



THE CITY OF KEY WEST
PLANNING BOARD
Staff Report

To: Chair and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Nicholas Perez-Alvarez, AICP, Stantec

Meeting Date: November 16, 2023

Agenda Item: **Conditional Use – 1905 Staples Avenue (RE# 00046930-000000):** A request for conditional use approval to allow a single-family residence, located in the Limited Commercial (CL) Zoning District, pursuant to Sections 122-61, 122-62 and 122-388(1) of the City of Key West Land Development Regulations.

Request: To allow for a new three-story home to be built on a vacant lot.

Applicant: Trepanier and Associates, Inc.

Property Owners: KW Empire, LLC

Location: 1905 Staples Avenue (RE# 00046930-000000):

Zoning: Limited Commercial (CL)



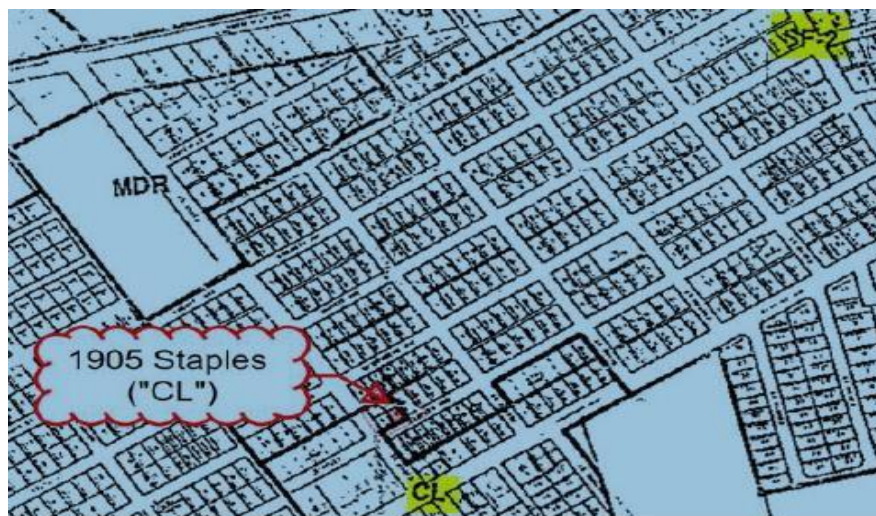
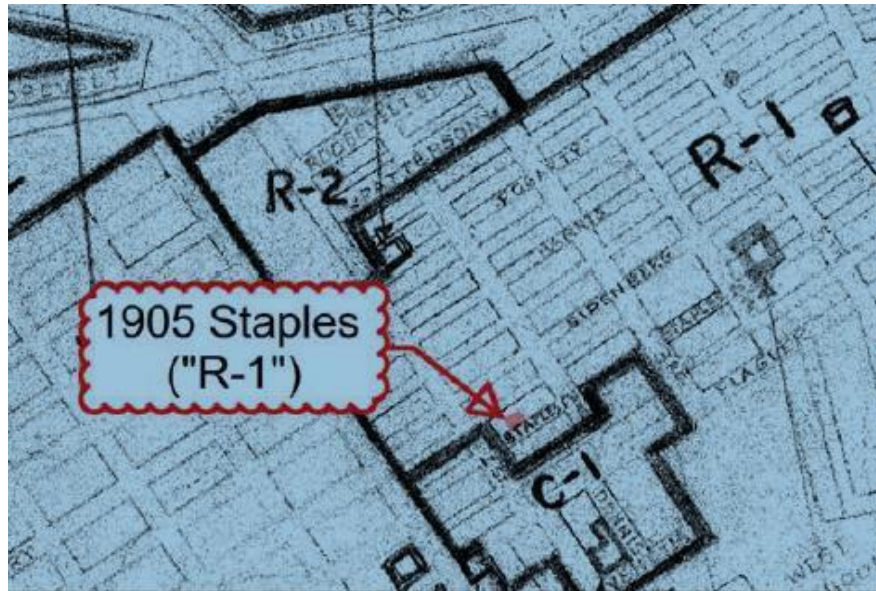
Pictures of the existing vacant lot with surrounding land-uses identified

