



Staff Report

File #: LN-190

Zoning Board of Appeals
Meeting Date: November 18, 2021

VARIANCE - RACETRAC PETROLEUM INC.

Request:	Variance
P&Z#	21-11000017
Owner:	RaceTrac Petroleum Inc.
Project Location:	2851 W Atlantic Blvd.
Folio Number:	4842-33-45-0010
Land Use Designation:	C - Commercial
Zoning District:	General Business (B-3)
Agent:	Maxwell Kaplan
Project Planner:	Lauren Grazer

Summary:

Applicant Landowner is requesting eight (8) VARIANCES from the following Code provisions:

1. Section §155.5604(C)(3) [residential compatibility standards] in order to allow a retail commercial building facade that faces single-family development (north property line) to be designed without any storefront rather than designed to appear as a series of discrete storefronts as required by code.
2. Section §155.4219(I)(3)(a) [gasoline filling station standards] in order to allow a gasoline filling station with 176.10 ft of frontage (NW 30th Avenue) rather than a minimum frontage of 200 ft as required by code.
3. Section §155.4219(I)(3)(b) [gasoline filling station standards] in order to allow vehicular access point to be located 12.2 ft from another lot line rather than a minimum distance of 15 ft as required by code.
4. Section 155.5102(C)(9) [curbing] in order to provide parking stalls without the required curbing as required by code.
5. Section 155.5203(D)(5) [VUA-building landscaping] in order to omit landscaping between vehicular use area and building, rather than provide the minimum 12 ft of landscaped area as required by code.
6. Section 155.5203(E) [building base plantings] in order to omit building base planting standards rather than provide shrubs along the base of the building as required by code.

7. Section 155.5203(D)(3) [perimeter landscaping strips] in order to provide 6 trees in the perimeter landscaping strip abutting public right-of-way rather than provide 10 trees as required by code.
8. Section 155.5203(G)(2)(c) [street trees] in order to omit street trees along Atlantic Boulevard rather than provide 8 street trees as required by code.

The property is located on the northeast corner of NW 30th Avenue and W Atlantic Boulevard.

ZONING REGULATIONS

155.5604. RESIDENTIAL COMPATIBILITY STANDARDS

... C. Compatibility Standards

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3. Retail commercial building facades that face single-family development shall be designed to appear as a series of discrete storefronts, with no single storefront occupying more than 50 percent of the total facade width.

155.4219. COMMERCIAL: MOTOR VEHICLE SALES AND SERVICE USES

I. Gasoline Filling Station

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3. Standards

A gasoline filling station use shall comply with the following standards:

a. If the gasoline filling station is located on a corner lot, the lot shall have an area of at least 30,000 square feet and a frontage of at least 200 feet on each street side. In all other cases, the lot shall have an area of at least 15,000 square feet and a lot width of at least 150 feet.

b. The gasoline filling station shall have no more than two vehicular access points. Access points shall be located at least 100 feet from any intersecting street rights-of-way and at least 15 feet from any other lot line, and shall be no more than 40 feet wide.

c. The gasoline filling station shall be designed to ensure safe and adequate vehicle stacking, circulation, and turning movements.

d. Gasoline pump canopies shall comply with the applicable standards in § [155.4303.E](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-45568) <https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-45568>.3.

e. A lot containing a gasoline filling station shall be located at least 750 feet from a lot containing another gasoline filling station.

f. A clearly identified pedestrian route, distinguished by varied paving treatments, shall be provided between the fueling pumps and the primary pedestrian entrance(s) to the building(s).

155.5102. OFF-STREET PARKING AND LOADING

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C. General Standards for Off-Street Parking and Loading Areas

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9. Curbing

a. Except for off-street parking areas serving single-family dwellings, or off-street parking provided within a Parking Deck or Garage, each off-street parking space shall include a continuous curb.

b. The vehicular overhang area shall be no more than 2½ feet wide and shall not be credited toward any required sidewalk or landscape areas.

c. In place of continuous curbs, wheel stops may be provided when required for compliance with accessibility guidelines promulgated under the Americans with Disabilities Act (ADA). When permitted, the wheel stops shall be made of concrete, wood, metal, or material of comparable durability, and shall be at least six feet long.

