

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



**To:** Chair and Planning Board members

**Through:** Patrick Wright, Planning Director

**From:** Vanessa Sellers, Planner II

**Meeting Date:** May 16, 2019

**Agenda Item:** **Major Development Plan and Conditional Use – 2407-2409 North Roosevelt Boulevard (RE# 00002280-000100 & RE# 00002280-000101)**  
– A Major Development Plan and Conditional Use application to develop a marina (30 liveaboard vessels/40 recreational vessels) and a 1-story marina clubhouse with restrooms, bike lockers, ship’s store, laundry facilities, marina storage, and a dock master’s office on properties located within the Commercial General (CG) and Conservation (C) zoning districts pursuant to the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

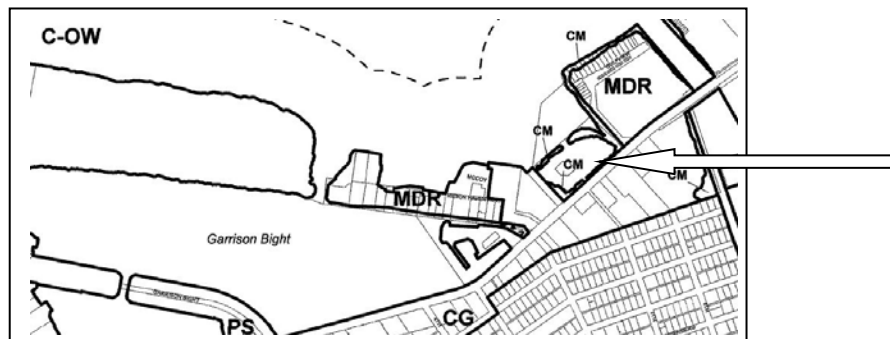
**Request:** Approval of a major development plan and conditional use permit for a proposed liveaboard / recreational marina and marina clubhouse

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

**Property Owner:** Richard C. Walker and Roosevelt Docks, LLC

**Location:** 2407-2409 North Roosevelt Boulevard (RE # 00002280-000100 & RE # 00002280-000101)

**Zoning:** Commercial General (CG) (parking easement)  
Conservation Mangrove (CM)  
Conservation Open-Water (C-OW)



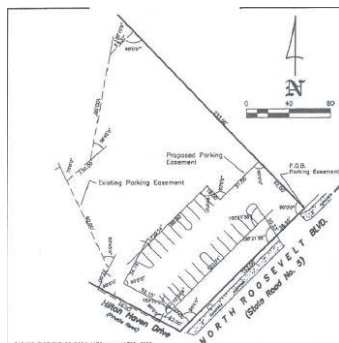


**Background:**

The properties at 2407 and 2409 North Roosevelt Boulevard are located bayside between Fifth (5<sup>th</sup>) Street and Seventh (7<sup>th</sup>) Street and are two lots of record. They are located within the Conservation (C) zoning district and are not within the Key West Historic District boundaries.

A few of the previous occupants prior to the current ownership included the Flipper’s Sea School, Shucker’s Bar, Coconut’s Comedy Club, and O’Brian’s Restaurant. Today the parcels are commonly referred to as the “Walker Marina.”

In September 2014, Dr. Richard C. Walker, the current owner of the subject properties, entered into a restated parking easement agreement with KW26, LLC, the owner of the nearby hotel property at 2401 North Roosevelt Boulevard (known as “Banana Bay”). The easement agreement granted Dr. Walker a perpetual easement appurtenant to the subject properties, for the ingress and egress of motor vehicles for the invitees, contractors, employees, designees, and agents of Dr. Walker. According to the agreement, the area must be used exclusively for the parking of motor vehicles, by Dr. Walker’s authorized users, on the twenty (20) parking spaces located within that portion of the hotel property. The parking easement is located within the CG zoning district. A recent condition of the property is shown in the aerial image below.



The property at 2407 North Roosevelt Boulevard was previously granted major development plan approval, conditional use approval, and landscape waivers to allow for a recreational vessel marina via Resolution no. 14-316.

Although the current landscape plan submitted is not in complete compliance with Chapter 108, Article VI, Division 2: Requirements for Specific Areas, the applicant has submitted a landscape plan that is an improvement upon the original landscape plan, therefore no landscape modification or waiver is needed.

**Existing Conditions and Additional Background:**

The properties currently consist of two (2) structures: the “Main Building” at 2407 North Roosevelt Boulevard and the “Marina Clubhouse” at 2409 North Roosevelt Boulevard.

The “Main Building” at 2407 North Roosevelt Boulevard (image below) is a 2-story mixed-use structure. According to the application and city licensing records, the first floor is occupied by doctors’ offices and a massage therapy establishment. According to the applicant, the second floor consists of two (2) apartments. However, staff is unable to confirm this through city records and/or a site visit.



The “Marina Clubhouse” at 2409 North Roosevelt Boulevard (image below) is a 1-story commercial/nonresidential use structure on pilings over conservation open water. According to city licensing records, there are several uses attached to this address: a nurse practitioner specialist, an engineering firm, a real estate office, a mobile painting service, two (2) staffing agencies, and an accounting service.