Background:

This item was postponed by the Board, at the request of the applicant several times. It was postponed at the May 18, 2023 Planning Board hearing due to testimony given and to allow the applicant the opportunity for revisions. The applicant submitted minor changes meant to address the department's comments, conclusions and recommendations. These changes are reflected below. This item was again postponed at the September 21, 2023 Planning Board hearing due to individuals unable to provide public comment, and postponed again at the October 19, 2023 hearing due to a tie-vote motion unable to pass.

- *Impervious surface reduction from 49% to 47.6%*
- *Building coverage reduction from 49% to 45.3%*
- *Open space increase from 49% to 52%*
- *Front setback increase from 5' to 6'-5"*
- *Side setback (west) increase from 6' to 7'-3"*
- *Modifications to architectural design*

The subject property is located at 1905 Staples Avenue near the corner of First Street. The lot has been in this current condition at least since 1982, per the deed. As depicted on the 1974 Key West zoning map, the property was previously zoned R-1, which allowed single-family homes by right. When the City updated the zoning map in 1986, this property was rezoned to Limited Commercial (CL) which states that single-family dwellings are conditional uses in this zoning district and shall be reviewed through certain criteria in Land Development Regulations Section 122-62.



¼ the minimum legal lot size for this zoning district. In 1969 the entire property known as 1905 Staples Avenue was owned together with its adjacent properties known as 1411 First Street and 1415 First Street. At that time the minimum lot size was the same as it is today and the code did not allow for lot splits which created nonconforming lots. In 1972, the northern portion of the lot was illegally separated as 1411 First Street, and in 1982, 1415 First Street was separated, leaving the remainder lot of 1905 Staples Avenue as it exists today, illegally split into a non-conforming lot. Ordinance 69-29, adopted by the City of Key West in 1969 and in effect at the time this lot was illegally split, included the following subdivision regulations:

- No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least minimum requirements established by this ordinance.
- If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements of this ordinance.

The property has remained vacant with no structures since it was last divided, however the owner is currently using the site to store construction vehicles and tools. The use of the property in the current capacity does not necessitate a structure, or permit from the City. There are six mature mahogany trees and a strangler fig on the property today. The property was awarded one BPAS unit in 2021, however a BPAS award does not negate the need to comply with the code.

