

THE CITY OF KEY WEST
PLANNING BOARD
Staff Report



To: Chairman and Planning Board Members

Through: Katie P. Halloran, Planning Director

From: Zoe Porter, Planner I

Meeting Date: October 25th, 2022

Agenda Item: **Variance – 703 Windsor Lane (RE# 00018700-000200)** - A request for variances to the minimum front, side, and rear setbacks, maximum impervious surface ratio, minimum open space, maximum building coverage, and minimum required off-street parking requirements in order to demolish an existing single-family home and reconstruct a new single-family home on a parcel located within the Historic High Density Residential (HHDR) zoning district pursuant to Sections 90-395, 122-630 (4)a., 122-630 (4)b, 122-630 (6)a., 122-630 (6)b., 122-630 (6)c., 108-346 (b), and 108-572 (1) of the Land Development Regulations of the City of Key West, Florida.

Request: The applicant is requesting a variance in order to demolish an existing noncomplying single-family home and reconstruct a new noncomplying single-family home.

Applicant: Richard McChesney

Property Owner: Jennifer Trapani and Evelyn Burkart

Location: 703 Windsor Lane (RE#00018700-000200)

Zoning District: Historic High Density Residential (HHDR)



Background:

This project was originally set for the August 18th Planning Board meeting but was postponed at the applicant's request due to an adjacent property owner's objection. The applicant and opposing property owner's representatives have since agreed upon specific aesthetic conditions to be met; such conditions will not be included in Planning Staff's recommended conditions as they require HARC approval. The adjacent property owner has since provided support for the project, contingent on the conditions being met.

The project was rescheduled for the September 15th Planning Board meeting, where it was voted by the Planning Board to be postponed until October 20th. The Planning Board discussed whether a new application with site plans that depict a Unity of Title should be presented. The property owner has decided to move forward with the application as it was originally submitted; thus, the site plan and project scope will not change from the plans submitted with the original application. If a vote to approve the variance is passed, Planning staff still recommends a Unity of Title to allow the parcel to have street frontage for egress/ingress, as listed in the conditions below. The applicant is not opposed to a Unity of Title if the Planning Board were to deem it beneficial for this project. A site plan depicting the parcel as it stands today and the parcel in the event the Planning Board prefers a Unity of Title has been included in the planning package and this staff report.

Additionally, at previous Planning Board meetings Planning Staff advised that the subject property was an illegally formed parcel due to lack of evidence of a legal lot split as required by the Land Development Regulations. The applicant has provided additional research including Monroe County Property Appraiser records that indicate two individual, separate parcels for 703 Windsor Lane and 701 Windsor Lane (now 627 Elizabeth Street) dated back to 1977. Though the City established Land Development Regulations in 1969, Planning staff could not locate lot split requirements within the formerly adopted code. Due to this, Planning staff cannot confidently determine whether this lot was originally divided pursuant to City Code. It is clear that the lot has been in existence in its current size and shape since at least 1977.

