

**THE CITY OF
KEY WEST
PLANNING BOARD
Staff Report**



To: Chair and Planning Board members

Through: Patrick Wright, Planning Director

From: Melissa Paul-Leto, Planner Analyst

Meeting Date: October 18, 2018

Agenda Item: **Minor Development Plan, Conditional Use, and Landscape Waiver – 3228 Flagler Avenue (RE#00069040-000000)** – A request for minor development plan, Conditional Use and landscape waiver approvals for the construction of a five (5) deed restricted affordable units and three (3) market rate residential units within a two story structure on property located within the Commercial Limited (CL) Zoning District pursuant to Sections 108-91 B.1 (a), 108-196(a), 122-62, 122-388(2), 108-517, and 90-427 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida

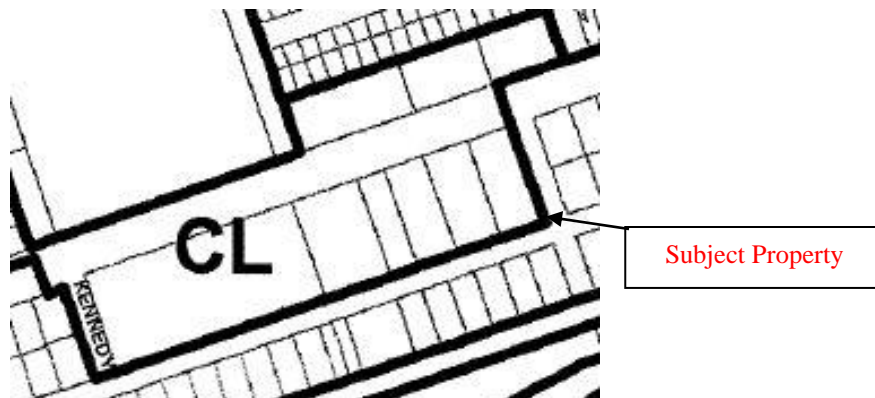
Request: Minor development plan, Conditional Use and landscape waiver approvals for the proposed construction of five (5) deed restricted affordable units and three (3) market rate residential units.

Applicant: Trepanier & Associates, Inc.

Property Owner: Land 10031 LLC c/o Uphoff Investments, LLC

Location: 3228 Flagler Avenue (RE#00069040-000000)

Zoning: Commercial Limited (CL)



Background: The property is located at 3228 Flagler Avenue. In order to allow the proposed development, several development approvals would be necessary.

- Variance to side yard setback requirement for the proposed two story residential structure.
- Minor Development Plan review is required due to the proposed permanent residential construction of five or ten units, pursuant to Section 108-91.B.1 (a).
- Conditional use review is required for the proposed construction of the multiple-family dwelling units within the CL Zoning District, pursuant to City Code Section 122-388(2).
- The applicant is also requesting a waiver to landscape buffer requirements, pursuant to City Code Section 108-347.

Existing Conditions and Additional Background:

The property currently consists of a commercial establishment known as Dion’s fuel station and mini market with an industrial building to the rear of the property. The industrial warehouse in the rear of the property is the subject of the minor development plan.

Proposed Development:

The proposed development consists of the following: A demolition of the industrial building to the rear of the property, replace it with the construction of a two story concrete exterior wall, structure that will house five (5) deed restricted affordable units, three (3) market rate residential units, 15 automobile spaces and 18 bicycle/scooter spaces are provided for parking under and around the structure, high-voltage electrical conduit for electric car charging will be provided, an underground rainwater catchment system is proposed with swales and exfiltration trenches, a Bocce court will be located above the catchment system and ten ventilated storage units will be provided to the side of the property. This project is utilizing Section 122-1470 – Accessory unit infill (See Parking Data Summary Below).

Surrounding Zoning and Uses:

Surrounding properties are located within the Medium Density Residential (MDR) and Single Family (SF) Zoning Districts. Surrounding uses include single family and multiple-family structure types and single family residential dwelling units.

