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VARIANCE JUSTIFICATION STATEMENT
FOUR (4) VARIANCE REQUESTS

(1) "1,000 FOOT DISTANCE SEPARATION FROM EXISTING FILLING STATION"

(2) "MINIMUM FRONTAGE BUILD OUT"

(3) "LANDSCAPING (TREE DISTANCE")

(4) "BOLLARDS CONFIGURATION IN LIEU OF STEP-UP"

Board of Adjustment – City of Margate
5790 Margate Boulevard
Margate, Florida 33063

Re: Applicant: Cumberland Farms, Inc. (authorized by Lakewood Retail)
Project: Cumberland Farms (DRC No. 06-15-02)
Property: 5485 W. Atlantic Boulevard, Margate, Florida

Dear Board:

This firm represents Cumberland Farms, Inc. ("Applicant"), lessee of a parcel located at 5485 W. Atlantic Boulevard ("Property"). With express authorization from Lakewood Retail, LLC, as owner of the Property, Applicant is seeking site plan approval and special exception approval to construct and operate a convenience market and gasoline service station on the site. As part of the site plan process, Applicant also must obtain certain variances from the technical application of the Zoning Code. Accordingly, Applicant hereby submits this variance application.

Background and Project Details

The Applicant proposes to demolish an existing, vacant 14,490 square foot Walgreens Pharmacy building on the Property and construct a new 4,960 square foot Cumberland Farms convenience market which includes a gasoline service station component. The proposed site

plan along with color elevations, currently under review by city staff, are attached as Exhibit A and made a part of this variance application ("Proposed Development").

In 2009, Cumberland Farms began an extensive, national rebranding of its convenience store concept to better serve its customer base and compete with the likes of Starbucks and Dunkin Donuts. Among other major improvements, Cumberland Farms changed its logo, drastically modernized the exterior styling of its new buildings, and revamped its offerings to add lots of fresh food, creative drinks, and more grocery choices than a typical convenience store.

In line with this exciting overhaul, the Proposed Development will provide residents and employees in the area with a safe, upscale, service-oriented, and convenient location to purchase drinks, fresh food, specialty coffee beverages, fuel, and other necessities. The Proposed Development will implement the modern design typical of the rebranded stores and provide four (4) fueling pump islands. Seating areas will be provided outside the convenience market for those who wish to eat on premises or travelers that need to relax and rejuvenate. The Proposed Development will consist of a 24-hour daily operation.

The Property is located within the Transit Oriented Corridor – Corridor ("TOC-C") zoning district. The Proposed Development is permitted in the TOC-C district with special exception approval required for the gasoline service station component pursuant to Article VII, Section 7.2 (B)(1)(k) of the City Code, the subject of another application before the City Commission. The Proposed Development is within one thousand (1,000) feet of another plot presently occupied as a gasoline service station and has certain site plan components that necessitate variances from the strict application of the Code.

Variance Requests and Compliance with Code Criteria

Pursuant to the variance review Section 2-78 (b) of the Code, the Applicant is requesting approval of variances from the following Code provisions in relation to its site plan and can show with competent substantial evidence that it complies with the Code's variance criteria.

(1) "1,000 FOOT DISTANCE SEPARATION FROM EXISTING FILLING STATION"

App. A, §3.18(A) Distances. No plot or [of] ground shall be used for a filling station which is within one thousand (1,000) feet, by direct or airline measurement, of any other plot presently occupied as a filling station.

The Applicant's property is approximately 985.32 feet from the closest filling station, meaning it is less than fifteen (15) feet from complying with this Code requirement. See attached Distance Measurement Survey, attached as Exhibit B. Special conditions and circumstances exist which if there is literal and strict enforcement of the 1,000 foot separation requirement for new gas stations would constitute a hardship or practical difficulty in the use of the property involved. The Proposed Development is located along Atlantic Boulevard close to

State Road 7/U.S. 441. State Road 7 is a major commercial north-south corridor and is a divided roadway. Atlantic Boulevard is a major east-west regional roadway and is also a divided roadway. Residents and commuters travel extensively on these roadways, creating a significant demand for a gasoline service station at this location, particularly along the westbound lanes of Atlantic Boulevard.

Recently, the City Commission allowed the Orion gasoline service station to re-open at the northwest corner of Atlantic Boulevard and State Road 7/U.S. 441. Because Atlantic is a divided roadway, vehicles traveling westbound on Atlantic do not have practical accessibility to a fueling station until they cross over State Road 7/U.S. 441. This movement is inconvenient for travelers wishing to turn north or south on State Road 7/U.S. 441. After purchasing fuel at the Orion station, they must continue westbound for approximately 620 feet, crossing three lanes of traffic, execute a U-turn and return to the intersection to proceed to turn on State Road 7/U.S. 441.

Crossing three lanes of traffic and executing U-turn maneuvers create vehicle conflicts and are widely regarded as unsafe and risky but unavoidable. Conditions such as these which require such maneuvers should be limited where possible. Allowing the additional gasoline station at the project location would offer an alternative to this unsafe scenario and will eliminate the need for U-turn maneuvers along the corridor and additional traffic queueing at the intersection.

The proposed convenience market with gasoline service station component is a reasonable use of the Property, and there are no other suitable locations for a gas station within the demand vicinity, particularly so for east/west bound motorists traveling on Atlantic Boulevard. Literal and strict enforcement of the separation requirement would eliminate the possibility of reasonable gasoline service station use of the Property.

Moreover, granting this variance will not be contrary to the public interest or to the general purpose sought to be accomplished by the specific distance separation requirement. The idea behind this Code requirement is to prevent too many gas stations from popping up and operating in close proximity to each other. In this case, the Applicant's site is just about 1,000 feet from the closest filling station, substantially complying with the intent of this provision. Also, the Orion facility is primarily a gas station with a tiny convenience store. Conversely, the proposed Cumberland Farms will be primarily a convenience market with lots of fresh offerings and the filling station will be an ancillary use of the site. This sort of convenience market is in high demand and will add to the public welfare by providing sought after goods by Margate residents on the go.

It is important to note gasoline filling stations are permitted in this zoning district as special exceptions, meaning the Applicant is not requesting a use expressly prohibited in this area. Also, since the project is nearly 1,000 feet from another gas station, the Proposed Development is harmonious with the general intent of the Code. The elevations and description of the use demonstrate this will not degrade the area involved or be detrimental to the public welfare. In fact, the use will replace a vacant building, drastically upgrade the appearance of this

area of the shopping center, dramatically improve the landscaping, and provide attractive outdoor seating along Atlantic Boulevard.

(2) "MINIMUM FRONTAGE BUILD OUT"

> *App. A, §9.7 (H) Frontage build-out. Frontage coverage is defined as the minimum percentage of the length of the frontage coverage zone that shall be occupied by the front façade(s) of the primary building(s). In the TOC-C district the minimum frontage build out shall be seventy (70) per cent. In order to connect the public sidewalk with courtyards and parking lots in the interior or at the rear of a parcel, development may incorporate a passage that counts towards the frontage coverage requirements. The width of passage shall be no less than sixteen (16) feet.*

Our client is proposing a frontage build out of thirty-two (32) percent, as shown in the notes on Exhibit A. There shall be a 12-foot wide sidewalk provided along the front of the Proposed Project with expansive landscaping along the sidewalk. Also, the Applicant is providing outdoor seating with tables on Atlantic Boulevard to further activate the street side of the project.

The intent of the seventy (70) percent frontage build out design standard is to create a visual street wall comprised of building structures to help frame the streetscape, as opposed to the traditional approach of placing parking in the front of the site with the building set back far from the street. In this case, the Proposed Development site is located on an outparcel of an existing shopping center. Thus, it is not possible to create a street wall as the existing structures and improvements to the east and west of the Proposed Development have spacing between them in a typical shopping center configuration. This existing condition is not the result of actions of the Applicant and is relatively unique for the zoning district.

However, in an effort to comply with the intent of this frontage build out design standard, the Applicant proposes rotating and moving the building so as to maximize the frontage build out and bring the building as close to Atlantic Boulevard as is feasible. Prior site plan configurations, which were more traditional for this use, had the long side of the building facing the pumps and a larger setback to allow for a drive aisle and parking in between Atlantic Boulevard and the building. The current site plan turned the building and brought it closer to the street, removing the drive aisle and replacing it with outdoor seating and landscaping. This proposed configuration supports the intent and purpose of the frontage build out design standard by bringing as much of the project as close to the street as possible.

A variance from the strict requirements of the Code in this regard is warranted because it is not feasible for a proposed convenience market with a gasoline service station component to have a seventy (70) percent building frontage. Patron's use of the gas station element of the convenience store, and necessary vehicular circulation on site, make the seventy (70) percent incredibly difficult to comply with. There are no other configurations for the convenience store with a gas station component which would achieve the seventy (70) percent requirement.

Moreover, there are safety concerns with focusing all of the business activity for a convenience market/gas station on the back side of the site. Keeping the pumps on Atlantic Boulevard increases visibility of patrons and acts to deter criminal activity.

Allowing this variance will permit the site to be redeveloped with attractive architecture and fresh landscaping, supporting the goals of the Code to encourage good development in the City. Moreover, the use will serve a need in the community and provide a service to citizens.

(3) "LANDSCAPING (TREE DISTANCE")

§ 23-6(B)(2) Required Landscaping. An eight-foot-wide planting strip measured from the curb or edge of pavement inward toward the private development, running parallel with the right-of-way shall be provided. Within said planting strip, one (1) shade tree shall be planted within a minimum eighty (80) square foot pervious area every thirty (30) lineal feet of frontage.

For new site plans, the Code provides that a certain number of trees must be planted in relation to the size of the frontage of the property and trees shall be placed uniformly every thirty (30) lineal feet of frontage. The Applicant proposes providing the required number of trees per Code, but would like to space them at certain points more than 30 feet apart. See the Landscape and Landscape Notes and Details attached as Exhibit C. For the street frontage, the Applicant proposes planting eleven (11) slash pine trees, at some points twelve (12) feet apart and at one point seventy (70) feet apart. This arrangement will be aesthetically pleasing while allowing for reasonable visibility of the convenience market and gas pumps. A strict adherence to Code requirement would severely impede visibility of the building, creating an issue with intended customers missing the site and having to turn around to return to the property.

Organizing the trees in this manner will not be contrary to the public interest or to the general purpose sought to be accomplished by the specific tree distance requirement. Applicant will place trees in an aesthetically pleasing manner so as to highlight the nature of the business, while still preserving a naturally appealing landscape. The trees will provide shade to patrons frequenting the outside eating location of Applicant's establishment. Furthermore, organizing the trees in this manner will enhance the visibility of the establishment and the shopping center as a whole.

(4) "BOLLARDS CONFIGURATION IN LIEU OF STEP-UP"

App. A. § 33.2(B)(2) Wheel Stops Required. The use of wheel stops shall be required for each parking stall directly abutting a sidewalk that is less than seven (7) feet wide and is not elevated at least six (6) inches higher than the abutting parking space(s), and when any parking space is directly abutting an outdoor seating area, walkway café, wall, or any utility infrastructure located above ground. In lieu of wheelstops, bollards meeting minimum requirements provided by the Department of Environmental and Engineering Services may be utilized in parking spaces that are abutting outdoor seating areas,

walkway cafés, or above ground utility infrastructure. Protective curbing shall be required for parking stalls directly abutting a landscaped area.

In lieu of a step-up from the parking lot onto a raised sidewalk, the Applicant proposes bollards, four (4) feet in height, placed to delineate the parking space from the sidewalk on the west and north sides of the structure. The bollards are more easily seen than a step and will contribute to the overall safety and welfare of the patrons of the store. The sidewalks will be flush with the parking areas.

In circumstances where vehicles encounter wheel stops at low to moderate speeds, without stopping, such wheel stops have an unwanted and opposite effect from the purpose they are designed to serve, instead catapulting vehicles into dangerous zones inhabited by pedestrians, seated customers, glass storefronts, and customers within the hybrid convenience market.

The Applicant proposes the bollard configuration in an effort to avoid tripping hazards. The implementation of bollards is for protection of pedestrians so they do not get pinned between the cars and building should someone mistakenly hit the gas going forward instead of reverse. Additionally, the eight (8) foot sidewalks proposed are wider than traditional sidewalks, suggesting the sidewalks are in some respects gathering areas, justifying the decision to not raise them. Wheel stops do not meet the minimum level of protection from vehicle-pedestrian conflicts and, moreover, such wheel stops are trip hazards to pedestrians. Installation of vehicle bollards, therefore, is necessary to establishing a minimum safe environment within the proposed development.

Conclusion and Request for Approval

The Applicant has worked steadfastly with Margate staff to create a site plan that supports the vision of the TOC form-based code, contributes to Margate's redevelopment plans, and offers an opportunity for Cumberland Farms to present to Margate residents its exciting rebranded product. In light of the above, the Applicant respectfully requests approval of this variance. Please contact the undersigned should you have any questions.

Sincerely,

Stephanie J. Toothaker, Matthew H. Scott