

# **SACHS SAX CAPLAN**

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November 23, 2020

Ms. Anthea Gianniotis  
Director, Development Services  
City of Delray Beach  
100 NW 1<sup>st</sup> Avenue  
Delray Beach, FL 33444

**Re: Formal Letter of Request of Waiver**

Dear Ms. Gianniotis:

Please accept this letter as a formal request for waiver of the minimum floor area requirement found in Section 4.4.12(F)(2), City of Delray Beach Land Development Regulations (LDRs). We request the waiver for the property located at 10 S. Congress Avenue, Delray Beach, Florida (the "Property").

We are submitting this request on behalf of D&N Realty Holdings No. 2, LLC, the Owner of the Property. The proposed site plan is for the development of a RaceTrac gasoline station on the Property.

Section 4.4.12(F)(2), establishes a minimum floor area for free-standing structures in the Planned Commercial (PC) Zoning District. According to Section 4.4.12(F)(2), the proposed building associated with the RaceTrac gas station would need to be, at minimum, 6,000 square feet.

As shown by the drawings submitted for site plan approval, the building is 5,411 square feet. This is 589 square feet under the minimum as required in the LDRs. Accordingly, we request a waiver of Section 4.4.12(F)(2) of the LDRs in order to allow for the development of the parcel with a building of less than 6,000 square feet.

A waiver of the minimum floor area requirement is the only avenue of relief available in the LDRs with respect to this requirement. The requested waiver is justified for the following reasons:

I. Grant of the waiver will not adversely affect the neighboring area.

There will be no adverse effects to the neighboring area from the waiver. Although the building will be 5,411 square feet instead of 6,000 square feet, it also contains an outdoor patio of 565 square feet. The effect of the planned RaceTrac as a whole, will be of a 5,976 square foot development when the indoor and outdoor space is considered together. The indoor and outdoor space will be designed to allow for the appearance of connectivity.

The development of this site will convert it from an existing site with an older building at the end of its useful life and obsolete as a commercial structure to a brand-new building offering services which the area will utilize. Architecture will be up-to-date, and landscaping will be upgraded. The new development, with the waiver that will allow for this proposed use, and will benefit the neighborhood.

II. Grant of the waiver will not significantly diminish the provision of public facilities.

Grant of the waiver would not result in any change in the provision of public facilities. The difference of 589 square feet in floor area will have no impact on public facilities.

III. Grant of the waiver will not create an unsafe situation.

The parcel will be developed in a way that maximizes safety to visitors and to others driving or walking by the property. The design was made with safety in mind. Specifically, the site plan includes wider drive aisles to allow for optimum vehicle circulation and stacking. This improves the safety for both cars and pedestrians. Accordingly, grant of the waiver would add to overall safety of the site as opposed to adding to an unsafe situation.

IV. Grant of the waiver will not result in the grant of a special privilege.

There will not be any special privilege granted by approval of this waiver. We expect that a similar waiver would be granted under similar circumstances on another property for another applicant or owner.

For this development, the proposed site configuration necessitates a waiver of the minimum floor area requirement. In order to fit the proposed building, outdoor seating, and to allow for design features such as the additional room for vehicular circulation and stacking, the smaller building size is required. We expect that a similar waiver would be granted under similar circumstances where the effect is similar.

For the reasons described above, we respectfully request that a positive finding be made with respect to LDR Section 2.4.7(B)(5), Waiver Findings, based upon the justifications set forth herein and that this waiver be approved.

If I can provide any additional information, please contact my office.

Very truly yours,

SACHS SAX CAPLAN

/s/ Michael S. Weiner

Michael S. Weiner