

**THE CITY OF KEY WEST
PLANNING BOARD**



Staff Report

To: Chairman and Planning Board Members
Through: Katie P. Halloran, Planning Director
From: Nicholas Perez-Alvarez, Stantec
Meeting Date: November 20, 2024

Agenda Item: **Variance – 1817 Staples Avenue (RE: 00047070-000100) - A** request for variances to allow decreases in the minimum front setback from 19.8-feet to 10-feet and minimum rear setback from 19.8-feet to 10-feet and decrease in the minimum parking requirement from 14 spaces to 12 spaces to permit the construction of a two-story mixed-use structure with office space and three market rate residential units located within the Limited Commercial (CL) Zoning District pursuant to Sections 90-395, 108-572, and 122-390 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

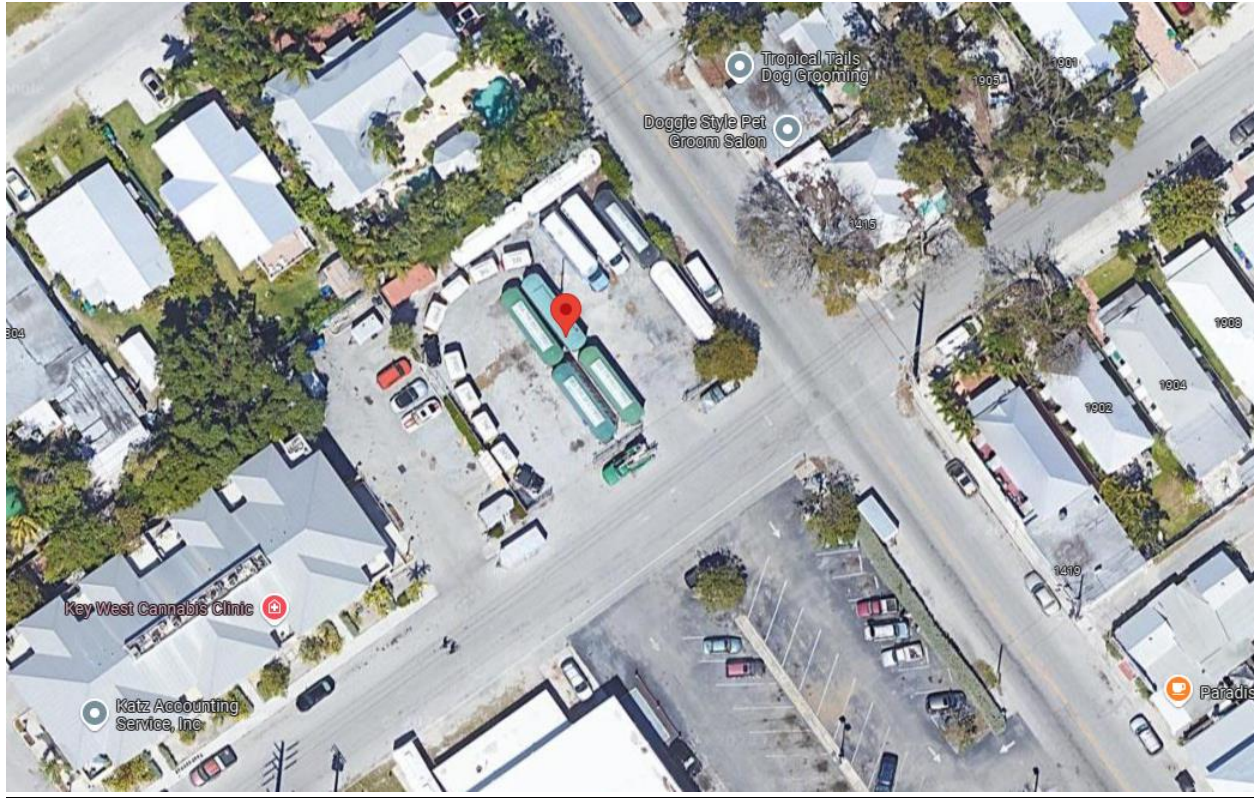
Request: This application requests variances to minimum parking and front and rear setbacks for the construction of a two-story mixed-use structure with office space and three market-rate residential units on an existing vacant lot currently used for storage of commercial vehicles.

