

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: October 21, 2021

Application: **Variance - 1325 Simonton Street (RE# 00035950-000000)** - A request for approval of a variance to conform with parking deficiencies, variance to off-street required parking and landscaping requirements, variance to required open space, and a variance to the maximum impervious surface to allow an electronic scooter rental service as an accessory to a hotel use in the Historic Commercial Tourism (HCT) zoning district pursuant to Sections 90-395, 108-346, 108-412, 108-414, 108-572, 108-575(5), and 122-900(4)b. of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

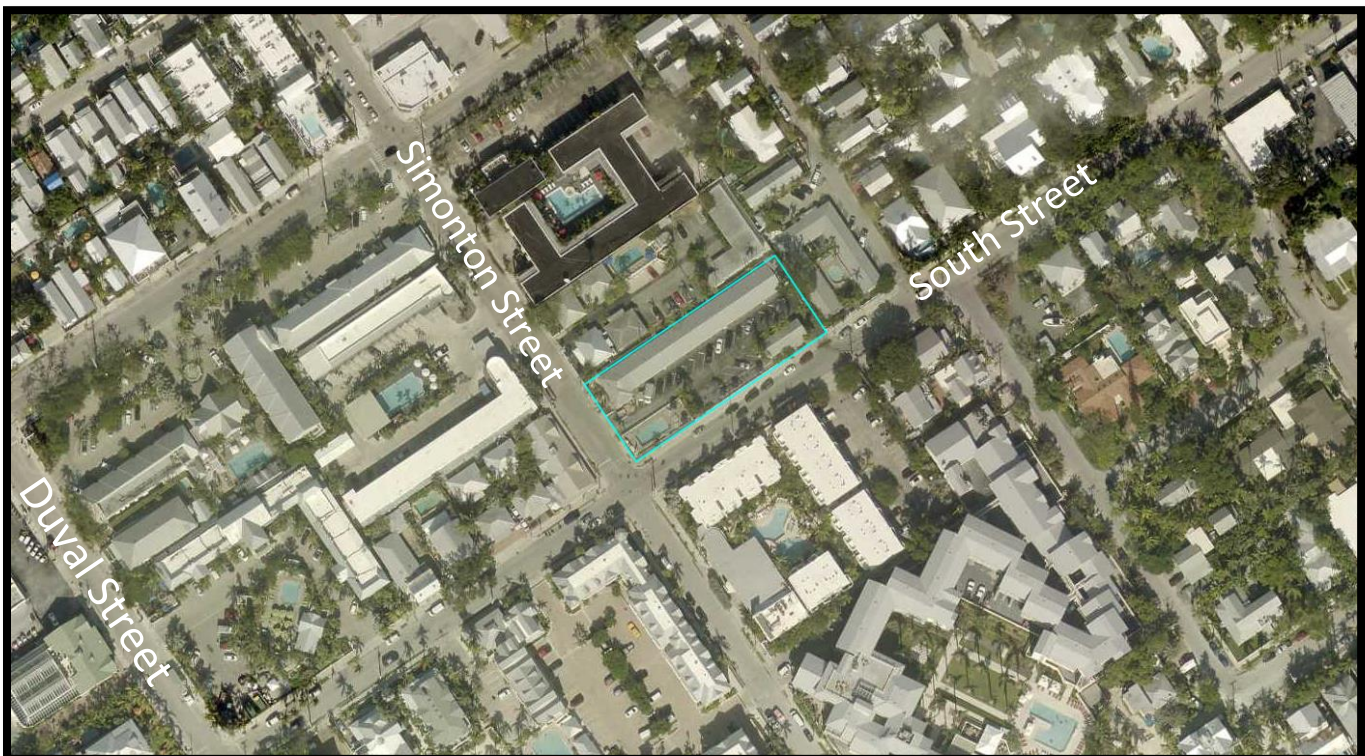
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Request: The proposed project would allow electronic scooters and a food truck as a conditional use and would include variances to off-street parking, landscaping, open space, and impervious surface ratio.

Applicant: Trepanier & Associates

Property Owner: Meisel Holdings

Location: 1325 Simonton Street (RE# 00035950-000000)



**Background:**

The subject parcel is located at 1325 Simonton Street on the corner of Simonton Street and South Street. According to the Historical Architectural Review Commission, the current commercial structure was constructed in 1946. The structure is a historically significant contributing structure to the Key West Historic District. The parcel is surrounded by HCT zoned properties to the south and west, and Historic Residential Office (HRO) zoned properties to the north and east.

