



## Staff Report

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**File #:** LN-423

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Zoning Board of Appeals  
Meeting Date: April 20, 2023

### **VARIANCE - HOTELS OF POMPANO BEACH LLC**

<b>Request:</b>	Variance
<b>P&amp;Z#</b>	23-11000006
<b>Owner:</b>	Hotels of Pompano Beach LLC
<b>Project Location:</b>	599 N Federal Highway
<b>Folio Number:</b>	484236000440; 484236000442
<b>Land Use Designation:</b>	ETOC- EAST TRANSIT ORIENTED CORRIDOR
<b>Zoning District:</b>	Transit Oriented (TO)-East Overlay District (EOD)
<b>Agent:</b>	Stephen Tilbrook
<b>Project Planner:</b>	Scott Reale

### **Summary:**

Applicant Landowner is requesting a Variance from Section 155.3501(J)(2)(d) [Modified Landscaping Requirements] of the Pompano Beach Zoning Code, in order to eliminate the required 5' wide landscaped area between the vehicular use area and the west side of a proposed 9-story building.

The property is located on the southwest corner of the intersection of N Federal Highway and NE 6<sup>th</sup> Street.

### **ZONING REGULATIONS**

§155.3501. TRANSIT ORIENTED (TO)

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#### **J. TO District Landscaping and Tree Preservation Standards**

The following standards shall apply to development in TO districts in addition to any applicable standards in Part 2 (Landscaping and Tree Preservation) of Article 5 (Development Standards):

##### **1. Exceptions**

Properties within the TO district shall not be required to comply with the following standards:

a. Section 155.5203.B.2.h (Berms).

b. Buildings with commercial uses on the ground floor, and whose building line is setback no more than 10 feet from the front and street side property lines shall also be exempted from Sections 155.5203.E.2 and 155.5203.E.3 (Building Base Plantings).

##### **2. Modified Landscaping Requirements**

The following standards from Part 2, of Article 5, are modified for properties within the TO District:

a. Section 155.5203.D.3.c. - The minimum width of the perimeter landscaping strip shall be always be 5 feet, regardless of development type.

b. Section 155.5203.D.4.b.ii. - Each landscaped island shall be at least five feet wide.

c. Section 155.5203.D.4.c. - The landscape area between abutting parallel parking bays shall be at least five feet wide.

d. Section 155.5203.D.5.a. - The minimum width of the landscape area shall be five feet.

e. Section 155.5203.G.2.c - In order to encourage shade, street trees should be clustered. Street trees shall be spaced no closer than 15 feet apart and no farther than 25 feet apart. A maximum of 50% of the length of the lot frontage can be without trees. (For example, a lot with 120 feet of street frontage is required to plant four street trees, based on the one tree per 30 feet of street frontage requirement. Sixty feet of street frontage may have no trees. Within the remaining 60 feet of street frontage, the four required trees should be placed at least 15 feet and no more than 25 feet apart.)

### **PROPERTY INFORMATION AND STAFF ANALYSIS**

1. The associated Major Site Plan application, PZ #22-12000033, is for a 163-room, nine-story hotel consisting of a four-story podium and a five-story tower above the podium on a 48,154 sq ft lot. The project includes an internal parking structure and a fifth floor amenity deck. The Development Review Committee (DRC) reviewed the proposed site plan on 11/16/2022 and again on 3/1/2023. Additionally, the property is in the process of being platted (PZ #22-14000013).
2. The property is located on two parcels, one of which has an existing Business Tax Receipt for a gas station and convenience store. The southern parcel contains a vacated building that formally housed a Miami Subs and more recently a Quest Diagnostic Lab. All existing structures will be demolished when the hotel is constructed.
3. Properties within the Transit Oriented (TO) Special Base Zoning District have modified landscape requirements in order to accommodate higher intensity development. A nine-story hotel in most other zoning districts would require 24 feet of landscaped area between vehicular use area (VUA) and a building façade. Only five (5) feet of landscaped area is required in the TO; however, the applicant is proposing to eliminate this requirement along the west (rear) side of the hotel.
4. The Zoning Code requires a 24 ft wide vehicular cross-access easement along the west side of the property which will allow access to remain between the shopping center just south of the subject property and NE 6<sup>th</sup> Street.
5. The applicant contends that the required cross access, together with the required 5-foot perimeter landscape strip (along the west property line) and the required 5-foot landscaped area between the VUA and rear building façade, creates an inordinate burden on the property owner and impairs the ability to effectively develop the property.

### **LAND USE PATTERNS**

Subject property (Zoning District | Existing Use):

- TO-EOD | gas station and convenience store

Surrounding Properties (Zoning District | Existing Use):

- North: TO-EOD | multi-family dwelling (Morea)
- South: TO-EOD | strip mall with various tenants including a Vitamin Shoppe, Living Green Market & Cafe, CrossFit, and Pet Supermarket
- West: TO-EOD | Post Office
- East: TO-EOD | auto dealer

**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 Conditions:**

Should the Board determine that the applicant has provided competent substantial evidence to satisfy the eight 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 Major Site Plan, Major Building Design, Plat, Unity of Title, and building and zoning compliance permits.
- 2. Substantial conformance to the site plan submitted (PZ #22-12000033).
- 3. Recordation of vehicular cross-access easement.



# CITY OF POMPANO BEACH AERIAL MAP



1 in = 208 ft

599 N Federal Highway

PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES