

THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Daniel Sobczak, AICP-C, Planner II

Meeting Date: June 17<sup>th</sup>, 2021

Application: **Variance** – 210-216 Duval (RE# 00001420-000000) - A request for a variance to maximum allowed building coverage, maximum allowed impervious space, minimum required open space, and minimum required off-street parking spaces, in order to enclose a portion of space between buildings and restore the interior of the property located in the Historic Residential Commercial Core (HRCC-1) zoning district pursuant to Sections 90-395, 108-346, 108-572 (9), 122-690 (4)a., and 122-690 (4)b. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

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Request: The applicant is requesting a variance to off-street parking spaces, building coverage, impervious surface, and open space in order to enclose an open space in the center of the property between adjoining buildings

Applicant: Meridian Engineering

Property Owner: 210 Duval St. LLC

Location: 210-216 Duval (RE# 00001420-000000)



**Background:**

The subject parcel is located at 210-216 Duval Street on the corner of Duval Street and Charles Street. According to the Historical Architectural Review Commission, the current mixed-use structure was constructed in 1912. The structure is of masonry vernacular and is a historically significant contributing structure to the Key West Historic District. The parcel is zoned HRCC-1 and is surrounded by HRCC-1 zoned properties in all directions. The property is approved for four (4) residential units, as well as commercial space on the ground floor.

The applicant is proposing to restore the historic structure, aligning the façade more closely to its historic significance. The applicant is also proposing to add several elements such as an additional staircase, enclosing existing open space, and a rooftop deck for the residential portion of the structure. The applicant is proposing a variance to maximum building coverage, maximum impervious surface, and minimum open space in order to create the additional staircase and enclose a portion of open space. The applicant has stated that the rooftop deck will be for residential use only and an exfiltration trench will be added in order to mitigate the high impervious surface on the lot. In an effort to mitigate the open space requirements and landscape waiver, the applicant has stated they will add two planter-boxes on Charles St. and pay into the City's tree fund.

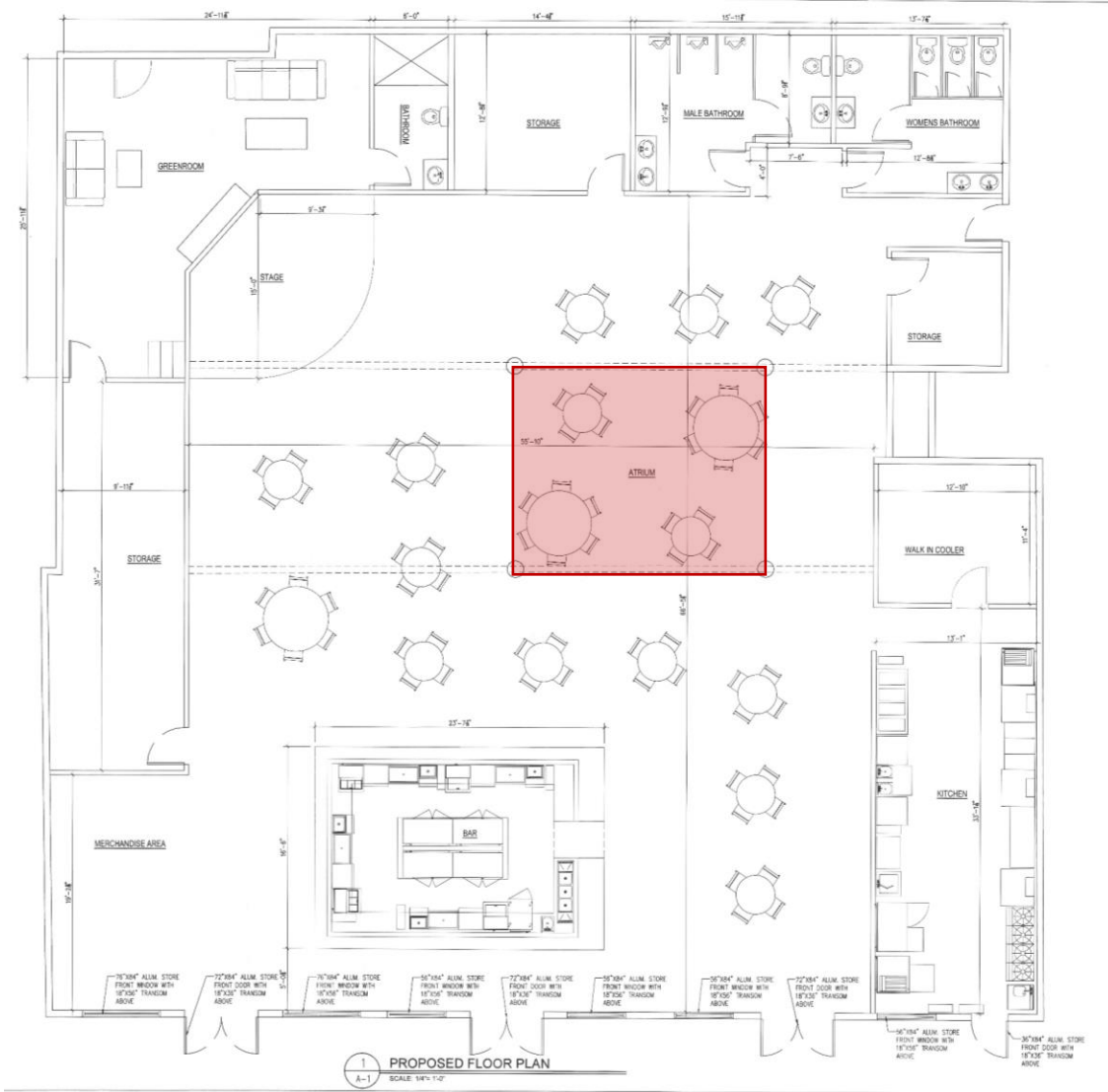
Section 108-573 of the City Code provides for special provisions within the historic commercial pedestrian-oriented area. The subject property is located within the historic commercial pedestrian-oriented area; however, additional off-street parking shall be required due to the property converting to another use requiring more parking and adding floor area. The total requirement per code is 4 off-street auto spaces for the redevelopment of the residential units, and 81 off-street auto spaces for the redevelopment of the commercial space. The size of the lot, the size of the historically significant structure on the lot, and the amount of required parking make the 85 required parking spaces nearly impossible to place on the lot. Parking is a premium for the North Duval area, besides on-street parking there are two lots near the property, a private paid parking lot on the corner of Caroline and Telegraph and the small lot behind the Key West Chamber of Commerce. While parking is not possible on the property itself, the applicant should pursue the addition of bicycle parking near the property.

