



THE CITY OF KEY WEST  
PLANNING BOARD  
Staff Report

**To:** Chairman and Planning Board Members

**Through:** Katie P. Halloran, Planning Director

**From:** Scarlet R. Hammons, AICP CTP, The Corradino Group

**Meeting Date:** June 16, 2022

**Application:** **Variance – 601 Truman Avenue (RE# 00017270-000000 and 00017270-000001)** – A request for a variance to the maximum allowed impervious area, minimum open space, maximum building coverage, minimum side and rear setbacks, minimum parking spaces and size of units for a property located within the Historic Neighborhood Commercial-1 (HNC-1) Zoning District pursuant to Section 90-395, 122-776(b), 122-810 and Section 108-572 (16), of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

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***Note: Staff's recommendation is to postpone the three applications associated with 601 Truman Avenue due to the following:***

- *The Tree Commission as well as the City Engineer have raised concerns related to safety and line of site issues related to the landscape planters. The City Engineer's review and approval is needed, however, revised plans have not been submitted.*
- *The Major Development Plan and Conditional Use Application does not have the landscape waiver Section 108 review. The Tree Commission has approved the conceptual landscape plan as it related to a proposed tree removal and*

*mitigation, not the landscape waiver. The Section 108 review is for the purpose of providing the Planning Board with additional information to approve the landscape waiver. This includes looking at required buffers, counting plant units, parking vegetation requirements, etc. At the present time the Urban Forestry Manager does not have a plan to review due to the engineering issue as stated above.*

- The applicant has stated the density is based on the two lots being aggregated into one, and staff has not been provided with adequate information as to the mechanism and the timeframe as to when this will occur. The applicant should submit a recorded Unity of Title or other instrument as soon as possible.*
- There is an environmental report as part of this application which identifies subsurface contamination existing at the site. The environmental consultant has made recommendations to make minimal disturbances to the soil, including no in-ground stormwater system or landscaping until the contamination levels are at an acceptable and safe level (an unknown). There are procedures to do planting or disturb the substrate for construction where there are contaminated soils and, occasionally the State DEP or EPA will require no disturbance. There should be a document in the Planning file from the State DEP as to the soil issue and the protocols regarding any disturbance of the substrate for this property. This is especially important due to the fact that new construction will involve underground utilities such as sewer and water and structural foundations. Additionally, considering the fact that the applicant is stating that they cannot plant in the soil, based entirely on the environmental report, a statement from the State DEP is needed.*
- The applicant's phasing plan is not permissible. The City cannot extend BPAS deadlines unless through a Development Agreement, and the applicant has not submitted an application for same. The applicant needs to amend the proposed phasing plan to incorporate the deadline for building permits for associated BPAS units.*

**Request:** The applicant is requesting eight variance approvals in order to proceed with the companion Major Development Plan and Conditional Use applications to repurpose the "Moped Hospital" into a restaurant, recreational rental vehicle facility and four affordable housing units.

