

Generator Placement Variance 1347 E. Sample Road

City of
Pompano Beach

Zoning Board of Appeals - June 18, 2024





- Dane C. Pohlman, D.O., owns and operates Pohlman Pain Associates, an interventional pain medicine, physical medicine & rehabilitation clinic, with existing office locations in Coral Springs and Delray Beach.
- Applicant is looking to expand the medical office practice to the existing building located at the property, which is a permitted use.
- Plan is to add an ambulatory surgical center to a portion of the existing building, approximately +/- 3,764 square feet of the space.
- Will provide quick and efficient access to minimally invasive outpatient procedures to treat a variety of orthopedic and nerve conditions.
- Low-volume facility, categorization necessitated in part by insurance and ACHA requirements.
- To Applicant's knowledge, there is not a similar facility in Pompano Beach or the surrounding area.

- Requesting variance approval to allow the emergency generator to be located on a street side/front yard setback.

Zoning Code Section	Requirement	Provided
155.4303.JJ.3.a.i	<p>Mechanical Equipment and similar features may be located within an interior side yard setback or a rear yard setback, but shall be located at least three feet from a side or rear lot line.</p> <p>Additionally, the property is considered a through lot which is defined as “a lot that abuts two parallel or nearly parallel streets”. (Per 155.9401.H.2.b, on a through lot, the front yard setback shall be measured, and the minimum front yard setback requirement shall be applied, from both of the parallel or nearly parallel street-fronting lot lines.)</p>	<p>Applicant proposes to locate their emergency generator on the north side of the building which is located on a street side.</p> <p>As the property is considered a through lot, the generator is also proposed in a front yard setback.</p>

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THE ZONING BOARD OF APPEALS
CITY OF POMPANO BEACH, FLORIDA

Date: December 20, 2023

Landowner: CCDV Holdings
Case No.: 23-17000011
Address: 1347 E Sample Road
Zoned: General Business (B-3) and Single-Family Residence 4 (RS-4)
Folio(s): 484213030490

Legal Description:

Lot 1, less the external area formed by a 25 foot radius arc which is tangent to the West line of said Lot 1, and tangent to a line 30 feet North of and parallel to the South line of said Lot 1, and also less the South 30 feet of Lot 1; Lots 2 and 3, less the South 30 feet thereof, and Lots 47 and 48, all lots located in Block 10, NORTH POMPANO BEACH – SECTION 'B', according to the Plat thereof, as recorded in Plat Book 29, Page 16, of the Public Records of Broward County, Florida.

REQUEST:

The Applicant Landowner is requesting SPECIAL EXCEPTION approval as required by Section 155.4209(B)(1) [Districts Where Permitted] of the City's Zoning Code in order to utilize the subject property (Zoning District: B-3) for a Specialty Medical Facility.

* * * * *

ORDER

WHEREAS, upon presentation of the Applicant's request for a Special Exception at the public hearing before the Zoning Board of Appeals ("Board"), and upon review and consideration of all testimony, evidence and argument presented at the hearing, the Board finds that competent substantial evidence was presented to satisfy the criteria for granting the Special Exception in order to utilize the subject property (Zoning District: B-3) for a Specialty Medical Facility.

THEREFORE, the Applicant's request for the above Special Exception is **GRANTED**, conditioned on the applicant fulfilling the following:

1. Successfully obtain relief (Variance) from the separation requirement from an RS zoning district.
2. Obtain all necessary governmental permits and approvals, including a Zoning Use Certificate and Business Tax Receipt for the use.

This matter was heard before the Zoning Board of Appeals, and the Board pronounced its decision on December 14, 2023.

Greenspoon Marder LLP
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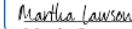
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Daniel Yaffe, Chairman, Zoning Board of Appeals

Filed with Development Services Department this 20 day of December, 2023

DocuSigned by:



Martha Lawson, Head Secretary Development Services

A party aggrieved by a final decision by the Zoning Board of Appeals as provided in City Code Section 155.2424, may petition the Circuit Court for issuance of a Writ of Certiorari in the manner and within the time provided for the Florida Rules of Appellate procedure.

