

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



To: Chair and Planning Board Members

From: Ginny Haller, Planner II

Through: Thaddeus Cohen, Planning Director

Meeting Date: December 15, 2016

Agenda Item: **Variance – 1185 20th Street (RE # 00064950-00000)** - A request for a variance to parking requirements for 18 parking spaces on property located within the Commercial General (CG) Zoning District pursuant to Sections 90-395, 108-74 and 108-572 (2) (b) of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida

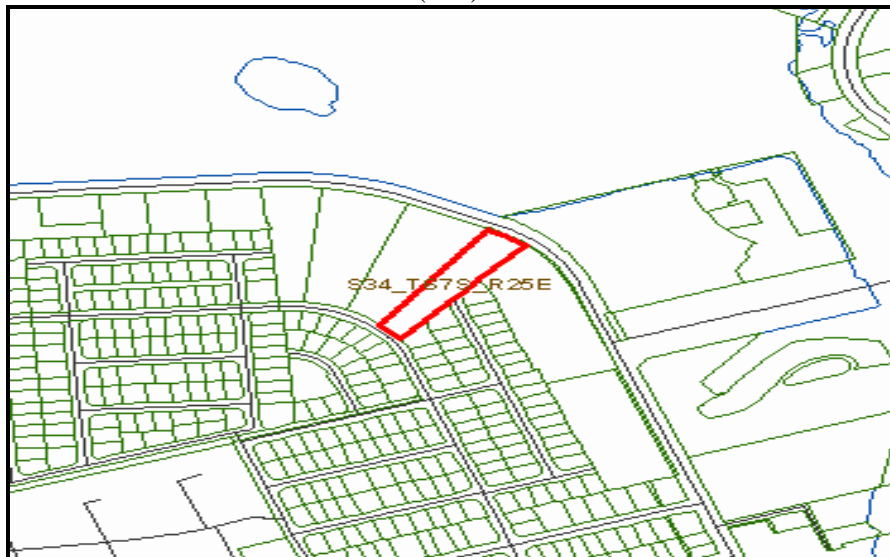
Request: The applicant is requesting a variance to seven (7) motor vehicle parking spaces and substitution of forty-four (44) bicycle parking spaces for an additional eleven (11) motor vehicle parking spaces for a total request of eighteen (18) parking spaces as a result of new proposed construction of ten (10) workforce housing units.

Applicant: Gregory S. Oropeza, Esq./ Smith Oropeza Hawks, PL

Property Owner: SE Key West Owner VII, LP

Location: 1185 20th Street (RE # 00064950-000000)

Zoning: Commercial General – (CG)



Background:

The subject property is located at 3840 N. Roosevelt Blvd. and 1185 20th Street, the entrance to the property is located at 1185 20th Street and is located in the Commercial General Zoning District. The applicant received approval of a Minor Development Plan, Conditional Use and a Parking Waiver at the August 18, 2016 Planning Board meeting for ten (10) new workforce housing units. The units are to be located in the southwest portion of the property. Currently on the property are sixteen (16) affordable residential units, two commercial buildings and one market rate unit. The applicant is requesting a variance to 7 motor vehicle parking spaces and substitution of 44 bicycle parking spaces for an additional 11 motor vehicle parking spaces for a total request of 18 parking spaces. The addition of ten new workforce housing units requires compliance with parking requirements per Section 108-572 as seen in the table below.

Relevant: Code Section 108-572				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Parking requirement	2 spaces per dwelling unit	2 ADA, 4 compact, 19 spaces	34 new spaces	Variance Requested <u>7</u> motorized vehicle spaces

Relevant: Code Section 108-574				
Dimensional Requirement	Required/ Allowed	Existing	Proposed	Change / Variance Required?
Bicycle substitution	4 bicycle spaces to 1 motorized vehicle parking spaces		44 bicycle spaces for 11 new motor vehicle spaces	Variance Requested <u>11</u> motorized vehicle spaces

Process:

Planning Board: November 17, 2016
Local Appeal Period: 10 days
DEO Review: Up to 45 days

Analysis – Evaluation for Compliance with the Land Development Regulations:

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 of 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 southwestern portion of this parcel is occupied by an existing building that consists of sixteen affordable residential units with parking underneath (8 spaces and 4 compact spaces); and 11 vehicle parking spaces and 2 ADA spaces on the parcel. Providing additional off-street parking would be difficult due to the irregular shape of the lot and the landscaping requirement (the total paved area is 13,747.42 SF with a proposed landscape area of 6,865.43 SF) would put further constraints on where any potential off street parking could be located. City staff does however support the decrease in impervious paved areas for an increase in open space and green area especially along the North Roosevelt Boulevard corridor. Special conditions or circumstances do not 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.***

In accordance with the Amended Development Agreement dated August 1, 2013, the owner of the property was vested with the right to develop ten affordable housing units while maintaining the existing residential and commercial structures and use on the property. It is the applicant's decision to decrease the existing parking on site for a design alternative. These conditions are created by the applicant.

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.***

Section 108-572 (2) (b) identifies what the requirements are for multiple-family outside of the historic district. Granting a variance to parking requirements would confer special privileges upon the applicant.

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.***

Literal interpretation of Section 108-572 (2) (b) would not deprive the applicant of rights commonly enjoyed by other properties in the same district, nor would it work unnecessary and undue hardship on the applicant. The intent of the applicant to promote bicycle transportation while decreasing paved impervious areas for an increase in open space and green area is supported by staff. Hardship conditions do not exist.

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, or structure. However, they are the minimum necessary to accommodate the request that was vested by a development agreement to develop an additional ten workforce housing units on the property.

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 requested variance will not be injurious to the public welfare, it will be beneficial to public welfare by providing bicycle parking and a bicycle fix-it station on a site that has uninterrupted transit and bicycle routes that easily connect to the rest of the City. Section 108-574 allows the Planning Board as part of development plan approval to request a variance to parking requirements for bicycle substitution. Granting the requested variance would be in harmony with the general intent and purpose of the land development regulations and not be injurious or detrimental to 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 request.

IN COMPLIANCE.

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

It does not appear that the requested variance would trigger any public facility 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 telephone comments from a neighbor regarding the variance request.

Pursuant to Code Section 90-392, in granting such application the Planning Board must make specific affirmative findings respecting each of the matters specified in Code Section 90-394.

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 of 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 increases or has the effect of 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:

Based on the criteria established by the Comprehensive Plan and the Land Development Regulations, the Planning Department recommends the request for variance be **denied**.