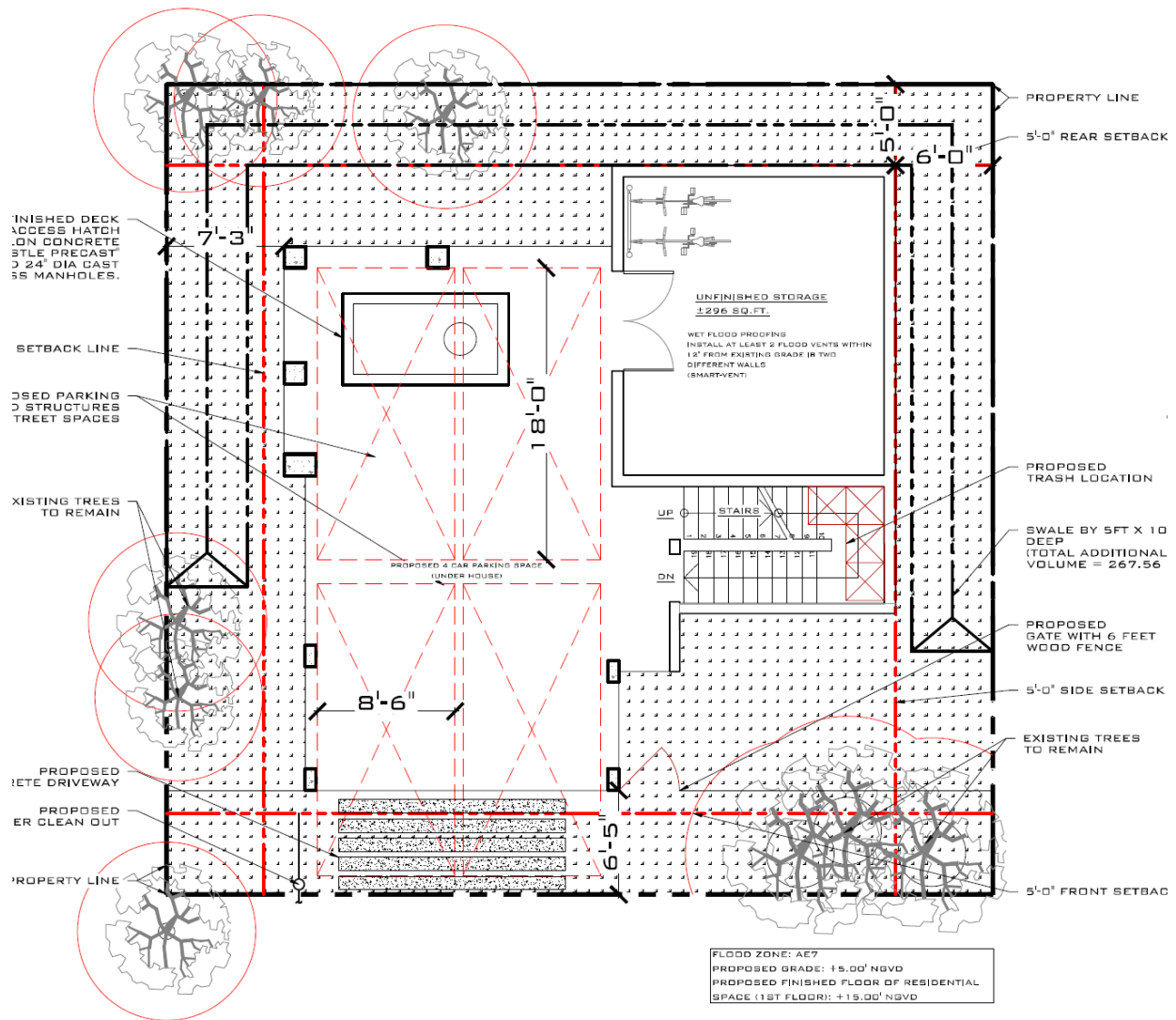