Applicant: Trepanier & Associates Inc

Property Owner: Conch Tour Train Inc.

Location: 1817 Staples Ave (RE: 00047070-000100)

Zoning: Limited Commercial (CL)



Background and Analysis

This item was originally on the September 19, 2024 Planning Board agenda but was requested for postponement by the applicant to allow time to amend the companion variance application, which now includes a parking variance request. This application was then placed on the Planning Board agenda for the October 17, 2024 meeting. However, this meeting was canceled due to a lack of quorum and is being brought before the Planning Board at its next scheduled meeting of November 21st.

The subject property, with a total lot size of 9,884 sq. ft., currently has no structures, is 100% impervious, and serves as a commercial vehicle storage lot for Conch Tour Trains. The applicant proposes the construction of a two-story, mixed-use structure, raised above a parking area. A 2,205 sq. ft. office space is proposed for the first floor and three market rate residential units with a combined 2,575 sq. ft. are proposed for the second floor. A portion of the covered parking area is also designated to continue serving as a storage lot for the Conch Tour Train vehicles. A conditional use approval is required for the proposed residential units, given that multi-family residential is a conditional use in the CL district.

The applicant has also submitted a separate variance application for a reduction in the minimum front and rear setbacks and parking. With regard to the parking variance, the applicant requests that Sec. 108-574, “Substitution of bicycle parking spaces” be applied whereby four bicycle

parking spaces shall be equivalent to one motorized vehicle parking space. Section 108-574 provides that, if “Substitution of bicycle parking spaces” is applied, hardship conditions shall not be a mandatory condition of obtaining the subject variance.

As further noted below, the proposed development is also out of compliance with maximum impervious surface ratio (ISR), for which a variance has not been applied for.

Section 122-1476 of the City Code, as indicated below, requires that at least 30% of units be affordable.

Section 122-1467(1)(a) *“Housing units. . . . Residential or mixed use projects of less than ten residential or mixed use units shall be required to develop or redevelop at least 30 percent of units of at least 400 square feet each as affordable (median income), but may contribute a fee in lieu for each unit to the affordable work force housing trust fund, if approved by the city commission.*

To meet the requirements of Section 122-1467, the applicant is proposing linkage to two existing, deed-restricted affordable housing units at 124 Simonton Street, Apts. 201 and 202. Section 122-1467(1)(b), indicated below, allows the 30% affordable housing requirement of 1817 Staples, which would be one deed-restricted unit out of the total three units proposed, to be built at the site of another project. However, the proposed linkage units at 124 Simonton Street do not meet the below requirements, given that these units have been deed-restricted since 2005 and no new building permits have been issued at this address since 2010. The applicant is proposing linkage to existing deed-restricted units; not a linkage to new or redeveloped affordable units.

Sec. 122-1467(1)(b) *“Linkage of projects. Two development or redevelopment projects may link to allow the affordable housing requirement of one development or redevelopment project to be built at the site of another project, so long as the affordable housing requirement of the latter development or redevelopment is fulfilled as well. Written proof of the project linkage shall be supplied by the developer to the city commission at the time of the first site plan approval. The project containing the affordable units must be built or rebuilt either before or simultaneously with the project without, or with fewer than, the required affordable units. [In addition, if a developer builds or rebuilds more than the required number of affordable units at a development site, this development or redevelopment project may be linked with a subsequent development or redevelopment project to allow compliance with the subsequent development's affordable unit requirement. [NP1][DG2]Written proof of the linkage must be supplied by the developer to the city commission at the time of the subsequent development's site plan approval. Linkage shall not be available if either development is entirely or in part to be constructed by public funds. Finally, all linkages under this subsection may occur within the city or on a site within the city and on a site on Stock Island in the unincorporated part of the county.”*

Proposed Development:

The site data table for the proposed development is shown below.

