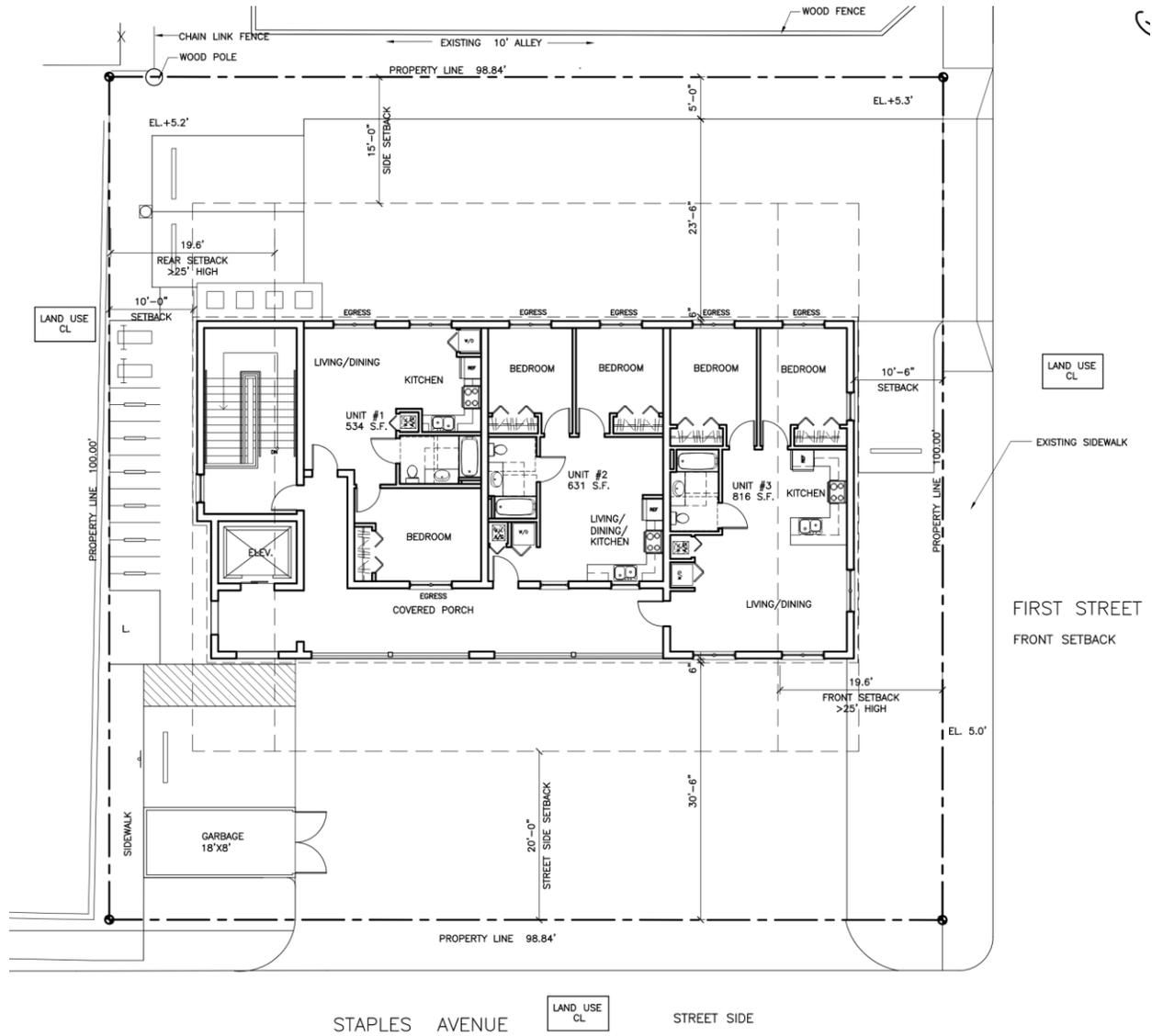
- Maximum Impervious Surface Ratio (ISR).* The applicant proposes an ISR of 86% where a maximum 60% is permitted in the CL district. The applicant provides that a variance is not required, given that the proposed new ISR is an improvement from the current condition, which is a 100% impervious lot. Section 122-32(a) of the LDRs states, “Notwithstanding anything in the Code to the contrary, a structure or site improvement may be altered without the need for a variance if the alteration decreases respective noncompliance.”
- Parking.* As indicated in the parking table above, the required number of parking spaces for this development totals 14 spaces where 6 are proposed. The applicant provides that Section 122-32(a) also applies here, whereby the proposed new parking deficiency of 6 spaces is an improvement from what exists; according to the applicant, the current use of “outdoor storage” has a parking requirement of 16.5 spaces where none are provided. The LDRs do not provide a parking requirement for outdoor storage and it is not clear to staff how an existing vacant lot used for storage of commercial vehicles has a separate parking requirement that is not being met.

Staff maintains that variances are required for maximum impervious surface ratio and minimum parking.