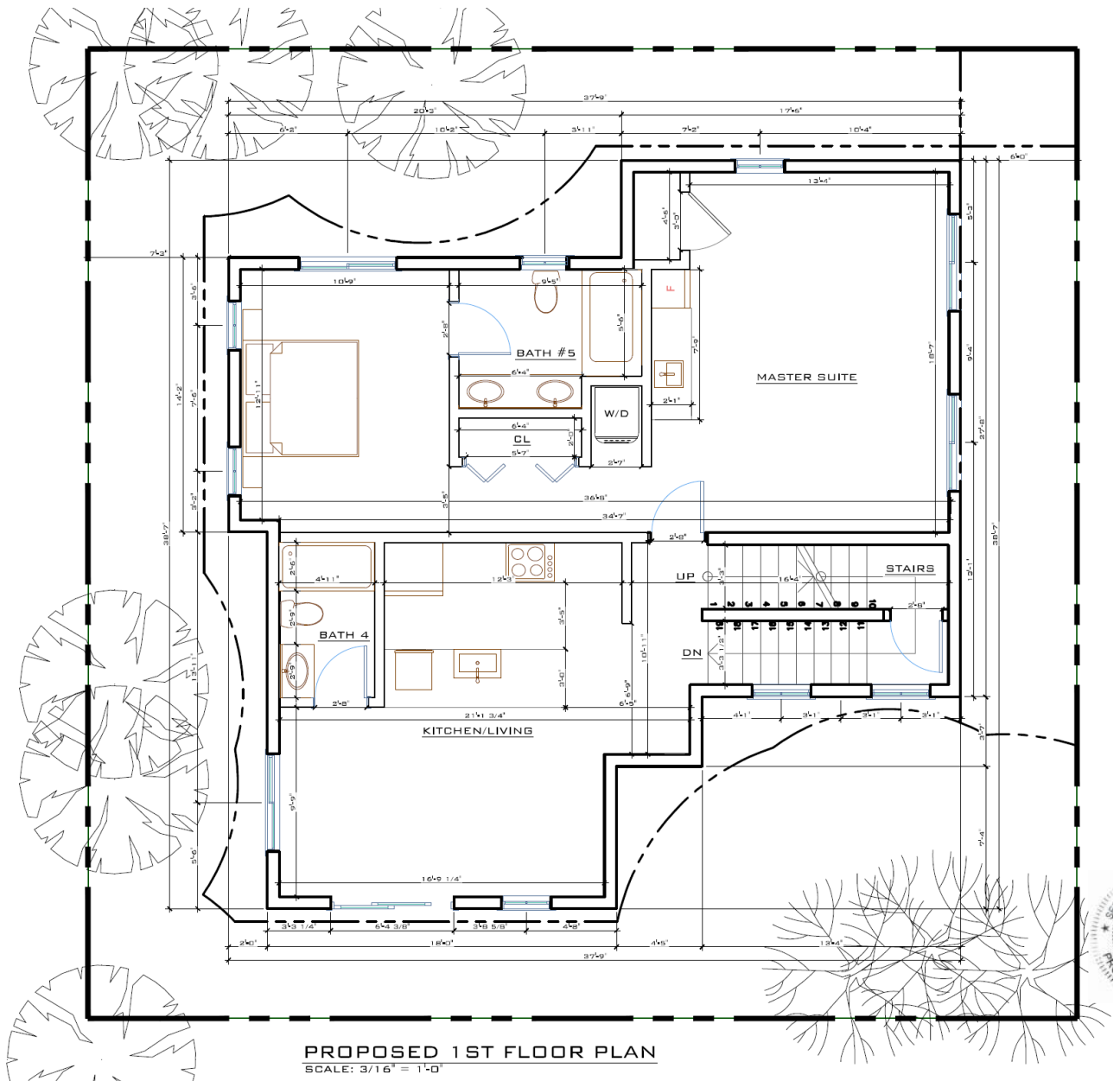


