

**RACEWAY ATLANTIC BLVD.
P&Z # 20-12000037
2851 W. Atlantic Blvd.
Parcel ID# 4842 33 45 0010**

Date: September 29, 2021

Request and Justification for Variances

RaceTrac Petroleum, Inc. (“Applicant”) is the owner of the +/- 1.20 acre property area generally located at the northeast corner of West Atlantic Boulevard and NW 30th Avenue (“Property”) within the City of Pompano Beach (“City”). The Property is designated as Commercial on the City’s Future Land Use Map and is zoned B-3 General Commercial per the City’s zoning map. The Petitioner proposes to develop the vacant property with a +/- 3,680 square foot Raceway Market with 14 fueling positions (“Project”).

The new RaceWay store provides the consumer with accessible fueling stations which are convenient and safe and a modern convenience store that provides the public with many products and choices. The new facility is designed to meet the needs of the modern consumer in every way. RaceWay has found that the consumer seeks convenience and accessibility along with low prices and selection. The convenience store design is also a product of customer demands and will present the customer with a wide range of food and sundry items. It should be noted that all RaceWay facilities are company owned and operated so that the maintenance of the property and the quality of the service will be consistently at the highest industry standards.

The Applicant is seeking the following variances from development regulations:

- 1) **155.5604.C.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.**
 - 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 conditions for the proposed development include the code requirement of a 6’ buffer wall along the north side of the building. This side of the building is effectively the rear of the store facing the residentially zoned properties across NW 1st Street. The 6’ high wall provides significant shielding of the rear façade from the viewpoint of the residential properties. Additionally there are three (3) Live Oak trees proposed along the south side

of NW 1st Street that will provide further shielding of the building façade. A large portion of the façade will not be visible from the adjacent properties.

Additionally, architectural enhancements such as glazing and metal finishes are being provided along the rear façade to emulate a storefront appearance instead of a typical monotonous rear façade. The variety of finishes and architectural elements provide a visually enhanced appearance from the north viewpoint of the building.

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

These conditions are not the result of the actions of the landowner. The conditions result from a combination of the buffer wall and street tree requirements providing significant shielding of the viewpoint of the rear façade.

- 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 code requirement does not necessarily prohibit or unreasonably restrict the utilization of the structure, but the additional material may pose additional maintenance issues for an area that is not significantly visible from the perspective of the residential properties. The petitioner is providing architectural enhancements to improve the appearance of the rear façade to make it appear more like a storefront.

- 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 variance request would not confer any special privilege upon the Applicant that has not been granted or denied to other property owners. The request is to provide relief for an area of the building that is already aesthetically enhanced and is not highly visible from the residential properties.

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

The variance request is the minimum necessary to allow for the function of the building while providing a reasonable appearance for the façade that addresses the code requirement. The east portion of the rear façade provides the appearance of the storefront with architectural finishes similar to the front of the store.

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

As previously stated, the rear façade provides elements found on the front of the store to address the code requirement. The appearance is enhanced and is not simply a monotonous rear façade.

- 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 appearance of the rear façade does not adversely affect the health and safety of the residents or workers in the neighborhood and will not be injurious to the property or improvements in the neighborhood, and will not be detrimental to the public welfare. The appearance of the rear facade has been enhanced, and the 6' high buffer wall is being provided in addition to the 16' high Live Oak Trees along NW 1st Street.

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

The request is consistent with the comprehensive plan as the proposed façade incorporates additional architectural elements to enhance the aesthetic value of building in accordance with the intent of the code requirement for which variance is being requested.

- 2) **155.4219.I.3.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.**

- 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 extraordinary and exceptional condition for the subject property is narrowness of the frontage along NW 30th Avenue. The existing property frontage is 176.10' in length. The Applicant purchased the property in January 2012 prior to minimum frontage requirement being implemented for gas stations. The property meets the minimum frontage requirement along West Atlantic Boulevard with a frontage length of 253.67' excluding the corner chord at the intersection with NW 30th Avenue.

- b. *The extraordinary and exceptional conditions referred to in paragraph a., above, are not*

the result of the actions of the landowner;

The conditions are not the result of the actions of the landowner. The Applicant is requesting the variance for the frontage requirement as a hardship as they purchased the property to develop the site as a convenience store and gas station before the requirement was enacted.

- 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 Applicant purchased the property with the intent to develop the site as a gas station. The code requirement prohibits the site from being developed as a gas station which is the reason for the variance request. The site has remained undeveloped for decades, and the adjacent properties along Atlantic Boulevard have been developed in the past five (5) years. Additionally, the development of the RaceWay parcel and the driveway along Atlantic Boulevard will accelerate the development of the vacant parcel to the east as the shared driveway will be available after the completion of the RaceWay. The RaceWay will fill a void along the corridor and be a great addition to the area.