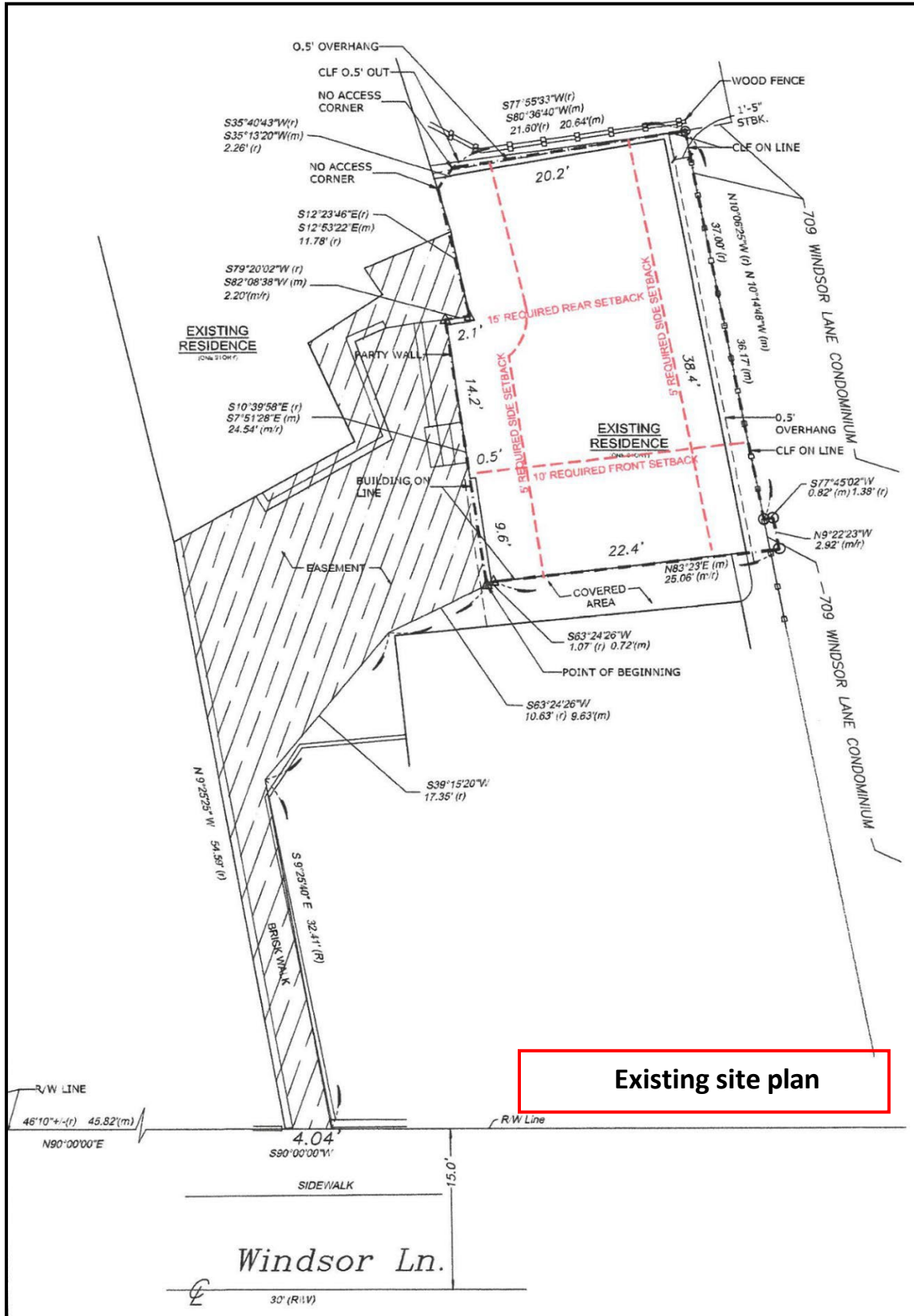
Despite being two separate parcels, both properties were sold together on one deed from 1979 until 2006. A total of seven transactions were conducted within the 27-year time period, each transaction sold 701 and 703 Windsor together. In November 2006, 703 Windsor Lane was sold individually, which created a separate deed for the property but did not create a new parcel.

The subject property, 703 Windsor Lane, is a 937 square-foot landlocked parcel located near the corner of Elizabeth Street and Windsor Lane. The property is located within the Historic High Density Residential (HHDR) zoning district. The current property owner purchased the home in November 2021, but the unit is currently unoccupied due to the pending involuntary demolition of the existing structure. (A demolition permit was approved on July 19th, 2022, following the City of Key West Chief Building Official declaring the structure unsafe and beyond repair.)