**Applicant/**

**Property Owners:** Trepanier and Associates; Venter Enterprises, LLC

**Location:** 601 Truman Avenue (RE# 00017270-000000 and 00017270-000001)

**Zoning:** Historic Neighborhood Commercial – 1 (HNC-1)



## **Background**

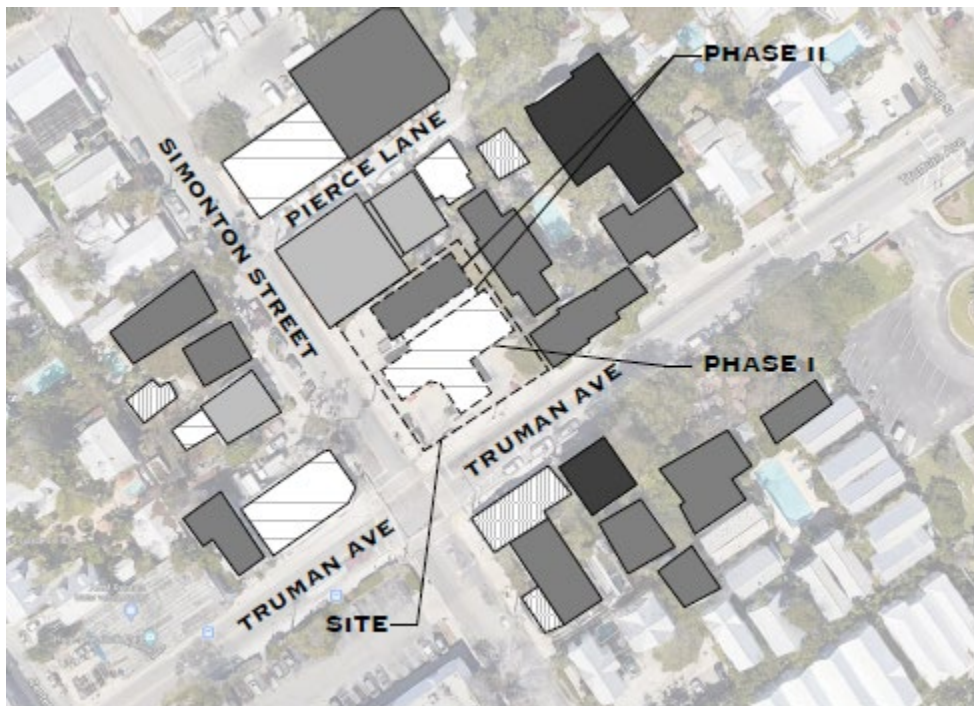
The property is located at 601 Truman Avenue, at the intersection of Truman Avenue and Simon Street. The subject property is 10,239 square feet and is located in the Historic Neighborhood Commercial-1 (HNC-1) Zoning District and is two lots of record under common ownership. The site is known as the “Moped Hospital” and is currently used for a small recreational rental vehicle facility with scooters, bicycle rentals, sales, service/repair, manufacturing, outdoor display, and indoor and outdoor storage. This project will aggregate the lots for purposes of development. The site conditions are currently non-conforming in many aspects, including 100% impervious surface, no landscaping or open space, and noncompliant with respect to most of the setback requirements. The owner has already obtained building permit allocations through the Building Permit Allocation System for the four proposed affordable housing units (Resolution No. 2021-20). This property is located within the Historic District and the applicant will seek HARC approvals as necessary.

The existing commercial structure predates 1945 and was originally used as a gas and auto service station. Today this property is considered a brownfield site due to contaminated fluids that leaked into the soil over the years. The Florida Department of Environmental Protection maintains four monitoring wells on site (FDEP Facility ID No. 44/8841232). There are mitigation measures to address the site contamination associated with any new development.

