



Application No.:

V-2016-021(c)

Attachment "A"

Town Consultant Report

1622 Investment Corp

VARIANCE

V-2016-021 (c)

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A VARIANCE APPLICATION TO ARTICLE IV, DISTRICTS AND DEVELOPMENT STANDARDS, SEC. 3-60(4) OF THE TOWN CODE RELATING TO THE **REAR PRINCIPAL STRUCTURE SETBACKS** FOR 1622 INVESTMENT CORP GENERALLY LOCATED SOUTHWESTERLY OF CARIBBEAN BOULEVARD AND U.S. 1 EXTENDING A DISTANCE OF 917.27 FEET (FOLIO NOS. 36-6007-000-0333, 36-6007-000-0334, 36-6007-000-0330, 36-6007-000-0336); AND PROVIDING FOR AN EFFECTIVE DATE.



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☒ **Miami-Dade Office** · 10800 Biscayne Boulevard · Suite 950 · Miami, FL 33161 · 786.485.5200(p) · 786.485.1520(f)

Date: June 20, 2018

To: Rafael Casals, Town Manager

From: Alex A. David, AICP, Consultant Planner

Subject: 1622 Investment Corp. (Application No. V-2016-021(c))

Project: Variance of Rear Setback Requirements (Sec. 3-60(4))

CC: Sarah Sinatra Gould, AICP, Consultant Planner

REQUEST

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A VARIANCE APPLICATION TO ARTICLE IV, DISTRICTS AND DEVELOPMENT STANDARDS, SEC. 3-60(4) OF THE TOWN CODE RELATING TO THE REAR PRINCIPAL STRUCTURE SETBACKS FOR 1622 INVESTMENT CORP GENERALLY LOCATED SOUTHWESTERLY OF CARIBBEAN BOULEVARD AND U.S. 1 EXTENDING A DISTANCE OF 917.27 FEET (FOLIO NOS. 36-6007-000-0333, 36-6007-000-0334, 36-6007-000-0330, 36-6007-000-0336); AND PROVIDING FOR AN EFFECTIVE DATE.

1622 Investment Corp. is seeking approval of a site plan and seven (7) associated variances to permit an 18,182 square foot retail/office development on four (4) parcels totaling ± 1.05 net acres (45,855 sq. ft.). A copy of the proposed variance application including the letter of intent is provided in Attachment "B". The Variance requested is from Sec. 3-60(4) Table of Standards to allow a rear setback of 0 feet where a minimum of 20 feet is required. In addition to this request for a variance of the rear setback, the Applicant is seeking administrative site plan approval and six (6) other variances. The application for approval of the site plan may only be approved administratively by staff if the Town Council approves all the associated variances.

APPLICANT

1622 Investment Corp.

Applicant/Representative: Ben Fernandez, Esq.
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 Miami, FL 33131
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Staff Coordinator: Kathryn Lyon, AICP, CFM
 Planning and Zoning Director



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PROPERTY INFORMATION

Location: Southwesterly of Caribbean Boulevard and U.S. 1 Extending a Distance of 440 Feet

Folio Numbers: 36-6007-000-0333, 36-6007-000-0334, 36-6007-000-0330, 36-6007-000-0336

Size: ± 1.05 net acres (45,855 sq. ft.)

Legal Description:

This land referred to herein below is situated in the County of Miami-Dade, State of Florida, and is described as follows:

PARCEL 1:

A Parcel of land lying in the NW ¼ of the NE ¼ of Section 7, Township 56 South, Range 40 East, Miami-Dade County, Florida Being Particularly described as follows:

Commence at the Southwest corner of the NW ¼ of the NE ¼ of said Section 7; Thence run S00°07'19"E along the West boundary of the SW ¼ of the NE ¼ of said Section 7 for a distance of 485.24 feet to the Point of Intersection with the Northwesterly Right-Of-Way boundary of State Road No. 5; Thence run N42°15'01"E along the last described line for a distance of 910.00 feet to the Point of Beginning of the Parcel of land hereinafter to be described; Thence on the last described course for a distance of 172.27 feet to a Point; Thence run N47°44'59"W for a distance of 50.00 feet to the Point of Intersection with the Southeasterly Right-Of-Way boundary of the Florida East Coast Railway; Thence run S42°15'01"W along the last described line a distance of 172.27 feet to a point, said point being 855.19 feet Northeasterly as measured along Southeasterly Right-Of-Way boundary of said Florida East Coast Railway from the West boundary of the SW ¼ of the NE ¼ of said Section 7; Thence run S47°44'59"E a distance of 50.00 feet to the Point of Beginning.

PARCELS 2 AND 3:

A Parcel of land lying in the NE ¼ of Section 7, Township 56 South, Range 40 East, Miami-Dade County, Florida more particularly described as Follows:

Commence at the Northwest corner of the SW ¼ of the NE ¼ of said Section 7; Thence run S00°07'19"E along the Westerly line of the SW ¼ of the NE ¼ of said Section 7 for a distance of 411.05 feet to a point on the Southeasterly Right-Of-Way line of the Florida East Coast Railroad; Thence run N42°15'01"E along the Southeasterly Right-Of-Way line of the Florida East Coast Railroad for a distance of 1332.46 feet to the Point of Beginning of the parcel of land hereinafter to be described; Thence continue along the last mentioned course, (The Southeasterly Right-Of-Way of Florida East Coast Railroad) for a distance of 440 feet to a point on the South Right-Of-Way Line of Caribbean Blvd., Thence run N47°44'59"W for a distance of 50 feet to a point of the Northwesterly Right-of-Way Line of State Road No. 5 (U.S. Highway No. 1); Thence run N42°15'01"E along the Northwesterly Right-of-Way line of said State Road No. 5 for a Distance of 440 feet to a point; Thence run N47°44'59"W for a distance of 50 feet to the Point of Beginning;

Less that portion of the above-described property deeded to Miami-Dade County, Florida which is more particularly described as Follows:



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That Area Bounded by the Northwesterly Right-Of-Way Line of State Road No. 5 (US No. 1) as shown on State Road Right-Of-Way Map in the NE ¼ of Section 7, Township 56 South, Range 40 East, and recorded in Plat Book 83, at Page 51, of the Public Records of Miami-Dade County, Florida, and bounded by the Southwesterly Right-Of-Way of Caribbean Boulevard as shown on the Right-Of-Way Deed, dated October 16, 1957 and recorded in Official Records Book 2195, at Page 436, of the Public Records of Miami-Dade County, Florida, and bounded by 25 foot radius arc concave to the West, said arc being tangent to Both of the Last Described Lines.

PARCEL 4:

A Parcel of land lying in the NW ¼ of the NE ¼ of Section 7, Township 56 South, Range 40 East, Miami-Dade County, Florida, more particularly described as follows:

Commencing at the Northwest corner of the SW ¼ of the NE ¼ of said Section 7; thence run S00°07'19"E along the Westerly line of the SW ¼ of the NE ¼ of said Section 7, a distance of 411.05 feet; Thence run N42°15'01"E along the Southeasterly Right-Of-Way line of the Florida East Coast Railway a distance of 1027.46 feet to the Point of Beginning of the Parcel of land hereinafter to be described; Thence continue along the last mentioned course, along the Southeasterly Right-Of-Way of the Florida East Coast Railway a distance of 305 feet; Thence run S47°44'59"E for a distance of 50 feet to a Point on the Northwesterly Right-Of-Way line of State Road No. 5, also known as Dixie Highway; Thence run S42°15'01"W along the Northwesterly Right-Of-Way line of said State Road No. 5, a distance of 305 feet; Thence run N47°44'59"W for a distance of 50 feet to the Point of Beginning.

BACKGROUND AND ANALYSIS

The proposed development, if approved, will be located on four (4) parcels approximately ±1.05 net acres in size. The property is located along the west side of U.S. 1, south of Caribbean Boulevard and east of the South Dade Transitway Corridor (Busway). This narrow strip of land extends approximately 917.27 feet northeast to southwest and consists of vacant land, parking and one existing building known as "The Dome". The area is served with power and telephone from Florida Power and Light Company and AT&T, respectively. Municipal water and sewer will be provided by Miami-Dade County while solid waste disposal will be by private service provider. The site currently has access to the roadway network via U.S. 1 and is adjacent to a Transit stop.

Proposed Development Project

The proposed project is an 18,182 square foot retail/office development on four (4) parcels totaling ± 1.05 net acres (45,855 sq. ft.). A 2,280-foot structure, known as The Dome, currently exists and will be renovated. The Applicant proposes the addition of three (3) two-story retail/office structures located to the northeast and southwest of the existing structure. The overall lot configuration is one that is 917.27 feet long and 50 feet deep bounded by U.S.-1 on the front, the South Dade Transitway to the rear and Caribbean Boulevard to the northeast (Side Street).

The Applicant proposes the following:



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	Level 1 – Retail (sq. ft.)	Level 2 – Offices (sq. ft.)	Total Bldg. Sq. Ft.
New Building 1	2,469	1,000	3,569
New Building 2	5,208	4,000	9,208
Existing Building	2,280	--	2,208
New Building 4	2,225	1,000	3,225
TOTAL	12,182	6,000	18,182

The Applicant proposes to provide 52 parking spaces, which is four (4) spaces less than the minimum required. Also, this proposal generally complies with Article VI. Architectural and Form Standards, Section 3-80 Nonresidential and mixed use.

As stated previously, a number of variances are being requested based on the overall parcel configuration i.e. narrowness of the parcel.

The applicant will be required to obtain Miami-Dade Fire Rescue and DERM approvals for this development.

Land Development Regulations

Section 3-36 of the Code provides the variance approval evaluation criteria used by the Town Council to evaluate a variance application.

Section 3-60 TC, Town Center District establishes the permitted uses and development parameters of any development within this zoning district. The development as proposed for retail and office uses is in compliance with the allowable established uses, however, variances will be required because a number of development parameters have not been met. The variance that is the subject of this request is to vary from the following Section:

Sec. 3-60(4) Table of Standards

Principal structure setbacks (feet)			
	EDGE	CENTER	CORE
Front (minimum/maximum)	10/20	10/20	10/20
Side street (minimum/maximum)	5/10	5/10	5/10
Interior side	0	0	0
Rear	20	20	20



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Rear (abutting an alley)	0	0	0
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Land Use and Zoning

The Future Land Use Map designation is Town Center. This land use category permits sales and service activities, professional and clerical offices, hotels, motels, medical buildings and offices, cultural and entertainment uses, community facilities, governmental facilities, institutional uses, parks and open space, and residential uses integrated both horizontally and vertically in a high quality, design-unified, mixed use environment. Horizontal and vertical mixed use development is allowed, in accordance with the frontage and use requirements incorporated into the land development regulations. The proposal is consistent with the property’s Future Land Use Designation.

This parcel is zoned TC, Town Center District. This District is coded to accommodate the higher overall intensity of development required to support the Town. Town Center District anchors the surrounding residential neighborhoods while also serving the broader community.

Permitted uses include: Mixed use; Commercial and retail; Multifamily (within a mixed use development); civic (excluding educational facility/school); Office; Hotel; Family entertainment center; Bar or nightclub; Park; Professional Service; Place of public assembly (minimum 1,000 feet between another place of public assembly; Recreational facility; Restaurant; Outdoor dining; Medical office (TC Center Sub-District only).

VARIANCE REQUESTED

Variance from Sec. 3-60(4) Table of Standards to allow a rear setback of 0 feet where a minimum of 20 feet is required.

VARIANCE APPROVAL EVALUATION CRITERIA

Section 3-36 of the Land Development Code outlines the variance approval standards that apply in this case and they are provided below along with a compliance evaluation of the subject variance request.

- 1. The variance will result in conditions that maintain and are consistent in all material respects with the intent and purpose of these Regulations, and that the general welfare, stability and appearance of the community will be protected and maintained.

The Applicant is requesting that the Town vary its rear setback standards along the parcel’s rear, which abuts the South Dade Transitway right-of-way, from the required 20 feet to 0 feet. In the Letter of Intent, the applicant states the property’s unusual linear shape creates a situation where the parcel is significantly longer and has less depth than a more normally-shaped site of the same size. The odd property shape makes it very difficult to accommodate a building that has adequate depth when the lot itself is only 50 feet deep.



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The Town Code standards and the lack of lot depth make the provision of a full rear setback very difficult when taking into account the additional requirement of a 10/20 foot front setback.

In staff's opinion the applicant is dealing with an unusually linear and narrow lot which makes the placement of buildings which would meet the required setback extremely difficult. Additionally, the Applicant has taken numerous steps in order to comply with Article VI. Architecture and form Standards.

2. The variance will be compatible with the surrounding land uses, and otherwise consistent with these Regulations and the Comprehensive Plan, and will not be detrimental to the community.

The Growth Management Plan goal and policies below are relevant to this request and its impact.

Goal 1

PROTECT AND IMPROVE THE TOWN'S BUILT AND NATURAL ENVIRONMENT THROUGH THE USE OF LAND IN A MANNER THAT ENHANCES EXISTING NEIGHBORHOODS, CONSERVES RESOURCES, ENSURES THE AVAILABILITY OF PUBLIC FACILITIES AND SERVICES, AND REALIZES THE COMMUNITY'S VISION FOR ITS FUTURE.

Policy FLU-2A: Development and redevelopment in the Town Center shall provide for the development of a well-designed and compatible area that provides attractive places to live, work and shop and that is accessible via the full range of transportation options, including transit, automobiles, bicycles, and pedestrians.

Policy FLU-2D: The mix of uses and street frontages in the Town Center shall be regulated through the Land Development Regulations in order to ensure its redevelopment as a functional mixed use downtown area for Cutler Bay, and to ensure that a variety of uses and functions are provided within a compact area.

Policy FLU-7C: The Town, through its Land Development Regulations, shall require developers to provide for the necessary on-site infrastructure improvements, including: parking; safe and convenient traffic circulation; sidewalks and multi-modal transportation facilities, as appropriate; open space; water and wastewater connections or facilities, and drainage and stormwater management.

Although the rear setback standard was created to provide relief from buildings being too close to the rear property line or right-of-way, the Applicant has provided justifications the mitigating circumstances which are relevant. The long, narrow parcel shape and need to orient buildings to U.S.-1 make the provision of the required rear setback very difficult. The Transitway right-of-way which will remain open will allow for a building separation since nothing will be built on the Transitway.

3. That the request for a variance is not based on an economic disadvantage to the owner or occupant of the property upon which the variance is sought.



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The variance is not related to an economic loss for the Applicant but based on the development standards in the Town Land Development Regulations. The parcel to be developed is long and narrow surrounded by U.S.-1 and South Dade Transitway. This rather unique situation of a commercial parcel with a 50 foot depth does not allow for flexibility in building and parking placement. When required front and rear setbacks are taken into account any proposed building would be only 10 or 20 feet deep based on the regulations and make the building not viable.

RECOMMENDATION

Town Staff recommends **approval** of the Variance.