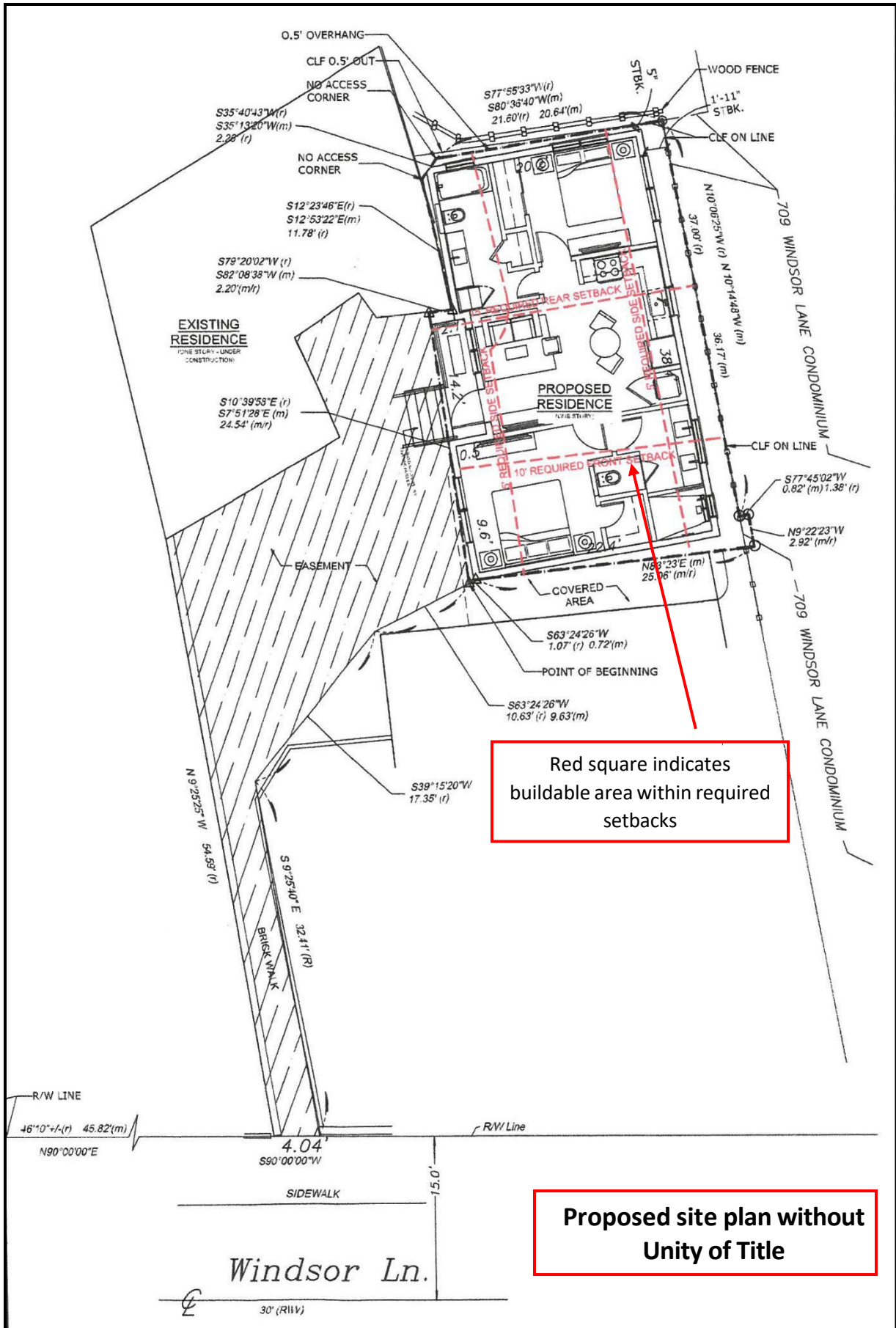
The existing single-family home was constructed in 1948 and is not a historic contributing structure. The west side of the existing structure is connected to the dwelling unit at 627 Elizabeth Street, which is owned by the same property owner. The south side of the existing structure is connected to a separately owned dwelling unit located