



JUSTIFICATION STATEMENT
DOKA Outdoor Storage Variance
Submittal: February 22, 2024

REQUEST

On behalf of the Applicant and Property Owner, 33 NW 33rd St Industrial, LLC % Criterion Group, Shutts & Bowen, LLP hereby submits this application for a variance to allow materials stored outdoors to exceed the height of the required screening wall or fence. The subject property ("Site", or "Property") consists of one parcel of land totaling 10.36 acres and is located on the northwest corner of Northwest 27th Avenue and Northwest 33rd Street. Access to the property is proposed on both road frontages.

Table 1 - Property and Land Use Information

Table with 4 columns: Future Land Use, Zoning, Property Information, Address, Property ID, Property Owner. Row 1: Industrial ("I"), General Industrial ("I-1"). Row 2: No situs address assigned, 484221070070, 33 NW 33rd St Industrial LLC % Criterion Group.

BACKGROUND

The Site is part of the Pompano Industrial Park ("PIP") Third Addition Plat (Plat Book 111, Page 33) and was originally part of the PIP Development of Regional Impact ("DRI"). The subject Site was paved for surface parking in or around 1995, and has remained as such ever since. On June 23, 2020, the property was rezoned to General Industrial ("I-1") via Ordinance No. 2020-57, and on November 10, 2020, the PIP DRI was abandoned via Ordinance No. 2020-1021. In October 2021, the Applicant purchased the Property and continued to use the Property as parking for commercial vehicles of nearby delivery companies and on October 20, 2022, the Zoning Board of Appeals ("ZBA") approved a Major Temporary Use permit to allow the Property Owner to temporarily utilize the existing parking lot for outdoor storage for overnight parking of commercial vehicles (P&Z# 22-15000013), and a Special Exception ("SE") approval for an Outdoor Storage (as a principal use) (P&Z# 22-17000009). In July 2023, the Applicant submitted a Major Site Plan Review application to allow a combined total of 45,756-square-feet ("sq. ft.") of warehouse and office space, with outdoor storage. During the review, it was determined that the height of the materials to be stored outdoors exceeded the height of the proposed screening wall and landscape buffer materials. Therefore, the granting of a variance would be required before the site plan could be approved.

JUSTIFICATION

The Property Owner is currently processing an application for site plan approval in order to improve the Property so that it can be leased to a new tenant called Doka USA. Doka is a world

leader in providing innovative formwork, solutions, and services in all areas of construction and is a supplier of scaffolding solutions for a variety of projects. The company has more than 160 sales and logistics facilities in over 60 countries, including 12 throughout the United States. Due to the incredible demand for construction materials and the development boom occurring throughout South Florida, the company needs a large parcel of land that can accommodate the inventory of their materials that are in high demand. The subject Property is the ideal location given its location in an industrially zoned area near the Florida’s Turnpike. The property is mostly paved, and therefore will not pose a detriment to any environmentally sensitive areas. Doka’s operations require a substantial outdoor storage area, and the types of materials to be stored are large format components of scaffolding and formwork, platforms, and support systems that, when stacked, easily exceed the maximum allowed 10-ft. height of the required screening wall. At the same time the quantity of the materials needed to be stored for inventory, which are used for a wide range of construction projects, is too great to be stored in an enclosed structure with roll-up doors.

The proposed site plan indicates a one-story, 31-ft.-high, 36,596 sq. ft. warehouse that is oriented along Northwest 33rd Street, and a two-story, 32-ft.-high, 9,160 sq. ft. accessory office in a separate building that has access and frontage along Northwest 27<sup>th</sup> Avenue. The warehouse is the anchor of the outdoor storage area, which is buffered with landscaping and opaque fencing on the north, south, east and west. The site plan shows an office building with 79 parking spaces on the eastern portion of the Property. An outdoor storage yard predominates the Site. The outdoor storage yard will be screened from view by the proposed warehouse and by the proposed perimeter landscape buffering that will be at least 26-ft. wide along both street frontages and include a 10-ft. high opaque fence.

The Applicant is requesting a variance to allow the stored materials to exceed the height of the proposed perimeter fencing so that the stored materials can be stacked up to 20 ft. in height. The Applicant is proposing to install perimeter buffer trees at heights ranging between 10 to 22 ft. in addition to the 10-ft. high opaque fence in an effort to meet the intent of the zoning code.

**Table 2 - Proposed Variance**

V#	Code Section	Requirement	Proposed
V1	Sections 155.4228.A.3.a.i  and  155.4228.A.3.f.	The area(s) used for outdoor storage shall be fully enclosed with a fence or masonry wall no less than eight feet high in accordance with Section 155.5302, Fences and Walls. <i>The height of materials and equipment stored shall not exceed the height of the screening fence or wall;</i>  and,  <i>Materials shall not be stored higher than the height of the screening.</i>	Screening wall or fence height: 10’;  Height of materials stored: 20’

**SECTION 155.2420.D. – VARIANCE REVIEW STANDARDS**

A variance application shall be approved only on a finding that there is competent substantial evidence in the record that all of the following standards are met:

- a. There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;

***Response:** Special conditions and circumstances exist, which are peculiar to the land that are not applicable to other lands in the same zoning district. Considering the surrounding context, the surrounding development pattern is unique to the Property in that the north and west of the Property abuts a lake and the Florida's Turnpike ramp. On the other side of the lake is the back of the Festival Marketplace development and the Property cannot be seen from the Turnpike. To the south, and east are an electrical substation, and other industrial warehouse, logistical and distribution developments. Considering the Site's configuration, the subject Site is constrained by its lot depth and shape that is similar to a flag lot. The Property's lot depth is approximately 320 ft. and its length is more than three times the width. The lot's depth makes it challenging to site plan for a warehouse, similar to what is surrounding it, or other types of industrial uses without the possibility of variance relief. In the vicinity, similarly zoned properties developed with industrial uses have lot widths that exceed 450 ft. The subject site is narrower than the majority of the industrially zoned properties in the vicinity.*

