

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



**To:** Chairman and Planning Board Members

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

**From:** Melissa Paul-Leto, Planner I

**Meeting Date:** May 20, 2021

**Agenda Item:** **Variance –511 Truman Avenue – (RE# 00017750-000000)** - A request for variances to the minimum front yard setback, minimum side yard setback, minimum landscape requirements, minimum off-street parking requirements, and to the minimum two-way driveway requirements in order to construct a mixed-use two-story building on property located within the Duval Street Oceanside (HRCC-3) zoning district pursuant to Sections 90-395, 122-750 (6) a., 122-750 (6) b., 108-412(a), 108-572, and 108-641 of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** The applicant is proposing to demolish the existing parking lot and construct a two-story mixed-use structure with 400 square feet on the first floor to be commercial retail, and 2 residential units to be located above and behind the commercial use.

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

**Property Owner:** 511 Truman Avenue LLC

**Location:** 511 Truman Avenue – (RE# 00017750-000000)

**Zoning:** Duval Street Oceanside (HRCC-3) zoning district



**Background/Request:**

The subject property is located near the corner of Duval Street, facing Truman Avenue. The parcel size is 5,136 square feet and is one lot of record. The parcel is currently an existing parking lot which is a permitted use in the HRCC-3 zoning district. The property has the following active licenses from the city:

- LIC2020-000315 – EZ Riders Rentals for ticket sales
- LIC2019-000962 – EX Riders Rentals for bicycle rental, non-motor driven rental only
- LIC2019-000259 – Freidman, Ilan for a parking lot use
- LIC2019-000258 – Friedman, Ilan for miscellaneous other service – booth rental

The property has received the following approvals:

- On April 5, 2006 – The Key West Board of Adjustment granted Res. 06-125 to allow the separation of a Duval Street restaurant and multi-booth site from it’s Truman Avenue parking and landscape/open space site (each having a different owner) by granting variances to minimum building setback, maximum building coverage, maximum impervious surface ratio, landscaping, minimum open space ratio, and the minimum off-street parking requirements for property located at 925 Duval Street and 511 Truman Avenue, Key West, Florida.



