MEMORANDUM

Date: March 5, 2026

To: Honorable Chair and Board of Adjustment Members

Via: Brian L. Barroso
City Manager

CC: Patrick Wright
Growth Management Division Director

From: Taylor Brown
City Planner

Subject: **File 25-0029 -Variance – 3401 Duck Avenue (RE# 00064740-000000), also known as 1621–1622 Spalding Court** – A request for a height variance of 4'-0¼" above the maximum height permitted in the MDR-1 (Medium Density Residential) zoning district pursuant to Section 122-280 of the Land Development Regulations, in order to accommodate rooftop mechanical equipment and elevator overrun associated with the redevelopment of the Poinciana Royale II structure within the Poinciana Housing Complex; pursuant to Sections 90-391 and 90-395 of the Code of Ordinances of the City of Key West, Florida.

Introduction

To consider a height variance of 4'-0¼" for mechanical and elevator machinery on the rooftop of Poinciana Royale II.

Background

This request for a height variance is associated with the redevelopment of Poinciana Royale, a continuum of care (CoC) community, and is part of Phase II of the overall redevelopment of the property.

A height variance for non-habitable space is being proposed as the minimum variance required to accommodate mechanical (HVAC) and elevator equipment.

The subject property lies within a Special Flood Hazard Area, requiring the structure to be elevated in accordance with the City's adopted floodplain management standards, which mandate elevation of new and substantially improved structures to at least one foot above Base Flood Elevation (BFE). In addition, the Florida Building Code requires elevator shafts to include a code-compliant overrun for life-safety purposes. Mechanical equipment necessary for elevator operation must be located directly above, or in functional proximity to, the elevator shaft. Given the site's floodplain designation and the community's generally high groundwater table, locating the required mechanical equipment below the elevator shaft would be impractical and not reasonably feasible. As such, the applicant is asking for a height variance of 4'-0¼" in order to locate the needed equipment on the rooftop.

City Charter Section 1.05, Height Restriction:

Pursuant to City Charter Section 1.05(b), height variances for non-habitable purposes, including but not limited to mechanical equipment and similar appurtenances, may be approved by the Board of Adjustment and shall be final and not subject to voter referendum.

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 Board of Adjustment, before granting a variance, must find all of 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.**

   While the subject property is located within a Special Flood Hazard Area and must comply with floodplain and Florida Building Code requirements, these regulatory conditions are not unique to this property. Numerous properties within the MDR-1 zoning district are similarly subject to floodplain elevation requirements and Building Code standards, including elevator overrun requirements and rooftop mechanical systems.

The need to comply with generally applicable floodplain regulations and Building Code standards does not constitute a special or peculiar condition unique to this property.

NOT COMPLIANT

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 prompting the request arise from the design choices associated with the proposed redevelopment, including the decision to incorporate an elevator system requiring rooftop overrun and mechanical equipment.

While compliance with building codes is mandatory, the overall building design and method of compliance are within the control of the applicant. The hardship arises in part from the proposed design configuration.

NOT COMPLIANT

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.

Granting the requested variance would allow the structure to exceed the maximum building height established in the MDR-1 district. The height limitations in this district are intended to apply uniformly, including in situations where floodplain regulations and mechanical requirements must be accommodated.

NOT COMPLIANT

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.

To justify a variance, the hardship must arise from the unique physical characteristics of the property itself, rather than from regulatory compliance obligations or preferred design solutions.

Staff acknowledges that the subject property is located within a Special Flood Hazard Area and on an island with a relatively high groundwater table, which can limit below-grade construction options. In addition, the Florida Building Code requires elevator overrun space and associated life-safety components, and the mechanical equipment necessary for elevator operation must be located in functional proximity to the shaft. Taken together, these factors create a legitimate design challenge.

However, floodplain elevation requirements, groundwater conditions, and building code standards are common considerations for properties throughout the City and within the MDR-1 zoning district. These constraints do not arise from a unique or peculiar physical characteristic of this specific parcel, but rather from generally applicable regulatory and environmental conditions. The Land Development Regulations establish height limits intended to apply uniformly, even where such requirements must be accommodated.

While staff recognizes the practical difficulties involved, the inability to construct the project exactly as designed does not constitute an unnecessary or undue hardship within the meaning of the variance criteria.

NOT COMPLIANT

5. Only minimum variance granted. That the variance granted is the minimum variance that will make possible reasonable use of the land, building or structure.

The requested 4'-0¼" increase represents only the height necessary to accommodate the required mechanical equipment and elevator overrun and does not increase habitable space or building mass beyond that required for code compliance.

COMPLIANT

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 public interest or welfare.

Granting the requested variance will be in harmony with the general intent and purpose of the Land Development Regulations and will not be injurious to the area involved or otherwise detrimental to public interest. The requested height increase is limited to non-habitable mechanical equipment and elevator overrun, does not increase habitable floor area or building mass, and is located within the interior of the Poinciana Housing Complex rather than along a public street frontage. The rooftop equipment will be appropriately screened in accordance with applicable code requirements and will not be readily visible from the public right-of-way. Accordingly, Planning finds that the requested variance will not be injurious to the public welfare.

COMPLIANT

7. Existing nonconforming uses of other property are 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 nonconformities of other properties do not form the basis for this analysis.

COMPLIANT

Pursuant to Code Section 90-395(b), the Board of Adjustment shall make factual findings regarding the following:

1. That the standards established by Section 90-395 of the City Code have been met by the applicant for a variance.

The applicant does not meet the standards established by the City Code for a variance.

2. 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.

As of the writing of this report, Staff has not received any objections to the requested variance.

Recommendation

Planning Department staff, based on the criteria established by the Comprehensive Plan and codified within the Land Development Regulations, recommends that the request for a variance be **DENIED**.

However, should the Board of Adjustment make findings in support of granting the requested variance, Planning staff recommend the following condition be included in any motion for approval.

1. This height variance shall only be for the 4'-0¼" increase in height of non-habitable space to be used for locating mechanical equipment (HVAC) and elevator shaft overrun in accordance with signed and sealed development plans for this site.