The table below gives more detail about the active licenses at the two locations:

<b>2407 North Roosevelt Boulevard:</b>		
License No.	License Sub-type	Company
23068	State-Licensed Professional	Southernmost Foot & Ankle / Mak - Physician
23069	State-Licensed Professional	Southernmost Foot & Ankle / De - Podiatrist
33130	Massage Therapist	Guo, Yunfeng – Massage Therapist
33131	Massage Therapist	Asian Massage Key West – Massage Establishment / Therapist (Owner/Operator)
34061	Massage Therapist	Jia, Ruixia – Massage Therapist
34377	Massage Therapist	Zhou, Cuizhen – Massage Therapist
2018-000102	Massage Therapist	Cong, Aiquin – Massage Therapist
2018-000103	Massage Therapist	Yuan, Min – Massage Therapist
<b>2409 North Roosevelt Boulevard:</b>		
23019	State-Licensed Professional	Dooley, Coleen, ARNP PLLC – Nurse Practitioner
31144	Rental – Commercial Property	Roosevelt Docks, LLC – 16 Commercial Rental Units
32192	State-Licensed Professional	McFarland-Johnson, Inc – Professional Engineer
32880	State-Licensed Professional	Your Keys Real Estate, LLC
33667	Miscellaneous Other Svc	TMT Painting LLC – Mobile Painting Service
33893	Miscellaneous Other Svc	Labor and Staffing Solutions
34102	Miscellaneous Other Svc	MML Solutions – Staffing and Labor Service
32705	Miscellaneous Other Svc	Sales Tax and Multi Service Inc – Accounting Service (non-CPA)

According to the applicant, the massage therapy establishment use in the 2-story main building at 2407 North Roosevelt Boulevard will be eliminated. A 310-square-foot portion of the 1,683-square-foot space will be retained for commercial use. The balance 1,373-square-feet will be incorporated into an existing residential unit on the second floor. However, staff is unable to confirm the existence of a residential unit through city records and/or a site visit.

According to the application, all current uses of the 1-story building on pilings at 2409 North Roosevelt Boulevard will be extinguished. The future use of the space will include a dockmaster’s office, a ship’s store, laundry facilities, marina storage, a women’s restroom, a men’s restroom, two showers, and bicycle storage.

**Proposed Development:**

The applicant is proposing one (1) phase of development and redevelopment for the properties:

Phase 1: Construction of 74 boat slips (of which 40 may be used for recreational boats), paving of the parking lot, paving of the parking easement, minimal landscaping, storm water retention improvements, and positioning of up to 30 liveaboard vessels. Redevelopment of the existing 1-story structure on pilings (the “Marina Clubhouse”) to



include a dock master's office, a ship's store, laundry facilities, marina storage, a women's restroom, a men's restroom, two showers, and 85 bicycle lockers.

Redevelopment of the existing 2-story structure to eliminate the commercial service use and create a 310-square-foot commercial office. The remaining floor area will be incorporated into a second-floor residential apartment.

- Major development plan review is required due to permanent residential development; addition of eleven or more units, pursuant to Section 108-91.B.2(a) of the Land Development Regulations (LDRs) of the Code of Ordinances (the "Code") of the City of Key West (the "City").
- Development plan review is required due to addition or reconstruction of greater than 1,000-square-feet of nonresidential floor area, pursuant to Section 108-91.B.1(b) of the Land Development Regulations (LDRs) of the Code of Ordinances (the "Code") of the City of Key West (the "City").
- Conditional use review is required for the use of the property because all development within the Conservation district shall be by conditional use due to the environmental sensitivity of lands within the District, pursuant to City Code Section 122-128.
- A variance approval is required pursuant to City Code Section 90-391. The project as proposed does not meet the minimum off-street parking requirements of Chapter 108, Article VII, Division 2. The applicant's request for a variance to off-street parking requirements was denied by the Planning Board on March 21, 2019.

**Surrounding Zoning and Uses:**

Surrounding properties are located within the Medium Density Residential (MDR) and the Commercial General (CG) zoning districts. Surrounding uses include waterfront and non-waterfront residential housing, public multi-family housing, two (2) hotels, a fast-food restaurant with drive-through, a coffee shop with drive-through, an auto supply store, a community center, and a small strip center anchored by a grocery store.

**Process:**

Development Review Committee:	September 27, 2018 (approved)
Preliminary Tree Commission:	January 2, 2019 (conceptual landscape plan–staff approved)
Planning Board:	February 21, 2019 (postponed by applicant) March 21, 2019 (postponed by applicant) May 16, 2019
Final Tree Commission:	TBD
City Commission:	TBD
DEO review:	Up to 45 days, following local appeal period

**Evaluation for Compliance with the Land Development Regulations (LDRs) and Comprehensive Plan:**

City Code Section 108-91.B.2 (a) requires Major Development Plan review for permanent residential development; addition of eleven or more units.

City Code Section 108-91.B.2 (b) requires Minor Development Plan review for addition or reconstruction of nonresidential floor area 1,000 to 4,999-square-feet of gross floor area.

City Code Section 108-196(a) states after reviewing a Major Development Plan for a property and staff recommendations therefore, the Planning Board shall act by resolution to approve, approve with conditions, or disapprove it based on specific development review criteria contained in the LDRs and the intent of the LDRs and Comprehensive Plan. The Planning Board resolution shall provide written comments documenting any conditions of approval that the Planning Board finds necessary to effectuate the purpose of Development Plan review and carry out the spirit and purpose of the Comprehensive Plan and the LDRs. If the Development Plan is recommended for disapproval, the Planning Board resolution shall specify in writing the reasons for recommending such denial.

Planning staff, as required by Chapter 108 of the City LDRs, has reviewed the following for compliance with the City's LDRs and Comprehensive Plan as summarized in the following table.

