



Matthew H. Scott, Partner
PNC Building
200 East Broward Boulevard, Suite 1800
Fort Lauderdale, Florida 33301
Phone: 954.491.1120 ext. 3472
Direct: 954.333.4372
Fax: 954.771.9264
Email: matthew.scott@gmlaw.com

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**CCDV Holdings LLC
1347 E. Sample Road
Generator Placement Variance Justification Statement**

Tabular Summary of Request

Zoning Code Section	Requirement	Provided	Variance Request
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>	<p>To allow the emergency generator to be located on a street side/front yard setback.</p>

Justification Statement

CCDV Holdings LLC (“Applicant”) is the owner of the property located at 1347 E. Sample Road (“Property”) in the City of Pompano Beach (“City”). The Property has a zoning designation of B-3 (General Business) and Future Land Use designation of Commercial. The Applicant is proposing to internally redevelop the Property for use as a medical office and ambulatory surgical center (“ASC”). The medical office use is permitted in the B-3 zoning district. The ASC use requires special exception approval in the B-3 zoning district, which was obtained by the Applicant from the Zoning Board of Appeals on December 14, 2023. Additionally, a text amendment to the City’s Zoning Code (“Code”) is currently pending

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approval from the City Commission to allow for ambulatory surgical facilities that are smaller than 5,000 sq. ft. of gross floor area to be excluded from the distance separation requirement of being at least 500 feet from a single family (RS) or two-family (RD) zoning district.

With this application, the Applicant is requesting a variance from the mechanical equipment placement requirements indicated in the table above to allow their emergency power generator to be located on the north side of the building, which is considered a street side as well as the front yard per the Code. The north side is considered the front yard as the Property is considered a through lot, which the Code defines as “a lot that abuts two parallel or nearly parallel streets”. In this case, Sample Road is located to the south and the alley/access road is to the north. The generator is required by State regulations for this facility.

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 ASC use of the Property will be under 5,000 sq. ft. of gross floor area, 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.

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 extraordinary and exceptional conditions portioning to the land in question. The front parcel of the Property that contains the existing building is bordered by 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 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;**

The building on the Property that the Applicant intends to utilize for the medical office and ASC use is existing in its present location, its geometry, and its future land use and zoning categories. Based upon our review of Broward County Property Appraiser records, the building was constructed in 1986. 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 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;**

As mentioned above, 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. The application of the Code would prohibit the placement of an emergency generator on the Property, resulting in an unnecessary and undue hardship to the Applicant and property owner.

- 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 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 Property is adjacent to an existing office building to the east, Sample Road to the south, and NE 13th Terrace to the west. 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 Applicant is proposing to place their emergency generator along the north side of the Property that is adjacent to an alley/access road, which is the only appropriate location available on the Property due to it abutting an existing office building to the east and being adjacent to larger roadways to the south and west. The alley/access road to the north is the smallest street adjacent to the Property. 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. 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; and

The proposed placement of the generator and use of the Property 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. Due to the location of the Property, the generator must be placed on a street side and the northern side is the most appropriate area available to the Property. The generator is proposed within a new landscape area that will be screened by shrubs as mentioned above.

h. The Variance is consistent with the comprehensive plan.

The variance is associated with the Applicant's proposed medical office and ASC to be located within the existing building on the Property. The ASC 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 would improve these policies by providing essential medical services in the area which is located along a major traffic corridor.