*925 Duval Street – Sushi Restaurant- Dedicated parking space*

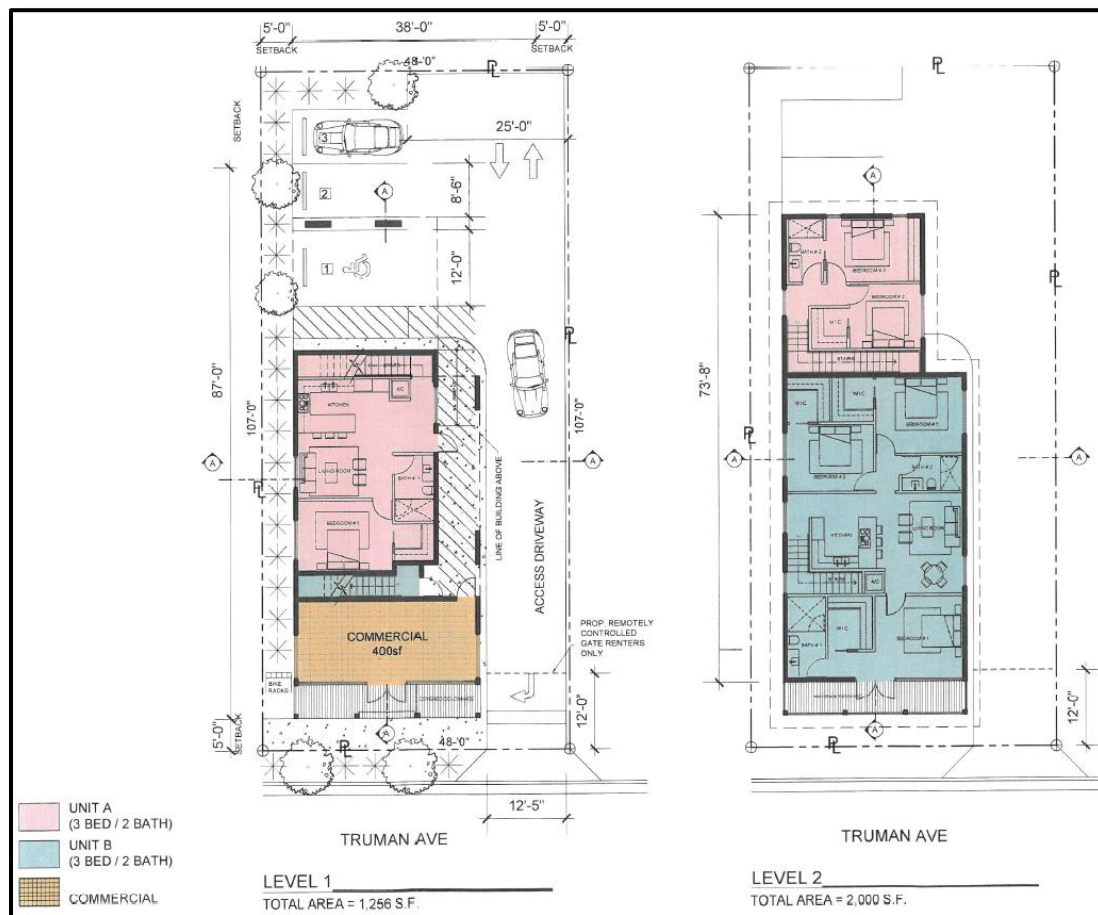


*511 Truman Avenue – Boundary Survey*



*925 Duval Street – Sushi Restaurant- Dedicated parking space*

- On May 21, 2020 – The Key West Planning Board granted Res. 2020-17 for 2 market rate units at 511 Truman Avenue through the BPAS allocation system.



*Proposed Floor Plans – Indicating two residential units and 400 sf of commercial retail space*

- On July 8, 2020 – The Key West Historic Architectural Review Commission granted #H2019-0049 a proposed site plan approval and an approval for the demolition of the existing non-historic kiosk.

The applicant is proposing to construct a two-story mixed-use structure consisting of 2 dwelling units and 400 square feet of commercial retail space. The commercial retail would be situated in the front of the building facing Truman Avenue, the 2 dwelling units would be located on the second floor and behind the commercial retail space on the first floor. Three parking spaces are proposed at the end of the driveway; one (1) ADA parking space, and two (2) standard parking spaces.



*511 Truman Avenue – Proposed front elevation with gated entrance*



*511 Truman Avenue – Proposed side elevation*



*511 Truman Avenue - Proposed rear elevation*



*511 Truman Avenue – Proposed side view adjacent to 924 Duval Street property*

Based on the plans submitted, the proposed design would require variances to the following dimensional requirements:

- The required minimum front yard setback in the (HRCC-3) zoning district is 5 feet. The existing front setback is 5 feet. The minimum proposed front setback would be 3 feet 6 inches for this parcel.
- The required minimum side yard setback is 5 feet. The existing side yard setback is 5 feet. The applicant is proposing 3 feet 6 inches.
- The minimum landscaped area requirement is to provide 20%, or 1,027.2 square feet. The existing landscaping is 1%, or 60 square feet. The applicant is proposing 14.58%, or 749.11 square feet, however, due to fire Marshal requirements, alternative compliance is being proposed.
- The minimum off-street parking requirements are 3.3 standard parking spaces. The existing parking on the property includes 8 standard parking spaces. The applicant is proposing 1 ADA, and 2 standard parking spaces.
- The minimum two-way driveway requirements are 24 feet in width. The existing driveway is 9 feet 6 inches. The applicant is proposing a driveway measurement of 12 feet 4 inches.