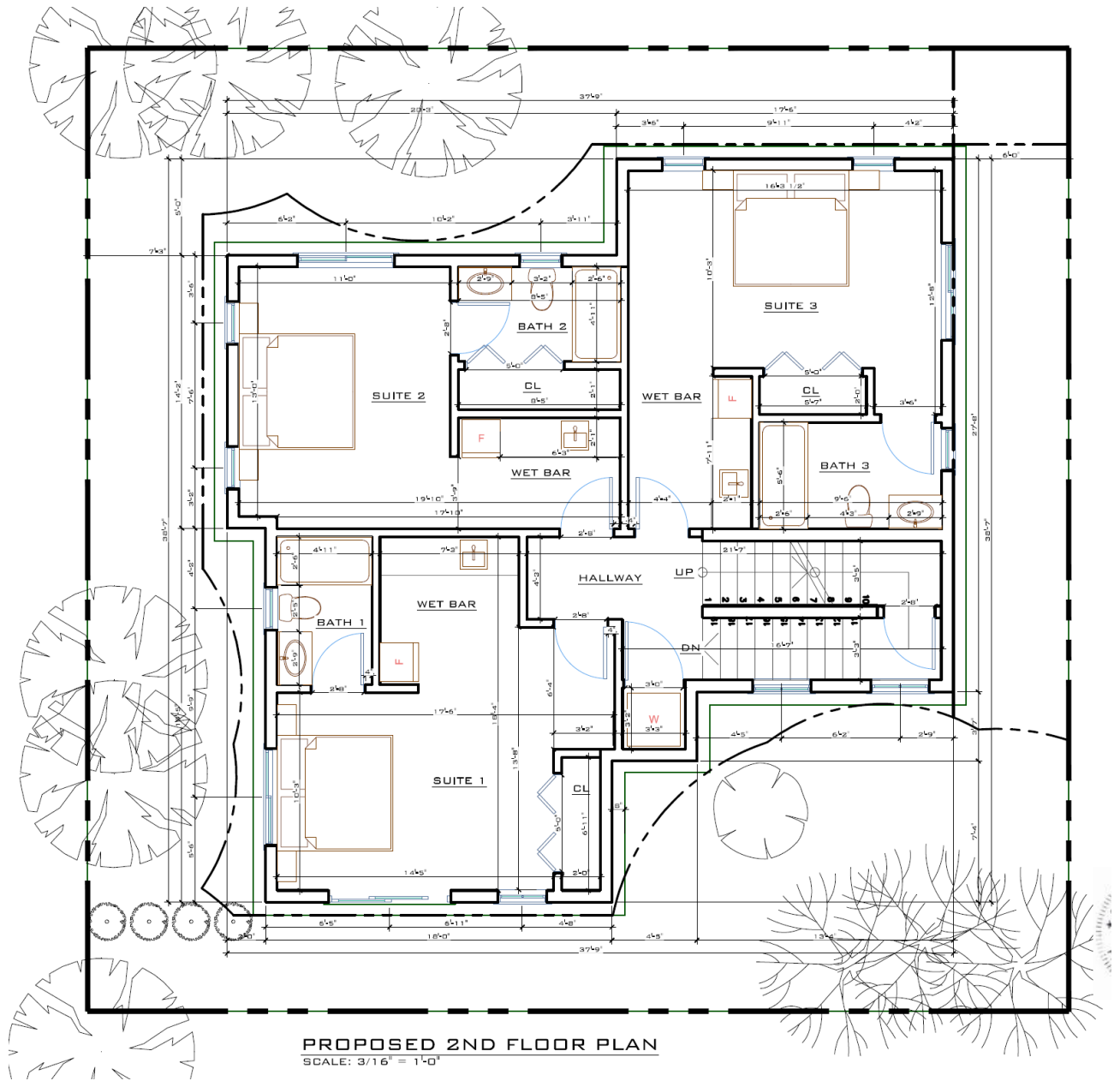
Request:

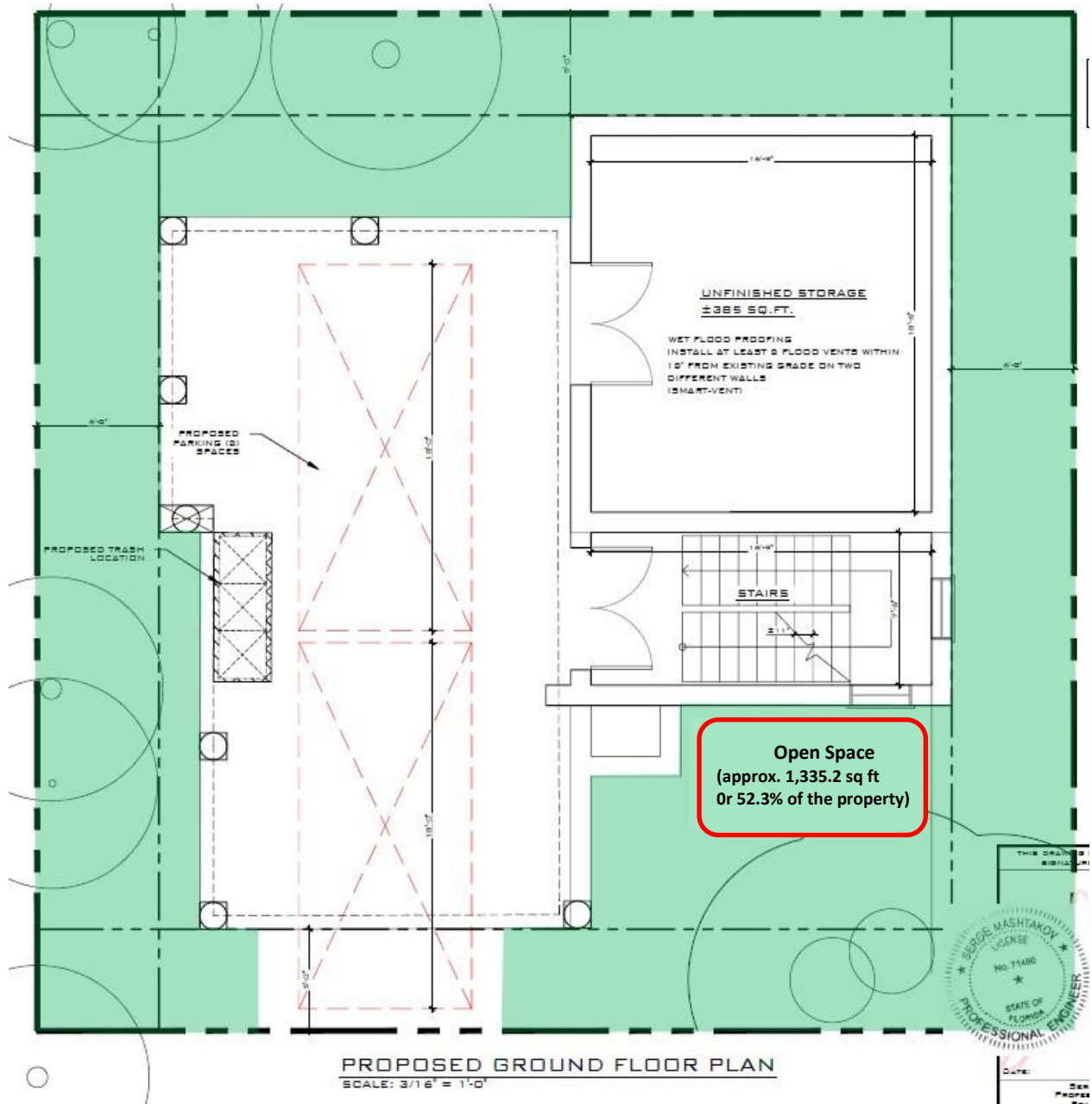
This application is a request for conditional use approval to construct one single-family home. Pursuant to Sec. 122-388, single-family homes require conditional use approval in the Limited Commercial zoning district. The project is also requesting variances in a companion application. The site is located in the AE7 flood zone, and proposes to have all habitable living areas beginning on the second level with only a carport and storage on the first level. The carport would provide for four tandem parking spaces and an additional four bicycle spaces in the storage area.

The house, as proposed is 4 bedrooms and 5 bathrooms with culinary facilities (wet bars and refrigerators, etc.) located within each of the suites, including the master suite. There is a common living area with a full kitchen and a 5th separate bathroom. It should be noted that the common living area could be convertible to a fifth living suite or studio. Each room has ensuite bathrooms, allowing for each room to be an independent living quarter. In addition, the common living area and the full kitchen are located on the middle level of the building. This allows for the three rooms on the third floor (each with culinary facilities and separate bathrooms) to not have direct access from the main entrance without the need to pass through the common area. The main room on the top level also contains a large living area with a wet bar. The property owner has stated that the structure is being proposed to house employees for his business.