<b>Project Data Summary</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance Required?</b>
Zoning Districts	CG (parking easement), CM, and C-OW			
Flood Zones	AE-8 & AE-9			
Minimum Lot Size	10 acres	5.12 acres	No Change	None
Minimum Lot Width	No minimum width given in the dimensional requirements of the C district	No Change	No Change	None
Minimum Lot Depth	No minimum depth given in the dimensional requirements of the C district	No Change	No Change	None
Maximum Floor Area Ratio	0.01	0.04	Reduced	None
Maximum Density	1 du/10 acres (0.1 du/acre)	2.0 (staff is unable to confirm through licensing records, utility records, and/or a site visit)	No Change*	None
Maximum Height	25 feet	~ 30 feet	No Change	None
Maximum Building Coverage	5%	3%	No Change	None
Maximum Impervious Surface	5%	9%	No Change	None

\*Pursuant to Section 82-37, privately owned bay bottom shall not be recognized as the same as upland property for the purposes of density.

<b>Project Data Summary</b>				
<b>Dimensional Requirement</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance Required?</b>
Minimum Open Space	20% (Commercial) 35% (Residential)	92%	No Change	None
Minimum Setback	(See section 110-91 and 122-1148) (C)	0' from MHW 0' from Class III waters	No Change	None
Off-Street Parking for Automobiles	Liveboard Vessels: 1 / slip = 30 Recreational Vessels: 1 / 4 slips = 10 Apartments: 2 / apartment = 4 Foot Doctor: 5 / doctor = 10 Office Space: 1 / 300 sf = $\frac{2}{56}$ Dock Master's Office (5.8 FTE) is included with the liveboard and recreational vessels requirement.	Unable to determine (lack of delineation and absence of wheel stops)	32	<b>Yes</b> <b>(deficit of 24 spaces)</b>

**Concurrency Facilities and Other Utilities or Services (City Code Section 108-233):**

Comprehensive Plan Objective 9-1.5 directs the City to ensure that public facilities and services needed to support development are available concurrent with the impacts of new development. The analysis considers potable water, sanitary sewer, solid waste, drainage, vehicle trip generation and recreation. Code Section 94-36 requires a concurrency review determination to be made concerning the proposed development. The Applicant provided a concurrency analysis as part of the Major Development Plan application. Staff reviewed the provided concurrency analysis following the criteria in Code Section 94-36 and determines that public facilities are expected to accommodate the proposed development at the adopted level of service (LOS) standards. This portion of the report shall serve as the required written determination of compliance.

According to the applicant, for the purpose of LOS, “capita” is estimated as follows:

Liveaboards (residential):	1.75 persons per vessel (30) = 52.50
Main Building 2 <sup>nd</sup> Floor (residential):	2.53 persons per apartment (2) = 5.06
Recreational (nonresidential):	0.4 persons per slip (40) = 16
Main Building 1 <sup>st</sup> Floor (nonresidential):	50.0 persons per day = 50.00
Marina Clubhouse (nonresidential):	30 persons per day = 30.00
Total Residential:	57.56 persons per day
Total Nonresidential:	96.00 persons per day
Grand Total:	153.56 persons per day

After Phase I is completed, it is estimated the parcels will accommodate approximately 153.56 persons per day.

The following analysis is the anticipated use once Phase I is completed.

### 1. Potable water supply.

Pursuant to City Code Section 94-68, the potable water LOS standard for residential uses is 93 gallons per capita per day. The standard for nonresidential uses is 650 gal/acre/day. Utilizing these LOS standards, potable water demand is estimated as follows:

Based on per capita residential:  $93 \text{ gal/capita/day} \times 57.56 = 5353.08 \text{ gal/day}$   
Based on per capita nonresidential:  $650 \text{ gal/acre/day} \times 4.86 = 3,164 \text{ gal/day}$   
**Total: 8,517.08 gal/day**

The potable water LOS standard for both residential and nonresidential is 100 gallons per capita per day, pursuant to the Comprehensive Plan Policy 4-1.1.2 C. Utilizing this LOS standard, potable water demand is estimated as follows:

Based on per capita residential:  $100 \text{ gal/capita/day} \times 57.56 = 5,756 \text{ gal/day}$   
Based on per capita nonresidential:  $100 \text{ gal/capita/day} \times 96 = 9,600 \text{ gal/day}$   
**Total: 15,356 gal/day**

The proposal is to decrease yet continue the commercial use and significantly increase residential use during phase I, therefore, the existing water supply will continue to be used for the site. The adopted potable water LOS standard is expected to be adequate to serve the proposed expansion. The property is serviced with potable water by the by the Florida Keys Aqueduct Authority, which has been notified of the upcoming development and has available capacity to service the proposed development with the existing infrastructure currently in place.

### 2. Wastewater management.

Pursuant to City Code Section 94-67, the sanitary sewer LOS standard for residential uses is 100 gallons per capita per day. The standard for nonresidential uses is 660/gal/acre/day. Utilizing these LOS standards, sanitary sewer capacity demand is estimated as follows:

Based on per capita residential:  $100 \text{ gal/capita/day} \times 57.56 = 5,756 \text{ gal/day}$   
Based on per capita nonresidential:  $660 \text{ gal/acre/day} \times 4.86 = 3,207.6 \text{ gal/day}$   
**Total: 8,963.6 gal/day**

The applicant states that the current utility service is adequate to support the proposed development pursuant to City Code Section 94-67. The proposal is a significant increase in residential use and redevelopment of an existing nonresidential use; however, the adopted sanitary sewer capacity LOS standard is anticipated to be adequate to serve the proposed development.



