

The Riffle
File No. 22-012
Supplemental Narrative

Section 17.66.80 - TYPE III SPECIAL VARIANCES

The Planning Commission may grant a special variance waiving a specified provision for under the Type III procedure if it finds that the provision is unreasonable and unwarranted due to the specific nature of the proposed development. In submitting an application for a Type III Special Variance, the proposed development explanation shall provide facts and evidence sufficient to enable the Planning Commission to make findings in compliance with the criteria set forth in this section while avoiding conflict with the Comprehensive Plan.

Response: The applicant requests the following additional Special Variances as reviewed below.

- *Section 17.74.40(B)(2) to exceed the 4-foot tall wall and fence standard in a commercial front yard.*
- *Section 17.90.12(G) regarding the provision of civic space.*

Special Variance - Section 17.74.40(B)(2)

One of the following sets of criteria shall be applied as appropriate.

A. The unique nature of the proposed development is such that:

1. The intent and purpose of the regulations and of the provisions to be waived will not be violated; and

Response: The applicant requests a Special Variance to exceed the maximum height of a wall or fence allowed in a front yard. Section 17.74.40(B)(2) requires the height of a fence or wall in the front yard of commercial developments shall not exceed four feet. The eastern property line of tax lot 1200 is considered the front line/yard because this is the only property line abutting a public right-of-way. As shown on submitted plans a 2-6-foot wall is needed to hold up a portion of the building site and a 5-foot fence is proposed in this yard for security purposes. The proposed wall and fence will be located about 160 - 180 feet west of and about 15 - 20 feet higher than the Kate Schmitz unimproved right-of-way. The Development Code does not state the intent of this standard but it is assumed the standard has to do with the aesthetic appearance of the front yard and the building. Given the unique location and physical conditions of the proposal, approval of this request will not violate the intent of this code. The proposal complies with this criteria.

2. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.

Response: The proposed wall and fence will be located approximately 160 - 180 feet from the front lot line adjacent to the unimproved Kate Schmitz right-of-way. The proposal will have no affect on the public welfare or will it be injurious

to other property in the area. Approval of this request is necessary to develop the site as proposed given required tree protection and to provide safety and security to owners of the food carts on the site. The proposal complies with this criteria.

- B. The variance approved is the minimum variance needed to permit practical compliance with a requirement of another law or regulation.

Response: The requested variance is the minimum needed to allow development of the site as proposed and to provide security for the site. The subject property is located next to a densely wooded area to the east and the applicant is concerned this location requires the proposed fencing. The proposal complies with this criteria.

- C. When restoration or replacement of a nonconforming development is necessary due to damage by fire, flood, or other casual or natural disaster, the restoration or replacement will decrease the degree of the previous noncompliance to the greatest extent possible.

Response: The proposed use is a new use and this criteria is not applicable.

Special Variance - Section 17.90.120(G)

One of the following sets of criteria shall be applied as appropriate.

- A. The unique nature of the proposed development is such that:

1. The intent and purpose of the regulations and of the provisions to be waived will not be violated; and

Response: The applicant requests a Special Variance to Section 17.90.120(G) requiring commercial developments in the C-2 zone to provide not less than three percent of the development area as improved civic space and contains specific details regarding the location and required amenities to be provided with the civic space. This standard requires civic space to abut a public right-of-way or otherwise be connected to and visible from a right-of-way. As noted in the narrative submitted with this application and shown submitted plan, the proposed building is located a considerable distance from any public right-of-way and no location exists on the site meeting the requirements of this section. For this reason, the applicant believes a finding can be written exempting the project from this standard. Regardless, the applicant is submitting this Special Variance requesting relief from complying with this standard. Given the unique location and physical conditions of the subject property, approval of this request will not violate the intent of this code. The proposal complies with this criteria.

2. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.

Response: The request to exempt the application from being required to provide civic space will not affect the public welfare or will it be injurious to other property in the area. As shown on submitted plans, the proposed building is

located a considerable distance from a public right-of-way and not adjacent to significant future developable property. In addition, requiring provision of civic space next to or near the unimproved Katie Schmitz right-of-way will be upwards of 160 feet from the proposed building in an area hidden by trees, with little visibility. The proposal complies with this criteria.

- B. The variance approved is the minimum variance needed to permit practical compliance with a requirement of another law or regulation.

Response: *Given the unique challenges with developing the site, the requested Special Variance to exempt the development from providing civic space is the minimum variance needed to accommodate the development. The proposal complies with this criteria.*

- C. When restoration or replacement of a nonconforming development is necessary due to damage by fire, flood, or other casual or natural disaster, the restoration or replacement will decrease the degree of the previous noncompliance to the greatest extent possible.

Response: *The proposed use is a new use and this criteria is not applicable.*