- 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 requested variance would not confer a special privilege to the applicant, but rather allow them to develop a vacant site for the intended use when they originally purchased the property. The request is not for an extraordinary deviation from the permitted use of the property, simply for the narrowness of the property and the intended use.

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

The extent of the variance is the minimum necessary to allow for the development of a RaceWay store with a fueling canopy on the Applicant's property. The applicant is requesting a 12% deviation from the code required 200' minimum frontage. The deviation is minor in nature and approval will allow the development of the property and add to the progressive development of the corridor.

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

The requested variance is in harmony with the purpose and intent of the corridor. The

proposed use is permitted within the zoning district and will be a great complement to the adjacent neighborhood and businesses. Approval of the variance will allow for the development of this property, and will accelerate the development of the adjacent vacant property to the east.

- 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 request will have a positive impact on the neighborhood and community. A buffer wall and landscaping is being provided along the north side of the property. The proposed fuel canopy is on the south side of the building, therefore the adjacent homes will be shielded from any activity in the parking lot. Approval of the variance will not adversely affect the health and safety of the resident, and will not be injurious to the neighborhood or be detrimental to the public welfare.

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

The requested variance is consistent with the Comprehensive Plan as approval of the variance will allow for the development of a permitted use within the B-3 Zoning District. The site will incorporate pedestrian friendly elements such as the expanded sidewalk along Atlantic Boulevard with lighted bollards and a bicycle lane through the east side of the site. The Crime Prevention Through Environmental Design (CPTED) principles will be implemented to provide a safe environment for customers and residents.

- 3) **155.4219.I.3.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.**

- 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 overall shape of the existing property contributes to the request for this variance. The property is shallow, and it has been determined that the driveway must be situated east of the proposed fuel canopy for adequate circulation through the site while providing sufficient drive aisle width and canopy parking clearance. The east side of the proposed driveway is 12.2' from the east lot line, deviating from the code requirement by 2.8'. This separation provides the optimum layout for proper circulation through the site and around

the fuel canopy. The minimum buffer requirements are maintained along the east side of the proposed RaceWay site with the deviation from the minimum driveway separation requirement. Additionally, the proposed driveway along Atlantic Boulevard will eventually be shared with the adjacent property to the east, therefore it is beneficial to locate the driveway as close as possible to this property while meeting the minimum buffer requirements.

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

The conditions referenced in the previous section are not the result of the actions of the landowner, but rather the necessary location of the driveway to properly serve the proposed development and adjacent future development to the east.

- 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 code required minimum separation for the driveway along Atlantic Boulevard effectively restricts the optimal design for the site and the adjacent future development. The future development to the east will utilize the driveway and the placement of the driveway as close as possible to the east lot line provides the most functional layout for both the RaceWay and adjacent parcel to the east.

- 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 requested variance would not confer any special privilege that is denied to other properties, but rather provides an alternative design that will sufficiently serve both the RaceWay and future development on the adjacent property. The proposed driveway location provides the optimal layout for circulation of vehicles throughout the site while meeting the necessary clearance for parking and vehicular movement around the canopy.

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

The extent of the variance is the minimum necessary to allow a reasonable use of the property as originally intended when the applicant purchased the lot in 2012. The proposed driveway location along Atlantic Boulevard promotes the safest vehicular operation of the site as the entrance is located as far away from the canopy as possible. This diminishes conflicts with vehicles entering the site and vehicles entering or existing

the canopy area.

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

The requested variance is in harmony with the purpose and intent of the code as it provides an optimal design for both the subject site and adjacent future development. The layout promotes safe circulation through the site for vehicles and pedestrians, which translates to an overall improvement in the quality of service for residents, visitors, and the adjacent developments.

- 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 variance will provide a positive impact to the safety of customers as the driveway is situated away from the canopy providing optimal circulation through the site and preventing any potential conflicts from vehicles entering the site and vehicles entering or existing canopy.

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

The requested variance is consistent with the comprehensive plan as the request promotes a safe and user friendly circulation through the site and adjacent future development for a permitted use within the B-3 zoning district. The driveway location benefits customers and employees for both properties.

4) **155.5102.C.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.

- 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 Project is classified as a convenience store with fuel pumps, but the RaceWay Market offers a variety of food and beverage options, including made to order options, that surpasses the typical definition of a gas station with a convenience store. Their added services invite customers to go beyond the gas pumps and into the RaceWay Market for snacks, meals, coffee, beverages, frozen yogurt, etc.