Process

Development Review Committee:	May 25, 2018
Preliminary Tree Commission:	July 9, 2018
Planning Board:	August 16, 2018 (postponed by staff)
Planning Board:	September 18 (postponed by staff)
Planning Board:	October 18, 2018
Final Tree Commission:	TBD
DEO review	Up to 45 days, following local appeal period

Evaluation for Compliance with the Land Development Regulations (LDRs) and Comprehensive Plan

City Code Section 108-91.B.1 (b) requires permanent residential and transient residential development: addition or reconstruction of five or ten more units area be reviewed as a Minor Development Plan. City Code Section 108-196(a) states after reviewing a Major Development Plan or a Minor Development Plan for a property and staff recommendations therefor, the Planning Board shall act by resolution to approve, approve with conditions, or disapprove it based on specific development review criteria contained in the LDRs and the intent of the LDRs and comprehensive plan. The Planning Board resolution shall provide written comments documenting any conditions of approval that the Planning Board finds necessary to effectuate the purpose of Development Plan review and carry out the spirit and purpose of the Comprehensive Plan and the LDRs.

Planning staff, as required by Chapter 108 of the City LDRs, has reviewed the following for compliance with the City's LDRs and Comprehensive Plan as summarized in the following table.

Project Data Summary				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Zoning District	CL			
Flood Zone	AE-8			
Site size	21,982 SF			
Maximum density	16 du/acre	0	8 units	None
Maximum floor area ratio	.8	.21% 4,705 SF	.57% 12,468 SF	In Compliance
Maximum height	40 feet	20 feet	39 feet 9 ½ inches	In Compliance
Maximum building coverage	40% 10,991 SF	26% 4,741 SF	38% 8,355 SF	In Compliance
Maximum impervious surface	60% 13,189.2 SF	100% 21,982 SF	84% 18,477 SF	Improvement In Compliance
Open Space	30% 6,725 SF	5% 1,099.1 SF	16% 3,463 SF	Improvement In Compliance
Minimum front setback	25 feet or 10% of lot depth for buildings over 25 feet in height	73.05 feet	73.05 feet	In Compliance
Minimum side setback	15 feet (15 feet or 10% of lot width up to a maximum of 20 feet, whichever is greater)	.8 feet	5 feet	Variance Required -10 feet
Minimum street side setback	20 feet	51.9 feet	20 feet	In Compliance

Project Data Summary				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Minimum rear setback	Minimum 25 Feet or as an alternative ten % of lot depth for buildings up to 25 Feet in height or 20% of lot depth for buildings over 25 Feet in height; provided, however, the maximum setback shall be 50 feet	25 feet	25 feet	In Compliance

Parking Data Summary			
Dimensional Requirement	Required/ Allowed	Proposed on Plan	Change / Variance Required?
TOTAL PARKING REQUIRED	16 Vehicle Spaces 2 spaces per dwelling unit is 16 vehicle spaces and 10% bicycle spaces *except for one deed restricted affordable unit will be utilizing Section 122-1470 may provide two (2) bicycle or scooter parking spaces per unit as an alternative to applying to the planning board for a parking variance.	15 vehicle spaces and 18 bicycle spaces	In Compliance

Concurrency Facilities and Other Utilities or Services (City Code Section 108-233)

Comprehensive Plan Objective 9-1.5 directs the City to ensure that public facilities and services needed to support development are available concurrent with the impacts of new development. The analysis considers potable water, sanitary sewer, solid waste, drainage, vehicle trip generation and recreation. Code Section 94-36 requires a concurrency review determination to be made concerning the proposed development. The Applicant provided a concurrency analysis as part of the Minor Development Plan application. Staff reviewed the provided concurrency analysis following the criteria in Code Section 94-36 and determines that public facilities are expected to accommodate the proposed development at the adopted level of service (LOS) standards. This portion of the report shall serve as the required written determination of compliance.

1. Potable water supply

The adopted potable water LOS standard is anticipated to increase from the existing use but adequate to serve the proposed development. The property is currently vacant, but is serviced with potable water by the Florida Keys Aqueduct Authority (FKAA), which has been notified of the upcoming development and has available capacity to service the proposed development with the existing infrastructure currently in place.

Sec. 94-68 states the Level of Service (LOS) standards for potable water for residential uses shall be 93 gallons/per acre/per day. The potable water demand is 3,720 gallons (20 persons (2.5 per unit) capita X 93 gallon/capita/day = 1,860). The total potable water demand for the proposed development is 1,860 gallons per day.

