

Exhibit C- Responses to the Standards for Granting Variances

**VARIANCE TO REDUCE THE PARKING LOT SETBACK ALONG WASHINGTON STREET FROM 30' TO 20'**

- a. *The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The Subject Property is surrounded by public roadways on all four sides. Washington Street to the north is considered a major arterial which consists of a four-lane one hundred foot (100') wide right-of-way. The retail buildings will actually be setback considerable distances of between sixty-one feet (61') (building a) and two hundred and fifteen feet (215') (buildings b & c) from Washington Street, thereby significantly exceeding the City's B-1 zoning district requirement of thirty feet (30'). However, City Code also requires that when parking lots are across from residential zoned property, the parking lots are setback thirty feet (30') from the property line. In this case the residentially zoned property is on the other side of Washington Street which is over one hundred and fifty feet (150') away. Therefore, Petitioner proposes to provide a twenty foot (20') parking setback along Washington Street which will also allow for attractive parkway landscaping including parkways trees, decorative shrubs as well as a fully sodded parkway. Without the variance, Petitioner would be required to shift the parking lot south ten feet (10') along with retail buildings b and c which would then reduce the enhanced setback from the residences along Catalpa Lane and negatively impact the grove of trees that Petitioner is seeking to preserve along the south property line. The parking setback variance will also allow for enhanced vehicular circulation including necessary drive aisles, pedestrian walks, drive through lanes as well as parking space depth.

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- b. *Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

The requested parking setback variance is consistent with the trend of development along Washington Street whereby the existing business uses and new business uses have parking lots that are twenty feet (20') or less from the right-of-way line including the recently constructed 720 N. Washington building and First Midwest Bank building. Strict enforcement of this requirement would cause the parking areas and buildings to be shifted ten feet (10') to the south and reduce the enhanced setback along the south property line where the buildings are adjacent to residential uses. Additionally, compliance with the parking setback requirement would have a detrimental effect on the parking lot circulation, layout and function.

- c. *The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The variance, if granted, will help pave the way for a significant investment on Washington Street which is in conformance with the Comprehensive plan and the highest and best use of the property. Additionally, the area adjacent to the parking area will include significant landscape enhancements further improving upon the appearance of the area. The front yard parking variance will allow Petitioner to increase the setback along the south property adjacent to residential and will also provide for the preservation of the mature grove of trees along the north property line and a twenty foot (20') landscape buffer yard.

**VARIANCE TO PERMIT OFF-SITE MONUMENT SIGNAGE ON LOT 1 AND LOT 4**

- a. *The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The off-site monument sign request is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan. A stated purpose of the Sign Code is to

“advance the economy of the City by recognizing the need for adequate site identification through promoting the reasonable and objective display of signage, and to encourage effective communication between signs and the public.” The off-site monument sign variance arises only due to a technical platting matter. The Petitioner intends to create a shared lot for parking purposes which will be lot 4. Lot 4 is being created for the purposes of conveying it to a business owners association that will be formed and responsible for all common area parking maintenance. As the monument sign will be located on lot 4, City Code then considers the monument signs as off-site even though it is adjacent to the building it serves. If the Petitioner did not create a separate lot for the parking areas, no variance would be required. For all practical matters the monument signs will be adjacent to the retail buildings they serve and have no negative effect.

*b. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property; and*

The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. The proposed monument signs meet the criteria required for ground signs. The variance arises solely out of platting parameters. If the parking area were not platted as its own separate lot, no off-site signage variances would be required. Therefore, if granted, the variance will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. Strict enforcement of the Sign Code would result in the petitioner having to re-plat the Subdivision and not have the parking areas owned by a business owners association. In lieu of creating a separate out lot for the parking, Petitioner would then have to record easements over this area for the association to maintain. This later approach is not the proper way to provide for ownership and maintenance of open space areas.

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Lastly, the proposed variation will not be materially detrimental or injurious to other property or improvements in the neighborhood. In fact, approval of the variance will provide a substantial improvement to the Subject Property. Moreover, the proposed variation will have no effect on the visibility to adjacent property, will not increase danger or traffic problems, and will not endanger the public safety. Allowing construction of the new monument signs will improve the overall aesthetic of the neighborhood. Additionally, approval of the variance will allow the Subject Property to be used as many other properties are utilized in the vicinity.

