

BOARD OF ADJUSTMENT  
CITY OF MARGATE, FLORIDA

BA # 07-16  
HEARING DATE 1-5-16

VARIANCE REQUEST

PART I. TO BE COMPLETED BY PETITIONER

Applicant: VICJ Corporate Plaza LLC Date: August 14, 2015

Relationship to Subject Property: Owner

Address of Property: 2000 N State Road 7, Margate, FL 33063

Legal Description: Margate District Headquarters 88-14 TR A

Describe Variance Requested: See attached

List Details of Hardship: See attached

*c/o Steven Wherry, Esq.  
Greenspan Markey PA  
200 East Broward Boulevard, Suite 1800  
Fort Lauderdale, FL 33301*

Signature of Applicant

Address

Phone # 954 958 2236

Fax# 954.958.2214

PART II. TO BE COMPLETED BY THE ECONOMIC DEVELOPMENT DEPT.

Describe request and how it varies from the Code: \_\_\_\_\_

\_\_\_\_\_

Section of Code involved: \_\_\_\_\_ Zoning of Property: \_\_\_\_\_

Have plans been submitted to and approved by the Building Department? \_\_\_\_\_

Additional Comments: \_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Economic Development Director

Date: \_\_\_\_\_

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**PART III. TO BE COMPLETED AFTER BOARD OF ADJUSTMENT ACTION.**

Board Action:    Approved \_\_\_\_\_    Denied \_\_\_\_\_    Tabled to: \_\_\_\_\_

List Any Special Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chairman of the Board of Adjustment

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary of the Board of Adjustment

\_\_\_\_\_  
Date

City of Margate  
 R E P R I N T  
 \*\*\* CUSTOMER RECEIPT \*\*\*

Batch ID: RR0DI 12/03/15 00 Receipt no: 35751

Type Svccd	Description	Amount
EQ	ECDV MISCELLANEOUS	
	Qty 1.00	\$2000.00

VELMEIR CO., LLC  
 5757 WEST MAPLE RD, #800  
 WEST BLOOMFIELD, MI 48322  
 248-539-7997

VARIANCE REQUEST BA-03-16  
 VARIANCE REQUEST BA-04-16  
 VARIANCE REQUEST BA-05-16  
 VARIANCE REQUEST BA-06-16  
 VARIANCE REQUEST BA-07-16  
 VARIANCE REQUEST BA-08-16  
 VARIANCE REQUEST BA-09-16  
 VARIANCE REQUEST BA-10-16  
 VARIANCE REQUEST BA-11-16  
 VARIANCE REQUEST BA-12-16  
 BY GREENSPOON MARDER LAW  
 200 EAST BROWARD BLVD #1800  
 FT LAUDERDALE, FL 33301  
 754-200-7017

City of Margate  
 R E P R I N T  
 \*\*\* CUSTOMER RECEIPT \*\*\*

Batch ID: RR0DI 12/03/15 00 Receipt no: 35751

Type Svccd Description Amount  
 STEVEN.WHERRY@GMLAW.COM  
 FOR WAWA GAS STATION  
 2000 N STATE ROAD 7  
 MARGATE, FL 33063

Tender detail  
 CK Ref#: 1687 \$2000.00  
 Total tendered: \$2000.00  
 Total payment: \$2000.00

Trans date: 12/10/15 Time: 11:43:20

HAVE A GREAT DAY!

City of Margate  
\*\*\* CUSTOMER RECEIPT \*\*\*

Batch ID: RRODI      9/30/15 00      Receipt no: 185569

Type Svccd	Description	Amount
EB	ECDV BANNERS	
Qty	1.00	\$150.00

VELMEIR CO., LLC  
5757 WEST MAPLE RD, SUITE 800  
WEST BLOOMFIELD, MI 48322  
248-539-7997

SIGN BOND FOR SPECIAL EXCEPTIO  
DRC-10-15-03  
2000 N STATE RD 7  
GAS SERVICE STATION &  
CONVENIENCE MARKET  
GREENSPOON MARDER LAW  
STEVE WHERRY  
200 E BROWARD BLVD #1800  
FT. LAUDERDALE, FL 33301  
754-200-7017  
YTEVEN.WHERRY@GMLAW.COM

Tender detail  
CK Ref#: 1617      \$150.00  
Total tendered:      \$150.00  
Total payment:      \$150.00

Trans date: 9/30/15      Time: 13:08:37

HAVE A GREAT DAY!



**UNANIMOUS WRITTEN CONSENT  
OF THE MANAGER OF  
VICJ CORPORATE PLAZA LLC,  
A FLORIDA LIMITED LIABILITY COMPANY**

August 20, 2015

The undersigned, being the sole manager (the "Manager") of VICJ CORPORATE PLAZA LLC, a Florida limited liability company, ("Company"), does hereby consent, without a meeting, to the adoption and approval of the following resolutions upon the execution of this Unanimous Written Consent:

**RESOLVED**, that the Company is a manager managed limited liability company, and since formation of the Company on May 14, 2010, the undersigned is and has been the sole Manager of the Company.

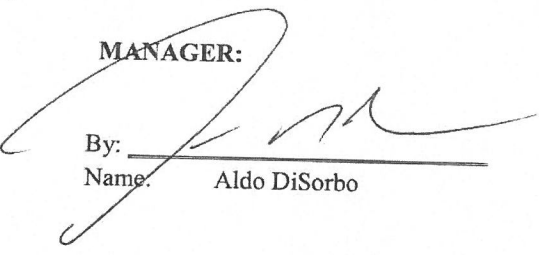
**RESOLVED**, Andrew J. Peterson of Bowman Consulting Group, and Greenspoon Marder, P.A., be and are hereby specifically authorized, empowered and directed to execute, submit and request all documentation necessary for the Company to submit to the City of Margate a (i) *Application for Site Plan*, (ii) *Application for Special Exception (new construction)*, (iii) *Surface Water Management License Application*, (iv) *Application for Drainage Connection Permit*, and (v) *Variance Applications* (collectively, the "Re-Design Request"), including the authority to:

- ❖ execute and deliver for, on behalf of, and in the name of, the Company form(s) seeking a hearing or hearings before the City of Margate's Development Review Committee, Board of Adjustment, Planning and Zoning Board/Local Planning Agency, and City Commission and each and every other applicable government agency (collectively, the "Government Agencies"), as may be required in connection with the Re-Design Request by the Company, and
- ❖ attend and participate for, on behalf of, and in the name of, the Company any and all hearings and meetings with the Government Agencies.

**FURTHER CERTIFY** that the forgoing Resolutions now stand of record on the books of the Company; and that the Resolutions are in full force and effect and have not been modified or revoked in any manner whatsoever.

**CERTIFIED TO AND ATTESTED BY:**

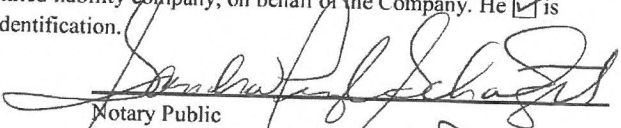
**MANAGER:**

By:   
Name: Aldo DiSorbo

State of Florida  
County of Broward

The foregoing instrument was sworn to and subscribed before me this \_\_\_ day of August, 2015 by ALDO DISORBO, as Manager of VICJ CORPORATE PLAZA LLC, a Florida limited liability company, on behalf of the Company. He  is personally known or  has produced a driver's license as identification.

SANDRA PENSYL SCHATZEL  
NOTARY PUBLIC - STATE OF FLORIDA  
COMMISSION # EE161502  
EXPIRES 1/19/2016  
BONDED THRU 1-888-NOTARY1

  
Notary Public

Printed Name: Sandra Pensyl Schatzel

My Commission Expires: 01/19/2016



## Variance Narrative and Hardship Statement

VICJ Corporate Plaza LLC (“Owner”) is the record owner of property located at the southeast corner of State Road 7/U.S. 441 and Copans Road/Royal Palm Boulevard at 2000 North State Road 7 (“Property”) in the City of Margate (“City”). TVC Margate Co., LLC (“Contract Purchaser”) is the contract purchaser of the Property (the Owner and Contract Purchaser, together, “Applicant”).

The Applicant proposes to demolish the existing office building on the Property and construct a 5,943 square foot Wawa hybrid convenience market that includes a gasoline service station component, which site plan is attached hereto and made a part hereof for reference as Exhibit “A” (“Proposed Development”) in addition to a future Phase II which is anticipated to include freestanding general retail space.

The Proposed Development will provide residents and employees in the area with a safe, upscale, service-oriented, and convenient location for residents and commuters to purchase fuel, fresh food, and necessities in one location. The tenants of the future Phase II general retail space have not been determined at this time and will be the subject of a later site plan. The Proposed Development will provide 16 fueling pumps and a market area for fresh food and necessities. The Wawa hybrid convenience market will offer food made-to-order or pre-packaged including sandwiches, salads, wraps, and fresh fruit. Seating areas will be provided inside and out for those who wish to eat on the premises. The Proposed Development will consist of a 24-hour daily operation.

The Property is located within the TOC-G Transit Oriented Corridor – Gateway Zoning District. The Proposed Development is permitted in the TOC-G district with special exception approval required for the gasoline service station component pursuant to Section 8.4 (B)(1)(g) of the City Code, the subject of another application before the City Commission.

Pursuant to the variance review criteria set forth in 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 to operate a gasoline service station with 16 fuel pumps on the Property:

Code Section	Requirement	Proposed	Extent of Variance
App. A §8.4 (B)(1)(g)	1,000-foot separation from other gasoline service station.	170 feet, property line to property line	830 feet
App. A §9.7 (C)	<i>Form-based design standard: frontage build-to line ("BTL").</i> Building frontage and placement to be 20 feet from curb of regional arterial roadway (Copans)	Building frontage (canopy) located: 77 ft. from Copans	57 ft. from Copans
App. A §9.7 (D)	<i>Form based design standard: secondary frontage setback</i> The secondary frontage setback shall maintain 25 feet from corridor roadway curb (SR 7)	Building frontage: (canopy) located: 74 feet from SR 7	49 ft. from SR 7
App. A §9.7 (H)	<i>Form-based design standard: frontage build-out.</i> Minimum of 70% of build-to coverage zone to be occupied by building frontage.	Building frontage to occupy 0% of build-to coverage zone  (243 ft. coverage of 339 ft. frontage, 71.6%, after BTL variance above)	70%  (100% of design standard before build-to line variance; complies after BTL variance)
App. A §9.7 (I)	<i>Form-based design standard: frontage build-to corner.</i> Building frontages must "hold the corner" of parcels at the intersection of two primary streets with building frontage and placement to be in accord with front (20 ft.) and side (25 ft.) setbacks.	Corner of building frontage (canopy): 77 ft. from Copans 74 ft. from SR 7	57 ft. from Copans 49 ft. from SR 7
App. A §9.7 (O)(2)	<i>Form-based design standard: sidewalk width</i> Front sidewalks or urban greenways along the State Road 7/U.S. 441 corridor are required to maintain a minimum 25-foot sidewalk.  Front sidewalks along all other primary roads are required to maintain a minimum 20-foot sidewalk.  At least eight (8) feet of clear zone shall be provided where no obstructions, temporary or permanent, are allowed.	8-foot sidewalk along SR 7  8-foot sidewalk along Copans	17 feet  12 feet
§23-6 (B)(2)(a)	<i>Landscape code: mixed use district urban greenway</i> 8-foot planting strip required, measured from curb	No 8 ft. planting strip within 8 ft. of curb along SR 7	100% variance to relocate strip to save existing trees
App. A §39.6 (A)(2)(a)	<i>Sign code: nonresidential district permanent sign regulations</i> Setback minimum 5 feet from right-of-way.	Gas price sign on SR 7 setback: 2.04 feet	2.96 feet
App. A §39.8 (C)(3)	<i>Sign code: supplemental regulations for gasoline stations</i> One monument sign permitted per site.	2 gas price monument signs	1 additional gas price monument sign
App. A §33.2 (B)(2)	<i>Design standard: wheel stops required</i> Use of wheel stops required for each parking stall directly abutting a sidewalk or above-ground infrastructure	No wheel stops provided for parking stalls abutting dining area or store	100% variance to substitute protective bollards for wheel stops

1. *It shall be demonstrated that special conditions and circumstances exist which, if there is a literal and strict enforcement of the provisions of a zoning ordinance, would constitute a hardship or practical difficulty in the use of the property involved.*

App. A, §8.4 (B)(1)(g) – Gas station distance separation

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 at the intersection of two major roads: State Road 7/U.S. 441 and Copans Road/Royal Palm Boulevard. State Road 7 is a major commercial north-south corridor and is a divided roadway. Copans Road is a major east-west regional arterial roadway with connections to the highway system and also is a divided roadway. City residents and other commuters travel extensively on these roads, creating a significant demand for a gasoline station at this location, particularly along the northbound lanes of State Road 7.

There presently exists a Valero gas station at the southwest intersection of State Road 7 and Copans/Royal Palm, across State Road 7 from the Proposed Development. Because State Road 7 is a divided roadway, vehicles travelling north on State Road 7 do not have practical accessibility to the Valero gas station. They must turn left onto Copans/Royal Palm and execute a U-turn maneuver thereafter or execute a U-turn maneuver on State Road 7 and cross three lanes into the Valero property.

For northbound State Road 7 travelers, resuming their northbound commute after visiting Valero is also difficult, requiring either crossing three lanes of traffic on Copans/Royal Palm to get to the left turn lanes or reversing direction to head south on State Road 7, crossing three lanes of traffic and executing another U-turn maneuver.

Crossing lanes and executing U-turn maneuvers create vehicle conflicts and are widely regarded as unsafe and risky but sometimes necessary. Conditions such as those existing at present that establish a need for motorists to execute lane crossings and U-turn maneuvers should be limited where possible.

By adding a gas station at this location, the Proposed Development would offer a safe refueling alternative to northbound State Road 7 motorists, eliminating the existing unsafe conditions that establish a need for executing U-turn maneuvers. The proposed gas station use 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 northbound motorists travelling on State Road 7. Literal and strict enforcement of the separation requirement would eliminate the possibility of reasonable gas station use of the Property.

App. A, §9.7 (C), (D), (H), and (I) – Urban design build-to line standards

Special conditions and circumstances exist which, if there is literal and strict enforcement of the provisions of the form-based design standards pertaining to the build-to line and building frontage, would constitute a hardship or practical difficulty in the use of the property involved.

In the present instance, the Code's referenced design standards require building placement to be within 20 feet of the primary frontage of Copans Road, a regional arterial roadway, and within 25 feet of State Road 7, a corridor roadway. The Code's referenced design standards also encourage the location of at least 70% of primary building frontage within the required 20-foot build-to zone along Copans Road. Finally, the design standards also require buildings to "hold the corner" by adhering to building placement within the front (20-foot) and side (25-foot) setbacks at corner locations such as at the proposed location.

One of the main purposes of the build-to requirements pertaining to placement of building frontage relates to an aesthetic concern in creating a visual streetwall comprised of building structures to help frame the streetscape. This, in turn, promotes pedestrian activity and helps to establish a sense of place. These are important goals, and they undergird, in part, the rationale for the establishment of the City's Transit Oriented Corridor zoning districts. The creation of a visual streetwall and framing the streetscape is especially important at locations that are not corner locations, where long, formless expanses of open space that separate roadways from principal structures tend to discourage pedestrian interactivity with those locations.

Certain corner locations, especially signalized corner locations that include transit stops as is the case with the Property, already and naturally tend to establish a visual streetwall by virtue of the framing that comes as a result of the traffic signal poles, signal arms, and related apparatus as well as the variation in traffic direction stemming from the fact of the intersection itself. Where the intersection is of two major roadways as is the case with the Property, these inherent framing characteristics are even more pronounced.

Perhaps more importantly, literal and strict enforcement of these particular design standards in this instance does present a practical difficulty in that a gas station use is a vehicle oriented use, and because the Property includes a transit stop with a substantial bus shelter, it is critical to maximizing the safety of pedestrians that the site is designed to provide wide fields of visibility to motorists entering and exiting the Property in order to help them and pedestrians avoid vehicle-pedestrian conflicts that can cause injury to people and property.

The location of the visibility-obstructing principal structure in the Proposed Development is designed to be supportive of this goal, preserving maximum fields of vision within the primary operating area of the gas station. In a substantial effort to contribute to the establishment of an aesthetic framing characteristic, however, the Proposed Development does include placement of a permanent linear canopy oriented on an east-west axis beginning at the corner of the Property and continuing along Copans Road for approximately 243 feet (a length that, after proposed adjustment of the build-to line requirement, occupies 71.6% of the site's 339 feet of frontage consistent with the requirements Code's §9.7 (H) frontage build-out requirement). The canopy is placed as close to the Copans and State Road 7 roadways as possible while still accommodating



necessary vehicular circulation, accessibility by fire apparatus and other public safety instrumentalities, and, importantly, allowing motorists and pedestrians alike to observe activity and conditions beyond without visual obstruction, thereby promoting a gas station site design in which safety is the first concern.

App. A, §9.7 (O)(2) and §23-6 (B)(2)(a) – Sidewalk and landscape standards

Special conditions and circumstances exist which, if there is literal and strict enforcement of the provisions of the sidewalk and landscape standards, would constitute a hardship or practical difficulty in the use of the property involved.

In the present instance, the Code's sidewalk and landscape standards require a minimum landscape planting strip 8 feet in width abutting the curb and, after that, a sidewalk 25 feet in width along State Road 7. The existing conditions are reversed from what today's Code requires, such that there are four healthy and substantial Black Olive trees located in an area designated for sidewalk pursuant to the Code: a 39-inch caliper, a 40-inch caliper, a 46-inch caliper, and a 48-inch caliper tree as shown in the Site Plan State Road 7 Exhibit, attached hereto and made a part hereof as **Exhibit "B."** Each of these trees has a trunk location approximately 10-feet from the State Road 7 edge of pavement. Each of these trees provides valuable shade for pedestrians on the existing 8-foot wide sidewalk. In order to preserve these trees in a healthy state, the trees and their root systems must be protected. Relocating the trees would place the trees in jeopardy as would expanding the width of the adjacent sidewalk impact the tree root systems, thereby likewise placing the trees in jeopardy.

Expanding the landscape planting strip to include the trees and placing the sidewalk east of the trees is similarly problematic. At locations east of the trees, there are traffic control boxes, power poles, backflow preventers, hydrants, and other practically immovable equipment that would obstruct the pedestrian pathway. Furthermore, FDOT's preference for the sake of public safety in preventing vehicle-pedestrian conflicts is to have sidewalks cross driveways adjacent to the travel lane – the present location of the existing sidewalk. Relocating the existing sidewalk would create a sidewalk configuration that is discouraged for pedestrian safety.

On Copans Road, a 12-foot sidewalk would impact the functioning of the existing stormwater swales draining the roadway. There is no curbing along Copans Road, so that stormwater flows into the swale before being collected by the catch basins. Expanding the sidewalk would reduce the amount of stormwater storage available to the road system. The alternative to having a swale system on Copans Road would be to require extensive improvements to the public system which would include the replacement of all the drainage structures, curbing, and demolition. Further, a narrower swale on Copans Road would have much steeper sides and become a greater hazard to pedestrians. The construction of these improvements would be a nuisance to the public and provide only marginal benefit.

One of the benefits of having wider sidewalks in the TOC-G district is to provide adequate pedestrian access in and out of theoretical buildings along the sidewalk, including a certain amount of space sufficient for storefront door openings and retail sidewalk activities. The

Proposed Development provides adequate space for these activities, given the build-to line adjustment, but the location of these activities in reflection of the Proposed Development is abutting the hybrid convenience store, substantially set back from the sidewalks in question. A 20-foot wide sidewalk along Copans Road under the proposed site configuration would be impractical and detrimental to the public good.

App. A, §39.6 (A)(2)(a) and §39.8 (C)(3) – Sign code standards

Special conditions and circumstances exist which, if there is literal and strict enforcement of the provisions of the sign code standards, would constitute a hardship or practical difficulty in the use of the property involved.

In the present instance, the Code's general sign standards require a 5-foot setback and the supplemental sign regulations limit a gasoline service station to only one gasoline price monument sign.

Existing conditions on the Property give rise to the need for one additional sign to increase wayfinding visibility because the Property is located on a corner and considering the existence of the bus shelter on Copans Road and large trees that obstruct visibility along State Road 7 in accordance with the Wawa Sign Package attached hereto and made a part hereof as **Exhibit "C."** The corner is required to remain free of obstructions, and given the occurrence of site-bound customer traffic on both adjacent roadways, there is a need for wayfinding and customer gasoline pricing information that cannot be met without the addition of a minimum of one gasoline price monument signs, bringing the site total to two gasoline price monument signs.

In respect of the setback requirement, the placement of the sign will help keep the building in closer proximity to the road, which is a design preference of the TOC-G district, and there is still more than 35 feet of combined sidewalk and green space between the sign location and the edge of pavement along State Road 7. The extent of setback variance in this instance and under the circumstances is negligible.

App. A, §33.2 (B)(2) – Off-street parking wheel stop standards

Special conditions and circumstances exist which, if there is literal and strict enforcement of the provisions of the off-street parking wheel stop standards, would constitute a hardship or practical difficulty in the use of the property involved.

In the present instance, the Code requires the installation of wheel stops in parking stalls abutting sidewalks of above-ground infrastructure. The Proposed Development meets this standard for most of the 47 spaces provided, but the Applicant has found that in the interest of safety to persons and property, the installation of bollards as a more protective substitute to wheel stops is necessary. 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 store. Bollards



regarding more expensive and complicated to install than wheel stops and provide Wawa customers an adequate level of protection. 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.

2. *The board shall find that the granting of the variance will not be contrary to the public interest or the general purpose sought to be accomplished by the zoning ordinances.*

The granting of the requested variances, as discussed above, will not be contrary to the public interest or the general purposes sought to be accomplished by the zoning ordinances.

App. A, §8.4 (B)(1)(g) – Gas station distance separation

In the instance of the separation requirement, the variance would be aligned with the public interest by promoting public safety without allowing a proliferation of gas stations at locations not suitable to such uses.

App. A, §9.7 (C), (D), (H), and (I) – Urban design build-to line standards

In the instance of the requirements to locate 70% of building frontage within the build-to zone 25 feet from corridor roadways, including corners, again the variance would be aligned with the public interest by promoting public safety while still preserving the aesthetic concerns related to framing the streetscape by placement of the longitudinal canopy along Copans Road.

App. A, §9.7 (O)(2) and §23-6 (B)(2)(a) – Sidewalk and landscape standards

In the instance of the requirements that the Applicant provide a minimum landscape planting strip 8 feet in width abutting the curb and, after that, a sidewalk 25 feet in width along State Road 7, granting the variances will not be contrary to the public interest in any manner and will promote the important purpose of tree preservation and limiting the diminishment of the existing stormwater management system that keeps Copans Road safe from stormwater accumulation.

App. A, §39.6 (A)(2)(a) and §39.8 (C)(3) – Sign code standards

In the instance of the requirements that the Applicant provide a 5-foot setback and the limit the site to only one gasoline price monument sign, granting the variances would not be contrary to the public interest and, instead, would promote the public interest by providing increased opportunities for wayfinding and price comparison.

App. A, §33.2 (B)(2) – Off-street parking wheel stop standards

In the instance of the requirement that the Applicant provide wheel stops in parking stalls abutting sidewalks of above-ground infrastructure, the granting of the variance will promote the safety of persons on the Property and prevent runaway vehicles from damaging the storefront as would occur if such a vehicle hits a wheel stop at sufficient speed and does not stop. This effect is not contrary to the public interest and, instead, enhances the public interest.

3. *The board shall find that the granting of a special exception to the terms of a zoning ordinance will not be contrary to the public interest.*

The granting of a special exception to the terms of the zoning ordinances at hand will not be contrary to the public interest, as discussed above, because the present requests are aligned with and primarily serve the purpose of promoting public safety under the unique circumstances described above that are not anticipated by or directly addressed by the City's Code. A favorable decision in relation to this petition will result in a betterment of conditions within the public realm.