The property is operated as the Southwinds Motel (aka Spanish Gardens) and is licensed for 25 transient rentals and an additional one non-transient rental. The property contains an accessory retail and bar space, Topsy Rooster, which is open to both guests and non-guests. The applicant has applied to remove the pool and deck area, install a publicly accessible food-truck, install three additional parking spaces, 2 additional bike parking spaces, and operate 12 electric kick scooter rentals to hotel-guests and the general public.

There are currently 21 off-street parking spaces on the property. The Topsy Rooster, a bar accessory to the motel use, was approved by the Planning Board as a Conditional Use on August 16, 2018 (Resolution # 2018-37). The Board did not require a parking variance, considering that the proposed bar would operate within existing consumption area.

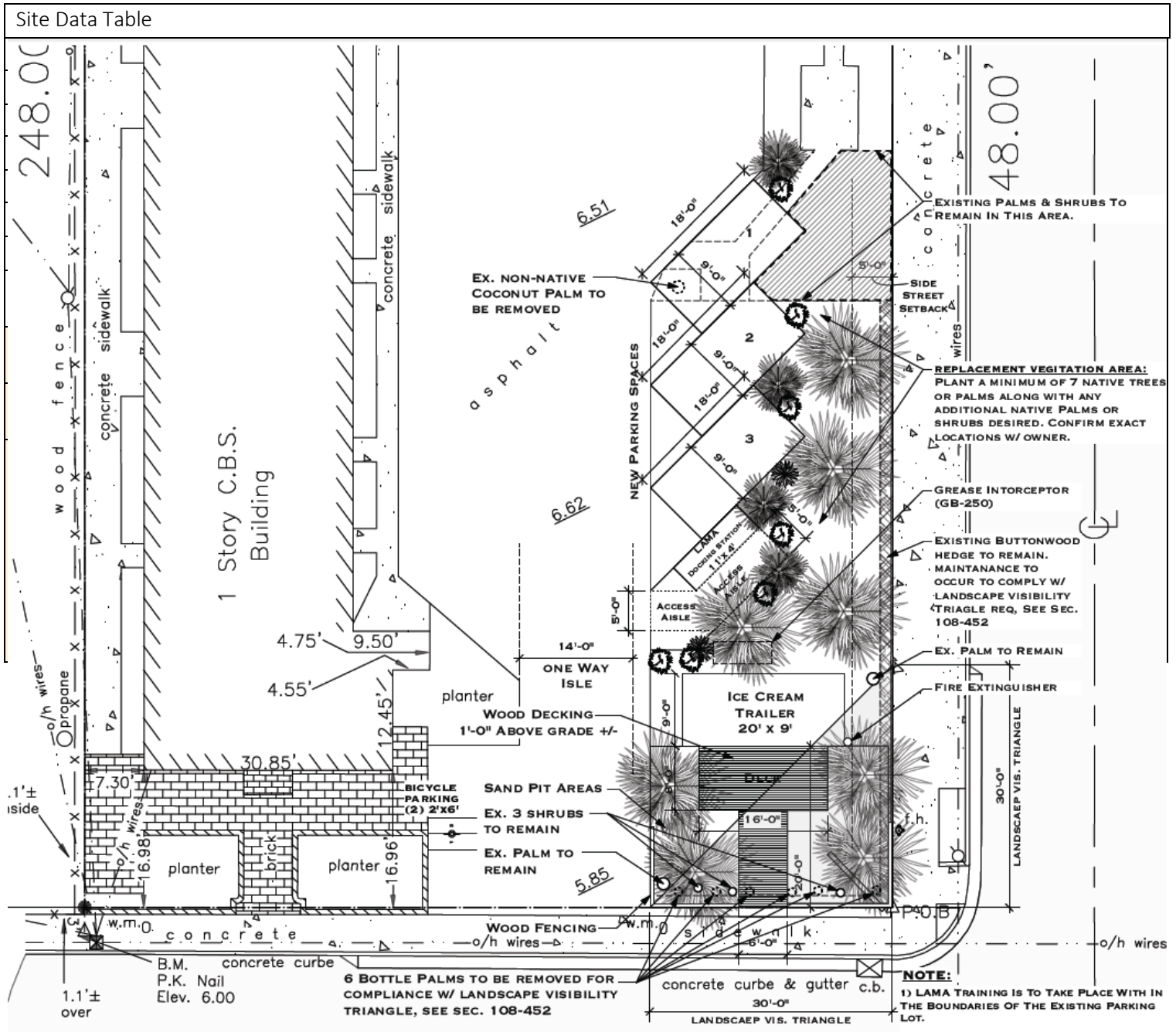
The City of Key West Code requires one off-street parking space per rental unit plus one space for the owner or manager (Section 108-572(7)). The proposed addition of the food-truck would require 4 off-street parking spaces, and the proposed addition of the scooter rental would require an additional 4 off-street parking spaces. In total, per code the parking needs of the property are 27 off-street spaces for the rental units and an additional 8 off-street spaces for the proposed food truck and scooters, a total of 35 off-street parking spaces. The applicant has requested to add an additional three off-street parking spaces.