at 705 Windsor Lane. The subject parcel is accessible through a four-foot-wide access easement which is attached to both 627 Elizabeth Street and 703 Windsor Lane through an easement agreement between the two property owners. The City has not conducted a site visit to confirm the structure has been removed from the property.

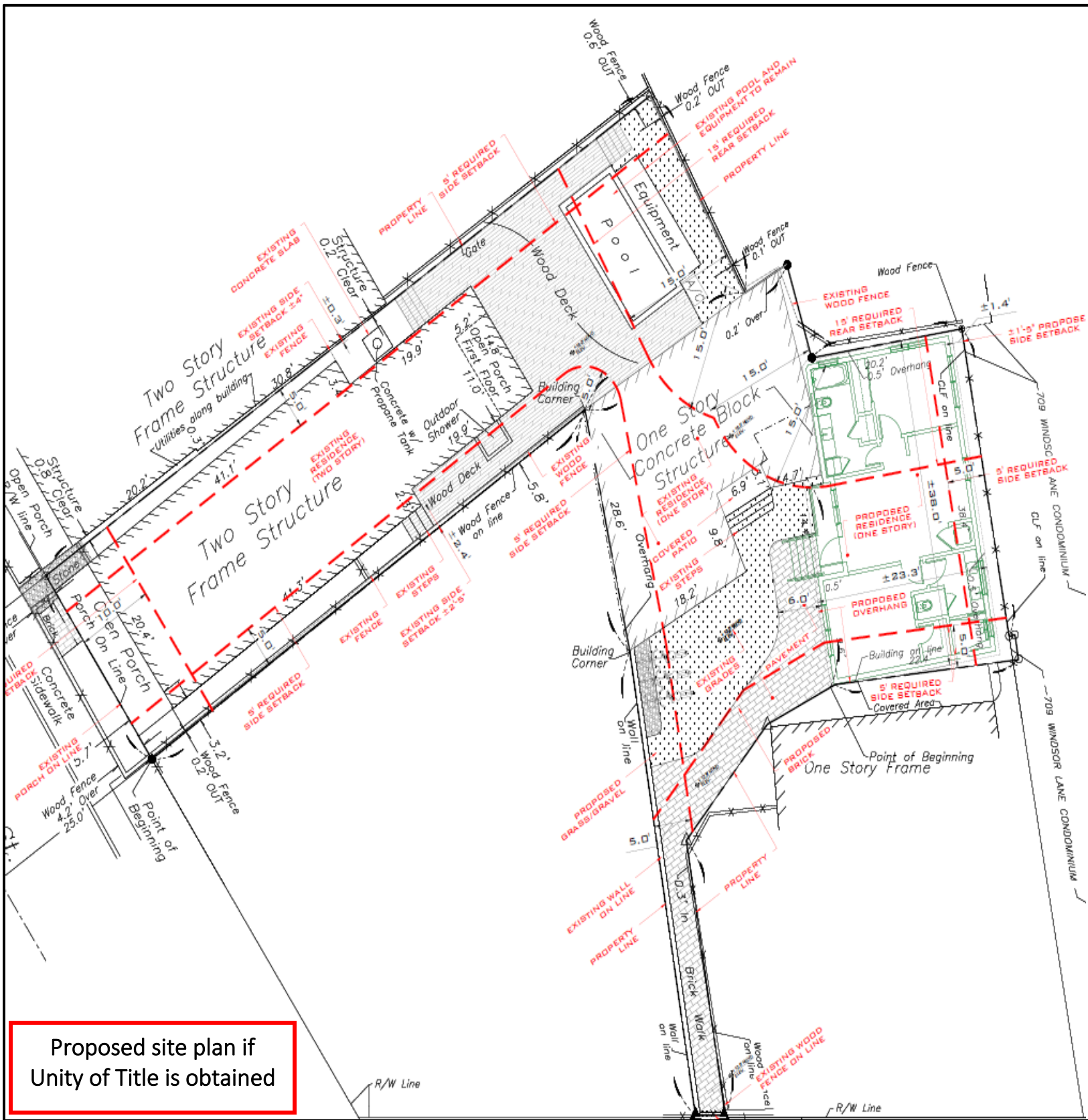
Request:

The applicant has requested a variance in order to reconstruct a new 783 square-foot single-family dwelling unit following demolition of the existing home. Section 122-28 (b) of the Land Development Regulations permits involuntarily destroyed residential dwelling units to be replaced at their previously existing three-dimensional building envelope without obtaining a variance. The requested variance is necessary due to change in the existing structure's footprint. It should be noted that the proposed site plan allows for improvements to the property's impervious surface ratio, building coverage, open space, right-side setback, and elevation.

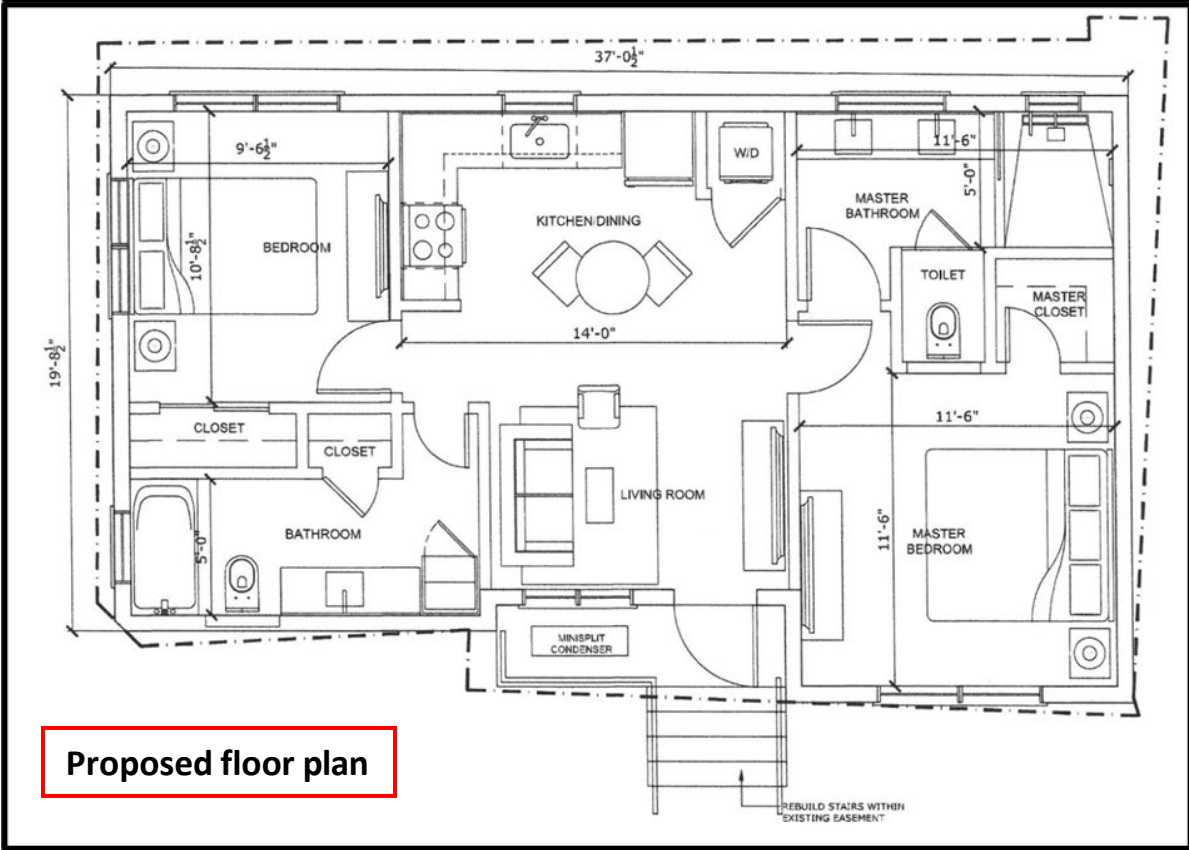
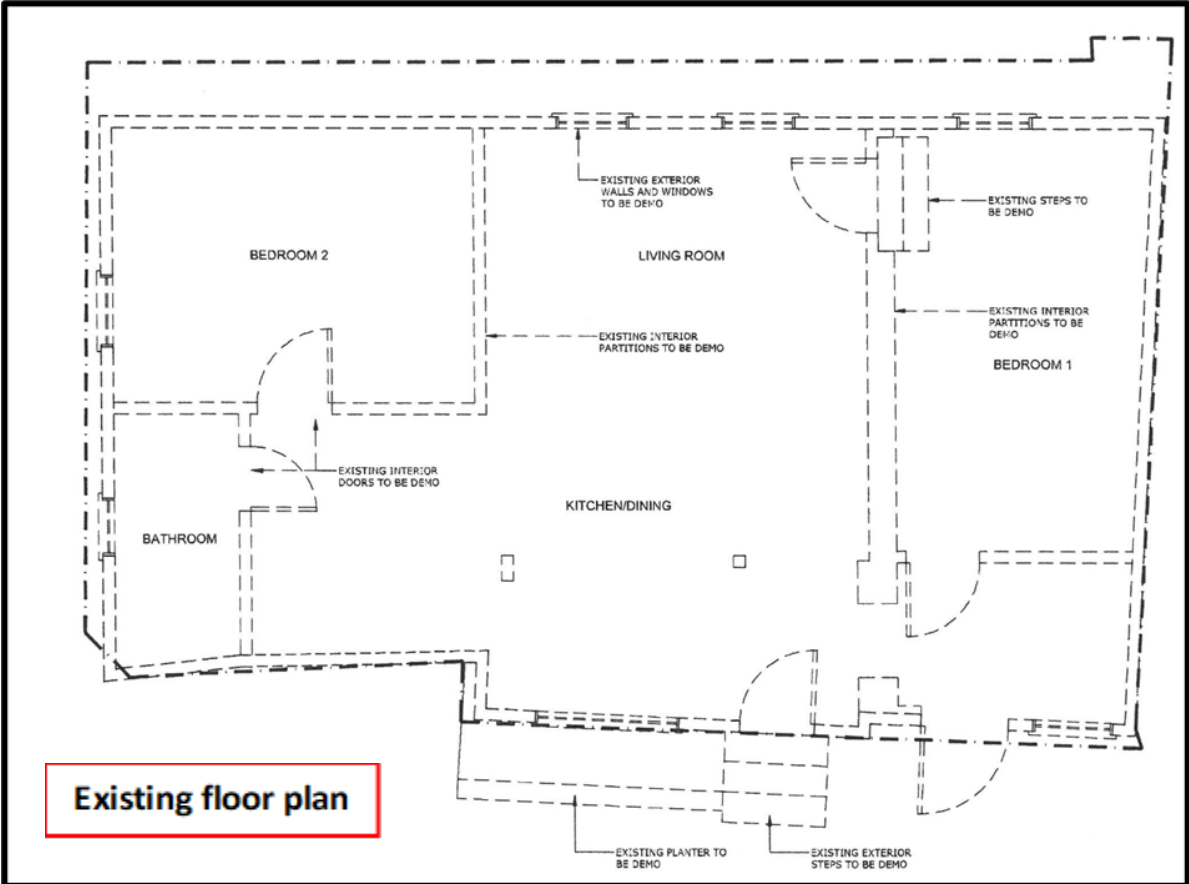