The requested variance is being sought to allow bollards with no curbing (flush sidewalks) in lieu of continuous concrete curbing. A flush pavement transition from the parking to the convenience store with bollards for security/protection is beginning to be an industry standard for larger gas stations with stores. By eliminating the six-inch curb and providing a smooth transition for customers, this alternative configuration facilitates accessibility for the higher volumes of pedestrian traffic from fuel pump areas and parking spaces to the actual store. Bollards in lieu of curbing also creates a safer condition should the driver of a vehicle lose control at the storefront. Contrary to its name, wheel stops and curbing, have been proven to launch a vehicle when the accelerator is mistaken for the brakes rather than stop a vehicle prior to entering pedestrian areas or buildings and other structures. Adding bollards as a secondary safety measure along with the 5.5" curb will stop the car if it is able to jump the curb, however if the car goes airborne by hitting the curb first at a high velocity the bollard will stop the front of the car, but the rear may swing over to the side and cause additional damage to its surroundings. Whereas the bollards will be more effective if a car at the same velocity is able to keep all four wheels on the ground due to the flush pavement. Although this type of collision is not common, it has been proven to occur.

The safety factor associated with bollards has been promoted by the Storefront Safety Council (<http://www.storefrontsafety.org/>). This organization was established in 2011 to help reduce the number of vehicle-into-building crashes by providing information that include statistics and best practices for prevention in building/site design, which includes bollards, under best practices for prevention. Safety is a priority, and this may be achieved by eliminating curbs in areas where pedestrians are likely to be present, as well as all businesses that experience a high volume of traffic.

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

The extraordinary and exceptional conditions are not the result of the actions of the landowner but rather as a result of customer behavior at these types of facilities. Petitioner seeks to remove a potentially hazardous condition and provide added protection to their customers by providing bollards with flush pavement in lieu of continuous curb across the store front.

- 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;*

Application of City's code for this type of facility that exhibits heavy pedestrian and vehicular traffic would effectively prohibit or unreasonably restrict utilizing this land for other similar use buildings. Other comparable convenience store with gas station use buildings that provide continuous curb or wheel stops to adhere to this Code would be sacrificing safety for City approval. As previously mentioned, providing flush pavement with bollards in lieu of continuous curbing is now an industry standard for such uses that have stemmed from years of operational experience and concerns for the safety of customers visiting the Project. There is also a precedence for the approval of this similar variance application for the same use at a different location.

- 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 requested Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated. The Code was intended to provide (at a minimum) standards to separate vehicular use areas to promote pedestrian and building safety. Should this variance be granted, the Project will be providing a more effective way to provide security to both customers and structures. As previously mentioned, similar variances have been approved in the past for similar use developments and approval of this variance would not grant special privilege to the Petitioner.

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

The use of bollards along with keeping the parking pavement flush with the sidewalk around the building, as illustrated on the site plan, is the minimum necessary which would allow reasonable use of the land for the Petitioner regarding customer safety and structure protection.

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

As previously mentioned, the general purpose and intent of Code Section 155.5102 is to provide (at a minimum) standards to separate vehicular use areas to promote pedestrian and building safety. Should this variance be granted, the proposed Site Plan will be

providing a more effective way to provide security to both customers and structures

- 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*

Granting the Variance will 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. On the contrary, allowing the use of bollards without providing a continuous curb will provide additional security to pedestrians and customers in an area where they should have a sense of security. Providing bollards will serve as an effective separation between pedestrian and vehicular use areas and prevent vehicular collisions with the proposed building/ store front. Removing the continuous curb will prevent cars from ramping up into these areas should the accelerator be used accidentally when the driver intent is to brake to park the car.

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

The Project for which the Variance is requested for is consistent with the comprehensive plan by promoting safer pedestrian access to the Project. This is consistent with Policy 01.01.06 where site plan applications shall promote pedestrian facilities and Policy 01.01.07 by providing bicycle racks and sidewalks to accommodate shared use of bicycles and pedestrians. Approval of this variance would eliminate continuous curbing which will further promote access without the need of stepping over a 5.5” change in elevation while separating the vehicular use area without sacrificing safety to customers and pedestrians.

- 5) **155.5203.D.5 - A landscaped area shall be provided between a vehicular use area and an abutting building in accordance with the following standards:**

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.

- 6) **155.5203.E – Base Building 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

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.