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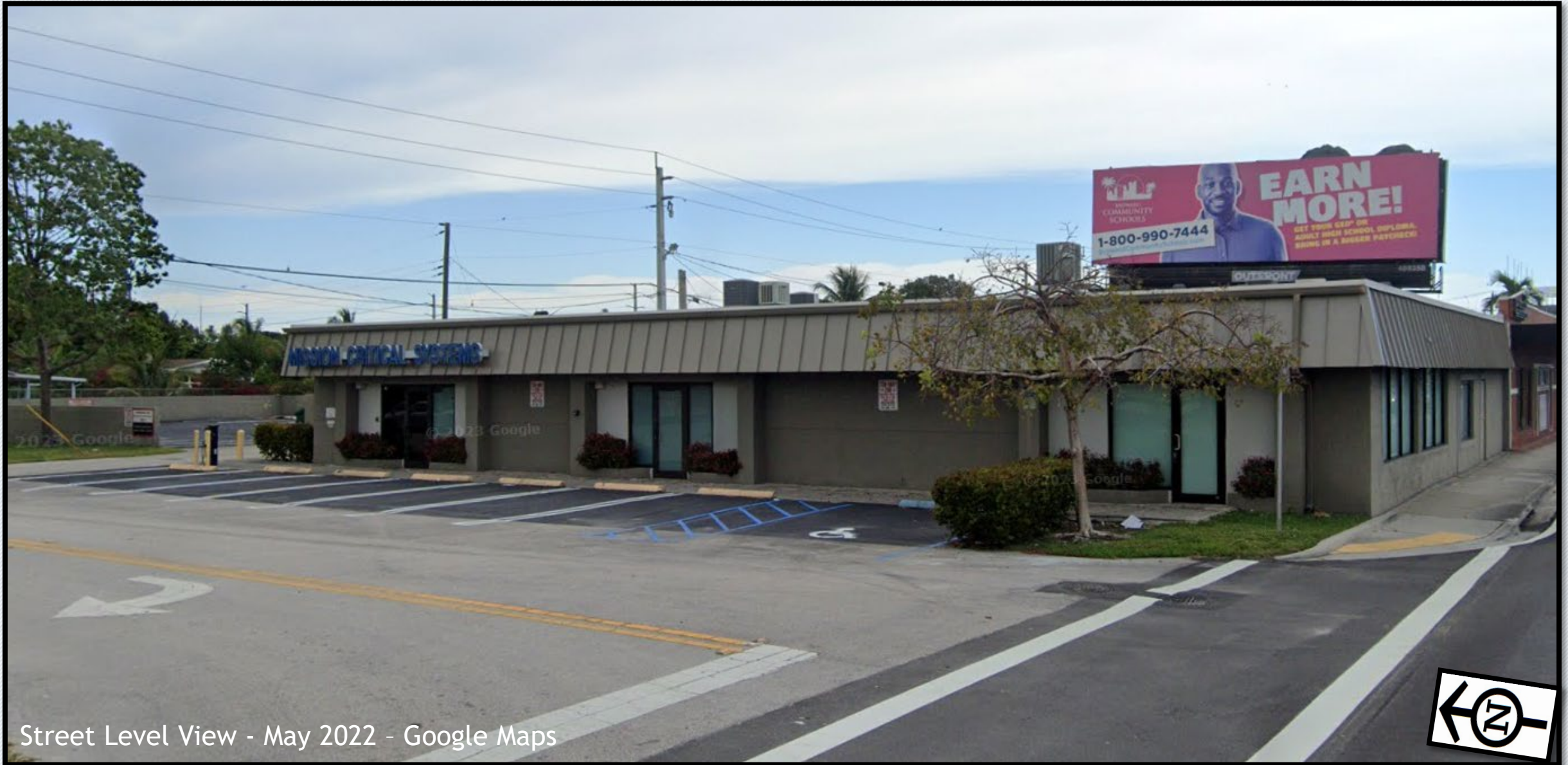
Amendment to the City's Zoning Code to allow ASCs of less than 5,000 sq. ft. gfa (gross floor area) to be located within 500 feet of RS and RD Zoning Districts:

- a. Separation from Residential Uses. The facility shall be at least 500 feet from a Single Family (RS) or Two-Family (RD) Zoning District. **An ambulatory surgical facility that is smaller than 5,000 sq. ft. gfa is excluded from this separation requirement.**
- b. Overnight Treatment. Overnight treatment is prohibited.
- c. Hours of Operations. The facility shall not offer treatment or similar services between the hours of 10:00 p.m. and 7:00 a.m.
- d. **Ambulatory surgical facilities that are smaller than 5,000 sq. ft. gfa shall not provide any overnight treatment or surgical services between the hours of 6:00 p.m. and 7:00 a.m.**

Amendment to the City's Zoning Code to incorporate the following definition for Ambulatory Surgical Centers:

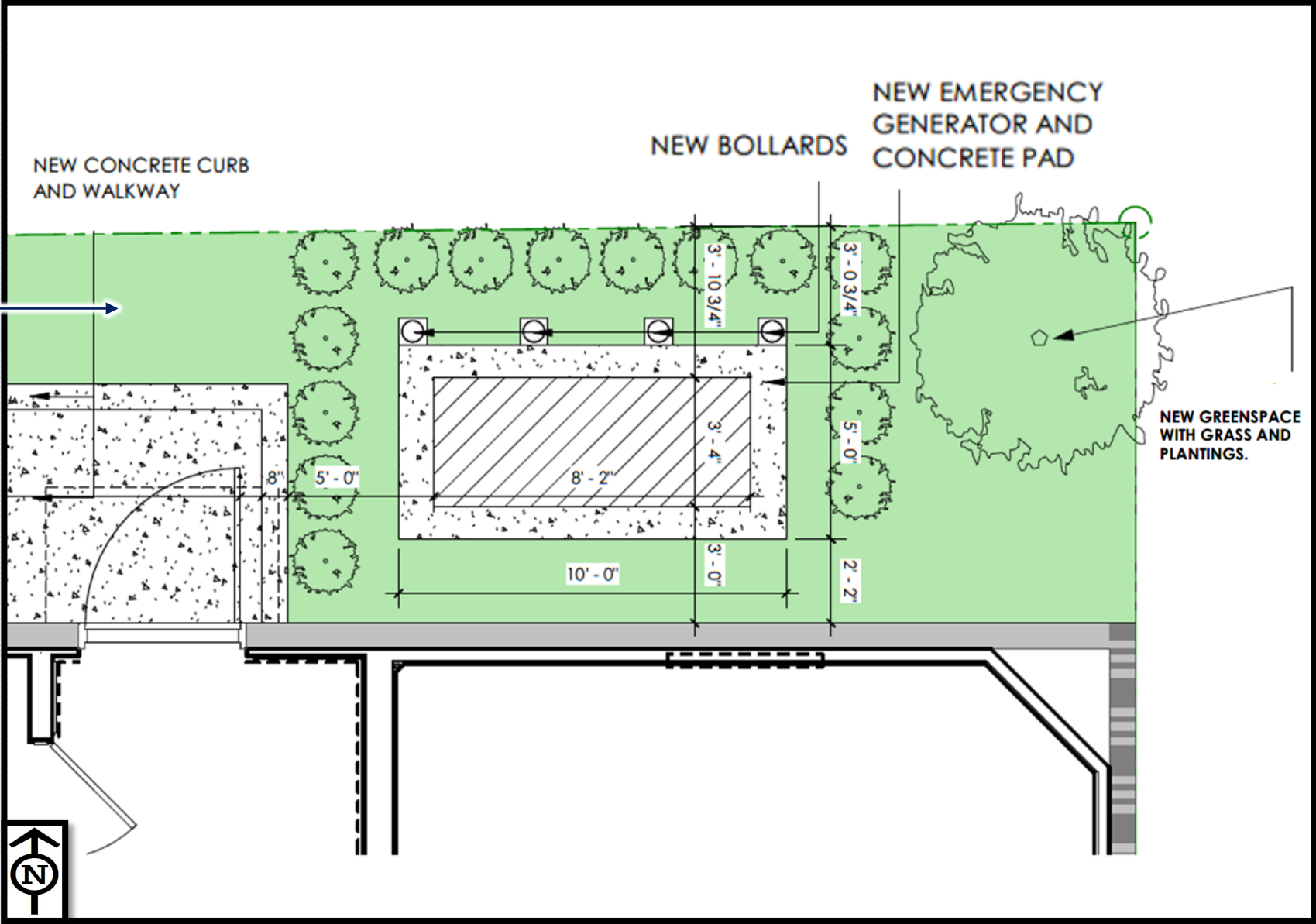
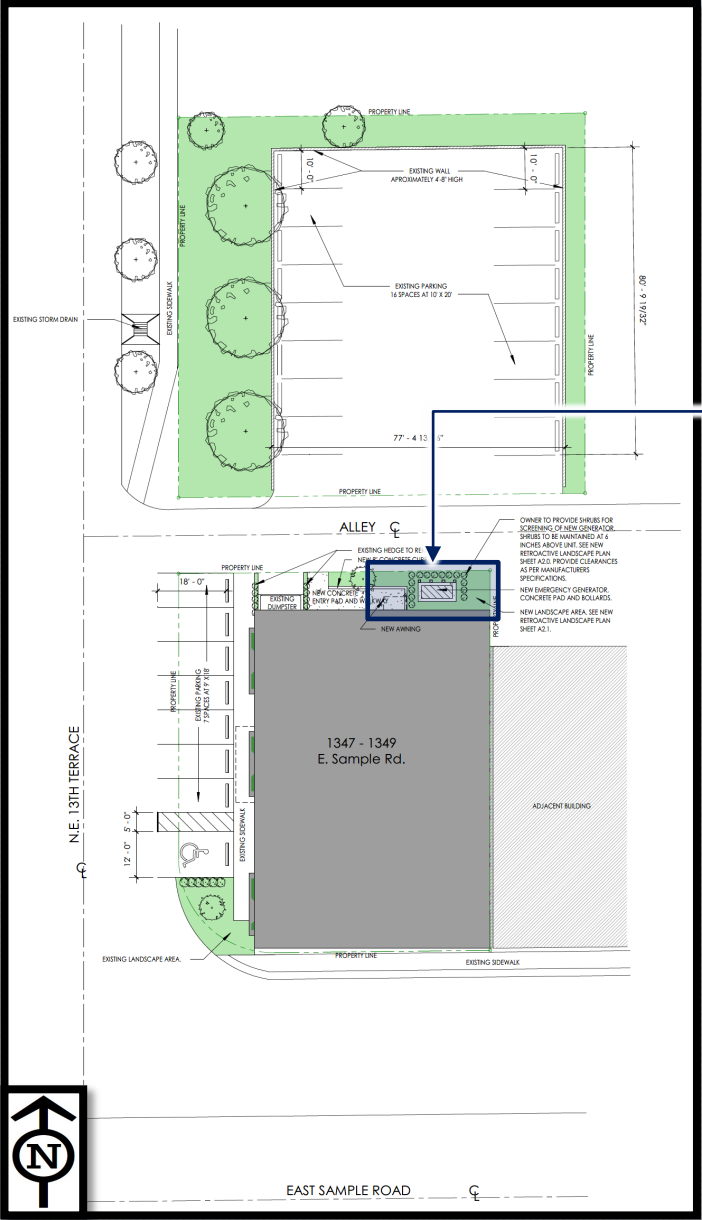
Ambulatory Surgical Center

An ambulatory surgical center (ASC) is a State licensed facility not part of a hospital with the primary purpose of providing elective surgical care. Patients who choose to have surgery in an ASC arrive on the day of their procedure and, following their post-operative recovery, are discharged from the facility the same business day, with no overnight stays permitted. ASCs treat only patients who have already seen a healthcare provider and selected surgery as the appropriate treatment. Physician's offices, hospitals, and free-standing emergency rooms are not ASCs and are regulated separately by the Code.



