

## Standards for Granting a Variance

### Parking Variance:

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

The purpose of the off-street parking requirement is to ensure that adequate parking is provided to meet the demand. Accordingly, the Code provides that each property must provide on-site parking to meet the anticipated parking demand, based on the use of the individual property. The proposed variance to reduce the required off-street parking from two spaces per residence to one space per bedroom is consistent with the purpose and intent of the zoning regulations. To facilitate the efficient use of the Subject Property, the Petitioner has designed the proposed development to facilitate pedestrian and bicycle access to and from the existing mass transit retail, employment and entertainment options located in proximity to the Subject Property. It is very likely that many residents will not require cars at all, let alone two cars per residence. It is important to consider that this is a unique property in close proximity to many transportation options which meets all criteria of a TOD. The Petitioner has also hired Erickson Engineering to prepare a comprehensive parking analysis which is attached as Exhibit B [to the Development Petition] which report evidences that sufficient parking will be provided.

Additionally, the parking Code also makes no provision for mixed-use developments with shared facilities. In this case, the Subject Property consists of both retail and residential uses. The governing documents for this development will provide for the shared use of parking facilities between the uses in the development. This "shared parking" agreement will facilitate the efficient use of property and avoid the need to build unnecessary expanses of paved parking areas. Due to the nature of the retail and residential use, the peak demand for parking occurs at different times of the day and different days of the week. Peak retail parking demand occurs during working hours. Accordingly, these complementary uses can share adjacent parking facilities, which do not individually meet the Code required parking, but can collectively meet the peak demand generated by each of the uses. As a result, Petitioner seeks to reduce the Code required parking based upon the availability of shared parking.

The proposed variance is also consistent with sustainable development practices and the City's policy to facilitate efficient use of property. The proposed variance will not alter the essential character of the area, undermine the intent of and purpose of the underlying zoning district, or have any impact on the larger neighborhood as the Subject Property enjoys the benefit of a shared parking agreement. As a result, the requested variance contributes to a mixed-use development which offers a superior level of design, enhancement, and environmental benefit. The proposed variance to reduce the required off-street guest parking is also consistent with the purpose and intent of the zoning regulations. The Subject Property is in very close proximity to over 1,000 commuter spaces which are available on the nights and weekends as well as the 23 retail spaces available at the front of the building.

With regard to the retail component, pursuant to the Code a furniture store is required to be parked at two spaces per 1,000 square feet and general retail is to be parked at four and a half spaces per 1,000 square feet. A flooring store is very similar to a furniture store in regard to the number of visitors and should be treated similarly. This is directly in line with what Great Western Flooring estimates their peak parking requirement to be for this location, which is nine spaces. This estimate is based upon over 11 years of historical usage at their present location at Ogden and Washington

(one third of a mile north of this site). This same variance was recently granted by the City on multiple occasions including for the PM Bedroom Gallery when it recently added a flooring store component. The remaining +/- 2,278 square feet of retail will be parked per City requirements.

2. *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*

Great care was taken in site and building design. Strict enforcement of this parking requirement would require the Petitioner to install and maintain excess parking areas that will not be used.

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

This variance would be virtually undetectable and will actually provide for the enhancement of the essential character of the neighborhood. In addition, the parking study clearly shows that the development will be adequately parked. Additionally, during the nights and weekends, over 1,000 spaces will be available for any guests of the development which creates an excellent utilization of the available parking in the area. These attributes will certainly enhance the overall essential character of the area.

#### **Setback Variance:**

1. *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 adjacent to Washington Street to the west (front yard) and residential homes to the east (rear yard). The OCI zoning district requires a front yard setback of 20 feet for the building. The building itself will actually be setback approximately 78 feet from Washington Street in conformance with the City's OCI zoning district. However, Code Section 6-9-2-4.6 requires that the parking lot be setback 20 feet from the right of way line or 70 feet from the centerline. The parking lot will be setback 10 feet from Washington Street right of way line and 43 feet from the centerline of Washington Street. The 5th Avenue Study intends that new development along Washington Street be constructed closer to the property line to maximize the rear yard setback. The proposed rear yard setback is 31 feet to maximize the distance from the homes to the east consistent with the 5th Avenue Study and the trend of development along Washington Street. These design attributes insure that the essential character (commercial and commuter activity to the west) and residential feel to the east will be preserved, and there will be no detriment.

2. *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 required 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 within the 20 feet setback area. Strict enforcement of this requirement would cause the Subject Property to not be developed in conformance with the 5th Avenue Study, the existing uses along Washington Street, or in conformance with the highest and best use of the land.

3. *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 mixed-use development which is in conformance with the 5th Avenue Study, the City's vision for this parcel and the highest and best use of the property, so there will be no detriment to the adjacent properties. By constructing the proposed mixed-use development, the Petitioner will enhance the overall essential character with a compatible residential use and enhance the area and larger community.