



**THE CITY OF KEY WEST PLANNING BOARD  
STAFF REPORT**

**To:** Chairman and Planning Board Members

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

**From:** Mario Duron, AICP, The Corradino Group

**Meeting Date:** September 15<sup>th</sup>, 2022

**Agenda Item:** *Variance – 700 Front Street (RE# 00000210-000000)* - A request for a variance to construct two (2) permanent residential dwelling units within 100 feet of the mean high water, and variances to allow an expansion of outdoor consumption area without providing the required parking for the proposed expansion, and for a deficit of required off-street parking spaces, at property located in the Historic Residential Commercial Core Key West Bight (HRCC-2) zoning district pursuant to Section 90-395, Section 122-717, Section 108-575(5), and Section 108-572, of the Land Development Regulations of the Code of Ordinances of the City of Key West, Florida.

**Request:** The applicant intends to convert 4,000 square feet of existing commercial space within 100 feet of mean high-water into two (2) residential units, a gym for marina tenant use and a restaurant storage area. To effectuate the conversion, the applicant is requesting a variance from Section 122-717 – Uses Permitted which states “No permanent residential use shall be located within 100 feet of the mean high water...”. Additionally, the applicant is requesting relief from required parking for a proposed expansion of the outdoor consumption area of the Bel Mare restaurant, and a variance for the existing noncomplying off-street parking.

**Applicant:** Smith Hawks, PL c/o Anthony J. Davila

**Property Owner:** FOD Marina 1 LLC, Benicia Partners, LLC, and Smith Family Fund 1, LLC

**Location:** 700 Front Street (RE# 00000210-000000)

**Zoning:** Historic Residential Commercial Core – 2 (HRCC-2)

**Background/Request:** Per Monroe County Property Appraiser data the property was originally built in 1953 and expanded in 2001. It is developed with a two-story mixed-use development consisting of retail, restaurants, a fifty (50) slip marina and sixty-six (66) off-street parking spaces. On May 19, 2022, via Resolution No. 2022-027, the property was awarded two (2) market rate units during the Year 9 BPAS allocation.

The Applicant intends to repurpose 4,000 SF of existing commercial space to construct two residential units, a 226 SF gym associated with the residential units, and repurpose 672 SF of the space for restaurant storage area. Staff have reviewed the proposed site plan and given the proposed location of the residential units note that per Section 122-717, residential uses are not permitted within 100 FT of the mean high-water line.

Additionally, the applicant is proposing to increase the outdoor consumption area of the Bel Mare restaurant by 336 SF. The proposed consumption area will be over the footprint of an existing roof that will be converted to an outdoor deck. The applicant is seeking a variance from Sec. 108-575(5) for required parking due to the proposed expansion.

