

March 14, 2023

**VARIANCE DESCRIPTION AND NARRATIVE OF STANDARDS  
POMPANO BEACH HOMEWOOD SUITES HOTEL**

**Description of Request:**

The Applicant, Hotels of Pompano Beach, LLC, is seeking to develop and operate a Homewood Suites hotel ("Project") located at 505 and 599 North Federal Highway Pompano Beach, Florida ("Subject Property"). The Property is zoned Transit Oriented in East Overlay District (TO-EOD) and the Project is a permitted use. The Project has been through a two rounds of DRC review, and is preparing for final site plan approval. Please see the proposed ground floor site plan for the Project attached as Exhibit 1 and labeled as Sheet A-1.1.

After the pre-application meeting and in the DRC review, the Department Director and the DRC provided additional interpretations and criteria that substantially impact the viability of the site plan and the Project. In particular, the Director determined that Sect. 155.5191 4. of the Pompano Beach Code of Ordinances requires a cross access easement (24 feet) to traverse the entire west boundary of the Project, thereby creating a new Vehicle Use Area not contemplated on the original site plan. In addition, the Department determined that the full width of 24' is required for the access easement, and a request to limit the easement lanes to 20' was denied. As a result of this new 24' Vehicle Use Area, Sect. 155.5203 D. 5. of the Pompano Beach Code of Ordinances requires an additional minimum 5' landscape area between the new Vehicle Use Area and the rear of the building.

The Director's determination regarding the cross access easement (Sect. 155.5191), coupled with the additional VUA landscaping adjacent to the rear of the hotel building (Sect. 155.5203) substantially impairs the ability to develop the Subject Property for the Project. See in particular Sheet A-1.1.1 attached as Exhibit 1.

Accordingly, the Applicant requests a variance from the required landscape strip between vehicle use area to the rear of the building as set forth in Sect. 155.5203 D. 5. of the Pompano Beach Code of Ordinances. In support of the requested variance, the Applicant indicates that the double impact of Sect. 155.5191 and Sect. 155.5203 creates an inordinate burden on the property owner, and impairs the ability to use and develop the Subject Property in accordance with the TO-EOD zoning.

**Variance Criteria:**

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:** The determination related to 155.5191 and the resulting application of 155.5203, when applied to the unique conditions of the Subject Property, cause an extraordinary and exceptional condition that justifies the requested variance. Please note that the limited depth (shallowness) of the Subject Property along Federal Highway (193 feet in depth) is a unique and exceptional condition. With the application of the multiple code sections, the resulting impact is a new 24 foot vehicle access easement in the rear of the building and an additional 5 foot landscape area in the rear of the building, which eliminates any use of 34 feet in the rear of the project and makes the Subject Property practically undevelopable. Over 35% of the Subject Property would be required to be dedicated to public access or landscape area, in an urban commercial environment, which makes the Project practically unusable for the intended hotel use. See Exhibit 1.

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

**Response:** The extraordinary and exceptional conditions referenced in the Response to paragraph a. are not the result of actions of the landowner. Rather, these conditions are the result of the unintended impacts from multiple/conflicting sections of the Pompano Beach Code of Ordinances, along with the unique size and configuration of the land.

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:** The application of 155.5191 and Sect. 155.5203 to the exceptional conditions at the Subject Property make the property practically unusable for the intended purpose. The required 34+ feet of easement area and landscape buffer in the rear of the project effectively prohibits a reasonable use of the property and unreasonably restricts the use of the utilization of the land. Since the landscape requirement is in the rear of the building adjacent to another commercial structure, the impact of the regulation is not consistent with the Code and creates an 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.

**Response:** The Subject Property is uniquely situated and the impacts of the applicable regulations are exceptional to this property and condition. There are no other

similarly situated landowners required to comply with both Sect. 155.5191 and Sect. 155.5203 on the rear of a property located on Federal Highway. In fact, several other commercial and governmental buildings along US1 do not provide the VUA landscape requirement set forth in 155.5203 to the rear of the buildings. Accordingly, the requested variance would not confer a special privilege on the Applicant, and would be consistent with the existing development pattern.

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

**Response:** The application of both Sect. 155.5191 and Sect. 155.5203 on the rear of a property does not provide a clear public benefit. The requested variance is the minimum necessary to allow a reasonable use of the Subject Property. The requested variance would relieve the burden of this unintended application of the Code and allow a reasonable and intended use of the Subject Property.

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

**Response:** The intent of the Code, and particularly the TO-EOD zoning is to provide a pedestrian and transit friendly experience along Federal Highway and along NE 6th Street. There is no articulated purpose or intent to require significant easements/setbacks and buffers in the rear of commercial properties, particularly when located adjacent to other commercial properties. The Project is in harmony with the intent for a pedestrian friendly and transit friendly experience along US1. Since the Project cannot be implemented without the requested variance, the variance is in harmony with the general purpose and intent of the Code.

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 proposed Project will be a significant improvement over the existing gasoline station and non-conforming commercial uses along US1. The proposed variance will enable a use and project design that is consistent with the TO-EOD zoning, and The Project will be compatible with the vision for the commercial area along Federal Highway. There will be no adverse impacts to the commercial area where the Project is located, and the variance will not be injurious to neighbors nor the public welfare in general. In fact, the proposed variance will eliminate an existing nonconforming and an unsafe condition.

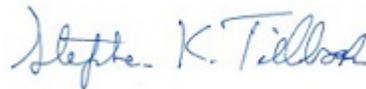
h. The Variance is consistent with the comprehensive plan.

**Response:** The Project and variance are consistent with intent of the Future Land Use Element of the comprehensive plan and Policies 01.07.01, 01.07.09, 01.07.15, and 01.16.08, which encourage and require pedestrian friendly and transit compatible uses and

development along Federal Highway.<sup>1</sup> The Project and variance are consistent with Policies 01.03.10 and 01.07.13 of the comprehensive plan which encourage economic development and enhanced opportunities for hospitality and transient lodging. The Project and variance are consistent with Objective 01.04.00 and Policies 01.04.01 and 01.07.08 of the comprehensive plan which encourage and incentivize infill development along the Federal Highway transit corridor. The Project and variance also encourage compliance with the comprehensive plan and Policies 01.07.01 and 02.03.18 by providing amenities and facilities to support active uses and events at the Pompano Community Park and the Pompano Beach Amphitheater.

Thank you for your attention and consideration in this regard.

Yours Very Truly,

A handwritten signature in blue ink that reads "Stephen K. Tilbrook". The signature is written in a cursive, slightly slanted style.

Stephen Tilbrook

Enclosures

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<sup>1</sup> An intent of the Future Land Use Element of the comprehensive plan is to "promote transit oriented development along the major corridors." Further, Policy 01.07.15 specifically encourages the location of landscaping to "provide the maximum benefits to structures and pedestrians."