### 3. Water quality.

According to the applicant, no harmful consequences are expected before, during, or after the completion of construction.

### 4. Stormwater management / drainage.

The stormwater management or drainage LOS standard pursuant to City Code Section 94-69 is: i) post-development runoff shall not exceed predevelopment runoff for a 25-year storm event, up to and including an event with a 24-hour duration; ii) onsite treatment of the first one inch of rainfall must be provided to meet water quality standards; and iii) storm water facilities must be designed so as to not degrade any receiving water body.

A drainage plan was submitted indicating that a full stormwater management system would be installed. Stormwater would be retained on-site through one 90 LF exfiltration trench, one 28 LF exfiltration trench, and a type C catch basin. The drainage plan was reviewed by city staff, and a determination was made that the plan addresses the requirements for stormwater management. Therefore, no adverse impacts to stormwater management or drainage facilities are anticipated.

### 5. Solid waste.

Pursuant to City Code Section 94-71, the solid waste LOS standard for residential uses is 2.66 pounds per capita per day. The standard for nonresidential uses is 6.37 pounds per capita per day. Following Phase I, the proposed development is anticipated to accommodate approximately 153.56 persons per day. Utilizing these LOS standards, the demand for solid waste collection and disposal capacity is estimated as follows:

Based on per capita residential:	$2.66 \text{ lb/capita/day} \times 57.56 = 153.11 \text{ lbs/day}$
Based on per capita nonresidential:	$6.37 \text{ lb/capita/day} \times 96 = 611.52 \text{ lbs/day}$
	<b>Total: 764.63 lbs/day</b>

The properties are currently served by Waste Management. A trash and recycling area with two (2) 9x12 trash collection containers is reflected on the plans. The adopted solid waste LOS is anticipated to be adequate to serve the proposed development.

### 6. Roadways.

The applicant submitted a traffic study prepared by KBP Consulting, Inc. It has been reviewed by Calvin, Giordano, and Associates, an outside consulting group for the City.

The report recommends that egress movements from the driveway be limited to right-turn only. Left-hand turns onto the Boulevard may be difficult and possibly unsafe due to existing traffic and pedestrian flows.

The report anticipates that a large portion of the liveboard residents will choose alternative methods of travel (i.e. biking, walking, public transportation), therefore reducing the traffic generation impacts.

The traffic study states the existing use is a “small office building,” and the proposed use is “multi-family housing.” It should be noted that the study does not take into account that the uses of the 2-story “Main Building” will continue through phase 1. According to page 24 of the applicant’s analysis, the continued uses of the 2-story “Main Building” accommodate approximately 50 persons per day. This significant traffic was not considered in the report.

## **7. Recreation.**

The plans do not show onsite recreation as defined in Section 86-9 of the LDRs. However, it is not anticipated that the City’s adopted level of service for public recreation will be adversely impacted.

## **8. Fire Protection.**

There are no fire hydrants on the sites, however, the plans show an existing fire hydrant at the corner of North Roosevelt Boulevard and Seventh (7<sup>th</sup>) Street. The applicant has proposed the installation of seventeen (17) fire cabinets to be distributed throughout the docks no more than 100-feet apart. Each of the fire cabinets shall contain a hose, fire extinguisher, and a 2.5” connection. The life safety plans submitted with the application have been reviewed and approved by the Lieutenant Fire Inspector for the City of Key West. However, the applicant submitted significantly revised floor plans for the “Main Building” and the “Marina Clubhouse” on May 9, 2019. Revised life safety plans were requested by staff via email on May 10, 2019. The applicant has not responded as of the date of this report.

## **9. Reclaimed water system.**

The plans do not show a reclaimed water system. This project did not need BPAS units, therefore no prerequisite cistern is required.

## **10. Other public facilities.**

Based on comments received from the DRC members, and based on the applicant’s concurrency analysis, all public facilities would be expected to accommodate the proposed development at the adopted LOS standards.

### **Appearance, design, and compatibility (City Code Section 108-234):**

The development plan shall satisfy criteria established in:

#### **City Code Chapter 102 (historic preservation)**

The property is not located within the historic district.

**Articles III (site plan), IV (traffic impacts) and V (open space, screening, and buffers) of City Code Chapter 108 (planning and development)**

Article III: The City shall not approve a site plan unless a finding is made that such site plan conforms to all applicable sections of the LDRs.

Article IV: The applicant has submitted a traffic study that is currently under review.

Article V: The existing open space ratio is 92%. The applicant has submitted a conceptual landscape plan that will improve the landscaping on the properties.

**City Code Section 108-956 (potable water and wastewater)**

Potable water and wastewater were found to be in compliance in the concurrency determination above.

**Article II (archaeological resources) of City Code Chapter 110 (resource protection)**

There are no known archaeological resources on the property. If any archeological resources are discovered during construction, the Applicant would be required to comply with this article of the LDRs.