Existing site plan

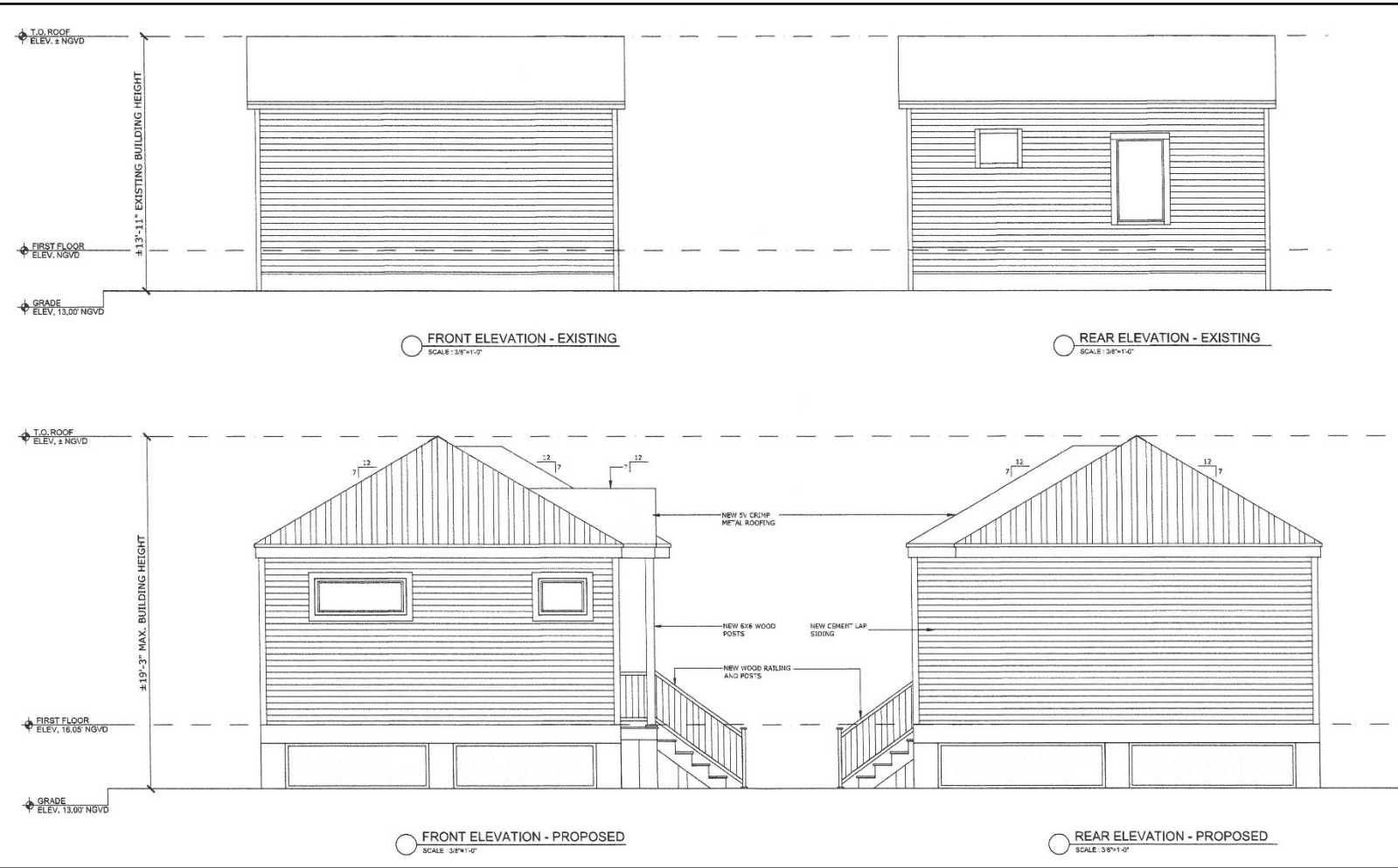




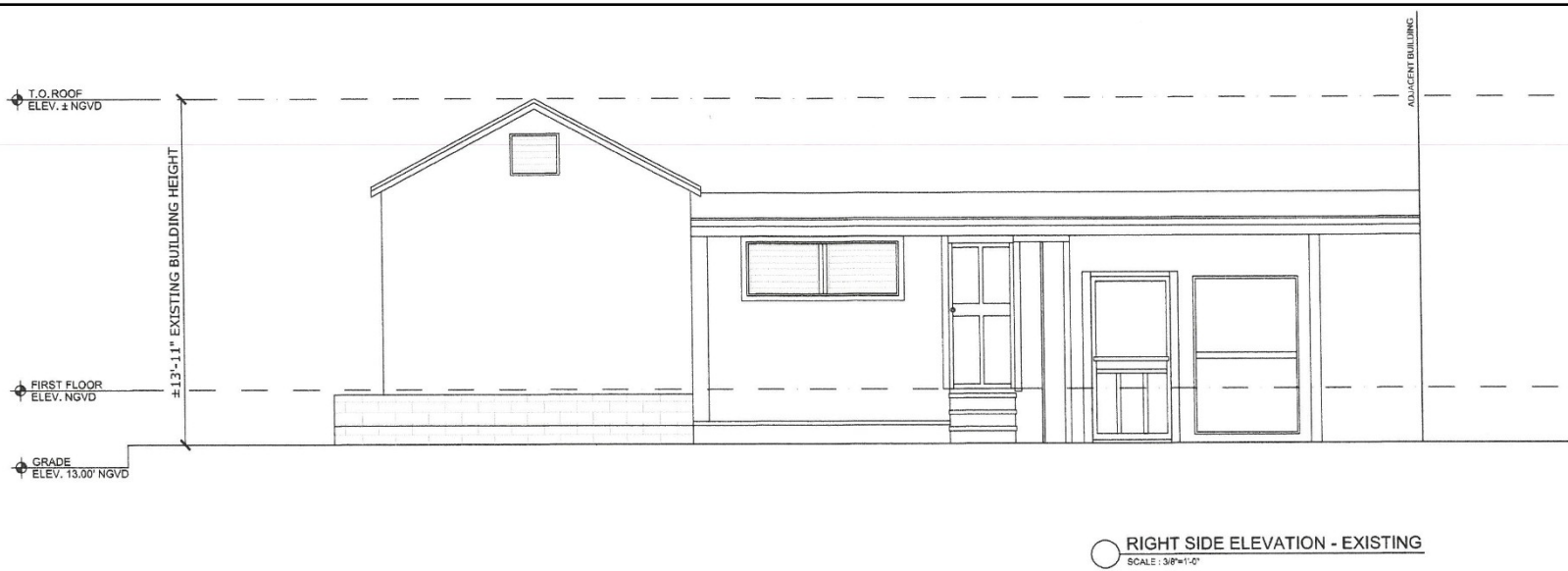
Proposed site plan if
Unity of Title is obtained



Existing and proposed north and south side elevations:



Existing and proposed west side elevation:



Existing and proposed east side elevation:



Proposed Development:

The site data table below details the current and proposed site data for the existing property. The property owner is willing to execute a Unity of Title with adjacent property 627 Elizabeth Street if the Planning Board deems it constructive. The site data for the existing property is displayed below, as well as the site data if the Unity of Title were to be attained. In both scenarios, variances would be required for the proposed development.

Site Data Table					
	Code Required	Existing	Proposed	If Unity of Title is Requested	Variance Request*
Zoning District	HHDR				
Flood Zone	X				
Lot Size	4,000 sq. ft.	937 sq. ft.		4,930 sq. ft.	Noncomplying
Height	30' maximum	13'-11"	19'-3"	No change	In compliance
Front Setback	10'	0'-0"	0'-0"	No change	10'
Right Side Setback	5'	1'-5"	1'-11"	0'-0"	4'-1"
Left Side Setback	5'	0'-0"	0'-0"	0'-0"	5'
Rear Setback	20'	0'-0"	0'-0"	1'-11"	20'
Building Coverage	50% (450 sq. ft.)	93.1% (838 sq. ft.)	87% (783 sq. ft.)	60.8% (3,000 sq. ft.)	37% (333 sq. ft.)
Impervious Surface	60% (540 sq. ft.)	93.1% (838 sq. ft.)	87% (783 sq. ft.)	73.7% (3,631 sq. ft.)	27% (243 sq. ft.)