Surrounding Zoning and Uses:

North: CL, low impact commercial shops

South: SR-2, single-family home

East: SR-2, single-family home

West: CL, low impact commercial shops

Process:

Development Review Committee: October 27, 2022
Planning Board: November 16, 2023
Local Appeal Period: 10 days
DEO Review: Up to 45 days

Conditional Use Review: The purpose of conditional use review, pursuant to City Code Section 122-61, is to ensure 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. City Code Chapter 122, Article III sets forth provisions and criteria for consideration of conditional uses on specific sites. Conditional uses shall be permitted only upon a finding that the proposed use satisfies this article.

Conditional Use Specific Criteria pursuant to Code Section 122-62:

(a) Findings

Code Section 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 a review of the respective application in order to ensure compliance with the comprehensive plan and land development regulations.” This 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 averse to the public’s interest.”

(b) Characteristics of Use

Residential uses are a conditional use in the CL zoning district. The CL zoning district is for limited commercial land uses with maximum gross floor area not exceeding 5,000 SF, including total area both under roof and outside sales area, and which shall include shops catering primarily to the following markets:

1. Neighborhood residential markets within the immediate vicinity as opposed to citywide or regional markets;
2. Specialized markets with customized market demands; or
3. Tourist-oriented markets in the immediate vicinity.

The CL designation shall not accommodate transient residential uses, including motels or hotels and conversions from permanent residential use to transient residential use.

(1) Scale and intensity of the proposed conditional use as measured by the following:

- a. **Floor area ratio (FAR):** Not applicable to residential development.
- b. **Traffic generation:** A single-family home would generate 10 vehicle trips per day.
- c. **Square feet of enclosed space for each specific use:** The proposed home is approximately 2,240 square feet. No other space is proposed as part of this application.
- d. **Proposed employment:** N/A
- e. **Proposed number and type of service vehicles:** There are no proposed service vehicles.

f. Off-street parking needs: the code requires one space per dwelling unit, the project proposes two sets of tandem parking spaces in a carport for a total of four. Given that the building will function to house multiple roommates, more than two personal vehicles are expected. Due to the tandem configuration there could be a spill-over effect on the surrounding neighbors.

(2) On- or off-site improvement needs generated by the proposed conditional use and not identified above including the following:

a. Utilities: The property has adequate utilities to support the proposed use.

b. Public facilities, especially any improvements required to ensure compliance with concurrency management as provided in City Code Chapter 94: None expected. Compliance with building codes and life safety codes would be required prior to building permit issuance.

c. Roadway or signalization improvements, or other similar improvements: None.

d. Accessory structures or facilities: None.

e. Other unique facilities/structures proposed as part of site improvements: None proposed.

(3) On-site amenities proposed to enhance site and planned improvements, including mitigative techniques such as:

a. Open space: Residential uses shall provide a minimum of 35% open space (893 square feet); the proposed project would result in 52.3% open space (1,335 square feet).

b. Setbacks from adjacent properties: The site does not meet the required setbacks for front, rear or either side. Variances are requested as part of a companion application to this approval.

c. Screening and buffers: Appropriate screening is existing and proposed for the site, which is adjacent to low impact commercial uses and requires a buffer yard "C".

d. Landscaping berms proposed to mitigate against adverse impacts to adjacent sites: No landscape berms are required or proposed as part of this development.

e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts: There is no expected excessive noise, odor, heat, or smoke from the home. Light from the second and third levels may be visible to neighboring properties. Landscaping is proposed to mitigate this potential impact. As stated, impacts to on-street parking are expected due to the proposed number of bedrooms and the expected number of personal vehicles.