**Site location and character of use (City Code Section 108-235):**

- (a) *Compliance.* The submitted major development plan has been reviewed for compliance with all applicable performance criteria set forth in Code Chapter 94 (concurrency management), Articles I and III through IX of Code Chapter 108 (planning and development), Code Chapter 110 (resource protection) and Code Chapter 114 (signs).
- (b) *Vicinity map.* The property is bounded by North Roosevelt Boulevard on the south, Gulfview Drive on the east, private property to the west, and open water to the north.
- (c) *Land use compatibility.* Properties within 100-feet are located in the CG and MDR zoning districts. Adjacent land uses within 300-feet include single-family, two-family, and multi-family residential, a community center, hotel/motel, retail, professional offices, and restaurants. No unincorporated parts of the county are located nearby, nor would any be impacted by the proposed development.
- (d) *Historic and archeological resource protection.* Not applicable.
- (e) *Subdivision of land.* No subdivision of land is proposed.

**Appearance of site and structures (City Code Section 108-236):**

The Applicant submitted a major development plan that generally exhibits harmonious overall design characteristics in compliance with the performance standards stipulated in Code Sections 108-278 through 108-288, as analyzed below.

**Site plan (City Code Section 108-237):**

The Applicant submitted a site plan pursuant to City Code Section 108-237, which is analyzed in greater detail below.

**Architectural drawings (City Code Section 108-238):**

The Applicant submitted architectural drawings prepared by a professional architect registered in Florida pursuant to City Code Section 108-238.

**Site amenities (City Code Section 108-239):**

Proposed site amenities include thirty-two (32) off-street parking spaces, six (6) spaces for bicycles and/or scooters in the main parking lot, eight (8) outdoor spaces for bicycles at the entrance of the “Marina Clubhouse”, eighty-five (85) indoor spaces for bicycles, a stormwater drainage system, landscaping, and site lighting. This project qualifies for the 1% set-aside for public art.

**Site survey (City Code Section 108-240):**

The Applicant submitted a site survey prepared by Reece & White Land Surveying pursuant to City Code Section 108-240.

**Soil survey (City Code Section 108-241):**

Not applicable.

**Environmentally sensitive areas (City Code Section 108-242):**

The proposed construction may impact conservation and mangrove areas and it is located near the shoreline. The subject properties are located within the AE-8 and AE-9 flood zones. The applicant is proposing mitigation measures to include exfiltration trenches, fixed docks, manatee protections, and a sewer pump out system.

**Land clearing, excavation and fill, tree protection, landscaping, and irrigation plan (City Code Section 108-243):**

- (a) *Land clearing, excavation, and fill.* No land clearing, excavation, or fill is proposed at this time.
- (b) *Tree protection.* No tree removal is proposed with this development and the mangrove fringe area will be preserved.
- (c) *Landscaping plan.* The applicant received a landscape waiver approval through Resolution no. 14-316. An updated landscape plan has been submitted for this new project that adds a few trees to the original plan. The landscape plan shows

the addition of two (2) Coconut Palm trees, three (3) Jamaican Dogwood trees, three (3) Sabal Palmetto trees, thirty (30) Buttonwood trees, and Salt Meadow Cord grass to the property. The conceptual landscape plan was approved by the City's Urban Forestry Manager on January 2, 2019. The project will require final landscape approval from the Tree Commission prior to being placed on a City Commission meeting agenda.

- (d) *Irrigation plan.* The applicant has not submitted an irrigation plan. However, staff recommends an irrigation plan be submitted as a condition of approval prior to this project being placed on a city commission agenda.

**On-site and off-site parking and vehicular, bicycle, and pedestrian circulation (City Code Section 108-244):**

The proposed two-way driveway is twenty-feet (20') wide and includes a fire truck turnaround area.

The property's existing haphazard parking area does not include striping or wheel stops. Staff is unable to give a conclusive number of the existing parking spaces.

The proposed development will include a total of thirty-two (32) off-street parking stalls: one (1) standard-sized automobile space, ten (10) substandard-sized automobile spaces (7.5' x 18'), and one (1) handicapped accessible parking space on site, twenty (20) standard-sized automobile spaces two parcels over (2405 North Roosevelt Boulevard; Easement Agreement Bk#2716 Pg #1546), and a total of ninety-nine (99) spaces for bicycles (of which six (6) may be used for scooters).

The applicant submitted an application requesting a parking variance, however, the planning board denied the request on March 21, 2019.

Pursuant to section 108-641, the minimum width of a parking stall shall be 9-feet. However, the applicant is proposing ten (10) spaces will have a width of 7.5-feet. Up to forty percent of total spaces may have a width and length of 7.5 feet by 15 feet, and the city commission may approve modifications upon demonstrated need by the applicant and based on recommendations of the city staff. In considering modification to the specifications required by this subdivision, the city commission shall be guided by the current edition of the Architectural Graphic Standards by Ramsey and Sleeper or an equivalent commonly accepted source of standards. The applicant has not submitted a request for a modification.

**Housing (City Code Section 108-245):**

The development project includes the placement of thirty (30) liveaboard vessels to be used for permanent housing. According to the applicant, the marina will be deed-restricted and rent-controlled for low, median, moderate, and middle-income residents. The application also suggests that the development may apply to be linked with subsequent development projects to fulfill affordable housing requirements for new construction.

The applicant proposed to City staff in an email dated February 13, 2019 that the future residents of the proposed development will be required to observe the following evacuation guidelines:

1. Tenants shall evacuate during the period in which transient units are required to evacuate.
2. Rental agreements shall contain a separate disclosure requiring tenants to acknowledge that failure to adhere to the evacuation requirement could result in severe penalties, including eviction, to the resident.
3. First responders, correctional officers, healthcare professionals, or other first-responder workers required to remain in the lower keys during an emergency evacuation are exempt from the evacuation requirements provided the person claiming exemption under this policy has faithfully certified their status with property management.