- c. *Strict enforcement of this Title would result in practical difficulties or impose exceptional hardship due to special and unusual conditions which are not generally found on other properties in the same zoning district.*

The hardship has not been created by the Petitioner or any person having a proprietary interest in the monument sign. The platting of the site along with the surrounding neighborhood creates a unique set of circumstances.

**VARIANCE TO PERMIT MONUMENT SIGNS WITHIN 40' OF AN INTERIOR PROPERTY LINE**

- a. *The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The variance to locate monument signs within forty feet (40') of an interior property line is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan. A stated purpose of the Sign Code is to "advance the economy of the City by recognizing the need for adequate site identification through promoting the reasonable and objective display of signage, and to encourage effective communication between signs and the public." The need for a variance in this case also arises due to a platting matter. Due to the Petitioner creating a separate lot for the parking area and ownership purposes, the monument signs located along Gartner Road and Sycamore Drive are considered within forty feet (40') of the lot 4 interior setback. The intent of the forty foot (40') interior setback requirement is to

protect adjacent property owners from clutter and interference of sight lines. In this case, the forty foot (40') setback in question is internal to the site and will have no effect on any adjacent property. Additionally, monument signs should as a practical matter be placed in close proximity to access roads to insure adequate site identification. Therefore, not only will this variance not have any detrimental effect on neighboring properties, but it will provide for the monument signs to be placed in optimal locations. The Petitioner will also meet all other sign requirements, including lot width, required sight lines and dimensions. Additionally, through the use of landscape treatments the monument signs will provide substantial aesthetic improvement to the existing condition and provide an enhancement to the Washington Street Corridor. Lastly, there will be no negative impact to the character of the neighborhood.

*b. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property; and*

The variances, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. The proposed monument signs meet the design criteria required for ground signs. The variance arises solely out of platting parameters. If the parking lot were not platted as its own separate lot, no interior setback variance would be required. Therefore, if granted, the variance will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. Strict enforcement of the Sign Code would result in the petitioner having to re-plat the Subdivision. In lieu of creating a separate out lot for interior roadway, Petitioner would then have to record easements over this area for the association to maintain. This later approach is not the proper way to provide for ownership and maintenance of open space areas and a private drive.

Lastly, the proposed variations will not be materially detrimental or injurious to other property or improvements in the neighborhood. In fact, approval of the variances will provide a

substantial improvement to the Subject Property. Moreover, the proposed variations will have no effect on the visibility to adjacent property, will not increase danger or traffic problems, and will not endanger the public safety. Instead, allowing construction of the new monument signs will improve the overall aesthetic of the neighborhood. Additionally, approval of the variances will allow the Subject Property to be used as many other properties are utilized in the vicinity.

- c. *Strict enforcement of this Title would result in practical difficulties or impose exceptional hardship due to special and unusual conditions which are not generally found on other properties in the same zoning district.*

The hardship has not been created by the Petitioner or any person having a proprietary interest in the monument sign. The platting of the site along with the surrounding neighborhood creates a unique set of circumstances.

**VARIANCE TO ELIMINATE THE BYPASS LANE ALONG THE SOUTH SIDE OF BUILDING A**

- a. *The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and*

The variance to eliminate the bypass lane is consistent with the intent of this title and the adopted comprehensive plan. Granting the bypass lane variance will allow for the efficient utilization of the Subject Property and provide for the redevelopment of the Subject Property consistent with the City's comprehensive plan. A partial bypass lane will be provided along the east and south side of the building by the drive thru in the event a visitor changes their mind and does not want to wait in line.

- b. *Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

Strict enforcement of this title would result in the need for a parallel pavement section which would serve little, if any, purpose. The additional paved area would create unnecessary

pavement to maintain, additional impervious area, less landscaped area and would have a negative effect on the parking and site layout.