(c) Criteria for conditional use review and approval

Pursuant to City Code Section 122-62(c), applications for a conditional use shall clearly demonstrate the following:

(1) Land use compatibility: The conditional use for a new home is partially compatible with the surrounding area in that the neighborhood contains many other single-family homes on this same block and some multi-family structures in the neighborhood. The majority of the

neighborhood consists of one-story buildings, and there are no three-story buildings. The size of the lot is not compatible, and does not meet the minimum size required, even if it was still zoned residential. The proposed scale is not consistent with the neighborhood. The lack of adequate parking for 4 bedrooms would not be compatible with the surrounding uses in that if all suites have 1-2 occupants with cars or trucks there would be a need for some occupants to park on the street. The benefit of this location is that the City does consider Staples Avenue to be a “bicycle greenway” and is working toward planting more trees, and adding wayfinding to further encourage bicycle transportation in lieu of single occupancy vehicle use. The house will include covered bike racks for four bikes. The property owner, however, has not stated that tenants will not have personal vehicles.

- (2) Enough site size, adequate site specifications and infrastructure to accommodate the proposed use:** The size and shape of the site are not adequate to accommodate the proposed scale and intensity of the conditional use requested. The size of the lot was not created through a legal lot split process. There are multiple variances requested to accommodate this proposed home due to the small size of the lot. As noted above, on-site parking will not be adequate if all tenants have personal vehicles.
- (3) Proper use of mitigative techniques:** No mitigative techniques have been proposed to prevent the adverse off-site impacts such as parking of additional personal vehicles in the neighborhood.
- (4) Hazardous waste:** None expected or anticipated.
- (5) Compliance with applicable laws and ordinances:** As a single-family unit, the use must comply with all applicable laws and regulations that would be required.
- (6) Additional criteria applicable to specific land uses:** Applicants for conditional use approval shall demonstrate that the proposed conditional use satisfies the following specific criteria designed to ensure against potential adverse impacts which may be associated with the proposed land use:

 - a. Land uses within a conservation area:** The site is not located in a conservation area.
 - b. Residential development:** The project, as proposed by the applicant is one single-family home on an existing non-conforming vacant parcel. As a building with the potential for multiple roommates, there is potential for adverse impacts, including spill-over parking into the surrounding neighborhood. There are no existing three-story buildings in the neighborhood, and the proposed mass and scale of the building would be out of character on this out-of-scale small lot. The land use would be compatible, as there are other single-family homes on this street. No mitigative measures or site design amenities have been proposed and the applicant is seeking multiple variances due to the size of the proposed home on an undersized parcel.
 - c. Commercial or mixed-use development:** The proposed use is partially compatible with similar uses within this zoning district as well as district regulations.
 - d. Development within or adjacent to historic district:** The conditional use application is not within the historic district.
 - e. Public facilities or institutional development:** No development of public facilities or institutions are proposed.

- f. **Commercial structures use and related activities within tidal waters:** The site is not located within tidal areas.
- g. **Adult entertainment establishments:** No adult entertainment is being proposed.

RECOMMENDATION:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request for Conditional Use be **Denied**.

If the Planning Board chooses to approve the Conditional Use, the Planning Department recommends the following conditions:

General conditions:

1. The proposed construction shall be consistent with the plans, signed, sealed and dated 7/22/2023 by Artibus Design for 1905 Staples Avenue.

Conditions prior to obtaining a Building Permit:

2. Solid waste and recycle service will need to be set up through Waste Management.
3. A swale with 106 cubic feet of retention capacity is required. Swale scale and locations should be adjusted and/or reduced in coordination with the Urban Forestry Manager and City Utilities to avoid impact to tree roots.
4. Plans for construction must contain best management practices details for soil erosion and sediment control, and location for concrete truck wash-out.
5. Installation of a new sewer cleanout must be coordinated through the City Utilities Department.
6. A final landscape plan will be reviewed and approved by the Urban Forestry Manager.

Conditions prior to issuance of a Certificate of Occupancy and/or Business Tax Receipt:

7. The owner shall obtain and maintain a Conditional Approval Permit, pursuant to City Code Chapter 18, Article XII, Division 1. The City Code Compliance Department shall inspect the property on an annual basis upon reasonable notice to determine compliance with the conditions of the Planning Board resolution.
8. The required landscape buffer shall be planted, inspected and approved by the Urban Forestry Manager.