155.5203. LANDSCAPING

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D. Vehicular Use Area Landscaping

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3. Perimeter Landscaping Strips

Perimeter landscaping strips shall be provided and maintained around the perimeter of a vehicular use area to screen view of it from any abutting public right-of-way, private roadway, alley, property, or waterway in accordance with the following standards, except where such screening is provided by an intervening on-site building or other structure and on land crossed by an authorized vehicular, bicycle, or pedestrian accessway or easement for an underground utility line.

a. Location and Configuration

i. Except as provided in ii below, perimeter landscaping strips shall be located on the same property as the vehicular use area and placed to assure visibility and safety of bicyclists and pedestrians within the vehicular use area and on adjacent accessways.

ii. Where abutting properties are subject to the same perimeter landscaping strip requirement along a common property line, a single perimeter landscaping strip meeting these standards may be provided along either or both sides of the common property line through joint written agreement by the owners of the abutting properties.

b. Composition

Perimeter landscaping strips shall be comprised of:

i. Canopy trees spaced a maximum average of 30 feet on center, except that:

(A) Canopy trees may be spaced a maximum average of 40 feet on center within perimeter landscaping strips screening a vehicular use area from an abutting property or waterway;

(B) Where more than ten canopy trees are required, large palm trees may be substituted for 50 percent of required canopy trees, and shall be spaced a maximum average of 20 feet on center where used along an entire side of the vehicular use area ; and

(C) Understory trees spaced a maximum average of 20 feet on center may be substituted for canopy trees in areas beneath overhead utility lines; and

ii. Shrubs planted to form a continuous, opaque hedge along the perimeter of the vehicular use area , provided that:

(A) To allow security surveillance of parking areas, the shrubs shall be maintained at a maximum height of three feet above the elevation of the adjacent vehicular use area ; and

(B) A solid masonry wall up to three feet high may be substituted for all or part of the required shrub hedge provided that shrubs or vines spaced a maximum average of five feet on center shall be planted between the wall and any adjacent vehicular use area ; and

iii. Ground cover or grass planted in all areas not occupied by trees, shrubs , or walls.

c. Width

The minimum width of the perimeter landscaping strip shall be:

i. Twenty feet in industrial developments abutting a major arterial, minor arterial, or collector street;

ii. Ten feet in all other developments on lots greater than 100 feet wide; and

iii. Five feet in all other developments on lots no more than 100 feet wide.

d. Credit towards Perimeter Buffers

Perimeter landscaping strips associated with a vehicular use area may be credited towards compliance with perimeter buffer standards. (See Section [155.5203.F](#) <https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-38742>, Perimeter Buffers.)

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5. Landscaping Between Vehicular Use Areas and Buildings

A landscaped area shall be provided between a vehicular use area and an abutting building in accordance with the following standards. No landscaped area is required along those parts of an abutting building facade containing building entrances, driveways into garages or carports, or loading docks.

a. The minimum width of the landscaped area shall be a minimum of eight feet for each 15 feet of height of the abutting building facade. For structures taller than 15 feet, the landscaped area shall be a minimum of one additional foot for every two feet (or major fraction thereof) of height, up to a maximum of 24 feet of landscaped area.

b. The landscaped area shall include landscaping meeting the foundation planting standards in Section [155.5203.E.3](#) <https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-38742>.

c. The Development Services Director may grant modifications to the required landscaping between vehicular use areas and buildings for development that provide at least 50% of the required width, subject to providing superior landscape design that includes a minimum of trees or palms as follows within the subject area and must include one or more of the following elements:

i. Palms must be provided in multiples (doubles or triples);

ii. If palms and trees are combined, one row of shrubs can be provided;

iii. If palms or trees are provided, shrubs must be included in layering or height tiering with a minimum of 2 layers or tiers;

iv. If trees are provided, design must include a minimum of 2 species;

v. Trees or palms must be a minimum of 14 feet in height;

vi. Layered or height tiered shrubs are provided in variety with a minimum of 2 species;

vii. Suspended pavements systems are provided for the adjacent vehicular use area.

E. Building Base Plantings

1. Purpose and Intent

Building base plantings are intended to soften the visual impact of building foundations and provide for the even dispersal of shrubs along the bases of building facades that face streets. They consist of shrubs planted around the base of a building to help soften its appearance.