The applicant has proposed to replace the non-complying accessory structure (pool and deck) with another non-complying accessory structure (food truck) which triggers the need for a variance to impervious surface, open space, and landscaping. City Code Section 122-28 (b) states that if a noncomplying accessory structure is replaced the replacement structure must receive Planning Board approval. It appears that the sign on the corner of the property is also nonconforming with visibility standards, and would need to be addressed as well, since construction will most likely cause the sign to be moved during the renovations.

The applicant has submitted a document entitled, "Comp Plan -LDR Consistency Analysis", dated October 1, 2021, with regards to their client's electric scooter applications for properties at 1325 Simonton, 1220 Simonton, 1321 Simonton and 1401 Simonton Street. Staff appreciates the potential benefits that some electric scooter rental programs may offer, particularly those comprised of non gas-powered vehicles. However, the document does not succeed in providing evidence that the City's Comprehensive Plan is inconsistent with the Land Development Regulations such that parking regulations codified through Section 108-572 and 108-575 should not apply to these applications.

Some of the applicant's Comprehensive Plan policy examples are unrelated to the cited parking code. Other quoted policies encourage a more progressive, holistic, and multi-modal approach to transportation planning, but are not inconsistent with the aforementioned parking policies (108-572, 108-575). In addition, the applicant neglects to grasp that the City implements the Comprehensive Plan across departments and programs; implementation is not limited to the Land Development Regulations. Various City programs endeavor to support multi-modal transportation opportunities including 1) the Transit Department's nascent On-Demand transit system, to be piloted this fiscal year, 2) the Transportation Alternative Fund and the capital improvements and services funded through the program, 3) the Key West Forward Strategic Plan's transportation goals, adopted and approved by the City Commission this summer,

and, 4) the Recreational Rental Vehicle Traffic/Impact Study (and related, anticipated Code amendments) mandated by City Commission to analyze the impacts and benefits of this industry in the City of Key West.



Proposed site plans for 1325 Simonton St., Submitted by applicant





**Proposed Development:**

Site Data Table				
	Code Required	Existing	Proposed	Variance Request
Zoning	HCT			
Size of Site	24,800			
Height	35'		No change	n/a
Front Setback	5'		No change	n/a
Side Setback	5'		No change	n/a
Rear Setback	10'		No change	n/a
Street Side	5'		No change	n/a
Building Coverage	50% -- 12,400 sqft	36.7% -- 9,106 sqft	28.8% -- 7,141 sqft	complies
Impervious Surface	70% -- 17,360 sqft	87.6% -- 21,716 sqft	83.4% -- 20,677 sqft	13.4%, 3,317 sqft
Open Space	20% -- 4,960 sqft	12.4% -- 4,123 sqft	16.6% -- 4,123 sqft	3.4%, 837 sqft
Parking	1 per motel unit 1 per motel manager 1 per 3 scooter rentals 1 per 45 feet new consumption area (food truck) 35 off-street spaces in total	21 spaces	24 spaces	11 off-street parking spaces
Bicycle Parking		3 spaces	5 spaces	n/a
Minimum landscaped area	20%	12.4%	16.6%	3.4%
Interior parking area landscaping requirements	No more than 10 spaces in an uninterrupted row (without landscaping)	15	15	5

