

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



**To:** Chairman and Planning Board Members

**Through:** Patrick Wright, Planning Director

**From:** Vanessa Sellers, Planner II

**Meeting Date:** April 18, 2019

**Agenda Item:** **Variance – 501 Front Street (RE # 00000100-000000)** – A request for a variance to the required three (3) off-street parking spaces to allow for the expansion of existing floor area for property located within the Historic Residential Commercial Core Duval Street Gulfside (HRCC-1) Zoning District pursuant to Sections 90-395 and 108-572 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

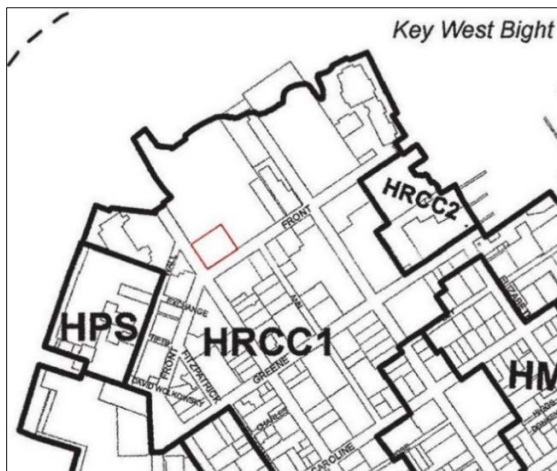
**Request:** The applicant is proposing to add 706-square-feet of floor area to an existing building and use that does not comply with off-street parking requirements (3 spaces exist /32 are required). The new nonresidential floor area triggers the need for an additional three (3) spaces.

**Applicant:** Trepanier & Associates, Inc.

**Property Owner:** Conch Tour Train, Inc.

**Location:** 501-503 Front Street, Key West, Florida

**Zoning:** Historic Residential Commercial Core Duval Street Gulfside (HRCC-1) Zoning District



**Background:**

The property at 501-503 Front Street is located on the corner of Front Street and Duval Street and it is one lot of record. It is located within the HRCC-1 zoning district and it is within the Key West Historic District boundaries. The subject parcel, like all parcels in the HRCC-1 district, is within the historic commercial pedestrian-oriented area, and enjoys special provisions as outlined in section 108-573 of the city code.

The parcel contains two structures. The structure at 501 Front Street is a 1-story frame structure with 3,679-square-feet of gross floor area. The structure at 503 Front Street is a 2-story CBS building with 5,467-square-feet of gross floor area. No work is proposed for the 2-story CBS building at this time.

A search of city records revealed ten (10) active business licenses at the subject property. The following table summarizes the licenses:

<b>Lic. No.</b>	<b>Business Name</b>	<b>Description</b>	<b>Comments</b>
702	Conch Tour Train Inc.	Catering or restaurant with 0 seats	Ice cream parlor
706	Conch Tour Train Inc.	Retail establishment 501-2000 SF	(none)
713	Conch Train Depot	Commercial property	8 commercial rental units
6708	Conch Tour Train Inc.	Miscellaneous other service	Photo service on trolley train
13106	Yankee Fleet Management Corp	Miscellaneous other service	Ticket booth (booth 5)
24126	Conch Tour Train Inc.	Miscellaneous other service	Ticket booth
27032	Hydro-thunder of KW	Miscellaneous other service	Ticket booth from cart
28534	Fury Management Inc.	Miscellaneous other service	Ticket booth
32089	Front Street Temporary Tattoos	Miscellaneous other service	Temporary tattoos (henna)
19755	Ron Jon Surf Shop	Retail establishment 2001-5000 SF	Retail clothing, accessories, gifts

Previous to the current uses, the property at 501-503 Front Street was occupied by Miller Gulf Service, a gasoline filling and service station. A search of Polk County Directories shows the Conch Tour Station as a listing since at least 1981.

The applicant is proposing to construct a 689-square-foot second floor addition to the existing 1-story frame structure and to convert unfinished floor area on the first floor to finished floor area\*. The total proposed new floor area is 706-square-feet. Although the subject property is within the historic commercial pedestrian-oriented area, parking requirements shall be applied whenever new nonresidential floor area is constructed and whenever the amount of nonresidential floor area is increased due to an expansion of an existing structure (section 108-573 (b) (1) and (3)). The uses of the property most closely resemble a use as described by section 108-572 (16), which requires one (1) space per 300-square-feet of gross floor area. The development will require an additional three (3) spaces (706 SF /300 = 2.35 (3) spaces).