2. Building Base Planting Required

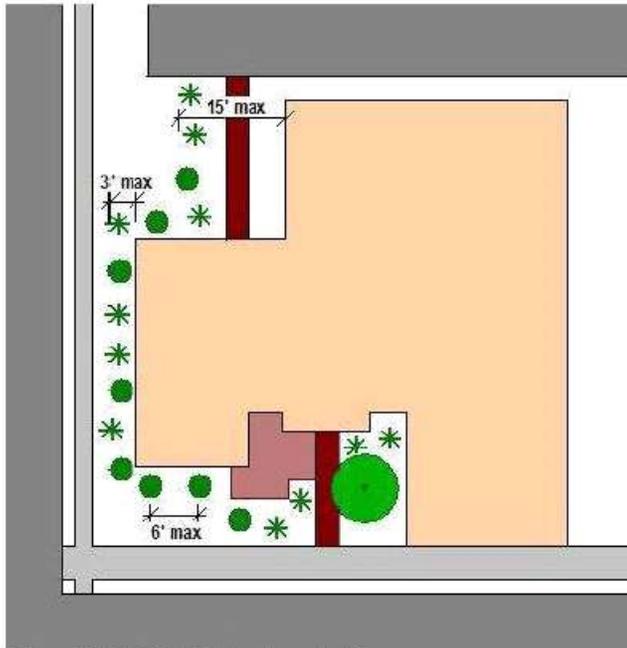


Figure 155.5203.E: Building base plantings.

Figure 155.5203.E: Building base plantings

Except for single-family dwellings, shrubs shall be planted along the base of any building facade facing a street. This requirement shall not apply to a building facade constructed along or within one foot of the street right-of-way boundary, or along those parts of a building facade containing building entrances, driveways into garages or carports, or loading docks.

3. Building Base Planting Standards

a. Required shrubs shall be planted within three feet of the base of the building. If a street sidewalk is located between the base of the building and the street, required shrubs may be planted up to 15 feet from the base of the building.

b. Required shrubs shall maintain a maximum average on-center spacing of six feet, and be evenly-distributed along the building facade.

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G. Street Trees

1. Street Tree Plan

A Street Tree Plan is established to depict the species of trees that shall be planted along arterial and collector streets in the city. The Street Tree Plan shall be kept on file in the Development Services Department and is incorporated into and made part of the Administrative Manual by reference.

2. Street Trees Required of New Development

a. New development shall provide street trees along any street except an alley.

b. Required street trees shall be planted in a planting strip that is located between the roadway and the property line and is at least five feet wide. Where such a planting strip does not exist or is impractical to provide, street trees may be located in a vehicle use area's perimeter landscaping strip (See Section [155.5203.D.3](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-38742) <https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-38742>, Perimeter Landscaping Strips.) where the perimeter landscaping strip adjoins the street right-of-way.

c. Street trees shall be provided at a ratio of one street tree per 40 feet of street frontage. Required street trees shall be spaced no closer than 15 feet apart and no farther than 60 feet apart.

d. Required street trees shall be understory trees to accommodate overhead utility lines.

e. The variety and species of required street trees shall be in accordance with the Street Tree Plan.

f. Installation and maintenance of required street trees shall be the responsibility of the adjoining property owner.

PROPERTY INFORMATION

1. The property is currently vacant and does not have any open building permits.
2. The property has one open Code violation as of October 14, 2021 for reoccurring overgrown landscape.
3. There is a single-family neighborhood immediately to the north of the property.
4. Property History:
 - The property was annexed into the City of Pompano Beach in 1983, by House Bill 923. There are no records of this property ever being developed.
 - In 2012, RaceTrac Petroleum Inc. received site plan approval under application PZ# 12-12000033 in order to construct a gas station and convenience store on site under the 2012 Zoning Code regulations, known as the "old Code".
 - After the processing of this 2012 site plan application, the City's Code of Ordinances were significantly re-written and adopted by the City Commission later in 2012 (Ord 2012-64), which resulted in a wide variety of changes of Code requirements. This "new Zoning Code" was not applied to site plan PZ# 12-12000033.
5. The applicant is requesting Variance approval concurrently with Site Plan approval under PZ# 20-12000037.