Open Space	35% (315 sq. ft.)	6.9% (62 sq. ft.)	13% (177 sq. ft.)	16.5% (812 sq. ft.)	22% (138 sq. ft.)
Auto Parking	1 parking space	0 parking spaces	0 parking spaces	0 parking spaces	Noncomplying

*Variance requests are calculated above based on no unity of title.

The applicant is requesting variances pursuant to the following sections of the City of Key West Land Development Regulations:

- Sec. 122-630 (6) a. – Minimum front setbacks
- Sec. 122-630 (6) b. – Minimum side setbacks
- Sec. 122-630 (6) c. – Minimum rear setbacks
- Sec. 122-630 (4) a. – Maximum building coverage
- Sec. 122-630 (4) b. – Maximum impervious surface ratio
- Sec. 108-346 (b) – Minimum open space ratio

Process:

Planning Board Meeting:	Oct. 25 th , 2022
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 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 subject plot of land is unique concerning its size, orientation, and location relative to Windsor Lane. The parcel is non-conforming, consisting of 937 square feet instead of the required minimum 4,000 square foot lot size in the HHDR zoning district. While it is common for parcels of record in this zoning district to be smaller than LDR requirements, this parcel is exceptionally smaller in size than others. The property also does not have street frontage with wide enough access for on-site parking. These constraints make it difficult to design a practical single-family home with off street parking that complies with all current Land Development Regulations in HHDR zoning district.