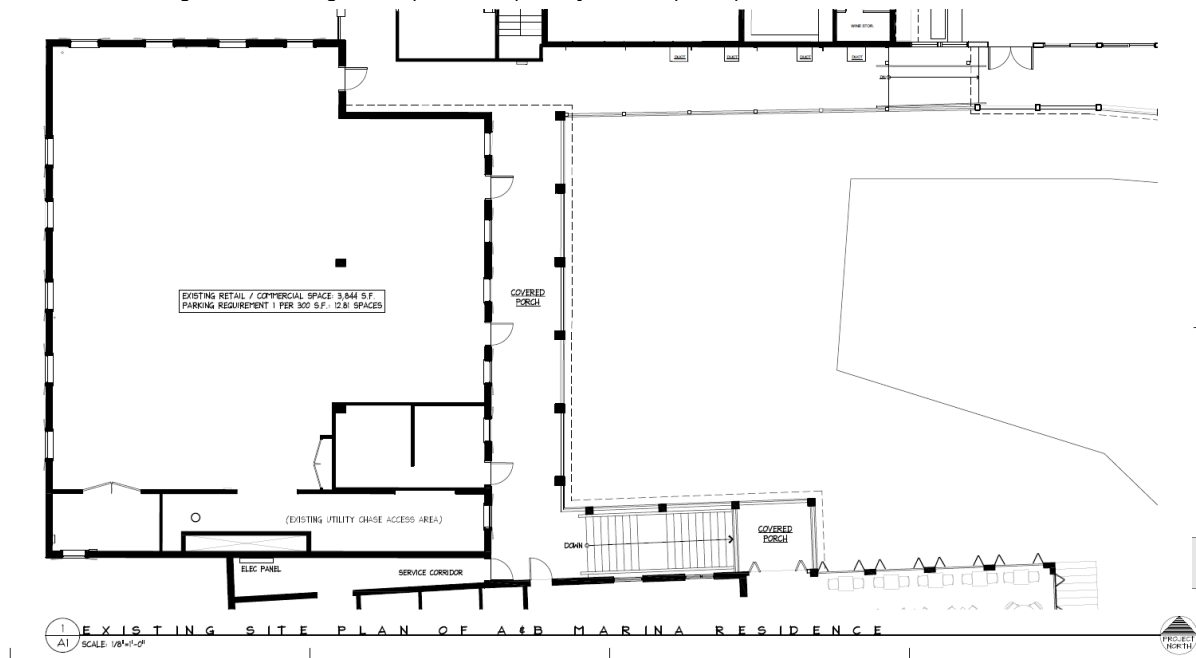
Historically, the property has been deficient of the required parking for the uses located on site. In 1997, a site plan was approved for the property with noncompliant parking through Resolution 97-385. Currently there are sixty-six (66) off-street parking spaces, including three (3) ADA spaces. Moreover, Resolution No. 02-207 granted the property approval to build within the mean high-water setback for non-residential uses.



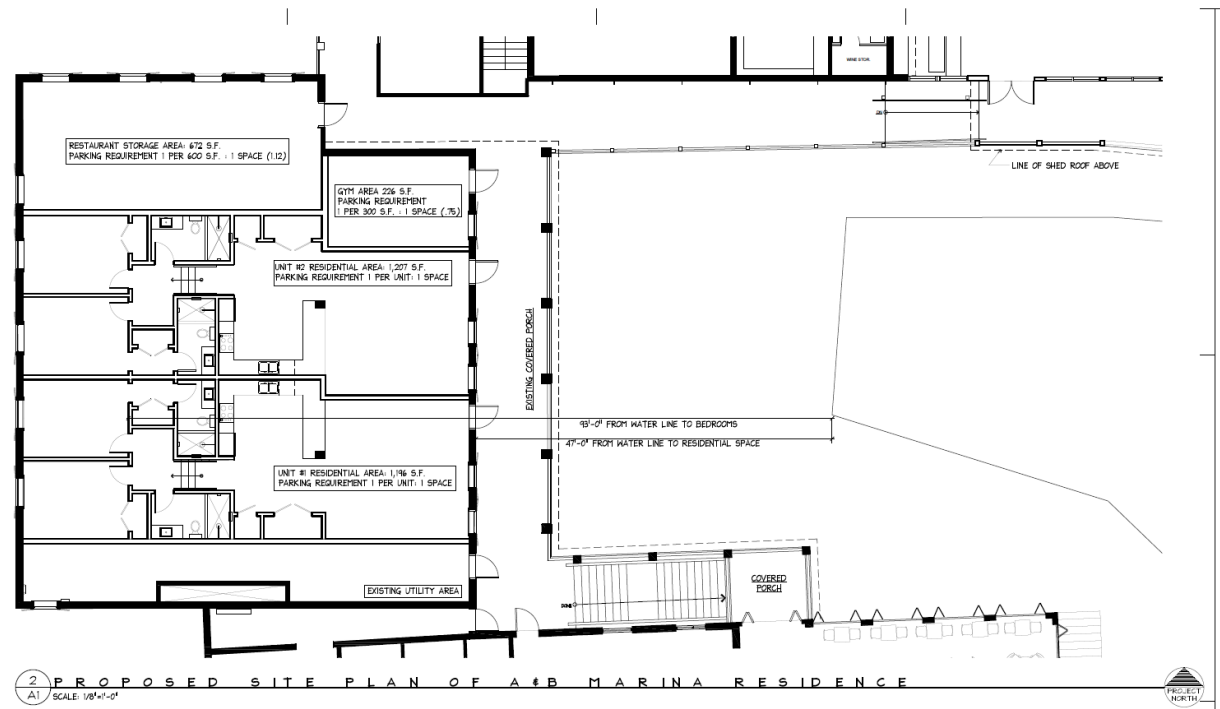
**Survey:** The property is located within the HRCC-2 Key West Bight zoning district. The site has a total land area of 57,192 SF, and is developed with two (2), two-story buildings with a gross floor area of approximately 41,893 SF. The property also includes submerged land (Parcel E) on which the marina is developed.