	<u>Required</u>		<u>Provided</u>		<u>Complies</u>
Max. Density	16 du/ac	3.63	3		Yes
Max. FAR	0.8	7,907.20	0.6*	6,172.52*	Yes
Max. Height	40'		39'-4"		Yes
Max. bldg coverage	40%	3,953.60	31%	3,086.20	Yes
Max. ISR	60%	5,930.40	86%	8,454.10	No
Front setback	25' or 20% of lot depth	19.8	10'		No, variance requested
Rear setback	25' or 20% of lot depth	19.8	10'		No, variance requested
Side Setback	15' or 10% of lot width up to 20' max, whichever is greater	15'	28'-6"		Yes
Side street setback	20'		30'-6"		Yes

*FAR calculation based on City of Key West Comprehensive Plan Policy 1-1.1.3 definition of Intensity, which exempts covered parking areas from being included in floor area calculations.

The parking data table is shown below:

	Code	Required	Proposed	Complies
Office	1 space/300sf	7.4		
MF Residential	2 spaces/unit	6		
Total		14	12	No, variance requested

As noted above, a variance application has been submitted for reduction in the minimum front setback from 19.8-feet to 10-feet, reduction in the minimum rear setback from 19.8-feet to 10-feet, and reduction in the minimum parking from 14 spaces required to 12 spaces proposed. Four of the proposed spaces, at 40' x 10', exceed the minimum parking stall dimensions to accommodate parking of the Conch Tour Train trolley cars. Staff has concerns that if these four spaces are in fact designated trolley parking as indicated on the site plan, then they would not also be available to serve the proposed office and residential uses with the combined 14 required parking spaces. While 12 spaces are proposed, four of those spaces would not be available at all times to serve the office and residential uses.

As noted above, the applicant requests that Sec. 108-574, "Substitution of bicycle parking spaces" be applied whereby four bicycle parking spaces shall be equivalent to one motorized vehicle parking space. Section 108-574 provides that, if "Substitution of bicycle parking spaces" is applied, hardship conditions shall not be a mandatory condition of obtaining the subject variance.