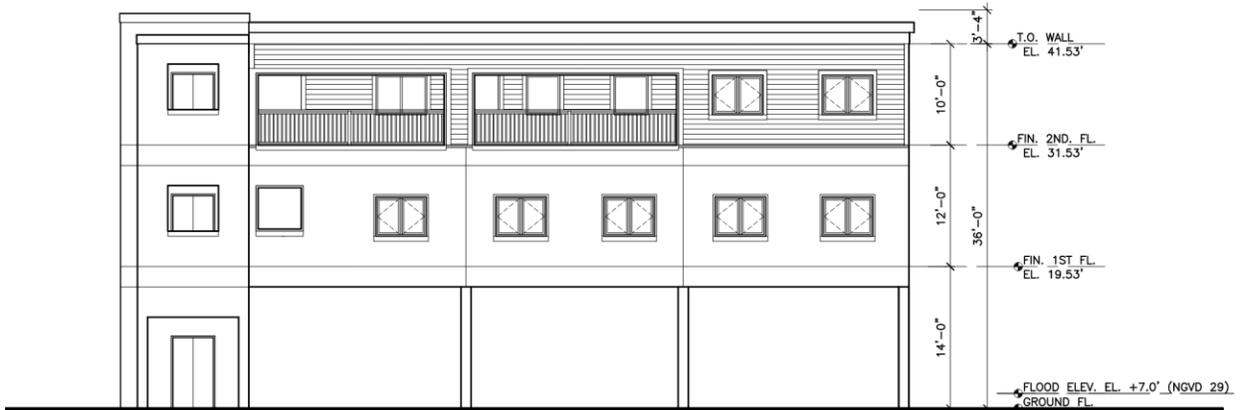
Proposed First Floor Plan, submitted by applicant.



Proposed Second Floor Plan, submitted by applicant.

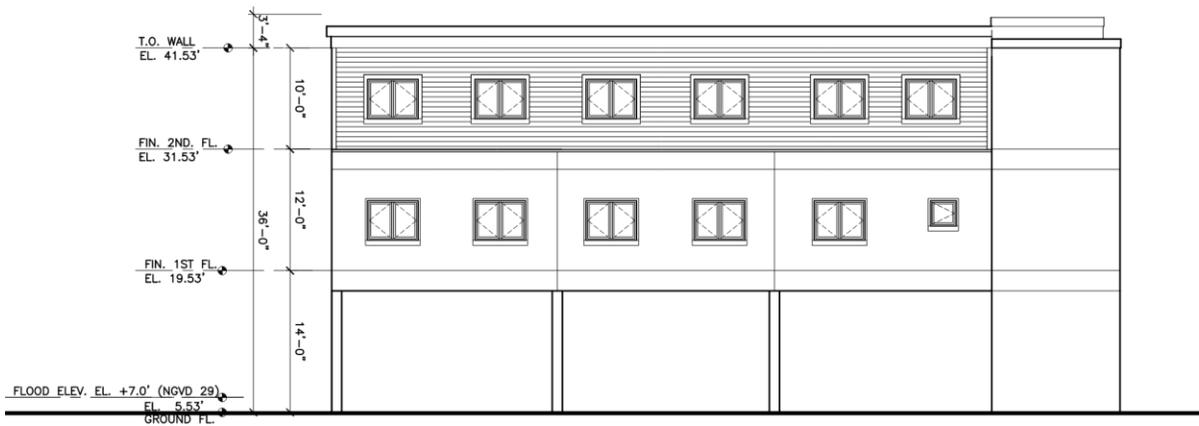


Proposed Front and Back Elevations, submitted by applicant.



1 FRONT ELEVATION
A-4

SCALE: 1/8"=1'-0"



3 BACK ELEVATION
A-4

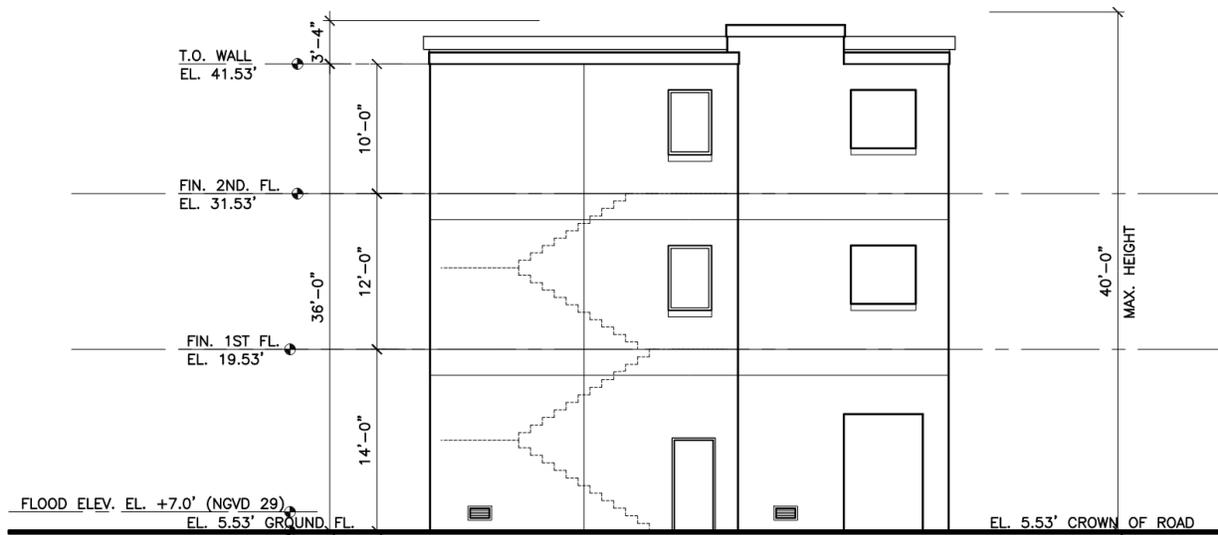
SCALE: 1/8"=1'-0"