- b. The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;

***Response:** The lot dimensions and shape of the Site is not a result from the actions of the Property Owner. The Site was platted in its existing configuration with the original PIP DRI approval – well before the Property Owner purchased it.*

- c. Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;

***Response:** Because of the Property's dimensions and shape, literal application of the zoning code would effectively limit the use of the Property as an industrial use and would unreasonably restrict the types of business that need outdoor storage that could operate on the Site, working an unnecessary and undue hardship. The prospective user's operations require a generous outdoor storage area that allows for the space needed for the stacked materials up to 20 ft. as well as space for the vehicles and loading equipment to maneuver between stacks for loading and unloading. The materials will be neatly stacked in rows as shown on the site plan submitted in a separate application. Given the nature of the materials, it would be impractical to build multiple*

warehouses in which to store them or to only stack up to 10 ft. in height in order to fully comply with the zoning code which allows a maximum screening fence or wall height of 10 ft. For the stacked materials to be limited to 10 ft. in height, it would necessitate a much larger piece of land. As the City has effectively reached build-out, particularly along major transportation corridors like Florida's Turnpike, appropriately zoned industrial land is scarce.

- d. The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.

**Response:** Granting the variance will not confer upon the Applicant any special privilege that is denied to other lands, buildings or structures in the same zoning district. The code recognizes there may be unique circumstances that merit deviation from the requirements. Furthermore, the code allows variances to be requested from dimensional or numerical requirements as a result of lot size or unusual lot shape or other conditions, provided such variance(s) do not seriously affect any adjoining property or the general welfare. The granting of the variance would not adversely affect any other property owner or the general public and does not confer any special privilege to the Applicant as it may be considered for other applicants with similar site constraints and all variances are reviewed, principally on a case-by-case basis.

- e. The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;

**Response:** The variance, if granted, is the minimum necessary to make possible the reasonable use of the land. The Applicant is proposing the maximum allowed height for the screening barrier along all perimeters in combination with landscape buffers that include trees ranging from 10 to 22 feet in height. The perimeter buffers exceed the minimum code requirements and offer heavy screening above height of the fencing. In addition, the stored materials are proposed to be set at least 50 ft. back from the NW 33<sup>rd</sup> Street R-O-W and more than 200 ft. from the NW 27th Avenue R-O-W. The line-of-site sections submitted with this application demonstrate the visual impact of the proposed landscaping and screening combined with the setbacks. The sections show that the stacked materials at 20 ft. in height will not be visible to the average passerby on either street frontage. There is nothing on either street frontage that will attract pedestrian traffic. Granting of the variance would make it possible to operate the proposed use while still providing safe vehicular circulation and maneuvering area.

- f. The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;

**Response:** Granting of the requested variance will be in harmony with the general intent and purpose of the zoning code. The intent of the code requirement to not allow materials stored outdoors to exceed the screening wall or fence height is to mitigate adverse visual impacts from the surrounding R-O-Ws and properties. As the line of site sections and the landscape plans (submitted in the separate site plan review application) demonstrate, the intent of the zoning code will be met by the provision of the heavily landscaped perimeter buffers and generous setbacks

*that will effectively block the views into the Site from the roads. As previously stated, the Property cannot be seen from the Turnpike or the Turnpike's exit ramp, and the north side of the Property abuts a 200-ft.-wide lake and the back side, the service side, of the Festival Marketplace (which is under consideration for redevelopment into an industrial warehouse development).*

- g. The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and

***Response:*** *The requested variance will not be injurious to the area involved or detrimental to the public welfare. The variance will allow for infill redevelopment and reuse of a historically underutilized parking lot into a productive business that will create jobs. The variance will not have a negative impact on the surrounding business as everything surrounding the Property is existing or proposed industrial uses.*

- h. The Variance is consistent with the comprehensive plan.

***Response:*** *Granting of the requested variance will be in harmony with the Comprehensive Plan which encourages future industrial uses to be located with access to major transportation facilities such as the Turnpike, and to limit adverse impacts on residential uses. Granting of the variance will have no impact on residential uses, because there are none within a mile of the Property. At the same time, the landscape buffers will enhance the visual appearance of the Property from the street frontages, and include native plant species, which is consistent with Future Land Use Policy 01.06.06.*

The following factors do not constitute sufficient grounds for approval of a Variance:

- a. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;

***Response:*** *Acknowledged. The proposed use is permitted in the Property's I-1 Zoning District.*

- b. Hardships resulting from factors other than application of requirements of this Code;

***Response:*** *Acknowledged. The hardships stated herein are borne out of the literal application of the zoning code.*

- c. The fact that land or a structure may be utilized more profitably or be more marketable with a Variance; or

***Response:*** *Acknowledged. A financial hardship is not a contributing factor to the variance request.*

- d. The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts.

***Response:*** *Acknowledged. The Applicant is not reliant upon the conforming or non-conforming status of surrounding properties. The request is based upon the existing conditions on the subject Site and literal application of the zoning code that unreasonably restrict industrial development.*

## **CONCLUSION**

On behalf of the Applicant, we sincerely appreciate your consideration of the variance request. Based on the above and the application submittal documentation, the Applicant respectfully requests the approval of the request, which complies with all applicable standards as contained in Section 155.2420.D, Variance Review Standards. Should you have any questions or require any additional information, please do not hesitate to contact us.

Sincerely,

Shutts & Bowen LLP



Meredith S. Leigh