In addition, the following language will be added to the tenant's leases:

LESSEE IS HEREBY PLACED ON NOTICE, PURSUANT TO SECTION 327.59, FLORIDA STATUTES, LESSOR may not adopt, maintain, or enforce policies pertaining to evacuation of vessels/floating homes which require vessels/floating homes be removed from the marina following the issuance of a hurricane watch or warning. In the event LESSEE fails to remove LESSEE's vessel/floating home from City Marina within 2 days after the issuance of a tropical storm or hurricane watch for Monroe County or Key West, Florida, under Florida law, LESSOR, its employees and agents are authorized to remove LESSEE's vessel/floating home, if reasonable, from its slip or take any and all other reasonable actions deemed appropriate by the LESSOR in order to better secure LESSEE's vessel/floating home and to protect Marina property, private property, and the environment. LESSOR shall be entitled to charge LESSEE a reasonable fee for any such action.

The applicant is providing up to thirty-two (32) spaces for automobiles for the liveaboard marina tenants through a residential parking permit program. According to the application, residential hours are anticipated to be between 6 p.m. and 6 a.m. No information is given to detail where the tenants without residential parking permits will store their automobiles and no information is given to detail how tenants without automobiles will evacuate the area in case of a hurricane.

Monroe County offers four (4) shelters for category 1 and 2 storms: Key West High School, Sugarloaf School, Marathon High School, and Coral Shores High School. However, there are no shelters in the county that are available for category 3, 4, and 5 storms. Possible outside-county shelter options may include Florida International University, the E. Darwin Fuchs Pavillion at the Miami-Dade County Fair and Exposition, and other locations within Miami-Dade County.

**Economic resources (City Code Section 108-246):**

An analysis of the estimated average ad valorem tax yield from the proposed project during phase 1 of development was provided by the applicant. In addition, the average annual estimated cost of construction (materials plus labor) is \$1,200,000 for phase I.

**Special considerations (City Code Section 108-247):**



- (a) The relationship of the proposed development to the City’s land use plans, objectives and policies is being evaluated as part of this analysis. The relationship of the proposed development to public facilities was evaluated above and no conflicts were identified.
- (b) The project is not located in the historic district and is in the AE-8 and AE-9 flood zones.
- (c) No unincorporated portions of the county would be impacted by the proposed development.
- (d) Although the project does front a shoreline, shoreline access is impeded by mangroves. The proposed development will not cause any further obstruction.
- (e) No special facilities are proposed to accommodate bus ridership.
- (f) According to the Utility Plan, Sheet C-5.0, energy conservation measures will be employed, including directing light sources downward and away from the sky.
- (g) The properties are located within the AE-8 and AE-9 flood zones and would not have usable area below the bottom floor.
- (h) According to the applicant, the proposed 1-story “Marina Clubhouse” will only be available for use by marina residents and their guests. The private facility will include a dockmaster’s office, a ship’s store, laundry facilities, marina storage, a women’s restroom, a men’s restroom, two showers, and bicycle storage
- (i) Coordination with applicable agencies is being facilitated through the DRC.
- (j) City and State permits have been issued for the maintenance trimming of the mangrove fringe. State and Federal permits have been issued for the creation of the marina. The change of use of the marina to include liveaboards will require a modification to the State of Florida Environmental Protection permit (FDEP) and possibly the Army Corps of Engineers permit (ACOE). Information submitted to this office indicates that the applicant has submitted a permit modification request to the State and Federal agencies and that it is being processed and reviewed. Conditions should be placed on any Planning approvals regarding the approval and issuance of the State/Federal modification permits to include the proposed liveaboards.

**Construction management plan and inspection schedule (City Code Section 108-248):**

The development and reconstruction is proposed in one (1) phase. According to the application, Phase I will commence as soon as possible following the approval and the project will progress continually based on the LDRs and the Florida Building Code.

**Truman Waterfront Port facilities (City Code Section 108-249):**

Not applicable.

**Site plan (City Code Chapter 108, Article III):**

The City shall not approve a site plan unless a finding is made that such site plan conforms to all applicable sections of the LDRs, pursuant to City Code Section 108-276, as analyzed below.

**Site location and character of use (City Code Section 108-277):**

The comprehensive plan together with the LDRs, including size and dimension regulations, general provisions, performance criteria, and the list of permitted and conditional uses, off-

street parking, landscaping, required open spaces, yards and building setbacks shall collectively be the principal guides in determining the suitability of the location of the proposed use.

**Appearance of site and structures (City Code Section 108-278)**

The proposed project, and its choice of building materials, plant materials, lighting, and other site improvements will create a pleasing and harmonious overall environment. The AIPP board will be instrumental in incorporating public art on the property.

**Location and screening of mechanical equipment, utility hardware and waste storage areas (City Code Section 108-279 & 280)**

An 18 x 24 solid waste and recycling receptacle area is reflected on the plans.

**Roll-off compactor container location requirements (City Code Section 108-281)**

None proposed.

**Utility lines (City Code Section 108-282)**

No changes proposed.

**Commercial and manufacturing activities conducted in enclosed buildings (City Code Section 108-283)**

None proposed.

**Exterior lighting (City Code Section 108-284)**

The Applicant has submitted an exterior lighting plan on the Utility Plan, Sheet C-5.0.

**Signs (City Code Section 108-285)**

No signage is reflected on the plans.