**Existing Site Plan:** The site plan below provides details of the commercial/retail area that will be repurposed to residential units, a gym and restaurant storage. The existing retail space occupied by the “Ship Shop”, is a total of 3,844 SF.

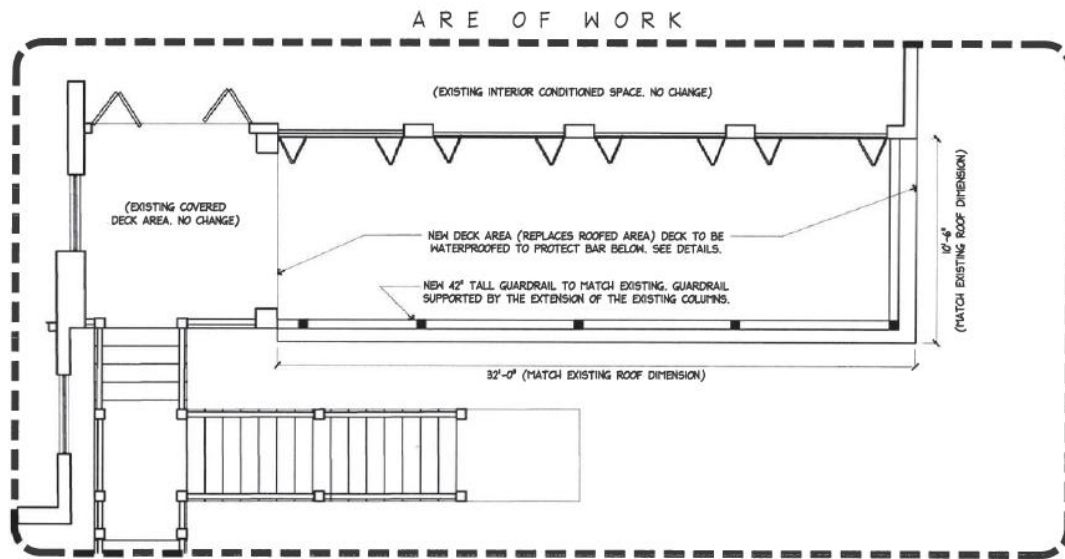


**Proposed Site Plan for Residential Units:** The site plan below shows the proposed reconfiguration of the commercial space. It includes 672 SF of restaurant storage space, two (2) residential units (1,196 SF & 1,207 SF), and a 226 SF gym. The proposed residential units are within 47 FT of the mean high-water line.

