

THE CITY OF KEY WEST  
BOARD OF ADJUSTMENT  
Executive Summary



To: Board of Adjustment

Through: Katie P. Halloran, Planning Director

From: Mario Duron, AICP, The Corradino Group

Meeting Date: October 6, 2022

Application: Variance- 5501 College Road (Re #00072080-000101)- A request for approval of a variance to exceed the maximum building height for a proposed non-habitable structure in the Public and Semipublic Services (PS) zoning district pursuant to Sections 90-395, 122-1020, and 122-1149 of the Land Development Regulations, and Charter Section 1.05 of the Code of Ordinances of the City of Key West, Florida.

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Request: The applicant is proposing to construct a 5,161 square foot non-habitable structure to accommodate the property's generators, mechanical rooms, and to provide for additional storage space. The two-story structure has a proposed height of forty-four (44) feet which exceeds the maximum height permitted in the Public and Semipublic Services zoning district and the height provisions of the Flood Protection Building Height Exception ordinance (Section 122-1149).

Applicant: Trepanier & Associates

Property Owner: Monroe County

Location: 5501 College Road (Re #00072080-000101)

Zoning: Public and Semipublic Services (PS) zoning district

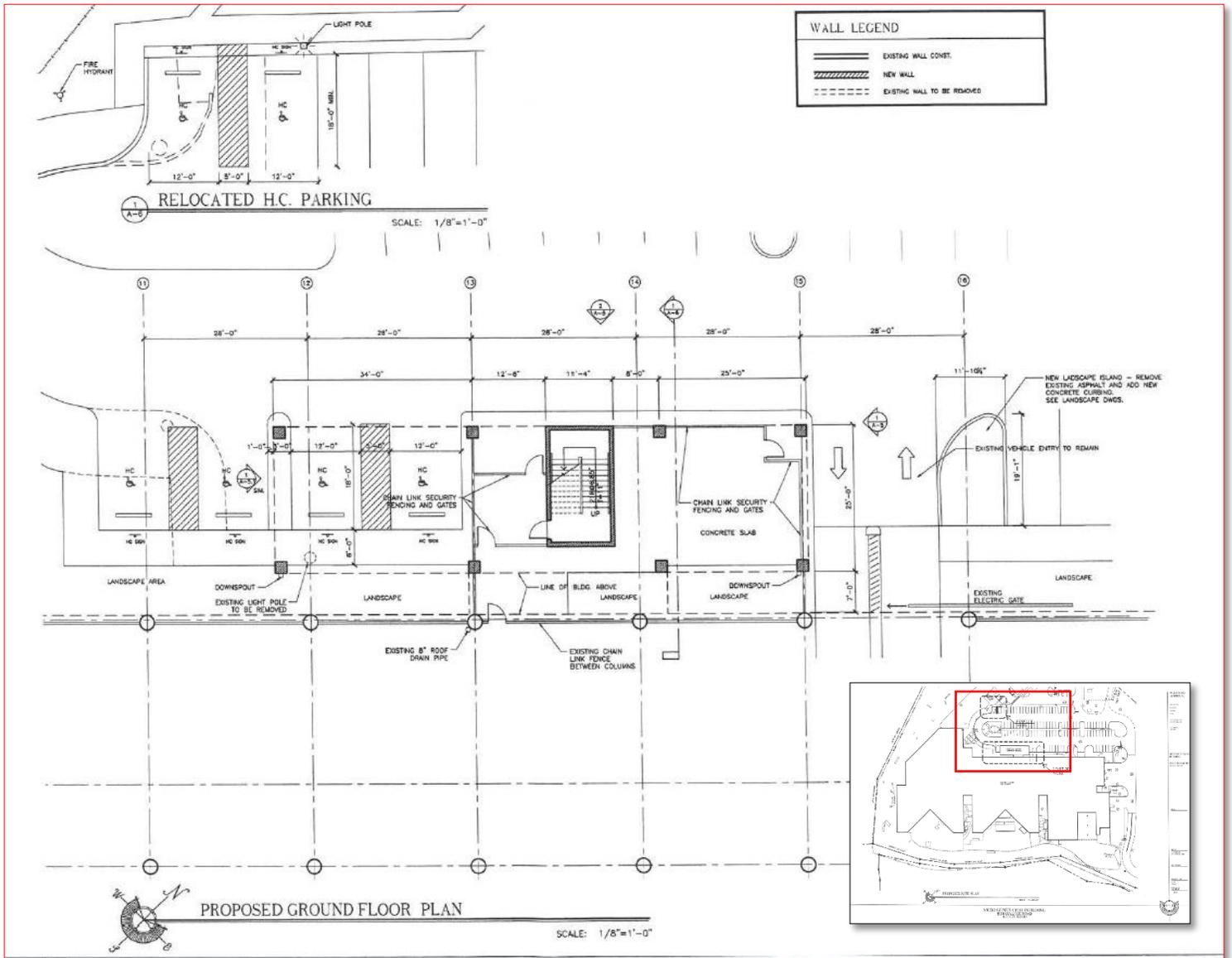






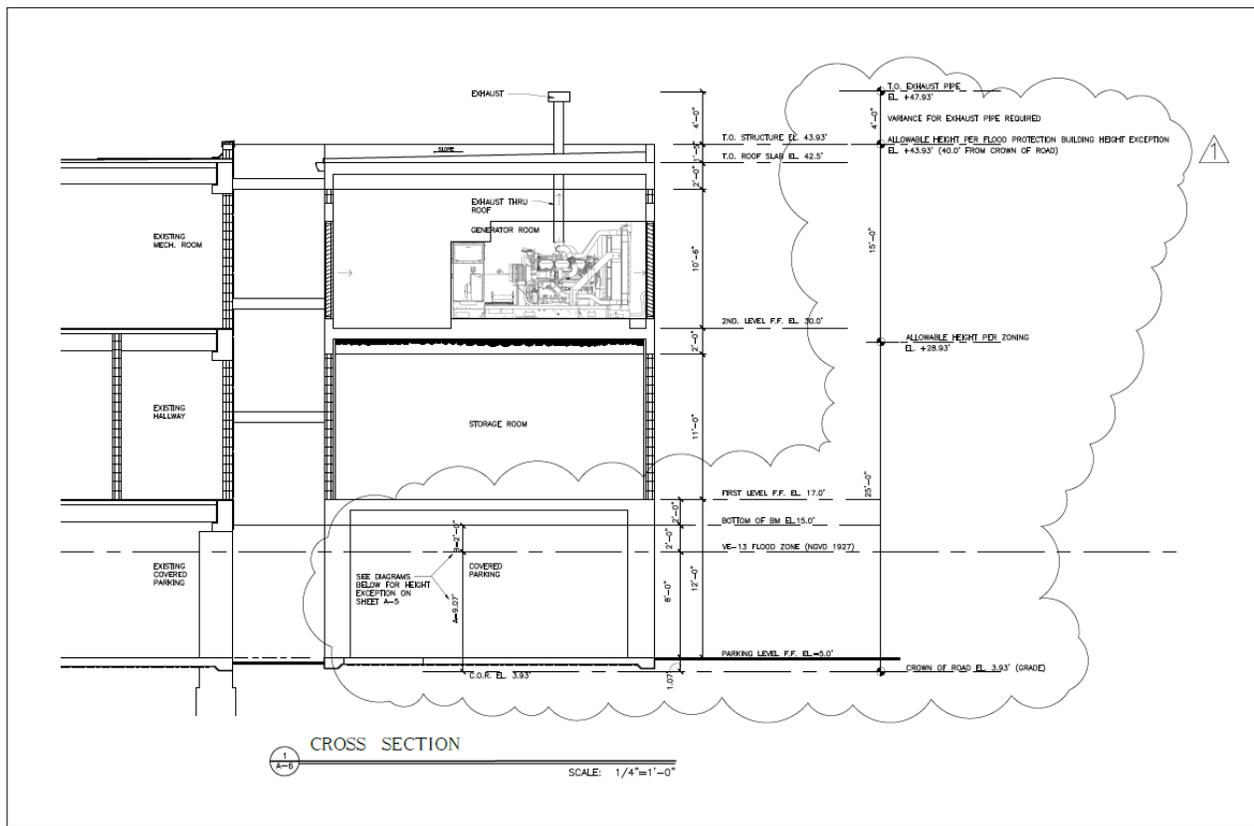
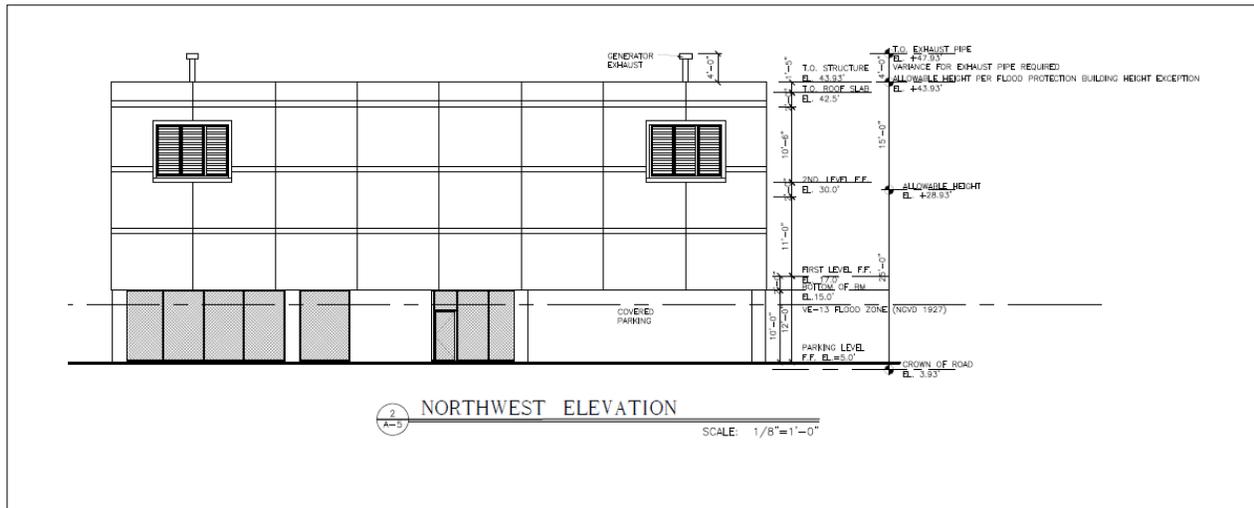
Request:

The applicant's request to construct a two-story, non-habitable structure to accommodate the site's mechanical equipment requires a variance from Section 122-1149(d)2. The proposed structure will exceed the maximum height of thirty eight (38.07) feet allowed by the zoning district and the Code's Flood Protection Building Height Exception. The proposed building will have a total height of 44 feet (43.93) feet above the crown of road.



*Proposed Site Plan*

In conjunction with the variance request, the applicant has submitted a major development plan (MDP) request for approval by the City Commission. The proposed site plan under the MDP includes the construction of the 5,161 square foot non-habitable structure over existing parking area. The proposal will displace two parking spaces that will be relocated approximately 140 feet away from their original location to an area closer to the building's entrance. The existing circular driveway will be modified to accommodate the relocated spaces. No reduction in the total parking spaces is anticipated.



*Proposed Cross Section and Elevation: BY APPLICANT*

The property on which the proposed non-habitable structure will be located has a FEMA flood zone designation of VE. Properties with a VE designation are coastal high hazard areas with a high flood risk. The proposal provides for a structure that will respond to the likely risk of flooding. As demonstrated by the elevation and cross section drawings provided, the ground floor and first level are limited to storage uses, while the second level will house the mechanical equipment. The height of the proposed structure with exhaust pipe would be 44 FT above the crown of road. The variance of 6 FT from the maximum 38 FT allowed is requested to accommodate the generator room and its' exhaust pipe.

Site Data:

The site data table below provides the current and proposed site data for the property. Setback requirements in the PS district are specific to principal structures. The location of the proposed structure is within the interior of the site, and while not applicable, the proposal complies with the minimum setback requirements. All dimension requirements comply except those related to height. While the PS zoning district allows for a maximum height of twenty-five (25) feet from the crown of road, the code allows a maximum building height of thirty-eight (38) feet per the Flood Protection Building Height Exception in Section 122-1149(d)2. In this instance, grade is at crown of road per updated elevation data provided by the architect on September 29, 2022. The applicant is requesting a variance to exceed the maximum height permitted by the Flood Protection Building Height Exception by two feet for the building and an additional four feet for an exhaust pipe, for a total height of forty-four feet (43.93 feet).

