

**POLK COUNTY
LAND USE HEARING OFFICER
STAFF REPORT**

DRC Date:	June 12, 2025	CASE #:	LDLVAR-2025-26 (Publix Alcohol Variance)
LUHO Date:	July 24, 2025	LDC Section:	Section 224

Request: This is a request for a 3PS License (Liquor, Beer and Wine package sales) within the separation distance (2,500 feet) of religious institutions.

Applicant: David Smith

Property Owner: Cornerstone Collard Auburndale LLC

Location: 800-890 NW Jersey Road, north of Havendale Blvd, east of Jersey Road, west of Hickory Street, south of East Derby Ave, east of the City of Auburndale, in Section 12, Township 28, Range 25.

Parcel ID#: 252812-339500-000212

Size: ±9.15 acres

Land Use Designation: Neighborhood Activity Center (NAC)

Development Area: Urban Growth Area (UGA)

Case Planner: Aleya Inghima, Planner II

Summary of Analysis:

The applicant is opening a Publix and requesting a variance to the separation requirements for a 3PS alcohol license (Liquor, Beer and Wine package sales). Section 224 of the Land Development Code (LDC) requires a separation distance of 2,500 feet for establishments with 3PS licenses from schools and religious institutions. The proposed store requires a variance to this distance separation requirement from Grace Pointe Church about 1,654 feet from the property line, and First Haitian Church of the NW about 1,227 feet from the property line. However, approximately 2,300 feet away from the subject site, in the City of Auburndale, Winn-Dixie Wine & Spirits and a First Stop Liquor & Tobacco sells alcohol within 2,500 feet of these religious institutions.

Staff recommends approval for the following reason:

The request will not be injurious to the area involved or otherwise detrimental to the public welfare as approximately 2,300 feet away from the subject site, in the City of Auburndale, Winn-Dixie Wine & Spirits and another Publix sells alcohol within 2,500 feet of these religious institutions. Given the nature of the proposed alcohol license relative to the proximity of the religious institutions, staff finds this request will not pose any land use conflicts.

Development Review Committee

The Development Review Committee, based on the criteria for granting variances, finds that the applicant's request as written **IS CONSISTENT** with Section 931 of the Polk County Land Development Code.

Development Review Committee Recommendation: Based upon the application, and a recent site visit, the Development Review Committee recommends **APPROVAL of LDLVAR 2025-26** with the following conditions:

CONDITIONS OF APPROVAL:

1. The variance to Section 224 is approved for one 3PS Alcohol Beverage License (Liquor, Beer and Wine package sales) on Parcel #252812-339500-000212, as shown in the staff report and described in the staff report.
2. The applicant shall secure and locate the 3PS Alcohol Beverage License (Liquor, Beer and Wine package sales) prior to one year from the date the Land Use Hearing Officer's Final Order is rendered. The variance will be valid as long as the beverage license is current and the store does not close for a period of greater than twenty-four (24) months, otherwise the variance will become null and void.

GENERAL NOTES

NOTE: Approval of this variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the LDC.

NOTE: All conditions of approval, unless otherwise specified, shall be met prior to the effectiveness and validity of the variance approval.

NOTE: All written commitments made in the application and subsequent submissions of information made during the application review process, which are on file with the Land Development Division, shall be considered to be binding upon the applicant, provided such commitments are not at variance with the Comprehensive Plan, LDC or other development regulations in effect at the time of development.

NOTE: This staff report was prepared without the benefit of testimony and evidence submitted by the public and other interested parties at a public hearing.

