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**ReVive SurgiCenter LLC
1347 E. Sample Road, Suite 102
Distance Separation Variance Justification Statement**

ReVive SurgiCenter LLC (“Applicant”), with consent from CCDV Holdings LLC (“Property Owner”), hereby requests a variance from City Zoning Code (“Code”) Section 155.4209.B.3.a which restricts specialty medical facilities from establishing within 500 feet of single family and two family zoning districts. The property in question is located at 1347 E. Sample Road, Suite 102 (“Property”) in the City of Pompano Beach (“City”). It is actually two parcels separated by an alley/access road with the southern parcel improved with an existing/nonconforming office building and the northern parcel developed with a parking lot. The variance request is being submitted concurrently with a special exception application to allow for Applicant to operate an ambulatory surgical center, classified as a specialty medical facility, on the Property. The Property has a zoning designation of B-3 (General Business) and Future Land Use designation of Commercial. The proposed ambulatory surgical center use is classified as a specialty medical facility per Code Section 155.4209.B.1.2. Per the Consolidated Use Table in Appendix A of the City’s Code, a specialty medical facility is permitted within the B-3 zoning district with special exception approval. Per Code Section 155.4209.B.3.a, a specialty medical facility “...shall be at least 500 feet from a Single Family (RS) or Two-Family (RD) Zoning District. The Property is located adjacent to the RS-4 zoning district. As such, the Applicant is requesting a variance from this distance separation requirement to allow the specialty medical facility to be located on the Property.

Background and Business Operations

Dane C. Pohlman, D.O., owns and operates Pohlman Pain Associates, an interventional pain medicine, physical medicine & rehabilitation clinic with locations in Coral Springs and Delray Beach. The Property in Pompano Beach was purchased to expand their medical office practice and add an ambulatory surgical center. The ambulatory surgical center is a specialty medical facility in name only and in essence is an accessory use associated with a medical office to be located within the same building. In fact, Applicant is only intending for the “specialty medical facility” space to be approximately 3,764 square feet, meaning it will not be a high-volume facility.

Dr. Pohlman’s medical specialty has evolved dramatically over the past decade with the growing demand for options outside of opioid medication or large surgeries to treat smaller musculoskeletal and other orthopedic conditions. The facility, if approved, will provide quick and efficient access to minimally invasive outpatient procedures to treat a variety of orthopedic conditions. To Applicant’s knowledge, there is not a similar facility in Pompano Beach or the surrounding area.

Boca Raton Denver Edison Ft. Lauderdale Las Vegas Los Angeles Miami Naples
New York Orlando Phoenix Portland Tallahassee Tampa West Palm Beach

Variance Criteria Analysis

Per Section 155.2420.D.1 of the City's Code, 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.. Each of the criteria are listed below in **bold** with Applicant's justification below each in *italics*.

- 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;**

There are two extraordinary and exceptional conditions pertaining to the land in question. The first condition is the portion of the Property which is improved with a building, the front parcel, is exceptionally shallow and narrow for a commercial parcel in a B-3 zoning district. It is 100' deep and approximately 80' wide. The second condition is the area zoned B3 that matches the parcel which is improved with the building is exceptionally thin, meaning it only allows for B3 uses for a 100' sliver of land before the zoning changes to residential directly behind the lot. Directly behind this B3 zoning sliver is an alley that is zoned residential, creating this odd condition. The majority of the parcels fronting on Sample Road have substantially more depth and therefore more commercially zoned area to create the necessary spacing from the residentially zoned lands for this type of distance separation requirement.

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

The building on the Property that the Applicant intends to utilize for the specialty medical facility is existing in its present location, its geometry, and its future land use and zoning categories. A portion of the building is being internally redeveloped for use as a medical office, which is permitted in the B-3 zoning district. The extraordinary and exceptional conditions are not the result of actions by the Property Owner or Applicant. Rather, the development configuration is an existing, nonconforming arrangement, as it renders most of the lots smaller than code requires for commercial development.