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\*Pursuant to section 86-9, *Total floor area* and *gross floor area* means the areas of all floors of a building, including finished basements and all covered areas, including porches, sheds, carports, and garages. If the first finished floor level of an elevated building or structure is elevated to a height greater than seven feet above the finished grade, the area below such first floor shall be included in calculating gross floor areas of the building or structure.

The following table summarizes the request variance:

<b>Relevant HRCC-1 Zoning District Dimensional Requirements: Code Section 122-690</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Maximum height	35'	<35'	29'-10" (from crown of road)	No
Minimum lot size	4,000 SF	18,750 SF	No Change	No
Maximum allowable FAR	1.0	0.49	0.5	No
Maximum building coverage	50%	48.77%	48.77%	No
Maximum impervious surface	70%	99.6%	99.4%	No (improves upon)
Minimum open space (commercial)	20%	.4%	.6%	No (improves upon)
Minimum front setback	None	14'-8"	14'-8"	No
Minimum side setback	2.5'	1'-10.5"	1'-10.5"	No
Minimum rear setback	10'	19'-9.5"	19'-9.5"	No
Minimum street side setback	None	20'-6"	20'-6"	No
<b>Relevant Off-Street Parking Requirements: Code Section 108-572</b>				
Motorized vehicles	1-space per 300 SF of GFA	3 spaces	No Change	<b>Yes (3 spaces)</b>
	501 Front: 3,679 SF = 13 spaces			
	503 Front: 5,467 SF = 19 spaces			
Bicycles as % of motor vehicles	25%	12 spaces	No Change	<b>No</b>

**Process:**

<b>Planning Board Meeting:</b>	<b>March 21, 2019 (postponed)</b>
<b>Tree Commission Meeting:</b>	<b>April 9, 2019 (conceptual plan approved)</b>
<b>Planning Board Meeting:</b>	<b>April 18, 2019</b>
<b>Local Appeal Period:</b>	<b>10 days</b>
<b>DEO Review Period:</b>	<b>up to 45 days</b>

**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 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 minimum lot size in the HRCC-1 zoning district is 5,000-square-foot and the subject parcel is 18,750-square-foot. The application states the subject property has very little auto-related traffic. However, that is not a special condition or circumstance which is peculiar to the land, structure, or building involved and which is not applicable to other land, structures, or buildings in the HRCC-1 zoning 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 is proposing to construct a new second floor and to expand the floor area of the existing first floor without providing the required number of additional parking spaces. However, five (5) train loading zones, an outdoor retail area, and three (3) ticket booths will remain on the 18,750-square-foot parcel. Therefore, the conditions are generated from the specific actions initiated 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 122-27 of the Land Development Regulations discourages the expansion of site nonconformities. According to the applicant, the proposed additional floor area will allow the property to better serve persons with disabilities. However, permitting the construction of a second story and permitting the expansion of floor area of the first story without the required minimum number of off-street parking spaces 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.***

The subject parcel is within the historic commercial pedestrian-oriented area and enjoys special provisions along with all other properties in the HRCC-1 zoning district. The application states that the 18,750-square-foot parcel cannot accommodate the parking requirement of three (3) parking stalls that is associated with the increased floor area. It is difficult for staff to agree that hardship conditions exist on this oversized parcel in the historic commercial pedestrian-oriented area. Literal interpretation of the provisions of the LDRs would not deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would not work unnecessary and undue hardship on the applicant.

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.***

According to the Polk City Directories, the existing business at 501 Front Street has been in operation since at least 1981 (38 years). The variance requested is not the minimum required that will make possible the reasonable use of the land, building, or structure. However, it is the minimum necessary to accommodate the request.

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.***

Due to the non-compliance with all the standards for considering variances, the granting of the requested variance would be injurious to the area involved and otherwise detrimental to the public interest.

NOT 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.

**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 not received any public comment for the variance request as of the date of this report.

**RECOMMENDATION:**

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

However, if the Planning Board approves this request, staff would like to require the following conditions:

**General Conditions:**

1. The proposed development shall be consistent with the plans dated April 11, 2019 by William P. Horn, Registered Architect. No approval granted for any other work or improvements shown on the plans other than the proposed construction of a new second floor and the expansion of the existing first floor.
2. This parking variance is valid only if the minor development plan in the historic district is approved by the city commission.