NOTE: Issuance of a development permit by the county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

DEMONSTRATIONS OF THE CRITERIA FOR GRANTING VARIANCES SUMMARIZED BELOW:

1. *Whether granting the variance will be in accordance with the general intent and purpose of this Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;*

The applicant, Publix Super Markets, is requesting a variance to the 2,500-foot separation requirement between package stores with a 3PS license (Liquor, Beer and Wine package sales) and existing religious institutions, as required by LDC Section 224. The proposed store requires a variance to this distance separation requirement from the following: Grace Pointe Church located at 3900 Lake Blue Drive about 1,654 feet from the property line, First Haitian Church of the Nazarene located at 2401 34th Street NW about 1,227 feet from the property line, Kingdom Hall of Jehovah's Witnesses located at 2350 31st Street NW about 2,208 feet from the property line, and Ministerio Pan De Vida located at 601 East Derby Avenue about 2,263 feet from the property line. However, approximately 2,300 feet away from the subject site, in the City of Auburndale, Winn-Dixie Wine & Spirits sells alcohol within 2,500 feet of these religious institutions.

2. *Whether special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the applicable land use district;*

According to Property Appraiser, Grace Pointe Church was established in 1964. The church is in Auburndale, located at 3900 Lake Blue Drive about 1,654 feet from the property line within a RM (Residential Medium) land use. First Haitian Church of Nazarene was established in 1969, located at 2401 34th Street NW about 1,227 feet from the property line and is located in a INST (Institutional) land use. Kingdom Hall of Jehovah's Witnesses established in 1993, located at 2350 31st Street NW about 2,208 feet from the property line and is located in a LCC (Linear Commercial Corridor) land use. Ministerio Pan De Vida was established in 1974, located at 601 East Derby Avenue about 2,263 feet from the property line and is also in a LCC (Linear Commercial Corridor) land use. Kingdom Hall of Jehovah's Witnesses and Ministerio Pan De Vida are not subject to a separation distance because they are located in a commercial future land use district.

Winn-Dixie Wine & Spirits, ±2,200 feet from the subject site, located in Auburndale, was established in the late 70s and is located in a NAC (Neighborhood Activity Center) land use. The nearest Publix, ±1,400 feet from the subject site, located in Auburndale, was established in 1994 and is located in a NAC (Neighborhood Activity Center) land use. These establishments sell alcohol within 2,500 feet of these religious institutions. If these religious institutions opened after the stores, no extra burden of approval would be placed on either entity.

3. *Whether provided the special conditions and circumstances present in the request do not result from the actions of the applicant;*

NAC is a land use district where commercial uses are expected, and alcohol sales are typically allowed. It is important to realize that the separation requirements of Section 224 apply to a wide variety of uses that have disparate intensities and effects upon the surrounding area. Bars and lounges, for instance, require a 4COP license for consumption on premises. The business hours of bars and lounges vary, often with hours that might impact a residential community, school, or religious institution. Furthermore, this case illustrates the uneven nature of alcohol policies in Polk

County. If this request was for a restaurant at this location that served beer and liquor but could seat 150 people, it could be granted a 4COP-SRX special retail license and be exempt from any distance requirements.

4. *Whether granting the requested variance will not confer on the applicant any special privilege that is denied by the provisions of this Code and will constitute unnecessary and undue hardship on the applicant;*

Several alcohol-distance variances for alcohol sales have been approved since the adoption of the LDC. Therefore, this request is a privilege that has been enjoyed by others under similar circumstances. Per Table 2.2 of the LDC, the Use Table for Standard Land Use Districts, “Alcohol Sales” are a “C1” conditional use that requires an administrative approval. Below is a chart of other liquor stores (3PS License) that have been approved within 2,500 feet of a school or religious institution.

Case	BOA/LUHO Date	Schools/Religious Institution
VAR 12-56	7/26/12	Seven Churches & One High School
VAR 12-73	8/23/12	Two Churches & One High School
LDVAR-2019-55	8/22/19	One Church
LDVAR-2019-72	9/26/19	Two Churches & One Middle School
LDVAR-2020-57	6/26/20	One Church
LDLVAR-2021-107	11/15/21	Two Schools & One Church
LDLVAR-2021-122	1/27/22	Two Churches
LDLVAR-2022-36	7/28/22	One Church
LDLVAR-2022-54	8/25/22	One School
LDLVAR-2022-112	2/23/23	One School & One Church
LDLVAR-2023-67	2/22/24	One Church & One School
LDLVAR-2024-10	4/25/24	Four churches
LDLVAR-2024-31	8/29/24	One School
LDLVAR-2024-46	11/12/24	One School

