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7040, 7050 W. Commercial Boulevard
Variance Request and Justification

G.I. of Commercial, LLC (“Applicant”) is the owner of two properties located at 7040 and 7050 W. Commercial Boulevard (PCN#:s: 494115140110 and 494115140100, respectively) (collectively referenced as the “Property”). The Property is +/- 1.33 acres (58,000 square feet “SF”) and is generally located southeast of the intersection of W. Commercial Boulevard and NW 70th Avenue in the City of Lauderhill (“City”), Broward County (“County”). The Property has a County future land use map designation (“FLUM”) of Commerce (“C”) and a City FLUM of Commercial (“C”). The Property’s zoning designation is General Commercial (“CG”). The Property abuts uses zoned CG to the east and west and Residential Single Family (“RS-5”) to the south.

A portion of the Property (7050 W. Commercial Boulevard) is currently developed with a +/- 2,265 SF building – currently used as a Popeye’s fast food restaurant with drive-through (“Existing Popeyes”). The portion of the Property located at 7040 W. Commercial Boulevard is currently vacant. Applicant intends to develop the vacant portion of the Property with a +/- 2,977 SF Popeye’s fast-food restaurant with drive-through (“Project”). In conjunction with the Project, the Applicant intends to execute a Unity of Title, unifying the two properties. It is also important to note that the 7040 Property recently obtained a special exception approval on November 30, 2020 via Resolution No. 20R-11-238 to construct a Popeye’s restaurant with double drive-through lane use on the Property, subject to certain conditions (“Special Exception Approval”).

The Applicant’s proposed site plan for the Project includes two drive-through lanes with two outdoor menu boards. According to Section 5.32.2 of the City’s Land Development Regulations (“LDR”), fast food restaurants with drive-throughs must comply with certain conditions, including Section 5.32.2 (g), which requires that outdoor menu boards be located a minimum distance of two hundred (200) feet from any residentially zoned property. The Applicant’s site plan proposes one of the two outdoor menu boards to be located 99.42 feet (99.42’) from the property line abutting residentially zoned property. Accordingly, considering the foregoing, the Applicant respectfully requests the following variance:

Variance from Article III, Section 5.32.2(g) of the LDR to allow outdoor menu boards to be located a minimum distance of 99.42 feet (99.42’) from any residentially zoned property in lieu of the 200 feet (200’) required (“Variance”).

Per Section 3.1, the Board of Adjustment (“Board”) has the power to grant variances upon a finding that the criteria enumerated in Section 3.1.3 has been met. Accordingly, in support of the Variance, the Applicant will demonstrate compliance with the following: A. That there are unique and special circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district. The matter of economic hardship shall not constitute a basis for the granting of a variance; B. That any alleged hardship is not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of these regulations or any pertinent Code section; C. That strict application of the provisions of these regulations or any pertinent Code section would deprive the property owner of reasonable use of the

property for which the variance is sought; D. That the variance proposed is the minimum variance that makes possible the reasonable use of the property; E. That granting the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood or area, or otherwise detrimental to the public welfare.

LDR Section 3.1.3

- A. That there are unique and special circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties in the same district. The matter of economic hardship shall not constitute a basis for the granting of a variance.**

There are unique and special circumstances or conditions applying to the property in question and the intended use of the property that do not apply generally to other properties in the same district. The 7050 Property has an Existing Popeye's in similar size to the Project. The Existing Popeye's is older and needs to be renovated to meet current Popeye's standards. Instead of renovating the Existing Popeye's to meet the current Popeye's drive-through standards, the Applicant is proposing constructing a new Popeye's on the Property. The menu boards for the Existing Popeye's are at a similar location to the proposed menu board location on the Project. As the Property is narrow in width with substantial parking requirements, the Property requires a long and narrow building. Accordingly, the positioning of the menu boards on the site is unique to the Property's size and configuration. Further, the Applicant is proposing providing the surrounding area a new and improved product instead of the older product that currently exists today. It is also important to note that the neighbors to the south will not be adversely affected – the conditions will be substantially similar to the current Existing Popeye's conditions. Thus, there are unique and special circumstances or conditions applying to the property in question and the intended use of the Property that do not apply generally to other properties in the same district.

