

3611 Dixie Highway – Gas Station/Convenience Store

Category 2B Development Plan

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Variance Requests:

1. Variance from Chapter 5.5.1.A.2 of the 2006 Land Development Code to allow the building to exceed the required 0' corner setback.
2. Variance from Chapter 5.2.3.D.3.b of the 2006 Land Development Code to allow dumpster and pavement to encroach into the required 5' side yard setback.
3. Variance from Chapter 5.2.3.D.3.d of the 2006 Land Development Code to allow a reduction in the required 15' rear yard setback to 5'.

Waiver Requests:

1. Waiver from Chapter 5.5.A.1.3.a of the 2006 Land Development Code to allow parking to be located in front of the proposed building along Dixie Highway and Luken Drive
2. Waiver from Chapter 5.5.A.1.5 of the 2006 Land Development Code to allow gas canopy and drive aisles to be located between the street and primary structure.
3. Waiver from Chapter 10.2.4 of the 2006 Land Development Code to reduce the required rear landscape buffer area from 15' to 5' and eliminate the required plantings in the existing 15' sanitary sewer and drainage easement along the rear of the proposed building.
4. Waiver from Chapter 10.2.4.B of the 2006 Land Development Code to allow overlap of the required landscape buffer area and utility easements by more than 50%.

Variance Justifications:

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variances will not adversely affect the public health, safety or welfare since safe access is provided from the public rights-of-way to the site and building entrance. The variances allow proper circulation around the site. The rear yard reduction allows the required parking to be provided for the site.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variances will not alter the essential character of the general vicinity since they follow both the established pattern of development on the subject site and within the surrounding area. The subject site is currently a vacant gas station with a similar pattern of development as the proposed with pavement from property line to property line outside of the existing rear sewer and drainage easement with the canopy and associated station laid out with the canopy toward the street and the associated station in the rear of the site. The nearest non-residential corner properties to the north and south also follow a pattern of extended setbacks similar to the request for the subject site.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variances will not cause a hazard or nuisance to the public since safe access is provided from the public rights-of-way to the site and building entrance. The variances allow proper circulation around the site. The rear yard reduction allows the required parking to be provided for the site.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variances will not allow an unreasonable circumvention of the zoning regulation since the proposed development since they follow an established pattern within this portion of the Dixie Highway corridor and follow the existing pattern of development on the site for the vacant gas station.

Additional Considerations:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variances arise from special circumstances that do not generally apply to land in the general vicinity or the same zone. The subject site has existing pavement from street to street with open curb cuts, underground tanks from the vacated previous gas station and an existing rear 15' sewer and drainage easement in addition that dictate the circumstances leading to the proposed layout.

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

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development is laid out to allow the use of the pavement and curb cuts while providing needed parking for the use. The location of the tanks and needed circulation for the fuel islands dictates needed elements of the proposed use that would be prevented by the strict application of the provisions of the regulation.

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

STAFF: 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 since the lot existed prior to the adoption of the current zoning regulation.

Waiver Justifications:

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waivers will not adversely affect adjacent property owners since the waivers follow the existing pattern of development on the site while providing screening along the rear yard adjacent to the nearest residential property owner.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to

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address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The subject site is currently a vacant gas station with a similar pattern of development as the proposed with pavement from property line to property line outside of the existing rear sewer and drainage easement with the canopy and associated station laid out with the canopy toward the street and the associated station in the rear of the site. The nearest non-residential corner properties to the north and south also follow a pattern of extended setbacks similar to the request for the subject site. The parking is placed to not affect the Dixie Highway frontage while being maintained outside of the existing underground tanks and sewer and drainage easement. Screening and buffering will be provided along the rear non-residential to residential property perimeter as allowed within the existing 15' sewer and drainage easement that serves as a sewer connection point to both properties. There is also a grade change along the rear of the site that separates the residential and non-residential sites which will enhance the screening separation after the retaining wall being proposed for the subject site. Therefore, the waivers will not violate specific guidelines and policies of Cornerstone 2020.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the proposed development is laid out to allow the use of the pavement and curb cuts while providing needed parking for the use. The location of the tanks and needed circulation for the fuel islands dictates needed elements of the proposed use. Landscape buffering is being provided to the fullest extent possible outside of the required parking for the use and the existing 15' sewer and drainage easement. Screening will be provided to create an appropriate separation between the proposed use and the existing residential.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) 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.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development is laid out to allow the use of the pavement and curb cuts while providing needed parking for the use. The location of the tanks and needed circulation for the fuel islands dictates needed elements of the proposed use that would be prevented by the strict application of the provisions of the regulation.

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