5. *Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;*

For this location and this request, this is the minimum variance needed. Though the LDC requires a straight-line measurement from property line to property line, measuring this buffer in such a manner is arbitrary in nature, bound more to social and political influences than land use realities. It provides no advice on the physical barriers on the ground, ignoring too many practical factors, from the path in which one must access these facilities, hours of operation, interactions with other land uses, history of the uses at a location, etc. The surrounding cities, Auburndale and Winter Haven, permit much shorter distances for package sales. Auburndale has a 500-foot distance restriction, and Winter Haven has a 400-foot distance restriction from religious institutions. If the subject site was in either one of these city’s limits, an alcohol variance would not be required. It is also important to note that the subject site will be connected to Winter Haven water and sewer.

6. *Whether that in no case shall a variance be granted which will result in a change of land use that would not be permitted in the applicable land use designation;*

Granting this variance will not result in a change of land use.

7. *Whether that in no case shall the Land Use Hearing Officer or the Planning Commission grant a variance which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this variance will not result in the creation of a lot or parcel.

8. *Whether that the granting of the variance does not circumvent a condition or the intent of a condition placed on a development by the Planning Commission or the BoCC.*

Granting this variance will not circumvent a condition or the intent of a condition placed on the development by the Planning Commission or the BoCC.

Surrounding Future Land Use Designations and Existing Land Use Activity:

Northwest: RM Apartment Complex	North: RH Vacant	Northeast: RL Single Family
West: LCC Autobody Shop	Subject Property: NAC Vacant	East: RL Single Family
Southwest: NAC Auto Detailing	South: NAC Vacant	Southeast: NAC Vacant

Comments from other Governmental Agencies: None

Exhibits:

- Exhibit 1: Location Map
- Exhibit 2: Future Land Use Map
- Exhibit 3: Aerial Image - Context
- Exhibit 4: Site Plan 1
- Exhibit 5: Distance Survey
- Exhibit 6: Section 931 Justification



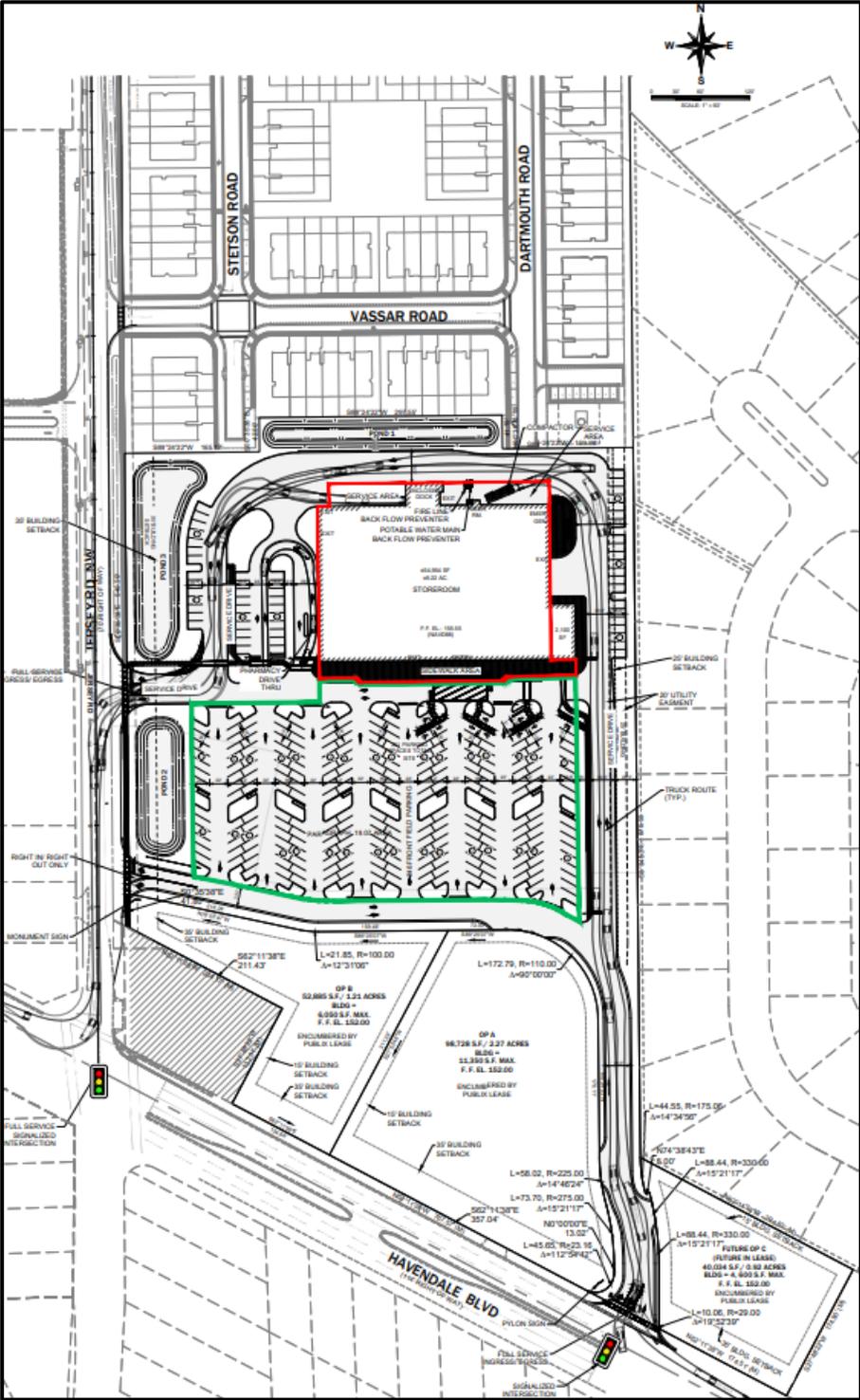
Site Location



Future Land Use Map



Aerial Context



Site Plan



Distance Survey

PUBLIX SUPER MARKETS, INC.
HAVENDALE LIQUOR STORE #2035

Northeast corner of Jersey Road and Havendale Boulevard
Winter Haven, Florida

Variance Application No. _____

WRITTEN STATEMENT

This Variance Application is being filed for a proposed 2,100 square foot Publix liquor store (3-PS liquor, beer and wine package sales) to be constructed in the Shopping Center located at the northeast corner of Jersey Road and Havendale Boulevard in Winter Haven, Florida. The Parcel Identification Number for the subject property is 25-28-12-339500-000212 and consists of 9.79 acres. The subject property is located in the NAC – Neighborhood Activity Center future land use district.

The proposed liquor store requires variances to the distance separation requirement to the following uses:

The Polk County Code of Ordinances in Chapter 3 Alcoholic Beverages as well as Section 224 of Chapter 2 provide that alcoholic beverage uses must meet a minimum distance separation of 2500' from religious institutions or public and private kindergarten thru 12th grade school or any childcare facility offering the Voluntary Pre-kindergarten (VPK) Education Program in accordance with Chapter 1002 of the Florida Statutes.

The following uses are within the 2,500 distance separation area to the proposed liquor store:

1. Grace Pointe Church
3900 Lake Blue Drive
Zoned City of Auburndale (Commercial, Highway)
(1,654.47± Feet)
2. First Haitian Church of the Nazarene
2401 34th Street NW
Zoned (Institutional)
(1,227.22± Feet)
3. Kingdom Hall of Jehovah's Witnesses
2350 31st Street NW
Zoned (Linear Commercial Corridor)
(2,208.77± Feet)

4. Ministerio Pan De Vida
601 East Derby Avenue
Zoned City of Auburndale (General Residential)
(2,263.42± Feet)

Section 931 Criteria for Granting Variances - Factors to be considered:

In order to authorize any variance from the terms of these Land Development Regulations, except variances to Section 303 Communication Towers, the Land Use Hearing Officer shall consider the following factors:

1. Whether granting the variance will be in accordance with the general intent and purpose of this Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;

This application is to request variances to the 2,500-foot distance separation requirement between package stores with a 3-PS license and existing religious institutions, as required by LDC Section 224. Publix Super Markets, Inc. is seeking to add a 2,100 square foot liquor store in the shopping center to be constructed at the northeast corner of Jersey Road and Havendale Boulevard which is a shopping center located in the NAC – Neighborhood Activity Center future land use district. The proposed liquor store will be constructed adjacent to the Publix supermarket. The proposed liquor store will serve the local residents and travelers in the area. Liquor stores are not permitted to be open on Sundays when most religious institutions are at their peak utilization. There are currently no other liquor stores in the immediate vicinity of the proposed liquor store and this area is experiencing high residential growth. Therefore, the requested variances are in accordance with the general intent and purpose of this Code, and will not be injurious to the area involved or otherwise detrimental to the public welfare. The operational characteristics of a liquor store are not any more impactful than other commercial uses permitted by the property's zoning and therefore will not be injurious to the area or detrimental to the public welfare.

2. Whether special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the applicable land use district;

The proposed Publix liquor store is to be constructed in the shopping center to be constructed at the northeast corner of Jersey Road and Havendale Boulevard which is a shopping center located in the NAC – Neighborhood Activity Center future land use district. The proposed liquor store will be constructed adjacent to the Publix supermarket. The proposed liquor store will serve the local residents and travelers in the area. Liquor stores are not permitted to be open on Sundays when most religious institutions are at their peak utilization. There are currently no

other liquor stores in the immediate vicinity of the proposed liquor store and this area is experiencing high residential growth. Publix co-locates Publix Liquor stores only in centers where a Publix grocery store is located. The NAC is intended to be the location for neighborhood commercial uses and the location of the liquor store in this category is consistent with the categories intent.

3. Whether provided the special conditions and circumstances present in the request do not result from the actions of the applicant;

The special conditions and circumstances do not result from the actions of the Applicant. It is the "special conditions and circumstances" that have attracted the Applicant to this site. A high volume corner property like this one is essential to the success of a supermarket as well as a liquor store. The Applicant would not be seeking a variance to locate a liquor store at this location if it was not for the market phenomenon that are present and the location of the grocery store. There is also a high amount of new residential growth occurring in the immediate area as well. As previously stated the NAC- Neighborhood Activity Center designation encourages commercial uses to the subject site.

4. Whether granting the requested variance will not confer on the applicant any special privilege that is denied by the provisions of this Code and will constitute unnecessary and undue hardship on the applicant;

The granting of the requested variance will not confer on the Applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district. Not only has the Board of Adjustment and Land Use Hearing Officer approved many alcohol distance variances for liquor stores since the adoption of the LDC, but several of them have been approved within shopping plazas in unincorporated Polk County since 2012. Therefore, this request is a privilege that has been enjoyed by others under similar circumstances. Publix would suffer an undue hardship that is unnecessary.

5. Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;

The requested variance is the minimum variance that will make possible the reasonable use of the land, building, or structure to be constructed. The alcohol separation distance is measured from the property line of the shopping center to the protected uses and the requested variance is the minimum required for compliance from each identified use.

6. Whether that in no case shall a variance be granted which will result in a change of land use that would not be permitted in the applicable land use designation;

Granting this variance will not result in a change of land use. Were it not for the contents of the products sold, this use would be considered retail in a commercial district. The liquor store use is a permitted use in the NAC – Neighborhood Activity Center district were it not for the location of the nearby churches.

7. Whether that in no case shall a variance be granted which would result in creation of any residual lot or parcel which does not meet the requirements of the Code; and

Granting this request will not result in the creation of a lot or parcel that does not meet the requirements of the Code

8. Whether that the granting of the variance does not circumvent a condition of the intent of a condition placed on a development by the Planning Commission or the BoCC.

The granting of the requested variance will not circumvent a condition or the intent of a condition placed on the development by the Planning Commission or the BOCC.

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Section 931 Justification