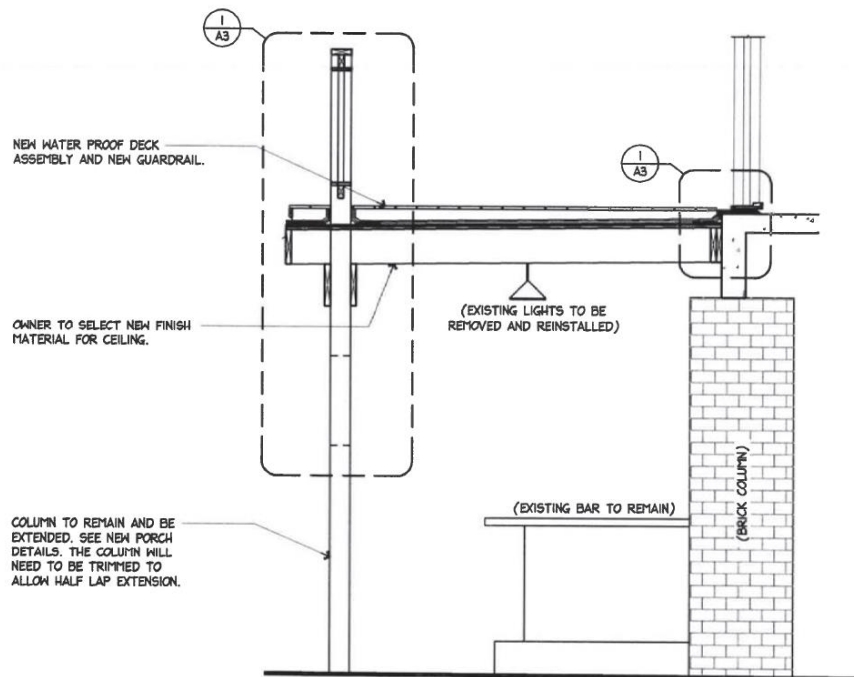


**Proposed Site Plan for Expansion of Outdoor Consumption Area:** The Applicant also contemplates an expansion of the outdoor seating area for the Bel Mare restaurant. The total area of the proposed consumption area is 336 SF and requires eight (8) parking spaces at a rate of 1 space for every 45 square feet of consumption area.





4 PROPOSED PLAN  
A2.1 SCALE: 1/4"=1'-0"



1 PROPOSED SECTION  
A2.1 SCALE: 1/2"=1'-0"

**Parking Data Table:** The parking data table below identifies the required parking spaces per Sec. 108-572, for all of the uses identified by the Applicant, including the proposed outdoor consumption area and the uses within the repurposed retail space. Based on the proposal, 453 parking spaces are required.

Use	Gross Floor Area/Amount	Space Requirements		Required Spaces		Existing Spaces		Proposed	
		VEHICLE	BICYCLE as % of Motor Vehicles	VEHICLE	BICYCLE as % of Motor Vehicles	V	B	V	B
Restaurant Area (includes increase of 336 outdoor consumption area)	17,961 SF	1 space per 45 square feet of serving and/or consumption area	25%	400 <sup>†</sup>  <i>†8 spaces for proposed outdoor consumption</i>	100				
Marina	40 Pleasure Boats 10 Commercially licensed with total capacity of 103 passengers  50 Slips Total	1 space per liveaboard boat, plus 1 space per 4 pleasure boats stored on site, plus 1 space per 3 passengers based on the total capacity of commercially licensed vessels.	25%	45	20				
Retail (includes reduction of 4000 SF)	728 SF	1 space per 300 square feet of gross floor area	25%	3 <sup>†</sup>  <i>†14 spaces reduced due to conversion of space</i>	1				
Residential	2 Units	1 space per dwelling unit	10%	2	1				
Gym/retail	226 SF	1 space per 300 square feet of gross floor area	25%	1	1				

Restaurant Storage / Warehouse	672 SF	1 space per 600 square feet of gross floor space	10%	2	1				
Total				453*	113*	66	±50	66	±50

\*Sec. 108-575. – Computation of parking spaces.

.(2) Interpretation of computation with fractions. When calculation of required parking results in requiring a fractional space, any fraction shall be rounded off to the next highest number.

The applicant is requesting variances from the following sections of the City of Key West Land Development Regulations:

- **Sec. 122-717** – Uses Permitted: In the HRCC-2 Key West Bight district, only water-dependent uses shall be located within the first 30 feet landward of the mean high water (MHW) or the bulkhead. Similarly, only water-related uses shall be located between the 30-foot setback and the 100-foot setback from the mean high water or the bulkhead. No permanent residential use shall be located within 100 feet of the mean high water, and no transient residential uses shall be allowed within any portion of the HRCC-2 district.
- **Section 108-572** – Schedule of off-street parking requirements by use generally: Off-street parking spaces shall be provided in accordance with the following schedule for motor vehicles and bicycles.
- **Sec. 108-575(5)** – Computation of parking spaces: Applicability of standards to expanding uses. 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.

**Process:**

Development Review Committee:	N/A
Planning Board:	September 15 <sup>th</sup> , 2022
HARC:	N/A
Local Appeal Period:	10 days
DEO Review:	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 (LDRs). 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.*

Parking Variances: Historically, the site has been deficient to the required parking for the existing uses at the property, which include retail, a marina, and restaurants. However, in 1997, Resolution No. 97-385 approved a site plan with a retail area expansion of 12,000 SF, including the parking configuration that exists today. However, with respect to the expansion in consumption area proposed at this time, there are no underlying special conditions peculiar to this property.