- 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;**

The lack of depth for the lot and odd zoning configuration with residential zoning on the alley behind the building renders it impossible to provide the necessary 500 feet for this type of use. The reality on the ground is the proposed use is not adjacent to any

residences.

Per the regulations in Code Section 155.4209.B.3.a, any specialty medical facility use of the Property would not be possible without variance approval. The City defines a specialty medical facility as "...a facility, regardless of size, offering specialized treatment and services including, but not limited to, ambulatory surgical facilities, dialysis centers, substance abuse treatment facilities, outpatient rehabilitation facilities, birthing facilities, and urgent care facilities (not including a 24-hour urgent care facility). This use also includes medical or dental offices which are larger than 5,000 sq ft gfa." This definition includes a wide range of medical facilities which would likely have different impacts unique to each type of facility. There will be no overnight treatment at the proposed ambulatory surgical center and the hours of operation are Monday through Friday from 8:00 a.m. to 5:00 p.m., which is consistent with the other standards required of a specialty medical facility. The intent of the City's standards for specialty medical facilities appears to be to control the operations of such facilities to be within standard business hours and to limit any potential impacts on nearby residential uses. We believe Applicant's proposed use is consistent with the intent of these standards and will not adversely impact the surrounding community.

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

The granting of this variance request would not provide a special privilege to the Property Owner or Applicant. Approval of the variance and associated special exception application will allow for the Applicant to operate an ambulatory surgical center within the existing building on the Property, which is a permitted special exception use within the B-3 zoning district. The business operations and minimal impact of the proposed ambulatory surgical center would be consistent with the other business along Sample Road that are also adjacent to the RS-4 zoning district.

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

The variance is the minimum necessary to allow the proposed ambulatory surgical center use within the existing building on the Property, including the approval of the concurrent special exception application. The proposed use of the Property is consistent with other commercial uses along the north side of Sample Road between Dixie Highway and Federal highway, many of which are also adjacent to the RS-4 zoning district. The proposed facility is consistent with the other standards for a specialty medical facility relative to overnight treatment and hours of operation.

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

The proposed variance is consistent with the general purpose and intent of the Code. As mentioned above, intent of the City's standards for specialty medical facilities appears to be to control the operations of such facilities to be within standard business hours and to limit any potential impacts on nearby residential uses. The impact from the Applicant's use of the existing building on the Property will be minimal and not increase traffic, lighting, or noise for the nearby community. There will be no overnight treatment at the proposed ambulatory surgical center and the hours of operation are Monday through Friday from 8:00 a.m. to 5:00 p.m., which is consistent with the other standards required of a specialty medical facility.

- 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**

The ambulatory surgical center will not create an adverse impact on the health and safety of persons residing or working in the neighborhood, nor be injurious to property or improvements in the neighborhood. The proposed use will provide the community with efficient access to minimally invasive outpatient procedures to treat a variety of orthopedic conditions.

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

The Applicant is proposing an ambulatory surgical center to be located within the existing building on the Property. The proposed use is classified as a specialty medical facility by the City's Code. The Property for the proposed use has a future land use designation of Commercial. The Commercial land use designation permits uses including 'community facilities', which the proposed specialty medical facility would fall under. Additionally, the proposed use is consistent with the following goals, policies, and objectives of the City's Comprehensive Plan.

Future Land Use Element Policy 01.01.12

The City's Future Land Use Map will be in conformance with the County's Land Use Plan and will implement the County's regional vision including provision of essential public services and facilities, enhanced sustainability and livability and give priority to protecting public beach access sites.

Future Land Use Element Policy 01.04.03

Except for schools, regional and community facilities shall be located close to major traffic corridors and mass transit routes adequate to carry the volume of traffic generated by such facilities.

Approval of the proposed variance and associated special exception application would improve these policies by providing essential medical services in the area which is located along a major traffic corridor.