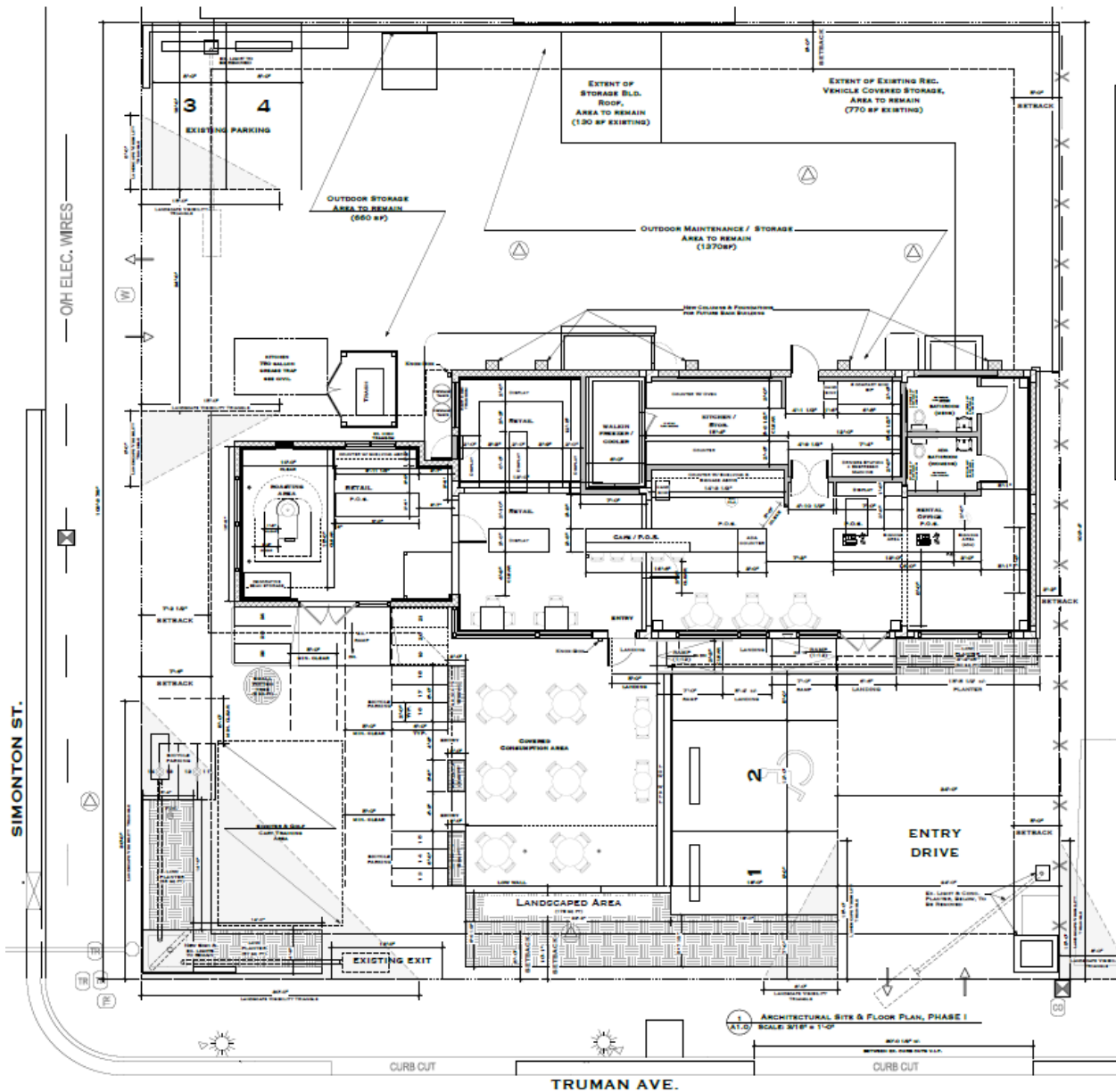
## Proposed Development

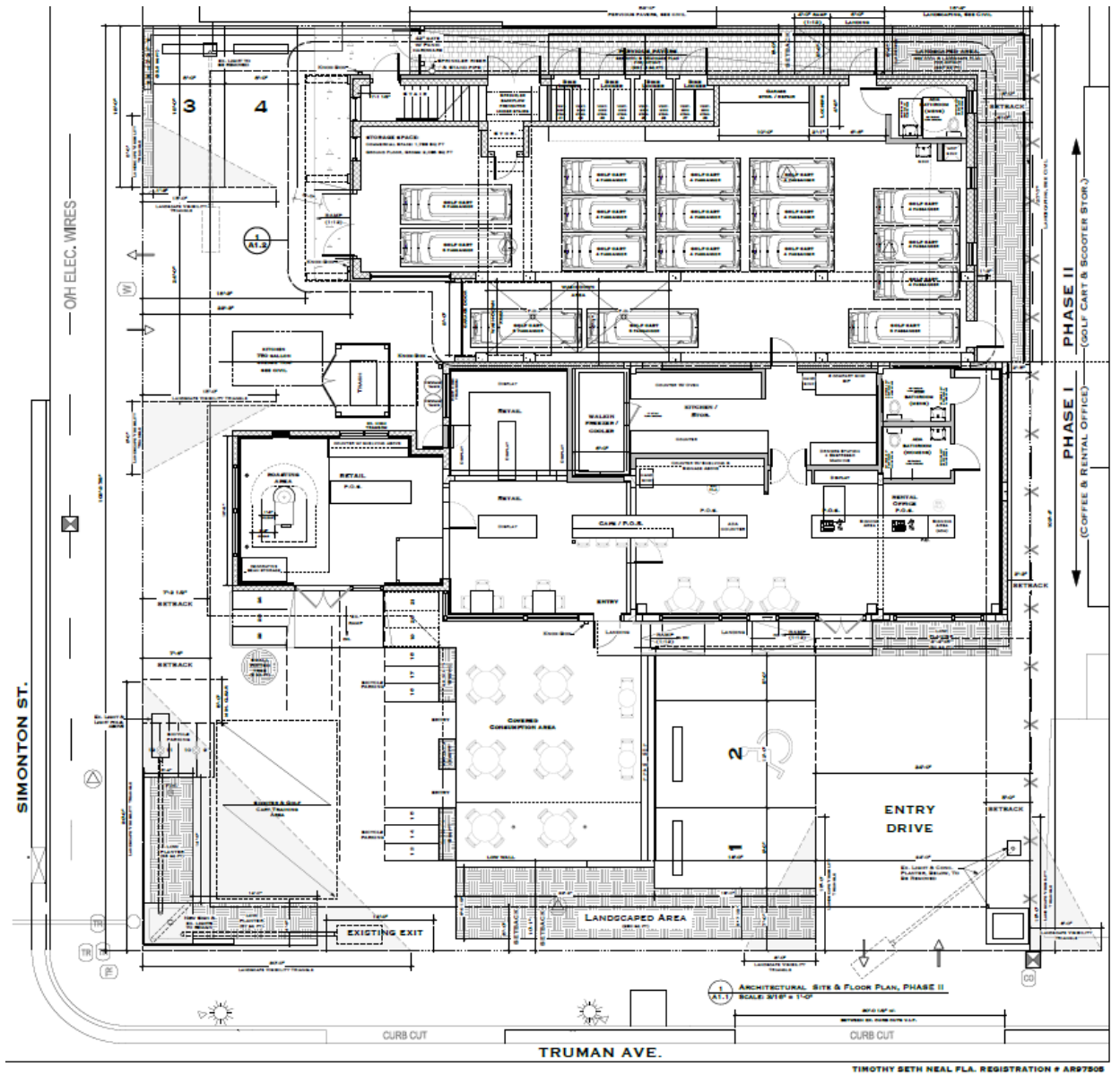
The applicant seeks to redevelop this site as a mixed-use development, to ultimately consist of a restaurant, the Cuban Coffee Queen, four affordable housing units and a recreational rental vehicle business. The site is proposed to be developed in two distinct phases. Phase I would include repurposing the existing building, currently used as the “Moped Hospital”, remodeling the interior space to a restaurant. The exterior would be improved to allow for an outdoor dining area, 4 parking spaces, landscape and open space and a trash enclosure, as well as other site improvements.