Street Level View - May 2022 - Google Maps







- The existing building on the property is bordered by E. Sample Road to the south, NE 13th Terrace to the west, an alley/access road to the north, and abuts an existing office building to the east.
- The north side of the building adjacent to the alley/access road is the only appropriate location available on the property.
- Proposed placement meets the other criteria associated with accessory mechanical equipment including being set back at least three (3) feet from the property line.




- Surgery center is required to have emergency power in the event of an outage, with enough fuel to run continuously for two hours.
- Generator must also power the HVAC systems, and battery back-up systems do not have the capacity or longevity to provide the required power for two hours.
- Emergency generator is required by the Federal Guidelines for the design and Construction of Outpatient Facilities, the Florida Building Code, and the National Fire Protection Agency (NFPA), specifically NFPA-99 Code.
- Generator is 8' long, 3.5' wide, and 6' tall. It is bolted to a steel frame that houses a fuel tank that is bolted to a 6" concrete slab. The generator weighs approximately 4,800 lbs. before fuel is added.

- 20 letters of support received from property owners located within 500' of a proposed ASC location
- 270+ signatures of support via online petition

change.org

Petition details Comments



Allow Pohlman Pain Associates to open an Outpatient Surgery Center in Pompano Beach

Started November 27, 2023
Petition to The City of Pompano Beach, FL

270 Signatures 500 Next Goal

Support now

Sign this petition

Why this petition matters

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;

- *The Code requires for the placement of mechanical equipment, like their emergency generator, to be located on the interior side or rear side yard.*
- *As the Property is bordered by three (3) streets and abuts an existing office building, the placement of the emergency generator cannot comply with the above-mentioned requirements and must be placed on a street side which in this case is also a front yard as the parcel is a through lot.*

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

- *Building on the property is existing in its present location, its geometry, and its future land use and zoning categories*
- *The development configuration is an existing, nonconforming arrangement, as it renders the placement of mechanical equipment to be against a street side.*
- *The Property does not have an interior or rear side yard that is not adjacent to a street where the emergency generator can be placed.*

- 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 location and development arrangement of the Property does not allow for an emergency generator to be placed in an interior or rear side yard as required by the Code.*
 - *The Property is surrounded by streets on three (3) sides and abuts an existing office building on the remaining side.*
 - *The proposed medical office use is permitted in the B-3 zoning district, and the Applicant has received special exception approval from the Zoning Board of Appeals on December 14, 2023 for the ASC use of the Property.*

- d) The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated;
- *Approval of the variance will allow for the Applicant to place their emergency generator on the Property as needed to operate the proposed medical office and ASC within the existing building on the Property.*
 - *The business operations and minimal impact of the proposed medical office and ASC would be consistent with the other businesses along Sample Road.*

- 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 for the placement of the emergency generator on the Property, which is needed for the operations of the proposed medical office and ASC use.*
 - *The north side of the Property is adjacent to an alley/access road and is the only appropriate location where the generator can be placed.*
 - *The proposed placement of the emergency generator meets the other criteria associated with accessory mechanical equipment including being set back at least three (3) feet from the property line.*

- 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, which is for accessory mechanical structures to be placed in appropriate locations where they will provide the least impact to the surrounding area and be properly screened from view as much as possible.*
 - *The generator is proposed to be located in a new landscape area and to be screened with shrubs maintained at six (6) inches above the unit.*

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;

- *Not adversely impacting on health or safety*
- *Not injurious to property or improvements in neighborhood*
- *ASC use will benefit the community by providing efficient access to minimally invasive outpatient procedures to treat a variety of orthopedic conditions*

- h) The Variance is consistent with the 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.

- Proposed ambulatory surgical center would not increase traffic*
- Approval of the proposed variance would improve these policies by providing essential medical services in the area which is located along a major traffic corridor*

Questions?