**Relevant HRCC-3 Zoning District Dimensional Requirements: Code Section 122-750**

<b>Dimensional Requirement</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Change / Variance Required?</b>
Flood Zone	X			
Maximum Height	35 feet + 5 feet	10 feet	25 feet 5 inches	In compliance
Minimum Lot Size	4,000 SF	5,136 SF	5,136 SF	In compliance
Maximum Building Coverage	50 % 2,568 SF	2 % 101 SF	47.9 % 2,460.95 SF	In compliance
Maximum Impervious Surface Ratio	60 % 3,081.6 SF	99 % 5,094 SF	59.8 % 3,074 SF	In compliance
Minimum Open Space	35 % 1,695 SF	1 % 60 SF	40.1 % 2,062 SF	In compliance
<b>Minimum Front Yard Setback</b>	<b>5 feet</b>	<b>5 feet</b>	<b>3 feet 6 inches</b>	<b>Variance Required 1 foot 6 inches</b>
<b>Minimum West Side Yard Setback</b>	<b>5 feet</b>	<b>5 feet</b>	<b>3 feet 6 inches</b>	<b>Variance Required 1 foot 6 inches</b>
Minimum East Side Yard Setback	5 feet	5 feet	5 feet	In compliance
Minimum Rear Yard Setback	15 feet	15 feet	15 feet	In compliance
<b>Auto parking</b>	<b>3.3 (1 ADA parking space)</b>	<b>8 (0 ADA parking spaces)</b>	<b>3 (1 ADA parking space)</b>	<b>Variance Required 0.3 space</b>
<b>Landscaped Area Requirement</b>	<b>20% 1,027 SF</b>	<b>1% 60 SF</b>	<b>14.58% 749.11 SF</b>	<b>Variance Required 5.4%, or 277.34 SF</b>
Perimeter Parking Lot Landscaping	5 feet width buffer around lot	0 feet width buffer	N/A	In compliance

Density	22 units per acre	0 units	2 market-rate units (Res. 2020-17 BPAS)	In compliance
Access Driveway	24 feet width	9 feet 6 inches	12 feet 4 inches	Variance Required 11 feet 8 inches

**Process:**

**Planning Board Meeting:** May 20, 2021

**Local Appeal Period:** 30 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 existing dimensions and size of the parcel are conforming with the dimensional requirements of the current Land Development Regulations. The minimum lot size in the HRCC-3 zoning district is 4,000 square feet whereas, the subject property is 5,136 square feet. Therefore, there are no special conditions or circumstances.

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 variance request is a result of the actions of the applicant proposing to demolish the existing ticket booth and parking lot in order to construct a two-story mixed use structure proposed to be located within the required front yard setback, required minimum side yard setback, and less than the required minimum landscaped area. The variance request for a two-way driveway measurement of 24 feet from 12 feet 4 inches is the action of the applicant. The design of the new development could be in a way that the required parking could be positioned on the property without the need of a variance to the driveway access.

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 property is currently non-complying with respect to the maximum impervious surface ratio and the minimum open space requirements. The proposed construction will place the impervious surface and open space ratios into compliance. However, the proposed construction is requiring several variances to the minimum front and side setbacks, to parking, to landscaped area requirements, and a variance to the minimum measurement for a two-way driveway.

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.***

Denial of the requested variance would not deprive the applicant of rights commonly enjoyed by other properties in the HRCC-3 zoning district. The applicant could design a two-story mixed-use structure that conforms with the dimensional requirements. Therefore, 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 Variance request is not the minimum required that will make possible the reasonable use of the land, building, or structure.

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 not following all the standards for considering variances, the granting of the requested variances 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 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 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 received no public comments for the variance requests as of the date of this report.

Pursuant to Code Section 90-392, in granting such application the Planning Board must make specific affirmative findings respecting each of the matters specified in Code Section 90-394.

***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 of 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 increases or has the effect of 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:**

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

If Planning Board chooses to approve the request for variances, then staff suggests the following condition:

**General Conditions:**

1. The proposed design shall be consistent with the plans signed, sealed, and dated, May 14, 2021 by Peter Blitstein, R.A., Blitstein Design Architects.
2. The development project shall make every effort to avoid any business interruption and will require that all contractors carry all required insurances.
3. The development project shall work with Keys Energy and all other utility providers to locate infrastructure such that it does not impede existing access to 925 Duval Street.
4. The roofline along the south west property line shall be guttered for stormwater management purposes.
5. Pursuant to the Fire Marshal's and the neighbor's request, there shall be no trees or shrubs along the south west property line.

**Conditions prior to Submittal of a Building Permit:**

6. The property owner shall receive a final FDOT permit for the driveway access.
7. The applicant shall coordinate with the Urban Forester and finalize a landscape compliance agreement to plant the maximum feasible code required canopy, subcanopy trees and shrubs onsite and to minimize tree removals. Code required canopy and subcanopy trees and shrubs that cannot be planted on-site shall be provided through a fee-in-lieu and planted off-site. The fee-in-lieu shall be proportionate to the cost of plant material, planting, and three months of watering services, and shall be received prior to issuance of a building permit.
8. The applicant shall correct site plans to clarify locations of existing trees.