**Pedestrian sidewalks (City Code Section 108-286)**

The plans indicate an ADA access route to both structures and an ADA path to the pedestrian sidewalk on North Roosevelt Boulevard.

**Loading docks (City Code Section 108-287)**

No loading docks are proposed, and no loading/unloading is indicated.

**Storage areas (City Code Section 108-288)**

No exterior storage areas are proposed.

**Land clearing, excavation, or fill (City Code Section 108-289)**

No land clearing, excavation, or fill is proposed in the application or on the plans.

**Landscaping (Code Chapter 108, Article VI):**

A landscape plan is required as part of development plan review, pursuant to City Code Section 108-411. The submitted plan indicates landscaping incorporated throughout the property. The

applicant will go to the Tree Commission for final approval of the landscape plan after the Planning Board. Although full compliance with all landscape buffer requirements of the LDRs is not proposed, the property received a landscape waiver through Resolution 14-316.

**Off-street parking and loading (Code Chapter 108, Article VII):**

City Code requires one (1) space per liveaboard boat and one (1) space per four (4) pleasure boats stored on site. The off-street parking requirement once phase I of this project is complete would be a minimum of fifty-six (56) spaces. This number includes the existing use's off-street parking requirements for the doctors' offices and the two (2) apartments. The property is currently nonconforming to the LDRs when considering off-street parking requirements of section 108-572. Pursuant to section 122-32 (d), a nonconforming use shall not be extended, expanded, enlarged, or increased in intensity.

The applicant is proposing twelve (12) automobile spaces on site (1 standard-sized, 1 ADA-sized, and 10 compact-sized), twenty (20) automobile spaces two parcels away (2401 North Roosevelt Boulevard), and ninety-nine (99) for bicycles (of which six (6) may be used for scooters). The applicant submitted an application requesting a parking variance. However, that application was denied by the Planning Board on March 21, 2019.

Pursuant to section 108-575 (5), Whenever a building or use is enlarged in floor area, number of dwelling units, seating capacity or in any other manner so as to create a need for a greater number of parking spaces than that existing, such spaces shall be provided in accordance with this section. Any parking deficiency shall be brought into conformity concurrently with the enlargement or change of use. The proposal does not bring the nonconforming property into conformity with the proposed changes of uses.

**Stormwater and surface water management (Code Chapter 108, Article VIII):**

A stormwater management plan was submitted indicating that a full stormwater management system would be installed. Stormwater would be retained on-site through one 90 LF exfiltration trench, one 28 LF exfiltration trench, and a type C catch basin. The drainage plan was reviewed by city staff, and a determination was made that the plan addresses the requirements for stormwater management. Therefore, no adverse impacts to stormwater management or drainage facilities are anticipated.

**Utilities (Code Chapter 108, Article IX):**

Access to potable water, access to wastewater disposal systems, and conservation of potable water supply were analyzed in the above concurrency management determination and were found in compliance.

**Art in Public Places (City Code Section 2-487):**

The proposed development, being a Major Development Plan, qualifies for the City's Art in Public Places (AIPP) program, pursuant to City Code Section 2-487. The AIPP program

requires 1% of construction costs to be set aside for the acquisition, commission, and installation of artwork on the subject property. The program applies to new construction projects exceeding \$500,000 and renovation projects exceeding \$100,000. Construction costs are estimated to be \$1,200,000. Approval of a full public art plan would be required.

**CRITERIA FOR CONDITIONAL USE REVIEW AND APPROVAL:**

Pursuant to City Code Section 122-62(c), applications for a conditional use shall clearly demonstrate the following:

- (1) *Land use compatibility.* Properties within 100 feet are located in the CG and MDR zoning districts. Adjacent land uses within 300 feet include single-family, two-family, and multi-family residential, a community center, hotel/motel, retail, professional offices, and restaurants. The conditional use, due to its proposed scale and intensity, traffic-generating characteristics, and offsite impacts, may not be compatible and harmonious with all of the adjacent land uses and may adversely impact land use activities in the immediate vicinity.
- (2) *Sufficient site size, adequate site specifications, and infrastructure to accommodate the proposed use.* The size of the site and its infrastructure cannot accommodate the proposed uses. The applicant applied for a parking variance. However, the application was denied by the Planning Board on March 21, 2019.
- (3) *Proper use of mitigative techniques.* The applicant has proposed to implement a parking permit program. Up to thirty-two (32) residential parking passes will be issued to tenants of the property. The passholders may use one of the thirty-two available parking spaces. Residential hours will be 6pm to 6 am, Monday through Friday, and all-day Saturday and Sunday. The application does not contemplate the occupations of the future liveboard tenants or what their work schedules may be. It also does not contemplate the occupations of the current tenants of the second floor apartments, or what their work schedules may be.
- (4) *Hazardous waste.* The applicant is proposing a sewer pump out system. All liveboard vessels will need to comply with the rules and regulations of City Code Chapter 82.
- (5) *Compliance with applicable laws and ordinances.* Any and all necessary permits from other governmental agencies would be obtained.
- (6) *Additional criteria applicable to specific land uses.* Applicants for conditional use approval shall demonstrate that the proposed conditional use satisfies the following specific criteria designed to ensure against potential adverse impacts which may be associated with the proposed land use:
  - a. *Land uses within a conservation area.* The parking easement at 2401 North Roosevelt Boulevard is not located within a conservation area. However, the parcels at 2407-2409 North Roosevelt Boulevard are. Pursuant to City Code, the size, scale, and design of structures located within a conservation area shall be restricted in order to prevent and/or

minimize adverse impacts on natural resources. The applicant is proposing to add thirty (30) liveaboard vessels and forty (40) recreational vessels to the property during phase I.

- b. *Residential development.* Pursuant to City Code Section 82-37, liveaboard vessels within the jurisdictional waters of the city are not subject to the city's BPAS ordinance when such vessels are intended for permanent habitation by docking or mooring. Also, privately owned bay bottom shall not be recognized the same as upland property for the purposes of density.

The proposed project is exempt from both the BPAS ordinance and the dimensional requirements pertaining to maximum density of one dwelling unit per acre in the Conservation zoning district. However, pursuant to City Code Section 122-128, all development within the Conservation district shall be by conditional use due to the environmental sensitivity of lands within the district.

- c. *Commercial or mixed-use development.* Where commercial or mixed use development is proposed as a conditional use adjacent to U.S. 1, the development shall be required to provide mitigative measures to avoid potential adverse impacts to traffic flow along the U.S. 1 corridor, including but not limited to restrictions on access from and egress to U.S. 1, providing for signalization, acceleration and deceleration lanes, and/or other appropriate mitigative measures.
- d. *Development within or adjacent to historic district.* Not applicable.
- e. *Public facilities or institutional development.* Not applicable.
- f. *Commercial structures, uses and related activities within tidal waters.* Docks, piers, and wharves shall not be permitted without approval by the U.S. Army Corps of Engineers and/or any other agency having appropriate jurisdiction.
- g. *Adult entertainment establishments.* Not applicable.

**RECOMMENDATION:**

Pursuant to section 122-32 (d), a nonconforming use shall not be extended, expanded, enlarged, or increased in intensity.

Pursuant to section 122-62 (c) (1), the applicant shall demonstrate that the conditional use, including its proposed scale and intensity, traffic-generating characteristics, and off-site impacts are compatible and harmonious with adjacent land use and will not adversely impact land use activities in the immediate vicinity.

Pursuant to section 122-62 (c) (2), the size and shape of the site, the proposed access and internal circulation, and the urban design enhancements must be adequate to accommodate the proposed scale and intensity of the conditional use requested. The site shall be of sufficient size to

accommodate urban design amenities such as screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure (i.e., refer to chapter 94 to ensure concurrency management requirements are met) and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.

Pursuant to section 108-571, parking shall be provided in all districts at the time any building or structure is erected or enlarged or increased in capacity by a change of use or the addition of dwelling units, transient units, floor area, seats, beds, employees or other factors impacting parking demand.

Pursuant to section 108-575 (5), whenever a building or use is enlarged in floor area, number of dwelling units, seating capacity or in any other manner so as to create a need for a greater number of parking spaces than that existing, such spaces shall be provided in accordance with this section. Any parking deficiency shall be brought into conformity concurrently with the enlargement or change of use.

The Planning Department, based on the criteria established by the Comprehensive Plan and the Land Development Regulations, recommends to the Planning Board that the request for Major Development Plan and Conditional Use be **DENIED**.

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

**General conditions:**

1. The applicant must obtain and submit proof of permits or proof of exemptions from all applicable state or federal agencies having jurisdiction.
2. The hours of construction shall be in compliance with City Code and be limited to 8 AM to 7 PM on Monday to Friday, and 9 AM to 5 PM on Saturday.
3. During all phases of construction, temporary fencing shall be installed and maintained. All adjacent City streets and sidewalks shall be kept clean and clear of construction debris.
4. The marina must comply with the evacuation requirements of Comprehensive Plan Policy 5-1.6.2.1 and rental agreements at the marina shall contain separate disclosures requiring tenants to: 1. Evacuate during the period in which transient units are required to evacuate (consistent with Policy 5-1.6.2.1); and 2. Acknowledge that failure to adhere to the evacuation requirement could result in severe penalties, including eviction, to the resident.
5. The proposed development shall be consistent with the signed and sealed plans by Meridian Engineering, LLC and William Shepler & Associates. No approval granted for any other work or improvements shown on the plans other than the



proposed docks, berths, parking, internal renovations to the “Main Building” and reconstruction of the 1-story “Marina Clubhouse.”

**Conditions prior to placement on a City Commission agenda:**

6. An irrigation plan must be submitted pursuant to section 108-243 (d).
7. The applicant shall obtain final landscape plan approval from the Tree Commission.
8. Any comments or requests by the City’s traffic engineering consultant relating to the applicant’s traffic study received prior to the City Commission hearing shall be addressed.
9. A request for a modification to minimum parking stall dimensions shall be submitted by the applicant, in writing, pursuant to section 108-641.

**Conditions prior to issuance of a building permit:**

10. Applicant shall coordinate with Keys Energy Services a full project review.
11. Approval of a Public Art Plan shall be obtained from the AIPP Board pursuant to City Code Section 2-487, and may include payment of an in-lieu fee.

**Conditions prior to issuance of a Certificate of Occupancy and/or tax receipt:**

12. No building permit shall become final and no certificate of occupancy shall be issued until any and all impact fees are paid.
13. The owner shall obtain and maintain a Conditional Approval Permit, pursuant to City Code Chapter 18, Article XII, Division 1. The City Code Compliance shall inspect the property on an annual basis upon reasonable notice to determine compliance with the conditions of the Planning Board and City Commission resolutions.