- 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 shallowness of the property in conjunction with providing sufficient clearance around the canopy, parking in front of the store, and meeting buffer requirements detracts from the area available around the building for landscaping between the vehicular use areas (VUA) and the building. Based on the code requirement, a proposed landscape area 11.84' in width is required for the 22'-8" high façades. The total distance from the building to the VUA would have to be 16.84' including the 5' sidewalk around the building. A wide expanse of sidewalk and landscaping is not feasible for this shallow property to be developed as a gas station. Additional trees and plantings are provided around the dry retention area to the east of the building to offset the deficiency in the code required landscaping around the building.

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

The Applicant purchased the property in 2012 prior to the code changes that have been implemented by the city. Extensive landscaping between the VUA and building was not considered by the Applicant at that time as it was not previously required by code. The depth of the property was deemed sufficient to meet the previous code requirements while providing sufficient clearance around the canopy. The landscape planting area requirement has significantly increased which is causing a hardship for development of the site into a convenience store and gas station. The Applicant is proposing additional landscaping to the east of the building to compensate for the lack of planting area

between the VUA and the building.

- 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 previously stated, the more recent landscape code requirements implemented after the purchase of the property have created a hardship for the Applicant. RaceTrac Petroleum, Inc. purchased the property with the intent to develop the site as a convenience store building with fueling canopy. The layout of the shallow property is restricted by the code requirement, therefore a deviation from the requirement is being requested.

- 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 variance is not requesting any special privilege for the land owner, rather the request is to alleviate a hardship encountered by the Applicant due to the shallow depth of the property. Additional landscaping is being provided to the east of the proposed building to compensate for the deviation from the code.

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

The requested variance is the minimum necessary to allow a reasonable design for the proposed RaceWay site. There is insufficient property depth to provide a large expanse of landscaping between the building and VUA, therefore relief is being sought for the deviation from the code.

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

The request is in harmony with the general purpose and intent of the code as it is not meant to defy the code requirement, but to provide a viable solution for the Applicant to develop the site into a convenience store and gas station with property vehicular and pedestrian circulation.

- 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 variance would not adversely affect the health of safety of the public and adjacent

properties or improvements and will not be detrimental to the public welfare. The sufficient setbacks and buffers are provided while maintaining sufficient clearance for safe vehicular and pedestrian circulation through the site.

h. The Variance is consistent with the comprehensive plan.

The variance is consistent with the comprehensive plan as approval of the request will promote development of the corridor with a thriving business that will provide a necessary service to the neighborhood and customers.

7) 155.5203.D.3.b – 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

8) 155.5203.G.2.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.

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 length and shallow depth of the property in conjunction with the location of the proposed monument sign, light poles, and driveways pose major difficulties in meeting the perimeter landscaping and street tree requirements while providing an acceptable site design. The trees provided along Atlantic Boulevard have been situated to provide proper visibility to the proposed monument sign. The trees along the west have been clustered in an attempt to meet the code requirement while providing proper visibility for vehicles turning onto NW 30th Avenue and into the west access driveway.

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

The conditions are not the result of the actions of the property owner, but rather the limited space the layout of the property provides. Additional landscaping is being provided in other areas to compensate for the deviation from the code requirements.

- 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 application of the code will restrict the development of the site into a gas station with a monument sign and associated site elements. As a result of the variance, additional landscaping is being provided on-site and the location and size of the proposed trees has been maximized in and around the site.

- 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 request would not confer any special privilege on landowner, but rather allow for the approval of development of a permitted use on the site. The Applicant is not trying to undermine the landscape code as there are trees provided at every location possible on site and in the adjacent rights-of-way.

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

The request is the minimum necessary to allow a reasonable use of the land while providing sufficient visibility for drivers. Tree locations along the perimeters have been maximized as best as possible to meet code while providing necessary clearance from site elements such as light poles and providing necessary visibility for drivers and the proposed monument sign.

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

The variance is in harmony with the general purpose and intent of the code as it promotes the development of a necessary service to the public while providing alternative solutions to best meet the code requirements. There are 84 trees currently proposed for the 1.20 acre site, while the code requires 76 trees. Additional trees are provided on-site to compensate for the deviations from the perimeter and street tree code requirements.

- 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 request is beneficial to the public as improved visibility is being provided for drivers. The tree requirement for the site is exceeded by 12 trees, therefore the extensive landscaping in other areas will compensate for the deviation from the code and provide a more aesthetic landscaping experience for the public.

h. The Variance is consistent with the comprehensive plan.

The request is consistent with the comprehensive plan as it promotes the approval of a development that will have a positive impact on the neighborhood and corridor while providing sufficient visibility for drivers.

Please do not hesitate to contact me directly at (954) 202-7000 should you have any questions or require additional information as you review this request. Thank you.

Sincerely,

Maxwell Kaplan
Project Manager
Thomas Engineering Group