ADD2024-00030

Revised Variance Request Statement and Variance Criteria Narrative (5/14/2024)

The applicant is requesting an administrative variance from Lee County Land Development Code ("LDC") Section 34-2013(a) requirement, that the Subject Property's parking lot must be designed to permit vehicles exiting the parking lot to enter the street right-of-way or easement in a forward motion, to instead allow the parking spaces along the north side of the proposed building to enter in a backwards motion.

The Subject Property consists of a ±1.34 acre outparcel with an existing shopping center development that is ±38 years old (D.S.O. No. 6-12-85, Project Name: Cypress Lake Shopping Center). The Subject Property is located in the Intensive Development future land use category, is zoned CG and is located in the Mixed Use Overlay. The Subject Property is a corner outparcel with an existing frontage roadway easement area (the "Frontage Easement"), located on the north and east sides that is 40-feet-wide, executed on March 31, 1986 (OR Book 1851/Page 1794). The Subject Property has existing non-conforming parking that backs out into the Frontage Easement. The Subject Property is proposed for a financial institution with a drive thru.

The request is made pursuant to LDC Section 34-174(a)(1)g, which indicates the Director is authorized to administratively approve variances from requirements of Chapters 30, 33 and 34 found by the Director to be similar in nature, which are not contrary to the Lee Plan and do not diminish public, health, safety, and welfare.

The request satisfies each of the LDC Section 34-174(a)(2) as follows, making it appropriate for approval by the Director:

a. ***There are several exceptional or extraordinary conditions and circumstances that are inherent to the Subject Property.*** The Subject Property is part of an existing shopping center development that is ±38 years old (D.S.O. No. 6-12-85, Project Name: Cypress Lake Shopping Center) and is uniquely situated and spatially constrained. The Subject Property is a corner outparcel with an existing Frontage Easement located on the north and east sides that is 40-feet-wide. The areas within the Subject Property that lie to the north and east of the existing Frontage Easement are reserved for the overall development's master stormwater retention system. In conjunction with the Frontage Easement, the portion of the master stormwater system that is located within the Subject Property renders approximately 0.32 acres of the Subject Property undevelopable. Due to the location, magnitude, and extent of both of these constraints, the proposed building orientation cannot be revised to eliminate the non-forward movement into the Frontage Easement without infringing upon the Frontage easement itself or the required landscape buffers. The Subject Property has existing non-conforming parking that backs out into the Frontage Easement.

   The existing corner outparcel configuration within an ±38 year old existing shopping center development, the long-standing 40-foot-wide Frontage Easement that wraps around the interior of the east and north property lines (set in 41-feet and ± 12.4-feet from the north

and east property lines, respectively), the non-conforming parking along the north of the original building having backed out into the Frontage Easement over the last ±38 years, and the Subject Property's location in the Mixed Use Overlay are each exceptional and extraordinary conditions inherent to the Subject Property.

b. The requested variance is the minimum that will relieve the applicant of an unreasonable burden caused by LDC Section 34-2013(a). The applicant is seeking the minimum variance relief. The applicant's request only pertains to the row of parking along the north side of the proposed building, which is inherently burdened by the application of this Code section particularly due to the "wrap around" nature of the existing 40-foot-wide Frontage Easement set inside of the property lines on the east and north sides. The applicant is also bringing the Subject Property into compliance with the contemporary LDC to the maximum extent possible and enhancing handicap space and parking striping.

c. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Parking along the north side of the original building on the Subject Property historically backed out into the Frontage Easement over the last ±38 years. Approval of this request and the companion Development Order (pending resubmission), will bring the site into compliance with the LDC to the maximum extent possible, including improvements to parking and vehicular movement. In particular, the row of parking to be located on the north side of the proposed building will serve patrons with disabilities, and, if the variance relief sought is approved, this will allow for the shortest accessible route to the primary, accessible entrance to the proposed financial institute. Accordingly, there are public benefits afforded should this request be approved.

Other similar requests to deviate from the Code to allow for back-in movement into a right-of-way or easement, have likewise been found to not be injurious, and were approved by the Director (e.g., ADD2023-00095).