**Process:**

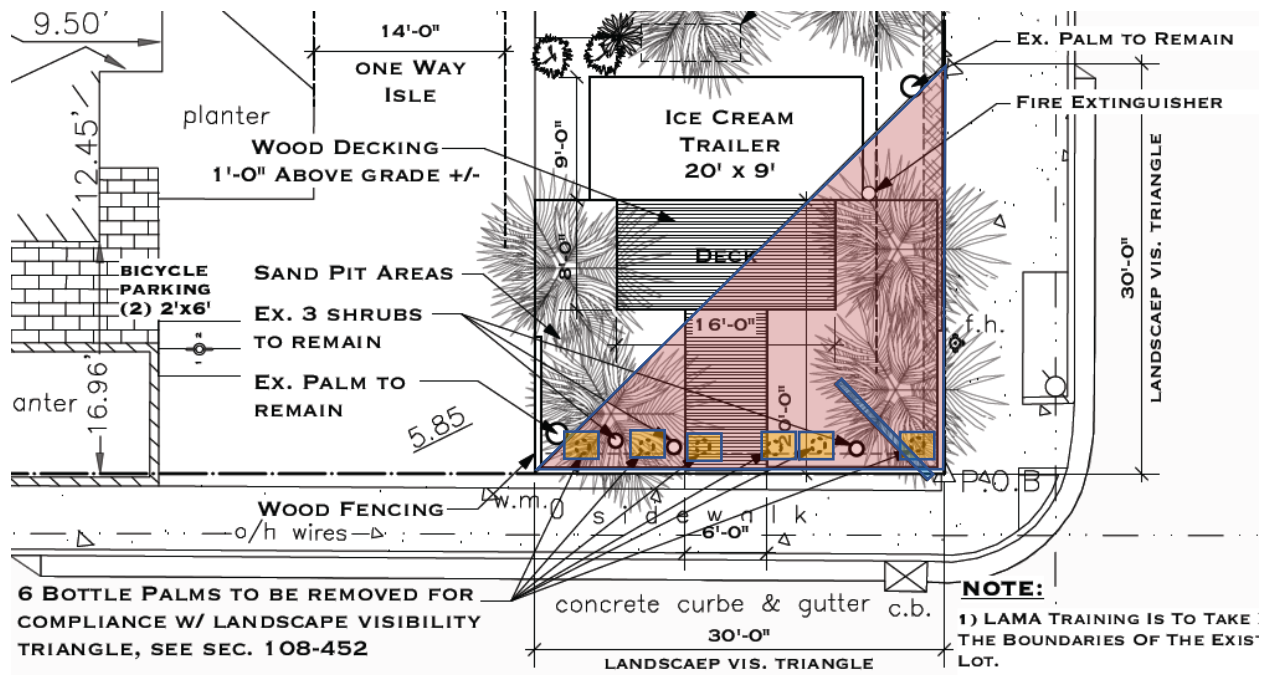
Planning Board Meeting:	Oct. 21, 2020
Local Appeal Period:	10 Days
Planning renders to DEO for review:	Up to 45 days

**Staff Analysis - Evaluation:**

The applicant has requested to remove 6 Bottle Palms in order to comply with the visibility triangle, however the applicant also has a legal non-complying sign within the triangle which hinders the line-of-sight. A post of the legal non-complying sign is anchored in the pool deck and will likely need to be removed in order to remove the pool deck. The moving of the sign would result in the applicant needing to bring the sign into conformance for life/safety, and to conform with the City Code.

The applicant is requesting variances to impervious surface and open space, given the site is currently non-compliant with the City Code; however, the proposed design is improving site compliance in these areas. With respect to parking, the historic site is currently non-compliant. Four required spaces are associated with the proposed additional consumption area for the food truck and four required parking spaces are associated with the proposed scooter rentals. The applicant has argued that the scooter rentals will in fact reduce vehicular trips in the area, and that this regulation is not appropriate, especially given that these are non-carbon (electric) vehicles.

The applicant is also proposing a variance to the minimum landscaped area criteria in the City Code (Section 108-412); the applicant is proposed to improve this condition by 4%. Finally, the applicant has proposed a variance to Section 108-414(c) which requires landscaping criteria for the interior of parking lots. The applicant's site is currently non-compliant with this section of code and is proposing to add additional parking spaces without adding interior landscaping. Staff proposes the applicant accommodate additional landscaping in other areas to attempt to minimize the impact of this proposal.