**Proposed Development:**

| Site Data Table    |                   |                     |                     |                     |
|--------------------|-------------------|---------------------|---------------------|---------------------|
|                    | Code Required     | Existing            | Proposed            | Variance Request    |
| Zoning             | HRCC-1            |                     |                     |                     |
| Flood Zone         | AE-6              |                     |                     |                     |
| Size of Site       | 7,480 sqft        |                     |                     |                     |
| Height             | 35                | n/a                 | n/a                 | n/a                 |
| Front Setback      | 0'                | 0'                  | 0'                  | No change           |
| Side Setback       | 2.5'              | 1'4"                | 1'4"                | No change           |
| Rear Setback       | 10'               | 7'8"                | 7'8"                | No change           |
| Building Coverage  | 50% -- 3,740sqft  | 79.5% -- 5,946 sqft | 90.6% -- 6,732 sqft | 40.6% -- 2,992 sqft |
| Impervious Surface | 70% -- 5,236 sqft | 89% -- 6,657 sqft   | 91% -- 6,732 sqft   | 21% -- 1,571 sqft   |



Floor Plans, 210-216 Duval St, submitted by applicant



The applicant has proposed to convert the retail use of the structure to a restaurant use. The proposed project would redevelop and reconstruct the structure and add additional floor area outlined in red.

**Process:**

Planning Board Meeting:

Mar. 18<sup>th</sup>, 2021 – postponed due to MDP req'd  
June 17<sup>th</sup>, 2021

Local Appeal Period:

10 Days

Planning renders to DEO for review:

Up to 45 days

**Staff Analysis - Evaluation:**

The criteria for evaluating a variance are listed in Section 90-395 of the City Code. 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 parcel located at 210-216 Duval St. is almost twice the code required minimum lot size, the parcel is 7,480 sq.ft. and the minimum size for lots in HRCC-1 is 4,000 sq.ft. Like many structures in the Key West Historic District, the subject structure at 210-216 Duval is historic and has largely remained in the same building footprint for 100 years. The applicant's current proposed project will convert the ground floor of the structure from segmented retail storefronts to an open floor plan and will also add new entrances and exits for the residential units. The structure itself is historically contributing to the Key West Historic 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 conditions of the parcel have largely remained the same for the past 100 years. The staircase in the center of the property has become unusable due to age. There is no exterior staircase on the lower portion of the property for the second-floor unit in the rear of the property. The addition of new staircases as well as the addition of enclosed space in the center of the property will alter the historic structure's footprint and increase the structures building coverage and impervious surface. Due to the increase in non-residential floor area and the conversion of the structure from retail to a food service establishment, the applicant must meet the Code requirement for 85 off-street parking spaces.

**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.*

The Land Development Regulations limit building coverage, impervious surface, and open space in order to ensure life safety, general welfare, health standards, and aesthetics. The addition of the building coverage and impervious surface may make the structure and surrounding structure more prone to stormwater runoff. The applicant has applied to install an exfiltration trench to address any increase in stormwater runoff.

**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 other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

The parcel located at 210-216 Duval Street is larger than most lots in the zoning district and is almost twice the size of the 4,000 sq.ft. minimum lot size. The lot has been non-conforming to

City Code since the City enacted the code in 1997. The addition of the roofed portion enclosing open space is not vital to the integrity of the structure, but rather allows the owner to convert the segmented ground floor into a singular open space. The historically significant structure takes up the majority of the lot, leaving no space for the required off-street auto spaces. Goal 1A-A of the City Comprehensive Plan is to “To Identify and Protect Resources of Archaeological, Historical and Architectural Significance.”

#### **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 variance requested is not the minimum required that will make possible the reasonable use of the land, building and/or structure. It is reasonable that the applicant could amend their plans to not enclose the open space enclosure and to develop a stair design that would use one set of stairs for all four residential units. The applicant could also propose bike parking to substitute the required parking.

#### **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.*

The variance will not be in harmony with the general intent of the land development regulations, the variance may spur more stormwater flooding for the property and surrounding property owners and will decrease the already noncompliant open space on the property. However, if the applicant adds additional stormwater management techniques and pays a fee-in-lieu for landscape mitigation, the applicant would be closer to compliance.

#### **NOT IN COMPLIANCE**

7. *Existing nonconforming uses of other property not 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.*

Existing non-conforming uses of other properties, use of neighboring lands, structures, or buildings in the same district, or other zoning districts, are not the basis for this request.

#### **IN COMPLIANCE**

#### **Concurrency Facilities and Other Utilities or Service (Section 108-233):**

It does not appear that the requested variance will trigger any public facility or utility service capacity issues.

#### **The Planning Board shall make factual findings regarding the following:**

*That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.*

The standards established by Section 90-395 of the City Code have not been fully met by the applicant for the variances requested.

*That the applicant has demonstrated a “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 Planning Department has not received any submitted public comment for the variance request as of the date of this report.

**Recommendation:**

The proposed enclosure of open space, the reconstruction of an exterior staircase, and the construction of a new exterior staircase on the property at 210-216 Duval Street will trigger a variance for open space, building coverage, and impervious surface. The exterior staircases will allow an upgraded ingress/egress for each second-story residential unit. The enclosure of open space will allow the owner to convert their segmented ground floor to a singular open-concept design. The property owner has proposed the addition of an exfiltration trench to mitigate the increases in building coverage and impervious surface. The Planning Department recommends that all structures have gutters with downspouts that lead to this exfiltration trench. The Planning Department also recommends the applicant add landscaping to the planter boxes on Charles St. Lastly, the Planning Department recommends the applicant add bike parking either on the property or in close proximity to mitigate the additional consumption area created by enclosing the open space. The variance to the minimum required open space, maximum building coverage, and maximum allowed impervious surface does not meet the criteria stated in Section 90-395. The Planning Department recommends **denial**.

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

**General Conditions:**

1. The proposed construction shall be consistent (except for conditions of approval listed below) with the plans signed, sealed, and dated 12/10/2020 by Richard J. Milelli.
2. Landscaping be maintained on the two planter-boxes on Charles St.
3. Gutters be placed on the structure and downspouts be added to drain all rain-water runoff into the proposed exfiltration trench.

**Conditions prior to Certificate of Occupancy:**

4. The addition of bike parking on the property or in direct proximity to the property.