Alternatively, if a Unity of Title is obtained, the parcel would meet the minimum lot size requirement for the HHDR zoning district but given the setback requirements and the irregular shape of the lot it would be very difficult to construct a single-family home that meets all requirements in the LDR's.

Special circumstances exist.

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 variance request is necessary due to the applicant's proposal to reconstruct a single-family home that must be demolished due to irreversible deterioration. The existing home is on an irregularly shaped parcel that does not allow for a reasonably sized single-family home to be constructed in compliance with the Land Development Regulations. Instead of rebuilding the home in the same legal non-conforming footprint, which would not require a variance, the applicant has proposed changes to the original structure's footprint in order to improve several non-conforming aspects on the property. The conditions are not a result of action or negligence of the applicant.

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 applicant has requested a variance in order to reconstruct an existing unsafe single-family home with improvements to impervious surface ratio, building coverage, open space, and the right-side setback. Single-family homes are a designated land use within the HHDR zoning district. Strict compliance to the required setbacks would allow the applicant around 107 square feet of buildable area, this constraint would provide difficulty to design a practical single-family home. Granting of the requested variances would not confer special privileges upon the homeowner as a variance would be recommended in other circumstances with similar constraints.

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 subject parcel is 937 square-feet, which is 76.5% under the minimum lot size for the HHDR zoning district. Due to the size of the lot the property owner is limited on options to design a home on the parcel that conforms to all requirements in the Land Development Regulations (LDR's). Strict compliance with the dimensional requirements and setbacks in the LDR's would pose as a hardship to construct a functional single-family home.

Additionally, if a Unity of Title were to be completed, the lot size would meet the minimum requirement stated in the LDR's, but it would be difficult to reconstruct a compliant single-family home given the irregular shape of the parcel.

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 variances requested are not the minimum required that will make possible the reasonable use of the land, however it is the minimum for a reasonably sized single-family home on the parcel as it exists now and if a Unity of Title is completed. Though variances are needed in both scenarios, the proposed site plan does not increase any pre-existing non-conformities and provides improvements on several non-conforming aspects.

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 general intent of the Land Development Regulations (LDR's) is to promote public health, safety, and general welfare. The parcel does not adhere to the existing dimensional requirements in the LDR's, resulting in a lot that could be unsafe to public welfare. As a result, any structure built on the nonconforming lot could be injurious due to the lack of dimensional requirements. However, the variance request is necessary due to the applicant altering the existing structures footprint in order to improve several non-conformities. The requested variance allows for improvements, such improvements may benefit the public welfare.

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 variance 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 capacity issues.

The Planning Board shall make factual findings regarding the following:

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

The standards established by Section 90-395(a) of the City Code have been met by the applicant.

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 two letters of objection and two letters of support from noticed neighbors. One letter of support is contingent on specific conditions agreed upon between the property owners; the Planning Department does not have the authority to require the applicant to abide by such conditions.

The applicant has demonstrated a good neighbor policy by reaching out or attempting to contact noticed property owners who have objected.

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.

No density or intensity of a use would be increased beyond that permitted by the comprehensive plan or these LDRs.

Recommendation:

The variance request for exceeding the allowed front, side, and rear setbacks, minimum open space, maximum impervious surface ratio and maximum building coverage complies with all criteria established within the Land Development Regulations. The Planning Department recommends **APPROVAL WITH CONDITIONS** of the requested variance.

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

1. The proposed construction shall be consistent with the plans signed, sealed, and dated 06/17/2022 by Artibus Design.
2. Per utilities: install gutters and downspouts along all the edges of the roof. Direct downspouts towards the interior of the property to avoid runoff onto adjacent properties.
3. Per utilities: provide a site plan that shows where trash and recycle material containers will be stored.
4. Per utilities: provide a utility plan that shows proposed sanitary sewer lateral and water service line.
5. Per Fire Department: the proposed residence shall have a fire sprinkler system installed.
6. Per Fire Department: the access easement shall be cleaned prior to issuance of any building permits to ensure easy access to the property in case of an emergency.
7. Per Planning: Execute and maintain a Unity of Title between 703 Windsor Lane (000187000-000200) and 627 Elizabeth Street (RE #00011920-000000).
8. Per Planning: Maintain the easement agreement dated November 12th, 2021 between 627 Elizabeth Street and 703 Windsor Lane in conjunction with the property in perpetuity.