- Visibility Triangle
- Shrubs to be removed
- Legal noncompliant signage

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 1325 Simonton is larger than the code required minimum lot size, the parcel is 24,800 sq.ft. and the minimum size for lots in HCT is 10,000 sq.ft. The applicant's current proposal to replace the pool and pool decking with additional parking, a food truck, and scooter rentals improves the site's total noncompliance, but no special conditions exist.

**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 on the lot have changed, the property owner added additional coverage when the Topsy Rooster was added to the property. The property owner also removed much of its on-site landscaping on the South St. and Simonton St. sides as can be seen in the photos below. The removal of the pool and pool deck will improve the overall conformance of the lot; however, the lot will still be non-complying in impervious surface and open space. Due to the historic nature of the lot, being a 12-unit motor lodge, much of the lot is paved for parking, it is unclear how the applicant intends to mitigate the non-complying impervious surface. Furthermore, with the addition of the proposed food truck and additional consumption area on the property not limited to guests, the lack of parking at and around the site may cause some off-site parking impacts. It is unclear the extent of impacts to surrounding city right-of-way and on-street parking given the expanded on-site amenities for both the guests and the general public.

**NOT IN COMPLIANCE**

2014 – Google Earth



2018 – Google Earth



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 require setbacks, impervious surface, and open space standards in order to ensure life safety, general welfare, health standards, and aesthetics. The proposed conversion of the pool and deck area would improve the area's nonconforming impervious surface and open space; however, the applicant has not stated how they would mitigate the remaining nonconforming impervious surface and open space.; the applicant is proposing to add another food service establishment on the property without adding additional parking.

**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 1325 Simonton is larger than the zoning district's requirements. The City has determined that the motel is a historic contributing structure to the Key West Historic District, however the parking lot and other impervious areas on the lot are not. The applicant could alter their parking lot to add some additional pervious area and/or open space. Strict compliance with the minimum standards for the HCT zoning district would not pose a significant hardship on the applicant as the applicant could remove a portion of the parking lot and replace it with a more pervious option. The applicant could also increase their bike parking to substitute some of the required off-street auto parking for off-street bike parking. Literal interpretation of the provisions of the Land Development Regulations would not deprive the applicant of rights commonly enjoyed by other surrounding properties under the terms of this ordinance.

**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 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 further reduce the proposed impervious surface and open space by changing some of the consumption area on the parcel to a pervious surface instead of paver bricks.

**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. Flooding and rainwater mitigation is an issue in the Historic District especially parcels closer to



the water such as 1325 Simonton. The applicant could plan to capture or maintain the rainwater from the high impervious surface by adding an infiltration trench, adding a swale under the proposed decking by the food truck, or some other mitigation technique.

**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 received letters of objection to this variance and the associated conditional use permit application. Staff has reviewed the objections and sent copies to the applicant. Conditions of approval, below, attempt to mitigate the stated anticipated impacts of the electric scooter business and new food truck.

**Recommendation:**

The proposed variances at 1325 Simonton are to off-street parking, impervious surface, open space, and to general landscaping and interior parking lot landscaping requirements. With respect to impervious surface, landscaping, and open space, the applicant is improving the non-compliance of the site. The applicant is seeking approval to remove a pool and deck and to replace it with three off-street parking spaces, a food truck, and 12 scooter rentals. It is unclear how the parcel and the surrounding area may be impacted with respect to congestion given the anticipated additional trips to the parcel, however the applicant’s traffic engineer/traffic analysis concludes that the maximum anticipated daily fifteen trips (associated with scooter activity) will not degrade the level of service of Simonton or South Street. The scooter rental would be for both hotel-guests and the general public. The applicant has generally agreed to collaborate with staff to identify additional areas for landscaping to attempt to minimize the lack of

on-site landscaping. The proposed variance to the minimum required open space, maximum impervious surface, and the minimum number of off-street parking spaces do 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:

1. The proposed construction shall be consistent (except for conditions of approval listed below) with the plans signed, sealed, and dated 8/3/2021 by Seth Neal.
2. Prior to application for building permits, the applicant shall submit a revised landscape plan to the Urban Forester for review and approval to reflect the following improvements: additional canopy trees shall be depicted and planted, spaced 10-15 ft on center, and native shrubs shall be planted along the South Street and Simonton Street perimeter to buffer vehicle lights along the South Street right of way. Existing regulated palms shall be retained or transplanted to provide safe sight triangle at the Simonton/South Street intersection.
3. The Southwinds Motel sign within the sight-triangle should be moved or changed to meet the visibility triangle standards.