2. Wastewater management

The applicant states that current utility service is adequate to support the proposed development pursuant to City Code Section 94-67. The Code states residential uses at 100 gallons per day and non-residential uses at 660 gallons per day. This mixed use proposal is for the existing Dion's fuel station and mini market demands to be 10,560 gallons and the residential service demands to be an additional 1,600 gallons for a total level of service 12,160 gallons.

Non-residential: 660 gal/capita/day x 20 persons (2.5 per unit) = 13,200 gal/day

Residential: 100 gal/capita/day x 20 persons (2.5 per unit) = 2,000 gal/day

3. Water quality

The property is served by the City's central sewer system. The property is not adjacent to any bodies of water. There are no adverse impacts to water quality anticipated.

4. Stormwater management / drainage

The stormwater management or drainage LOS standard is pursuant to City Code Section 94-69. The retention of stormwater on the site will improve with the proposed rainwater catchment system which is via Riviera Drive. There is a swale, Nyloplast yard drain, exfiltration trench and trench drains proposed shown on the sheet C-1 of the site plans. Therefore, no adverse impacts to stormwater management or drainage facilities are anticipated.

5. Solid waste

Waste Management for Commercial Services will handle the solid waste on the property. The applicant’s solid waste disposal plan shall have a recyclable and non-recyclable component.

6. Roadways

A traffic study was submitted with the application and was reviewed by the City Engineer, James Bouquet on August 13, 2018 concurred with KBP’s conclusions.

7. Recreation

A bocce court is proposed on the corner of Riviera Drive and Riviera Street.

8. Fire Protection

The applicant confirmed with the Fire Marshal they are adequate to serve the site as long as the building is sprinkled. The proposed structure will be sprinkled.

9. Reclaimed water system

As a part of the BPAS requirements an underground rainwater catchment system shall be installed and utilized.

10. Other public facilities

Based on comments received from the DRC members, and based on the Applicant’s concurrency analysis, all public facilities would be expected to accommodate the proposed development at the adopted LOS standards.

Appearance, design and compatibility (City Code Section 108-234)

The development plan shall satisfy criteria established in:

City Code Chapter 102 (historic preservation)

The property is not located in the historic district.

Articles III (site plan), IV (traffic impacts) and V (open space, screening and buffers) of City Code Chapter 108 (planning and development)

A traffic study was submitted and approved by the City Engineer. The proposed open space is improving. The applicant is requesting a landscape waiver for the front yard buffer as there is currently a fuel station located in the front of the property. The proposed structure will encroach into the side yard requirement and is in non-conformance with the Code. The applicant is requesting a variance to the side yard setback requirement.

City Code Section 108-956 (potable water and wastewater)

Potable water and wastewater were found to be in compliance in the concurrency determination above.

Article II (archaeological resources) of City Code Chapter 110 (resource protection)

There are no known archaeological resources on the property. If any archeological resources are discovered during construction, the Applicant would be required to comply with this article of the LDRs.

Site location and character of use (City Code Section 108-235)

- (a) *Compliance.* The submitted minor development plan has been reviewed for compliance with all applicable performance criteria set forth in Code Chapter 94 (concurrency management), Code Chapter 102 (historic preservation), Code Chapter 106 (performance standards), Articles I and III through IX of Code Chapter 108 (planning and development), Code Chapter 110 (resource protection) and Code Chapter 114 (signs).
- (b) *Vicinity map.* The property fronts Flagler Avenue on the north, Riviera Street on the west, and Riviera Drive at the rear.
- (c) *Land use compatibility.* Uses within 300 feet include single-family residential and commercial. No unincorporated parts of the county are located nearby, nor would any be impacted by the proposed development.
- (d) *Historic and archeological resource protection.* Property is not located in the historic district.
- (e) *Subdivision of land.* No subdivision of land is proposed.

Appearance of site and structures (City Code Section 108-236)

The Applicant submitted a minor development plan that generally exhibits harmonious overall design characteristics in compliance with the performance standards stipulated in Code Sections 108-278 through 108-288, as analyzed below.

Site plan (City Code Section 108-237)

The Applicant submitted a site plan pursuant to City Code Section 108-237, which is analyzed in greater detail below.

Architectural drawings (City Code Section 108-238)

The Applicant submitted extensive architectural drawings prepared by a professional architect registered in Florida pursuant to City Code Section 108-238.

Site amenities (City Code Section 108-239)

Proposed site amenities include new bocce court, two electric car charging stations, new landscaping, bicycle racks, and ten ventilated storage units.