Proposed Side Elevations, submitted by applicant.



2 SIDE ELEVATION
A-4

SCALE: 1/8"=1'-0"



4 SIDE ELEVATION
A-4

SCALE: 1/8"=1'-0"

Surrounding Zoning and Uses:

Surrounding properties are located within the Limited Commercial (CL) Zoning District. Surrounding uses include commercial properties and single family residential homes.

Process:

Development Review Committee:	March 28, 2024
Tree Commission Meeting (Conceptual landscape plan approval):	August 6, 2024
Planning Board Meeting:	September 19, 2024
Tree Commission Meeting (Final landscape plan approval):	TBD
Local Appeal Period:	10 Days
Planning renders to DOC for review:	Up to 45 days

Staff Analysis- Evaluation:

The criteria for evaluating a variance are listed in Sections 122-395 of the City of Key West Land Development Regulations. The Planning Board before granting a variance must find all the following:

1. *Existence of special conditions or circumstances. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same zoning district.*

The applicant provides that special conditions peculiar to the property exist in that it is a corner parcel with more than one public right-of-way frontages requiring significant setbacks. However, corner lots of this general size are common in the CL district.

NOT IN COMPLIANCE

2. *Conditions not created by applicant. That the special conditions and circumstances do not result from the action or negligence of the applicant.*

The applicant provides that the property has been in its current configuration since at least 1959. However, the setbacks proposed are related to the action of the applicant. The applicant could propose a different building footprint that could comply with the dimensional criteria.

NOT IN COMPLIANCE

3. *Special Privileges not conferred. That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings, or structures in the same zoning district.*

Granting of the requested variances will confer special privileges to the applicant. Similar lot size conditions are found in neighboring properties. As noted above, the owner could propose a modified development footprint that meets the dimensional criteria of this zoning district.

NOT IN COMPLIANCE

4. *Hardship Conditions Exist. That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by the other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

The applicant provides that literal interpretation of the provisions of the LDRs restrict the reasonable use and economic benefit of the property. However, as noted above, the owner could propose a modified development footprint that meets the dimensional criteria of this zoning district and staff does not find this to be a hardship.

NOT IN COMPLIANCE

5. *Only minimum variance granted. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

The applicant's request of front and rear setbacks variances are a design consideration. The applicant has the opportunity to modify the development footprint, which could meet the setbacks requirements.

NOT IN COMPLIANCE

6. *Not injurious to the public welfare. That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.*

Per Section 122-386 of the LDRs, the intent of the CL district is to "accommodate limited commercial land uses with maximum gross floor area not exceeding 5,000 square feet." The applicant proposes a gross floor area of 9,259 sq. ft. and is therefore not in harmony with the general intent of the LDRs.

NOT IN COMPLIANCE

7. *Existing nonconforming uses of other property shall not be considered as the basis for approval. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.*

This application does not rely on other nonconforming lots and structures as justification.

IN COMPLIANCE

The Planning Board shall make factual findings regarding the following:

That the standards established by the City Code have been met by the applicant for a variance. The standards established by the City Code have not been fully met by the applicant for the variance requested.

That the applicant has demonstrated “Good Neighbor Policy” by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors.

The applicant has indicated that “Good Neighbor” letters were mailed on September 6, 2024 and that, as of September 11, 2024, they have received one response in objection of the request.

The Planning Board shall not grant a variance to permit a use not permitted by right or as a conditional use in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district.

No use not permitted by right or as a conditional use in the zoning district involved or any use expressly or by implication prohibited by the terms or the ordinance in the zoning district would be permitted.

No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

No such grounds were considered.

No variance shall be granted that increase or has the effect of the increasing density or intensity of a use beyond that permitted by the comprehensive plan or these LDRs.

The proposed FAR is consistent with the Comprehensive Plan.

RECOMMENDATION

The Variance request to exceed the allowed front and rear setbacks does not comply with all the evaluation criteria. The Planning Department recommends DENIAL.