



**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: March 21, 2019

Agenda Item: **Variance – 2407-2409 North Roosevelt Boulevard (RE# 00002280-000100 & RE# 00002280-000101)** – A request for a variance to off-street parking spaces for properties located within the Commercial General (CG) and Conservation (C) Zoning Districts 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.

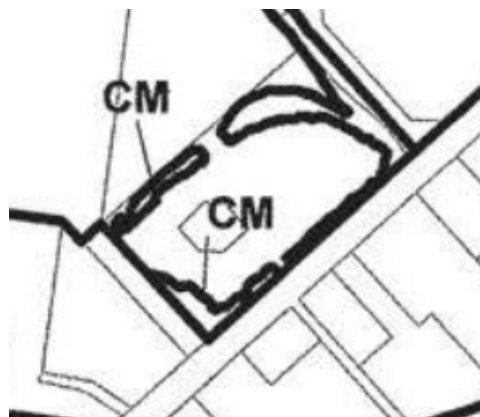
Request: The applicant is seeking a variance from the required ninety-five (95) off-street parking spaces. The applicant is proposing thirty-seven (37) off-street parking spaces (of which fifteen (15) are compact size) plus space to accommodate up to one hundred fifty-eight (158) bicycles. This leaves a deficit of fifty-eight (58) automobile spaces.

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) and Conservation (C) Zoning District



Background:

The properties at 2407 and 2409 North Roosevelt Boulevard are located bayside between Fifth (5th) Street and Seventh (7th) 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. Its current condition is shown in the aerial image below.



The applicant is proposing two (2) phases of development and redevelopment for the properties:

Phase 1: Construction of boat slips, paving of the parking lot, minimal landscaping, storm water retention improvements, and positioning of up to 74 liveaboard vessels. Redevelopment of the existing 1-story structure on pilings (the "Marina Clubhouse") to include an approximately 150-square-foot dock master's office, a women's restroom with two showers, two toilets, and two sinks, a men's restroom with two showers, two urinals, one toilet, and two sinks, and 152 spaces for bicycles.

Phase 2: Renovate a portion of first floor of the "Main Building" to create a 465-square-foot laundry center with seven clothes washing machines and seven clothes drying machines. No work is proposed for the second floor of the "Main Building."

According to the applicant, a third phase is planned for the "Main Building", but it is not part of this application.

The development as proposed will require additional off-street parking. However, the sites are not large enough to accommodate the number of spaces required.

A search of licensing records revealed the following active licenses at the two locations:

2407 North Roosevelt Boulevard:		
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, Aquin – Massage Therapist
2018-000103	Massage Therapist	Yuan, Min – Massage Therapist
2409 North Roosevelt Boulevard:		
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 Service	TMT Painting LLC – Mobile Painting Service
33893	Miscellaneous Other Service	Labor and Staffing Solutions
34102	Miscellaneous Other Service	MML Solutions – Staffing and Labor Service
32705	Miscellaneous Other Service	Sales Tax and Multi Service Inc – Accounting Service (non-CPA)

The following table summarizes the requested variance and uses of the property following the completion of **Phase I**:

Relevant Off-Street Parking Requirements: Code Section 108-572				
Proposed Uses:	Minimum Number of Parking Spaces Required for:		Parking Spaces	Bicycle Spaces
	Motorized Vehicles	Bicycles as % of Motor Vehicles		
Marinas & offshore activities	1 space per liveaboard boat (74)	25%	74	19
Professional Offices	1 space per 300-SF of GFA (150-sf)	25%	1	1
Multiple-family (outside the historic district)	2 spaces per dwelling unit (2)	10%	4	1
Retail stores and service establishments (1683-sf)	1 space per 300-SF of GFA (1683-sf)	25%	6	2
Doctors' & dentist' offices or clinics	5 spaces per each doctor or dentist (2)	10%	10	1
TOTAL REQUIRED:			95	24
TOTAL PROPOSED:			37	156

According to the applicant, the proposed 465-square-foot laundry center (phase 2) will be available to authorized users only and will not be available to the public. Therefore, no off-street parking is required for the use.