- B. That any alleged hardship is not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of these regulations or any pertinent Code section.**

The alleged hardship is not self-created by any person having an interest in the Property nor is it the result of mere disregard for or ignorance of the provisions of these regulations or any pertinent Code section. The Existing Popeye's has been constructed on the Property for almost twenty years. The menu board for the Existing Popeye's is in a similar location abutting the residential zoned district as the Project is proposing. The building configuration is dictated based on the Property size and configuration. The Property's north frontage abuts Commercial Boulevard, an area in the City where commercial development is intended and encouraged (as evidenced by the Property's land use and zoning designations). Additionally, it is important to note that the majority of all commercially zoned property in the City either directly abuts residentially zoned property or is located within 200 feet of same. As the Applicant is providing substantial protections to the residential zoning district to the south, including adding a new eight foot (8') high wall, the proposed use is suitable for the Property as it already exists in the immediate area, a mere 50 feet west of the proposed location. Thus, the alleged hardship is not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of these regulations or any pertinent Code section.

C. That strict application of the provisions of these regulations or any pertinent Code section would deprive the property owner of reasonable use of the property for which the variance is sought.

As mentioned, the Existing Popeye's has been existing at the Property for almost twenty years. The Property is located on a main arterial in the City. Since the majority of the City's Property is located along commercial corridors with residential uses bordering to the interior of the commercial uses, the City's 200' separation between residentially zoned property and menu boards is difficult to achieve based on the City's corridor design. The Applicant is not proposing an additional fast food with drive-through use, but is merely proposing relocating the Existing Popeye's use into a new building on the same Property. The Existing Popeye's will close before the new Project opens, and it is anticipated that the Existing Popeye's building will be utilized as a retail use. The Applicant is taking extra precautions to ensure there is minimal light spillage and minimal noise pollution, while still consistently providing the surrounding area a convenient lunch and dinner option. Accordingly, strict application of the provisions of these regulations or any pertinent Code section would deprive the property owner of reasonable use of the Property for which the Variance is sought.

D. That the variance proposed is the minimum variance that makes possible the reasonable use of the property.

The Variance proposed is the minimum possible for the reasonable use of the Property. The Property is narrow in width, requiring a long, narrow building. As drive through uses are long and narrow buildings, a drive through use is suitable on the site, based on the platted dimensions. In order to provide the requisite minimum front setback of 123', the requisite 53 parking spaces, sufficient site circulation and double menu boards to allow minimal queuing and faster and more convenient ordering for patrons, the menu boards must be pushed closer to the residential zoning district. Accordingly, the proposed Variance is the minimum variance necessary to makes possible the reasonable use of the Property.

E. That granting the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood or area, or otherwise detrimental to the public welfare.

Granting the Variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood or area, or otherwise detrimental to the public welfare. As mentioned, the Existing Popeyes has been serving the needs of the surrounding neighborhood by providing a sustainable food option for lunch and dinner patrons. The Existing Popeyes, which is located approximately 50 feet east of the Project, also abuts residentially zoned property to the south. The Existing Popeyes features a drive-through window with outdoor menu board. Therefore, the outdoor menu boards that will be constructed for the Project will operate in the same manner as the outdoor menu boards for the Existing Popeyes. Further, the Property is bordered to the south by an existing fence, which provides a buffer between the commercial use and the residential use. Additionally, per Condition six of the Special Exception Approval, the Applicant is required to construct a new eight foot (8') high wall along the south property line pursuant to Art III Sec. 5.18.16, meeting all design standards in Schedule P—before the operation of the Project. Additionally, since the Project will replace the Existing Popeyes upon completion, there will be no additional disruption to the neighborhood or surrounding area. To the contrary, patrons will benefit from the updated drive-through facilities by providing a quicker and more efficient route to cycle through the drive-through lane.

Finally, it is important to note that the Property's north frontage abuts Commercial Boulevard, an area in the City where commercial development is intended and encouraged (as evidenced by the Property's land use and zoning designations). Notably, the majority of all commercially zoned property in the City either directly abuts residentially zoned property or is located within 200 feet of same. As the Project is a mere 50 feet west of the Existing Popeyes, the proposed use is suitable for the Property as it already exists in the immediate area. Thus, the variance will be in harmony with the general purpose and intent of existing regulations, will not be injurious to the neighborhood or area, or otherwise detrimental to the public welfare.