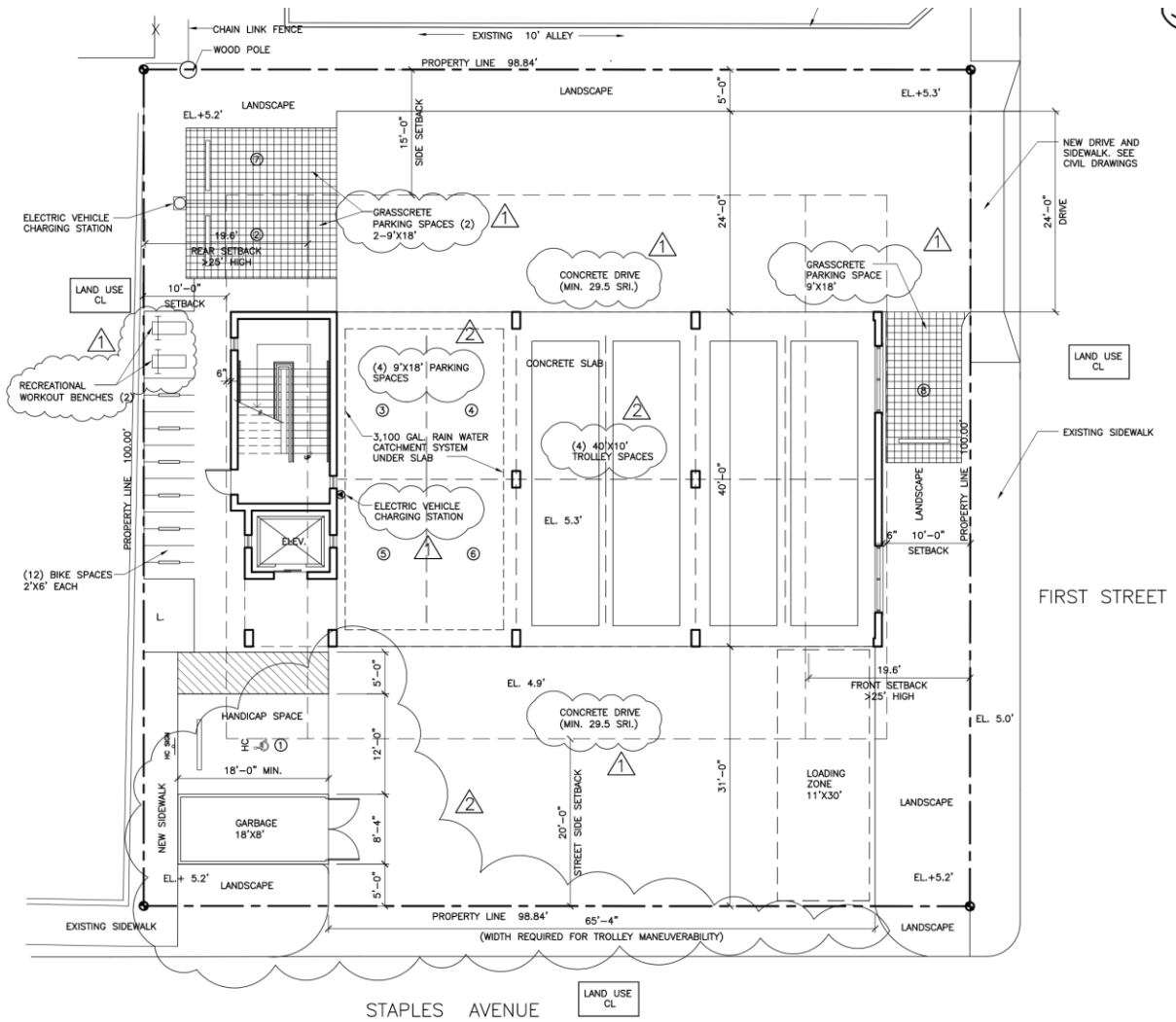
Given the deficiency of 2 vehicular parking spaces, a minimum surplus of 8 bicycle spaces would need to be provided if Section 108-574 is applied. A total of 3 bicycle parking spaces are required in this development and 12 are proposed for a surplus of 9 bicycle spaces.

The proposed development is also out of compliance with the following additional standard for which a variance has not been applied for:

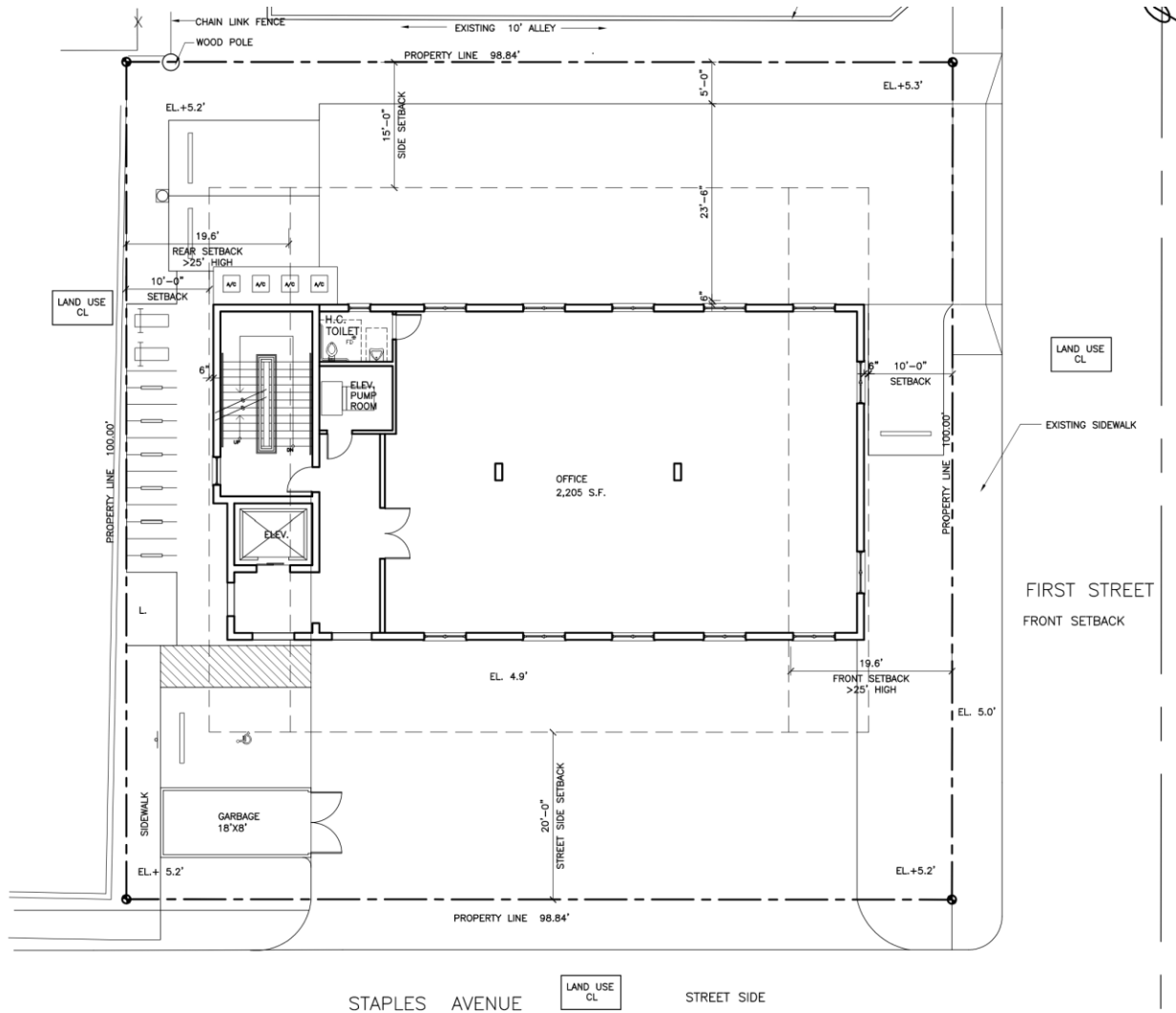
- *Maximum Impervious Surface Ratio (ISR)*. The applicant proposes an ISR of 86% where a maximum 60% is permitted in the CL district. The applicant provides that a variance is not required, given that the proposed new ISR is an improvement from the current condition, which is a 100% impervious lot. Section 122-32(a) of the LDRs states, “Notwithstanding anything in the Code to the contrary, a structure or site improvement may be altered without the need for a variance if the alteration decreases respective noncompliance.” [NP3][DG4]

Staff maintains that a variance is required for maximum impervious surface ratio.

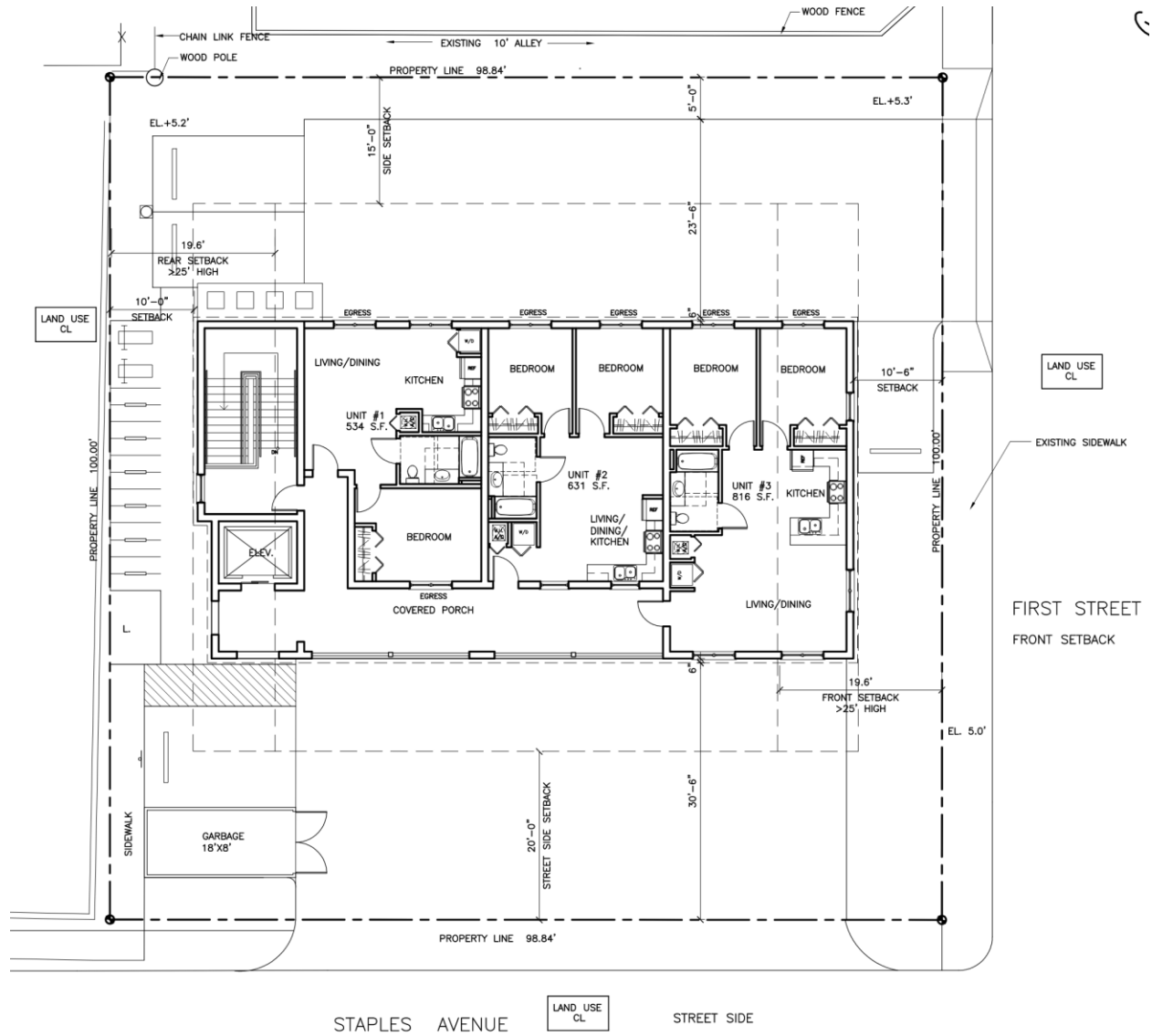
Proposed Site Plan / Ground Floor Plan, submitted by applicant.



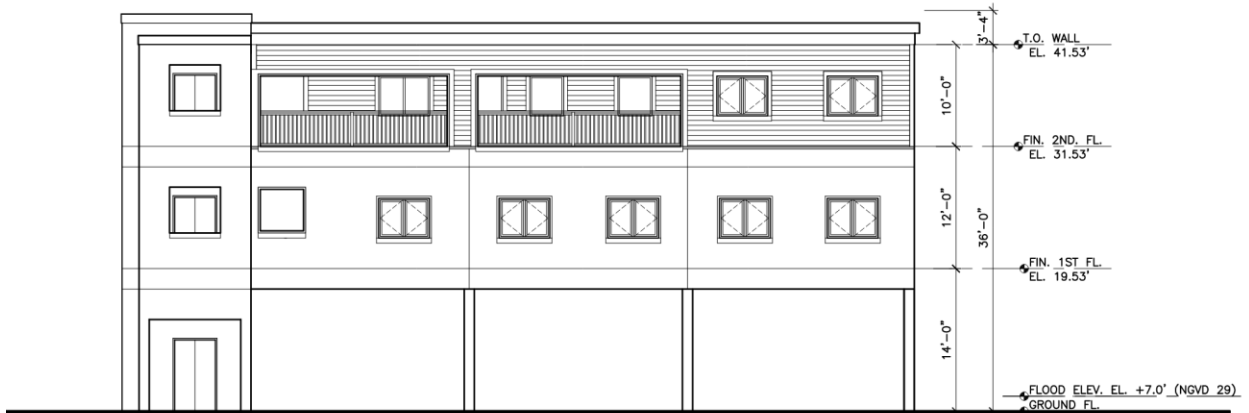
Proposed First Floor Plan, submitted by applicant.



Proposed Second Floor Plan, submitted by applicant.

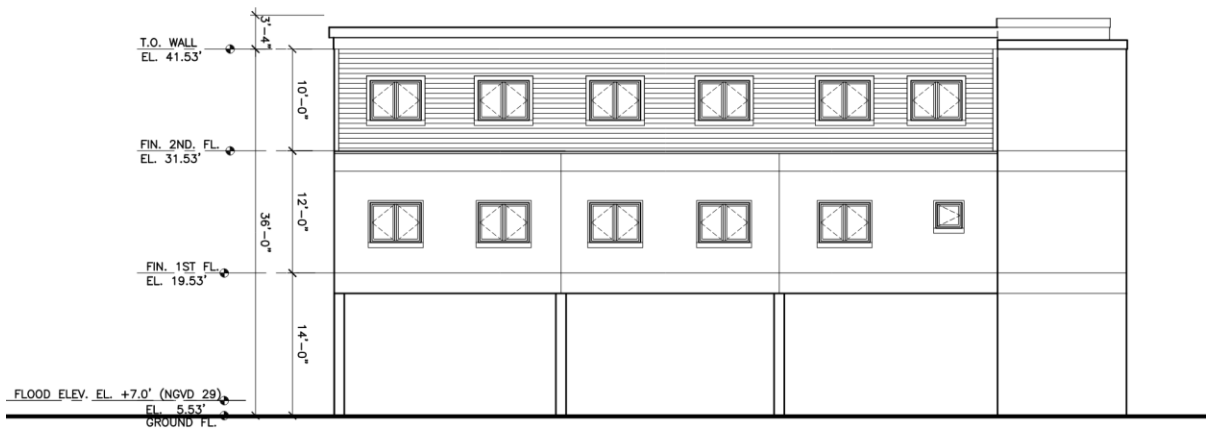


Proposed Front and Back Elevations, submitted by applicant.



1 FRONT ELEVATION
A-4

SCALE: 1/8"=1'-0"



3 BACK ELEVATION
A-4

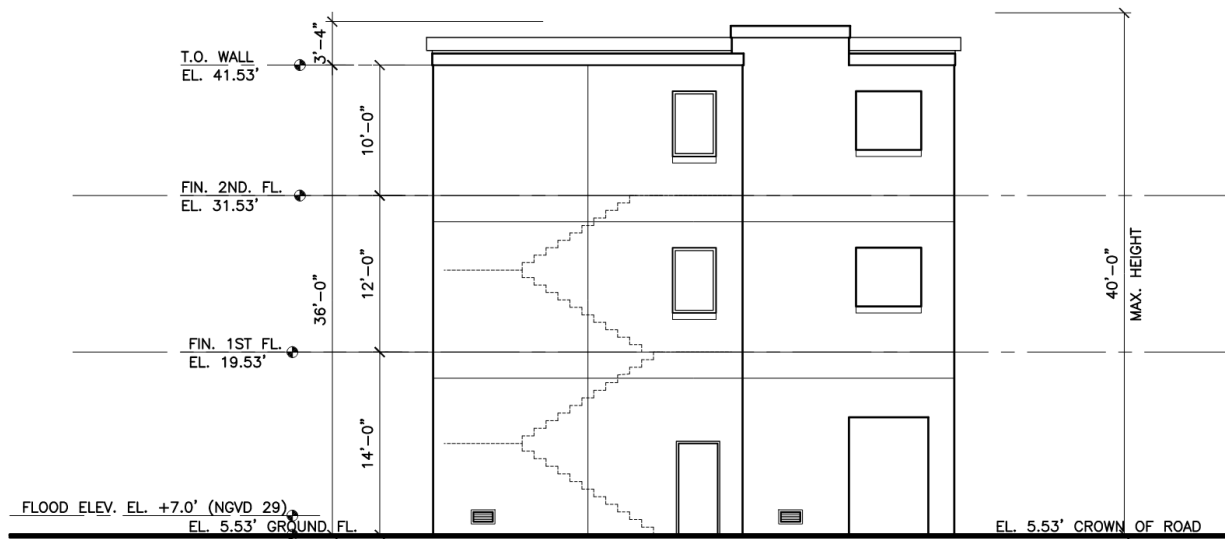
SCALE: 1/8"=1'-0"

