

Delray Beach - Waiver Justification Statement

Pursuant to Land Development Regulations ("LDR") Section 2.4.7(B)(5), prior to granting a waiver, the granting body shall make findings that the granting of the waiver:

- a) Shall not affect the neighboring area
- b) Shall not significantly diminish the provision of public facilities
- c) Shall not create an unsafe situation
- d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

The following provides information about why each waiver is needed, and a narrative describing how the requested waiver meets each of the four findings requirements.

Waiver #1 – Minimum Floor Area

The applicant requests a waiver from LDR Section 4.3.4(K) – Development Standards Matrix (See Attachment A), which requires development in the Planned Commercial Zoning District to have a minimum floor area of 6,000 square feet. Both the existing and proposed use of the property, Convenience Mart (gasoline station with food sales), contain two types of uses: convenience sales, which is conducted in an enclosed area, and gasoline sales which is conducted outdoors. The convenience portion of the proposed development is 2,538 square feet. The existing convenience portion of the property is 875 square feet. Therefore, the proposed building is helping the site to come more into compliance with the code. Additionally, the canopy is 4,284 square feet, which combined with the convenience building equates to 6,822 square feet of structure, which would meet the code. The applicant believes that since the proposed sales area exceeds the minimum requirement, and the intent of the code to provide a minimum amount of sales/usable area, the waiver is appropriate.

The following analysis provides justification for the granting of the waiver:

a) Shall not affect the neighboring area

The proposed use is the same as the existing use. A smaller building than the code requires will not adversely affect the neighborhood. The project site is in an existing shopping center, which will not be adversely affected.

b) Shall not significantly diminish the provision of public facilities

A smaller building floor area will not diminish public facility availability. A larger building would require more public facilities.

c) Shall not create an unsafe situation

A smaller building floor area will not affect public safety.

d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Allowing a smaller building floor area will not result in the grant of a special privilege. The same waiver could be granted for another property under similar circumstances. The proposal does not include a request for more development than a maximum limit, which could be considered a

special privilege. The nature of the proposed and existing uses necessitates a smaller building to accommodate fuel sales and vehicle circulation requirements.