6. Relevant Comprehensive Plan policies:

Policy 01.07.21

Amend the Land Development Code to require special exception uses on major corridors including the city's gateway streets (Atlantic Boulevard, Dr. Martin Luther King, Jr. Boulevard and NW 31st Avenue) to provide landscaping and beautification in excess of standard code requirements along all major street frontages.

Policy 01.08.03

Continue the construction of facilities such as roadway, drainage, water and sewer facilities and enhanced medians and other street section beautification efforts in the northwest Dr. Martin Luther King Jr. Blvd, NW

31st Avenue and Atlantic Boulevard corridors. Encourage auto-oriented and industrial development along these gateway corridor to provide an enhanced roadway frontage for both the building facades and the landscaping visible from the roadway to beautify the corridor.

LAND USE PATTERNS

Subject property (Zoning / Existing Use):

- B-3 (General Business) / Vacant

Surrounding Properties (Zoning District / Existing Use):

- North: B-2 (Community Business) and B-3 (General Business) / Single-family homes
- South: T (Transportation) / W Atlantic Blvd
- East: B-3 (General Business) / Vacant
- West: B-3 (General Business) / Commercial building (AutoZone) and a single-family home

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;
- b) The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;
- 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;
- d) The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.
- e) The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;
- f) The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;
- 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

h) The Variance is consistent with the comprehensive plan.

STAFF ANALYSIS AND CONDITIONS

The applicant has responded to each of the Variance review standards. Staff does not object to requests #1-4, and #7. However, Staff is not in support of requests #5, 6, and 8.

Staff finds that the Applicant has not provided sufficient grounds for approval and did not demonstrate how approval of request #5 (the omission of landscaping between vehicular use areas and the building), #6 (the omission of building base planting), and #8 (the omission of street trees along Atlantic Boulevard) is in general harmony with the intent of the Code. Staff understands that the subject site is narrow, however, does not support the complete elimination of the above landscape codes on a vacant lot. This property is located on Atlantic Boulevard, one of our City's gateway entrances; therefore, these standards are exceedingly important. The City's Comprehensive Plan includes numerous policies, which specifically speak to requiring auto oriented uses on the gateway corridors to not only meet, but to exceed existing landscape standards.

While the subject property is narrow, the size of the lot does not affect the ability to add street trees, as these are to be placed outside of the property lines, within the public right-of-way. The applicant's justification regarding blocking their proposed signage for request #8 would ultimately be providing special privilege on the landowner that is denied to other lands (Variance standard D) as street trees are not taken into consideration when reviewing and approving signage. Ultimately, the proposed signage can be relocated or redesigned to address any blockage concerns.

There are 43 gas stations with active BTR's within the City, the majority of which are located on a major thoroughfare such as Atlantic Boulevard, Federal Highway, and Dixie Highway. Removal of street trees on gas stations would ultimately diminish the quality and character of these sites by removing necessary shade and not breaking up the visual impact of structures and parking lots.

Finally, staff finds the request is inconsistent with Comprehensive Plan Policy 01.08.03 to encourage auto-oriented uses along these gateway corridors, including Atlantic Boulevard, to provide an enhanced roadway frontage for both the building facades and the landscaping visible from the roadway to beautify the corridor. Therefore, Staff recommends disapproval of Variance request #5, 6, and 8.

Should the Board determine that the applicant has provided competent substantial evidence to satisfy the

Variance review standards, staff recommends the Board include the following conditions as a part of the Order:

1. Obtain all necessary governmental permits and approvals including building and zoning compliance permits.
2. Obtain approval via a Development Order for site plan application PZ# 20-12000037.
3. The applicant shall provide staff with a proposed landscape plan illustrating some minimal landscaping between the building and the vehicular use areas to create some visual enhancement and soften the appearance of the continuous hard surfaces.

CITY OF POMPANO BEACH AERIAL MAP



VARIANCE

RACE TRAC PETROLEUM INC

2851 W ATLANTIC BLVD

1 in = 250 ft

PREPARED BY:
DEPARTMENT OF
DEVELOPMENT SERVICES