Proposed Side Elevations, submitted by applicant.



2 SIDE ELEVATION
A-4

SCALE: 1/8"=1'-0"



4 SIDE ELEVATION
A-4

SCALE: 1/8"=1'-0"

Surrounding Zoning and Uses:

Surrounding properties are located within the Limited Commercial (CL) Zoning District. Surrounding uses include commercial properties and single family residential homes.

Process:

Development Review Committee:	March 28, 2024
Tree Commission Meeting (Conceptual landscape plan approval):	August 6, 2024
Planning Board Meeting:	September 19, 2024 (postponed)
Planning Board Meeting:	October 17, 2024 (canceled)
Planning Board Meeting:	November 21, 2024
Tree Commission Meeting (Final landscape plan approval):	TBD
Local Appeal Period:	10 Days
Planning renders to DOC for review:	Up to 45 days

Staff Analysis- Evaluation:

The criteria for evaluating a variance are listed in Sections 122-395 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 applicant provides that special conditions peculiar to the property exist in that it is a corner parcel with more than one public right-of-way frontage requiring significant setbacks. However, corner lots of this general size are common in the CL district.

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 applicant provides that the property has been in its current configuration since at least 1959. However, the setbacks proposed are related to the action of the applicant. The applicant could propose a different building footprint that could comply with the dimensional criteria. Additionally, the need for a parking variance is due to the applicant’s intent to continue using the property for parking of the trolley cars within spaces that could have accommodated all the required parking.

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 of the requested variances will confer special privileges to the applicant. Similar lot size conditions are found in neighboring properties. As noted above, the owner could propose a modified development footprint that meets the dimensional criteria of this zoning district.

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 the other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

The applicant provides that literal interpretation of the provisions of the LDRs restrict the reasonable use and economic benefit of the property. However, as noted above, the owner could propose a modified development footprint that meets the dimensional criteria of this zoning district and staff does not find this to be a hardship.

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 applicant's request of front and rear setbacks variances are a design consideration. The applicant has the opportunity to modify the development footprint, which could meet the setbacks requirements. As indicated above, the need for a parking variance is due to the applicant's intent to continue using the property for parking of the trolley cars within spaces that could have accommodated all the required parking.

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.*

Per Section 122-386 of the LDRs, the intent of the CL district is to "accommodate limited commercial land uses with maximum gross floor area not exceeding 5,000 square feet." The applicant proposes a gross floor area of 9,259 sq. ft. and is therefore not in harmony with the general intent of the LDRs.

NOT IN COMPLIANCE

7. *Existing nonconforming uses of other property shall not be considered as 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.*

This application does not rely on other nonconforming lots and structures as justification.

IN COMPLIANCE

The Planning Board shall make factual findings regarding the following:

That the standards established by the City Code have been met by the applicant for a variance. The standards established by the City Code have not been fully met by the applicant for the variance requested.

That the applicant has demonstrated “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 applicant has indicated that “Good Neighbor” letters were mailed on September 6, 2024 and that, as of September 11, 2024, they have received one response in objection of the request.

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.

The proposed FAR is consistent with the Comprehensive Plan.

RECOMMENDATION

The Variance request to exceed the allowed front and rear setbacks and provide reduced parking does not comply with all the evaluation criteria. The Planning Department recommends DENIAL.