## NOT IN COMPLIANCE

Mean High Water Variance: This waterfront property was developed prior to adoption of the mean high-water line setback requirement in today's land development regulations, similar to other Key West Bight structures. As a result, the majority of the buildings on the property fall within the mean high-water setback. The existing historic structure is within the 100-foot setback and the applicant would have to construct the units in another location (abandon the proposal to renovate the existing area) to attempt to observe the setback. City code requiring this setback was developed to preserve the character of the waterfront however in the past the property has been approved a variance request for non-residential development within the mean high water setback (Resolution No. 02-207). The previous variance is noted, however it was not for residential restrictions (Section 122-717), therefore this variance would set a precedent.

## 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.*

Parking Variances: Conditions are created by the applicant. Given the proposed expansion in consumption area, and other proposed land use changes, the site is not in compliance with required parking by approximately 422 spaces. The request to modify consumption area and land uses triggers a parking review pursuant to Section 108-573.

## NOT IN COMPLIANCE

Mean High Water Variance: To comply with the residential setback in Code Section 122-717, the property owner would need to build a new structure over the existing parking area, which could further impact parking conditions. However the request reflects the property owners proposal.

## 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.*

Parking Variances & Mean High Water Variance: Granting of the requested variances will confer special privileges to the applicant. However, in the past, approvals for similar requests have been granted to the property. Under Resolutions No. 97-385 and No. 02-207, the property has been permitted expansion of the site without requiring additional parking and has been granted approval to develop the property within the 100 mean high-water setback, but not with respect to residential development (Section 122-717). The mean high-water setback was established to preserve the character of the historic Key West Bight but also functions to protect people and property from impacts due to high tides, storm surge, and sea level rise.

## 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.*

Parking Variances: Hardship conditions do not exist.



## NOT IN COMPLIANCE

Mean High Water Variance: The property owner can opt to construct the residential units in a compliant location on the property. However, to repurpose the existing historic structure, the applicant needs a variance to proceed.

## 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.*

Parking Variances: The proposed consumption area is not the minimum required for reasonable use of the land or building.

## NOT IN COMPLIANCE

Mean High Water Variance: The variance requested is the minimum required that will make possible the reasonable use of the land, however, with respect to the BPAS units, it is needed for the applicant to accommodate the units within the existing structure. There are no additional variances requested in regard to the residential units proposed.

## PARTIAL 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.*

Parking Variances: The variances requested are not directly injurious to the public welfare, they would allow for increased outdoor commercial activity, and to an extent encourage pedestrian activity. The mix of uses and limited parking promote walkability and support the historic commercial pedestrian-oriented area. The proposed parking variances are not injurious to the public welfare given the limited extent of the proposal expansion.

## IN COMPLIANCE

Mean High Water Variance: The mean high-water line setback is established to protect the historic character of the Key West Bight and function to protect people and property from impacts of high tides, storm surge, and sea level rise. Approval of the variance to develop within the setback will not be directly injurious to the public welfare. However, allowing a variance to the 100-foot setback for residential units in this zoning district may set a precedent that influences the likelihood of additional future requests to locate more units within this setback.

## PARTIALLY 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.*

Parking Variances and Mean High Water 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**

**RECOMMENDATION:**

Based on the existing conditions, the Planning Department recommends to the Planning Board DENIAL of the proposed variance given all review criteria have not been fully met.

If the Planning Board chooses to approve the variances, the Planning Department recommends the following conditions:

1. The proposed construction shall be consistent with the signed and sealed plans prepared by Bender & Associates Architects and dated July 7, 2022.
2. The applicant has a deficit of 63 bicycle parking spaces. Prior to the issuance of a Certificate of Occupancy for the proposed residential units, the Applicant shall install bicycle racks onsite or donate \$15,000 to subsidize bicycle racks in the immediate area. The City Engineering Department has provided that a \$1,000 rack can accommodate roughly four (4) bicycles.