The second phase would consist of new construction of a two-story building with commercial use on the first floor and four affordable units on the second level. To make this possible, the existing nonconforming 1,052 s.f. commercial structure is proposed to be removed. Site improvements in Phase II will also include landscaping, storm water retention and open space improvements over the existing condition.



Proposed Site Plan, submitted by applicant.





## Request

The Applicant is requesting variances to the following requirements:

1. The required maximum building coverage is 50%, or 5,120 square feet, existing building coverage on site is 42%, or 4,308 square feet. Whereas, the Applicant is proposing a total of 53% building coverage, or 5,468 square feet.
2. The required maximum impervious surface is 60%, or 6,143 square feet, existing

impervious surface is 100%, or 10,239 square feet. Whereas, the Applicant is proposing 93%, or 9,618 square feet.

3. The required minimum open space is 20%, or 2,048 square feet, existing open space is 0%, or 0 square feet. Whereas, the Applicant is proposing 6%, or 621 square feet.
4. The required minimum side setback is 5 feet, existing east side setback is 0 feet. Whereas, the applicant is proposing 2.2 feet.
5. The required minimum rear setback is 15 feet, existing north rear setback is 0 feet. Whereas, the applicant is proposing 5.2 feet.
6. The required minimum street side setback is 7.5 feet, existing west street side setback is 7.2 feet. Whereas, the applicant is proposing no change.
7. The required minimum parking is 33 spaces, 2 spaces are currently existing. Whereas the applicant is proposing a total of 4 spaces, 1 ADA and 3 that are 8'x18'. Due to the minimum size requirements for a standard parking space, the 3 non-ADA spaces do not meet the code and are not counted as meeting on-site parking. The applicant is proposing 1 ADA parking space, and could revise the site to create 2 standard spaces that meet the required size.
8. The required unit size within the HNC-1 zoning district is 750 square feet, whereas the applicant is proposing units that vary in size between 325 and 366 square feet.

The table below details the current and proposed site data for the property.