- c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The variance to eliminate the bypass lane will have no negative effect on the essential character of the neighborhood and will not be a substantial detriment to the adjacent property. Vehicles wishing to access the building will access the drive thru from the internal east/west circulation drive. Once the visitor orders there is an east/north bypass available if the visitor changes their mind. The east/south bypass lane will insure no one has to back out, thereby fulfilling the intent of the Code. This condition is similar to other drive thrus in town.

#### **VARIANCE TO ELIMINATE THE LOADING BERTH**

- a. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property; and*

Pursuant to Section 6-9-5 of the Code, off street loading requirements are calculated based on gross floor area. One loading berth is required for buildings or structures containing 7,000 to 40,000 square feet of gross floor area. The proposed development overall consists of +/- 21,000 square feet of retail and office uses divided between three separate buildings thus requiring one loading berth for building C. The inclusion of a loading berth would have an impractical and unsightly effect on the residential character of the neighborhood. The purpose of the off-street loading requirement is to ensure adequate receiving facilities to prevent traffic conflicts with internal driveways or external roadways. The internal driveways and parking areas on the Subject Property shall be private and under the exclusive control of the Petitioner. As a mixed-use development consisting of consumer retail and office, truck traffic within the development is discouraged, and the use of a loading berth is both undesirable and is

unnecessary. As is the practice in most small office and retail developments, any deliveries would be minor in nature and could be accommodated by car or van over the shared access areas internal to the site. Additionally, where adjacent to loading areas the drive isles are thirty feet (30') to accommodate deliveries as well as cross traffic. Therefore, the Petitioner's request to eliminate the loading berth will have a positive aesthetic effect on the development and overall community and contribute to a mixed-use development offering a superior level of design, enhancement, and environmental benefits.

*b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

Strict enforcement of this Title would create practical difficulties for the Petitioner as the creation of a designated loading berth would create an unnecessary eyesore. Strict enforcement of the loading requirement would create practical difficulties for Petitioner by imposing additional cost burdens and creating inefficiencies in Petitioner's long-term operation of the Subject Property.

*c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property because ample loading space is accommodated in the design and layout of the development. The loading berths for each individual building are both unnecessary and undesirable. Eliminating the loading berth will enhance the overall aesthetics of the area.

**VARIANCE TO EXCEED THE B-1 FLOOR AREA RATIO LIMINATION OF .325 ON LOT 3**

*a. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property; and*



Currently the Subject Property is zoned "ORI" which permits a floor area ("FAR") ratio of 1.5. Multiplied by 3.5 acres, the Subject Property is currently permitted a total FAR of 228,573 square feet which is an absolutely massive building. The City's B-1 zoning district which is requested is somewhat of a down zoning in that it only allows a FAR of .325 which is roughly 1/5<sup>th</sup> of what the OCI zoning district allows as far as density. Here the Petitioner is proposing a total overall square footage of 28,500 which amounts to a total FAR of about half of the .325 permitted (.187). The need for the FAR variance only arises due to the fact that the Petitioner is seeking to plat open space areas, parking areas and common areas as a separate lot for proper functioning of the future owner's association and to provide for shared parking. As a result, when looking at lot 3 a distorted result occurs and lot 3 has a FAR of .724. The other lots have FAR's of 0, .137, and .316 respectively. This issue could be eliminated by combining lots 3 & 4 together. Combining these lots would have no practical effect other than eliminating this variance and negatively effecting how the future owner's association functions. The proposed floor area ratio variance will have no negative impact whatsoever. Overall, the Petitioner is only seeking a FAR that is about 10% of what is permitted in the current OCI zoning district and a FAR of about 50% of what is allowed in the B-1 zoning district.

*b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and*

Strict enforcement would result in the need for petition to re-plat the subdivision to consolidate lots 3 & 4 into one lot and record easements over the parking areas. This is not the optimal method to subdivide property or facilitate a business owner's association with shared parking.

*c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.*

The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. The variance arises solely out of

plating parameters. If lots 3 and 4 were platted together, no would be required. Therefore, if granted, the variance will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. Strict enforcement of the Sign Code would result in the petitioner having to re-plat the Subdivision and not have the parking areas owned by a business owners association. In lieu of creating a separate out lot for the parking, Petitioner would then have to record easements over this area for the association to maintain. This later approach is not the proper way to provide for ownership and maintenance of open space areas.