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WAIVER JUSTIFICATION STATEMENT

Renaissance South Business Park, Tract 6

8701 Minors Lane

April 27, 2015

The applicant is proposing a 1,152,655 square foot warehouse/distribution building (with a first phase of 863,420 square feet) on Tract 6 in the Renaissance South Business Park. This building will include 20,000 square feet of office area to support the primary warehouse / distribution use. There will be approximately 20 acres of tractor trailer loading and storage and 5 acres of passenger vehicle use area. There is no specific tenant for this building at this time, so the exact number of employees is unknown. Therefore, the applicant is requesting some flexibility in parking requirements. Final parking provided at the time of construction will fall within the min/max requirements of the Land Development Code.

Chapter 5.12.2 of the Metro Land Development Code (LDC) requires an amenity area equal to 10% of the building footprint for office, retail, and mixed uses. For this particular project, 115,266 square feet of amenity area would be required (2.6 acres). Per the parking calculations, the building can support between 410 and 615 employees on the first and second shifts combined. This regulation is appropriate for true mixed uses where residential and retail/shopping is present. For a large warehouse / distribution facility proposed with one or two tenants with varying shifts of employees, this standard appears excessive.

Therefore, the applicant is asking for a waiver of LDC Chapter 5.12.2 to allow 2,000 square feet of amenity area, which is equal to 10% of the office square footage shown on the plan. This amenity area will consist of landscaping and an outdoor patio area for employees and is shown at the south-east corner of the building. If, at the time of construction it is determined that more office space is needed, the amenity area will be increased accordingly.

The applicant is also asking for a waiver from LDC Chapter 5.5.4.B.1 to eliminate the required berm in the 50' property perimeter landscape buffer adjacent to the R-4 zoned mobile home park. There are multiple conflicts along this property line that make the construction of a berm difficult to impossible. First, there is an existing intermittent stream that is not a part of the ACOE permit for disturbance so it will need to be protected. There is not enough room between the stream and the property line to build a 6' berm. Second, there is an underground Marathon Fuel line that runs along a majority of this property line. There are strict regulations as to how much fill can be placed over this line.

In lieu of providing the berm, the applicant proposes a continuous evergreen screen for the entire length of the boundary adjacent to R-4 zoning. This screen will consist of type 'A' evergreen trees spaced 15' on center. This LDC allows this alternative in lieu of a berm in areas where trees are being preserved, therefore this alternative will meet the intent of the requirement.

To recap, the applicant is requesting the following waivers:

- A. A waiver from LDC Chapter 5.12.2 to allow the amenity area to equal 10% of the office square footage shown on the plan.
- B. A waiver from LDC Chapter 5.5.4.B.1 to eliminate the required berm in the 50' property perimeter landscape buffer adjacent to the R-4 zoned mobile home park.

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With regard to the specific justification for these waivers, please note the following:

1. ***Will the waiver adversely affect adjacent property owners?***
 - A. No. This waiver is interior to the Renaissance South Business Park and will have no bearing on adjacent property owners. Similar waivers have been approved for the Dermody facility on Tract 4 and the Verus facility on tract 5.
 - B. No. This waiver will still provide the required screening between adjacent residential and the proposed site. The resulting evergreen screen will greatly exceed the requirements of the LDC by providing type 'A' evergreen trees 15' on center rather than two trees (of any size) per 100' of boundary per the regulation.
2. ***Will the waiver violate the Comprehensive Plan?***
 - A. No. An amenity area will still be provided to serve the employees of this building, but at a reduced size that is more appropriate for the larger warehouse use, so it will not violate the Comprehensive Plan.
 - B. No. The proposed evergreen screen in lieu of the berm is already an approved exception in the LDC when trees are being preserved within the buffer area. In addition, the proposed evergreen screen will exceed the intent of the regulation; therefore, this waiver will not violate the Comprehensive Plan.
3. ***Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?***
 - A. Yes. According to the regulation, the applicant would be required to provide 2.6 acres of amenity area. Instead, the applicant proposes 2,000 square feet of amenity area, equal to 10% of the proposed office space. This is more appropriate given the size of the building and the nature of the proposed use.
 - B. Yes. In order to limit disturbance within the existing Marathon Pipeline easement and to protect the existing intermittent stream, this waiver is the minimum necessary to afford relief to the applicant.
4. ***Has either (a) the applicant 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 would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of land or would create an unnecessary hardship on the applicant?***
 - A. The strict application of the regulation would require the applicant to provide a significantly larger amenity area that would be disproportionate to the number of employees that this facility will likely have. In addition, carving out a 2.6 acre area of land for amenity space adjacent to the building would compromise efficient truck loading and maneuvering capability essential to this type of business. This would, therefore, create an unnecessary hardship on the applicant.
 - B. In lieu of a berm, the applicant is proposing a continuous evergreen screen with type 'A' trees planted 15' on center. This exceeds the screening requirement of the LDC and compensates for non-compliance. In addition, the estimated stream impact fee is around a half a million dollars which would create an unnecessary hardship on the applicant.

District Development Plan Justification:

In order to justify approval of any district development plan, the Planning Commission considers the following criteria. Please answer all of the following items. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

- 1. Are there any natural resources on the property, including trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites? And are these natural resources being preserved?**

There is an existing intermittent stream along the eastern boundary of the property that will be preserved. There is existing tree canopy on site, but there is no anticipated preservation due to the extensive grading needed to construct this large building. This site is within the LRF, but not in the FEMA floodplain. All required compensation is provided in the existing basin for the development.

- 2. Is safe and efficient vehicular and pedestrian transportation provided both within the development and the community?**

Yes. The existing street pattern provides adequate access to the site and sidewalks will be provided as required by the Land Development Code.

- 3. Is sufficient open space (scenic and recreational) to meet the needs of the proposed development being provided?**

Yes. No open space is required as a part of the development, but an amenity area is being provided as explained in the waiver justification statement.

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- 4. Are provisions for adequate drainage facilities provided on the subject site in order to prevent drainage problems from occurring on the subject site or within the community?**

Yes. On-site and through drainage will be addressed by this plan. The existing basin north of Transglobal Drive and west of Minors Lane will provide compensation for this development.

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- 5. Is the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses compatible with the existing and projected future development of the area?**

Yes. This area is being developed as big box warehouse uses in accordance with the area-wide rezoning. This site is on the edge of the project area and appropriate screening will be provided adjacent to incompatible uses.

- 6. Is the proposal in conformance with the Comprehensive Plan and Land Development Code?**

Yes. This proposal is in conformance with the Comprehensive plan, and, with the exception of the two waivers being requested, this plan is in conformance with the LDC. The applicant has provided adequate justification for these waivers as a part of the application.