<b>SITE DATA Zoning HNC-1</b>				
<b>Dimensional Requirements</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Variance Needed</b>
Height	35 feet	16 feet	23.5 feet	None
<b>Unit Size</b>	<b>750 S.F.</b>	<b>0 S.F.</b>	<b>325-366 S.F.</b>	<b>Variance needed</b>
Minimum Front Setback	5 feet	5 feet	5 feet	None
<b>Minimum Side Setback</b>	<b>5 feet</b>	<b>0 feet</b>	<b>2.2 feet</b>	<b>Variance needed 2.8 feet</b>
<b>Minimum Street Side Setback</b>	<b>7.5 feet</b>	<b>7.2 feet</b>	<b>7.2 feet</b>	<b>Variance needed 0.3 feet</b>

Minimum Rear Setback	15 feet	0 feet	5.2 feet	Variance needed 9.8 feet
Density	16 du/ac (4 units)	0 units	4 units	None
Maximum Building Coverage	50% 5,120 square feet	42% 4,308 square feet	53% 5,468 square feet	Variance needed 3% 348 square feet
Impervious Surface	60% 6,143 square feet	100% 10,239 square feet	93% 9,618 square feet	Variance needed 33% 3,475 square feet
Open Space	20% 2,048 square feet	0% 0 square feet	6% 621 square feet	Variance needed 14% 1,427 square feet
Parking	Mixed use – commercial, restaurant, residential, retail – total of 33 spaces	2 spaces	1 ADA space	Variance needed 32 spaces
Bicycle Parking	24	0	24 spaces	None
Landscaping				Landscape Waiver needed

**Process:**

Planning Board Meeting: June 16, 2022  
 Local Appeal Period: 10 days  
 DEO Review Period: up to 45 days

**Staff Analysis- Evaluation:**

The criteria for evaluating a variance are listed in Sections 90-391 through 397 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 site is being redeveloped and some of the existing non-conformities, such as maximum impervious surface area, landscape and open space are being improved. However, the applicant is still not fully in compliance with the requirements and has requested to exceed building coverage and construct the proposed new structure such that it encroaches into north and side setbacks. The existing historical structures have been at this location since the early 1940's and the entire site has been paved



**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 conditions of this site have existed for close to a decade, and were not created by the applicant. The current proposed site plan was submitted by the applicant to redevelop the property, add an additional business, and add affordable housing units. Some of the existing non-complying features, such as maximum impervious surface area, landscape and open space are being improved. The number of parking spaces required is being generated by the applicant, however, the location is a very heavily pedestrian oriented area and the proposed site plan attempts to help mitigate the lack of vehicular parking with a generous amount of bicycle spaces.

**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.*

The project may benefit the community with a new restaurant and new affordable housing units. However, variances would confer privileges that are not permitted under normal application of the Land Development Regulations. However, all property owners are able to avail themselves of the opportunity to seek variances from the City Planning Board.

**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 impervious surface ratio and open space area are improvements from the existing site condition, although still not in compliance with the code. 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 buildings are outdated, and there is redevelopment potential to higher and better use, including affordable housing. However, the proposed site plan does not reflect the minimum variance that makes possible the reasonable use of the land.

## 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 variances are not in harmony with the LDRs, however staff's general opinion is that the overall development would not be injurious to the area involved or detrimental to the public interest or welfare; the impervious surface area and open space are improvements from the existing site condition. Staff would, however, encourage additional landscaped pervious surface for the site. The units do not meet the size requirements of 750 square feet, however they are proposed to be offered as affordable units and are not injurious to the public welfare.

## 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.*

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 the 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 the City Code have been met by the applicant for a variance.*

The standards established by the City Code have not been 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 Planning Department has not received any public comment for the variance request as of the date of this report.

*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.*

No density or intensity of a use would be increased beyond that permitted by the comprehensive plan or these LDRs.

#### **RECOMMENDATION:**

The Planning Department recommends Denial given that the application has not met all criteria as stated in City Code Section 90-395.

The Planning Department recommends the following conditions:

1. The proposed construction shall be consistent with the plans, signed, sealed and dated November 5, 2021 by T.S. Neal Architects Inc.
2. Additional landscaped pervious surface is encouraged for the site.
3. Standard parking spaces are encouraged to meet the City Code required size of 9'x18' in order to be included as on-site parking. Sub-standard parking spaces are not permitted per code.
4. The applicant shall submit a Construction Management Plan and Inspection Schedule per 108-248 for review and approval prior to City Commission.