Although a third phase is planned for the “Main Building,” it is not part of this application and its potential off-street parking requirement has not been contemplated. If the third phase triggers a requirement for additional parking, the property will require another parking variance.

The following table summarizes the existing uses of the properties:

Relevant Off-Street Parking Requirements: Code Section 108-572				
Existing Uses:	Minimum Number of Parking Spaces Required for:		Parking Spaces	Bicycle Spaces
	Motorized Vehicles	Bicycles as % of Motor Vehicles		
Professional offices	1 space per 300-SF of GFA (3130-sf)	25%	11	3
Multiple-family (outside the historic district)	2 spaces per dwelling unit (2)	10%	4	1
Retail stores & service establishments (1683-sf)	1 space per 300-SF of GFA (1683-sf)	25%	6	2
Doctors’ & dentist’ offices or clinics	5 spaces per each doctor or dentist (2)	10%	10	1
TOTAL REQUIRED:			31	7

Pursuant to Section 108-611, all parking areas shall be paved. The parking easement at 2401 North Roosevelt Boulevard is not paved and cannot be counted toward the existing parking. The existing parking at the subject property is haphazard and nondelineated and staff is unable to determine the exact number of existing spaces. However, it can be confirmed that the property cannot accommodate the required thirty-one (31) spaces, therefore, the property is currently nonconforming. Pursuant to Section 122-32 (d), a nonconforming use shall not be extended, expanded, enlarged, or increased in intensity.

Process:

Planning Board Meeting: **March 21, 2019**
Local Appeal Period: **10 days**
DEO Review Period: **up to 45 days**

Analysis – Evaluation for Compliance with the Land Development Regulations:

The criteria for evaluating a variance are listed in Section 90-395 of the City Code. The Planning Board, before granting a variance, must find all 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 parcels are nonconforming in size (the Conservation District’s minimum lot size is 10-acres). The existing structures sit within the setbacks and the current uses of the property do not conform to the off-street parking requirements of section 108-572. However, these conditions and circumstances are not peculiar and are applicable to other land, structures, or buildings in the Conservation 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 add seventy-four (74) liveaboard boats to the properties which will trigger the need for additional off-street parking. 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. Therefore, permitting the addition of seventy-four (74) liveaboard boats 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 parcels at 2407-2409 North Roosevelt Boulevard are limited to the amount of off-street parking they can provide. However, the applicant is proposing to increase the existing nonconformity by installing seventy-four (74) liveaboard vessels. Literal

interpretation of the provisions of the land development regulations would not deprive the applicant of rights commonly enjoyed by other properties in the Conservation 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.*

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 received three public comments in opposition of the variance request and one public comment in favor of the variance request as of the date of this report (March 11, 2019).

RECOMMENDATION:

Pursuant to Section 14-193 (b), one off-street parking space shall be available for the exclusive use of the occupants of each filled moorage berth.

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

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.

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

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

General conditions:

- 1/6. The proposed development shall be consistent with site plan submitted by Meridian Engineering, LLC. No approval granted for any other work or improvements shown on the plans other than the proposed fifteen (15) compact-sized parking spaces, twenty-one (21) standard-sized parking spaces, and one (1) ADA compliant parking space.
- 2/6. This parking variance is valid only if the major development plan and conditional use in the Conservation District is approved by the Planning Board.

- 3/6. The required parking spaces for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use at the same time.
- 4/6. A residential parking permit program shall be implemented, maintained, and enforced.
- 5/6. All parking areas shall be used for automobile parking only, with no motor vehicles sales or any other sales activity, dead storage, nonemergency repair work, dismantling, or servicing of any kind.
- 6/6. All parking areas shall be paved to meet city standards and maintained in perpetuity. The paving plan shall be approved by the administrative official before construction is begun on any parking area. The owner or successor in ownership shall be responsible for perpetual maintenance. Parking lots shall be paved with concrete or asphalt or, upon approval of the city engineer, with other dust-free, porous materials.