

Variance Justification Statement

- 1) Variance from Chapter 5.32. of the Land Development Code to reduce the west side yard (non-residential to residential with no loading) setback from 30' to 10'**
- 2) Variance from Chapter 5.32. of the Land Development Code to reduce the east side yard (non-residential to residential with loading) setback from 50' to 10'**

1. Explain how the variance will not adversely affect the public health, safety or welfare.

The requested variances will not affect the public health, safety or welfare. The encroachments into the required yards will have Land Development Code compliant screening provided and landscaping along the perimeter that will create separation and not affect the vacant portions of the parcels to the east and west and the multifamily to the southeast.

2. Explain how the variance will not alter the essential character of the general vicinity.

The variances will not alter the essential character of the general vicinity since they follow a pattern of mixed uses along the Poplar Level Road corridor. Both areas of encroachment for the variances are along vacant portions of the adjacent parcels with the exception of the southeast portion where additional buffering and setback is provided on the site. The character of the general vicinity will be maintained in this manner.

3. Explain how the variance will not cause a hazard or nuisance to the public.

The variances will not cause a hazard or nuisance to the public since the reduction in the required yards/setbacks will not impact the movement of pedestrians and vehicles along the Poplar Level Road corridor.

4. Explain how the variance will not allow an unreasonable circumvention of the zoning regulations.

The variances will not allow an unreasonable circumvention of the zoning regulations since the requests allow for proper functioning and maneuvering on the existing site. It follows the mixed-use pattern of the corridor with screening and plantings that will be code compliant.

ADDITIONAL CONSIDERATIONS:

1. Explain how the variance arises from special circumstances which do not generally apply to land in the general vicinity.

The requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the setback requirement is consistent across the form. The setbacks on the site restrict the buildable

area to only a small portion of the overall acreage. The provided screening and plantings will mitigate the setback encroachments.

2. Explain how the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring removal of the existing rear loading area, existing parking and maneuvering areas and the underground detention meeting MSD regulations that allow needed function of the proposed development. The setbacks restrict the buildable or usable portion of the subject parcel to a small strip that would not be able to function.

3. Are the circumstances the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought?

The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.