

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.