	CODE REQUIRED	EXISTING	PROPOSED	NOTES
Zoning	PS			
Flood Zone	VE + 13 FT			
Site Area	5,000 SF	13.94 AC		In Compliance
Height	25 FT (PS), 38.07 FT (Flood Height Except.)	39.63'***	39.63 ft Bldg + 4 ft exhaust	<b>VARIANCE REQUIRED: PROPOSAL EXCEEDS MAX HEIGHT BY 6 FT.</b>
FAR	0.8	.70	.708	In Compliance
Front Setback*	20 FT	≥20 FT		Not Applicable for Proposed Structure
Rear Setback*	25 FT	≥25 FT		Not Applicable for Proposed Structure
Side Setback*	15 FT	≥15 FT		Not Applicable for Proposed Structure
Building Coverage	40%	25.4%	25.80%	In Compliance
Impervious Surface	60%	44.58%	44.65%	In Compliance
Open/Landscape Area	20%	55.42%	55.35%	In Compliance

\* Setback requirements are for principal structures only. \*\*\*Building height is measured from crown of road.

Based on the plans submitted, the proposed design would require a variance to the requirements of Section 122-1149, below. The updated elevations submitted depict a 9.07' span from grade (which is the same as crown of road per the architect) to VE-13 Flood Zone. The Section 122-1149(d)(1) provides up to four feet above this base flood elevation, which provides the applicant thirteen feet for flood relief plus twenty five feet as per the PS zoning district, for a total allowed building height of thirty eight feet from crown of road.

Sec. 122-1149. - Height.

(d) Flood Protection Building Height Exception: An exception to the building height regulations as referenced in subsection (b) above, may be permitted in cases where a building is raised above ground to meet or exceed FEMA established base flood elevation levels under the following conditions:

1. Only the equivalent measure of distance from the existing ground level, prior to infill, to the required base flood elevation of the building, and up to a maximum of

four (4) feet above the base flood elevation, may exceed the building height regulations.

2. No exception shall result in a building height that would exceed 40 feet.

Process:

DRC Meeting (discussion item):	August 25 <sup>th</sup> , 2022
Local Appeal Period:	30 Days
City Clerk 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 Board of Adjustment, 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 property's use as a jail, and its location within the VE FEMA flood zone are special conditions that are peculiar to the building and land, respectively, that are not applicable to other land and structures in the same zoning district. Per the applicant, the existing jail structure is approximately 40 feet above the crown of road and this proposed addition would be the same height, with an additional single four foot high exhaust pipe. Per the Applicant, the dimensional requirements and location of the non-habitable structure are restricted to their proposed design and location, as the structure is situated to support the functionality and operations of existing jail building and facilities.

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 existing generators are nearing the end of their effective life. To house the new equipment, the Applicant is proposing a structure that responds to the site's vulnerability to flooding. The ground and first level are proposed for parking and storage, while the second level will house the mechanical equipment. However, the applicant has the option to reduce the floor-to-ceiling height of the first level to accommodate the heights needed for the ground and second level. Doing so, the structure could be developed to be compliant with the maximum height of 38 feet, but may not serve the jail operators as well.

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.*

Granting the variance requested will confer upon the applicant the special privilege to construct a non-habitable structure above the maximum height allowed by code.

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.*

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the PS zoning district. However, the Monroe County Sheriff's Office has identified the need to provide a new structure that will accommodate and adequately protect the new mechanical equipment to be installed.

PARTIALLY 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 variance that will make possible the reasonable use of the structure. The generator and associated equipment could be located elsewhere, or the structure designed differently. However, the applicant has stated that this design is the most effective to achieve a safe, well-functioning facility.

PARTIALLY 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 granting of the variance to exceed the maximum height allowed will alleviate concerns with the operation of alternate power supplies and the availability of electricity/power, especially during times of severe weather and flooding. The variance requested is not injurious nor detrimental to the public interest or 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 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.

Pursuant to Code Section 90-395(b), the Board of Adjustment shall make factual findings regarding the following:

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

The Applicant has not met all of the standards established by the City Code for a variance.

2. *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.*

As of the writing of this report, Staff is not aware of any objections.

Recommendation:

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, and provided that the Applicant has not met all of the standards established by the City Code for a variance, recommends the request for a variance to maximum building height be DENIED.

However, if the Board of Adjustment chooses to approve the variance application, the Planning Department recommends the following condition:

1. The proposed construction shall be consistent with the plans signed, sealed, and dated, July 11, 2022, by William P. Horn Architect, P.A. for 5501 College Road.
2. Use of the structure shall remain for non-habitable purposes.