Site survey (City Code Section 108-240)

The Applicant submitted a site survey pursuant to City Code Section 108-240.

Soil survey (City Code Section 108-241)

The applicant submitted a Phase 1 Environmental Site Assessment Recommendation on the subject property. The assessment is attached to the application in the package for review. The City Engineer has reviewed the assessment and concurs with the findings.

Environmentally sensitive areas (City Code Section 108-242)

No environmentally sensitive areas exist on this site. The subject property is located within the AE-8 flood zone.

Land clearing, excavation and fill, tree protection, landscaping and irrigation plan (City Code Section 108-243)

- (a) *Land clearing, excavation and fill.* The proposed development would involve the planting of Native trees and preserved or relocated to the maximum extent possible. Considerations for soil erosion control and sedimentation are included in the construction management plan.
- (b) *Landscaping plan.* The Key West Tree Commission approved the Conceptual Landscape Plan with a Gumbo Limbo Tree Removal to allow the project to proceed through the permitting process.
- (c) *Irrigation plan.* An Irrigation Master Plan dated May 20, 2018 was submitted.

On-site and off-site parking and vehicular, bicycle, and pedestrian circulation (City Code Section 108-244)

The applicant submitted a Traffic Impact Statement performed by KBP Consulting, Inc., which was reviewed by the City Engineer on August 13, 2018 which was deemed in compliance with Section 18-358.

Housing (City Code Section 108-245)

The proposal is for three (3) market rate units and five (5) deed restricted affordable units within a two story multiple family structure with parking underneath.

Economic resources (City Code Section 108-246)

The proposed residential units will add to the economic resources of the city.

Special considerations (City Code Section 108-247)

- (a) The relationship of the proposed development to the City's land use plans, objectives and policies is being evaluated as part of this analysis. The relationship of the proposed development to public facilities was evaluated above and no conflicts were identified.
- (b) The project is not located in the historic district and is in the AE-8 flood zone.
- (c) No unincorporated portions of the county would be impacted by the proposed development.
- (d) The project does not front a shoreline, so shoreline access would not be impeded.
- (e) No special facilities are proposed to accommodate bus ridership since this is proposed for workers in the commercial area. The property is served by bus stops for all bus routes along Flagler Avenue.
- (f) A bocce court is proposed as passive recreation space on the property.
- (g) Coordination with applicable agencies has been facilitated through the Development Review Committee.
- (h) No wetlands or submerged land would be impacted.

Construction management plan and inspection schedule (City Code Section 108-248)

The construction is proposed in a single phase.

Truman Waterfront Port facilities (City Code Section 108-249)

Not applicable.

Site plan (City Code Chapter 108, Article III)

The City shall not approve a site plan unless a finding is made that such site plan conforms to all applicable sections of the LDRs, pursuant to City Code Section 108-276, as analyzed below.

Site location and character of use (City Code Section 108-277)

The proposed construction of the multiple-family dwelling structure is a conditional use within the CL Zoning District.

Appearance of site and structures (City Code Section 108-278)

The appearance, design and land use compatibility complement the surrounding properties and upgrades the appearance, cleanliness and over all well-being of the surrounding properties by providing much needed on-site upgrades.

Location and screening of mechanical equipment, utility hardware and waste storage areas (City Code Section 108-279 & 280)

The solid waste and recycling receptacles are to be located in a screened 9' X 17' enclosure in a location to minimize impacts of waste hauling noises during waste hauling pick up days.

Roll-off compactor container location requirements (City Code Section 108-281)

A roll-off container is proposed as part of the operation of the development.

Utility lines (City Code Section 108-282)

The proposed project will require installation of a new utility service. Installation will be coordinated with the utility agency and in accordance with Section 108-282.

Commercial and manufacturing activities conducted in enclosed buildings (City Code Section 108-283)

No new commercial activities are proposed. The existing Dion's fuel station and mini-market will remain.

Exterior lighting (City Code Section 108-284)

The applicant proposes dark sky lighting to be used as a buffer from light encroaching on the neighbors.

Signs (City Code Section 108-285)

No new signage is proposed.

Pedestrian sidewalks (City Code Section 108-286)

None proposed.

Loading docks (City Code Section 108-287)

None proposed.

Storage areas (City Code Section 108-288)

Storage units are being proposed under the parking area to the front of the structure. The applicant is also providing 10 ventilated storage room walls located on the ground level of the property.

Land clearing, excavation or fill (City Code Section 108-289)

No work would impact a floodplain or a conservation area. A proposed stormwater management would address drainage and runoff from the site. The conceptual landscape plan and Gumbo Limbo tree removal has been reviewed by the Urban Forestry Manager and the Tree Commission at the July 9, 2018 meeting.

Landscaping (Code Chapter 108, Article VI)

(d) A landscape plan is required as part of development plan review, pursuant to City Code Section 108-411. The submitted plan indicates landscaping incorporated throughout the perimeter of the property. Overall landscaped open space would be increased. The Key West Tree Commission approved the Conceptual Landscape Plan with Tree Removal to allow the project to proceed through the permitting process. The applicant will go to the Tree Commission for final approval of the landscape plan after the Planning Board.

Off-street parking and loading (Code Chapter 108, Article VII)

All required parking is provided on-site as shown on attached plans.

Stormwater and surface water management (Code Chapter 108, Article VIII)

The stormwater management or drainage LOS standard is pursuant to City Code Section 94-69. The retention of stormwater on the site will improve with the proposed swale, Nyoplast yard drain, exfiltration trench and trench drains per attached plans. Therefore, no adverse impacts to stormwater management or drainage facilities are anticipated.

Utilities (Code Chapter 108, Article IX)

Access to potable water, access to wastewater disposal systems and conservation of potable water supply were analyzed in the above concurrency management determination and were found in compliance.

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 land uses that surround this area are commercial on in the front and residential to the side and rear of the property. The mixed use proposal is compatible. The applicant proposes a landscape buffer one both the sides and rear of the property.
- (2) *Sufficient site size, adequate site specifications, and infrastructure to accommodate the proposed use.* The proposed development does not exceed the minimum size required to complete the development.

- (3) *Proper use of mitigative techniques.* Any adverse impacts will not affect surrounding properties. The on-site upgrades, such as landscaping, dark sky lighting, and drainage should provide added benefits to the neighborhood.
- (4) *Hazardous waste.* No hazardous waste would be generated on the property.
- (5) *Compliance with applicable laws and ordinances.* Any and all necessary permits from other governmental agencies would be obtained.
- (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.* Not applicable.
 - b. *Residential development.* The proposed two story multi-family residential structure is compliant with all dimensional requirements except for the required side yard setback requirement. The applicant is requesting a variance to the required side yard setback.
 - c. *Commercial or mixed use development.* The proposal is a mixed use development with Dion's a fuel station and mini market facing Flagler Avenue and a two story multi-family structure located to the corner of Riviera Drive and Riviera Street.
 - d. *Development within or adjacent to historic district.* Not applicable.
 - e. *Public facilities or institutional development.* Not applicable.
 - f. *Commercial structures, uses and related activities within tidal waters.* Not applicable.
 - g. *Adult entertainment establishments.* Not applicable.

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 Minor Development Plan, Conditional Use and Landscape Waiver be **APPROVED** with the following conditions:

General conditions:

The proposed development shall be consistent with the plans dated September 28, 2018 by Robert Allen Steele, P.A. No approval granted for any other work or improvements shown on the plans other than the proposed construction of the two story multi-family structure that includes five (5) deed restricted affordable units, three (3) market rate residential units, ground floor storage units, bocce courts, an underground catchment system, parking, electric charging systems, and scooter/bike spaces.

1. Tree Commission for Final approval
2. The relocation of the garbage enclosure shall in no way alter the number or size of the fifteen required (15) off-street parking spaces.
3. The hours of construction shall be in compliance with City Code and be limited to 8 AM to 7 PM on Monday to Friday, and 9 AM to 5 PM on Saturday.
4. During all phases of construction, temporary fencing shall be installed and maintained. All adjacent City streets and sidewalks shall be kept clean and clear of construction debris.
5. The applicant shall obtain final landscape plan approval from the Tree Commission.
6. Prior to obtaining a Certificate of Occupancy, the applicant must record the affordable deed restriction identifying the five (5) affordable units in a form that is acceptable to the City, and approved by the City's Attorney.
7. Per the Fire Marshal's request the multi-family two story structure must have a sprinkler system installed in each unit.