



***Application No.:***

***V-2016-021(d)***

**Attachment "A"**

**Town Consultant Report**

**1622 Investment Corp**

**VARIANCE**

**V-2016-021 (d)**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A VARIANCE APPLICATION TO ARTICLE VI. – ARCHITECTURE AND FORM STANDARDS, SEC. 3-80(U) OF THE TOWN CODE RELATING TO NONRESIDENTIAL AND MIXED USE DEVELOPMENTS 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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## Memorandum

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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(d))

Project: Variance of Architecture and Form Standards Nonresidential and Mixed Use (Sec. 3-80)

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 VI. – ARCHITECTURE AND FORM STANDARDS, SEC. 3-80(U) OF THE TOWN CODE RELATING TO NONRESIDENTIAL AND MIXED USE DEVELOPMENTS 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 Article VI. Architecture and Form Standards, Sec. 3-80 (U) Nonresidential and Mixed Use development requirements to allow waivers of certain subsection requirements. In addition to this request for a variance of Architecture and Form Standards development requirements, 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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 305-374-5300  
[BFernandez@brzoninglaw.com](mailto:BFernandez@brzoninglaw.com)

Staff Coordinator: Kathryn Lyon, AICP, CFM



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Planning and Zoning Director

### 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;



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

That Area Bounded by the Northwestern 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 Northwestern Right-Of-Way line of State Road No. 5, also known as Dixie Highway; Thence run S42°15'01"W along the Northwestern 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).



**Memorandum**

The Applicant proposes the following:

	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
<b>TOTAL</b>	<b>12,182</b>	<b>6,000</b>	<b>18,182</b>

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, Subsection (U).

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 Article and Section as enumerated below:

**ARTICLE VI. – ARCHITECTURE AND FORM STANDARDS**

**Sec. 3-80. - Nonresidential and mixed use.**

- (a) Balconies, bay windows, arcades, porches at an upper level and their supports at ground level, together with awnings above head height, are permitted to encroach into setbacks and up to eight feet of the width of the sidewalk. Encroaching arcades shall cover the entire sidewalk unless town council approves an acceptable alternative.

The development has not been designed with these features at the upper levels.



**Memorandum**

- (b) Drive-thru customer services, if permitted in the district, must be located at the rear of the building or on a side which does not abut a street.

Not applicable.

- (c) Parking shall be located to the rear and/or side of the building. Sideyard parking may occupy no more than 45 percent of the principal frontage line. Parking shall not be placed in any sideyard abutting an intersecting street.

This proposal does not include any sideyard parking.

- (d) Trash containers and mechanical equipment shall be located in a side parking area, if no rear parking is available. Trash containers and mechanical equipment shall be screened from view from the public right-of-way.

The dumpster is located within the parking area. Mechanical equipment will be placed on the roofs of the new structures.

- (e) Building walls shall be brick, sandstone, other native stone, tinted/textured masonry, stucco, or other materials similar in appearance and durability. Decorative concrete block may be used on building walls not visible from a public street or as an accent material only. Manmade substances such as plastic wood, foam, or false stone are prohibited, unless approved as part of a LEED or alternative green certification program. All accessory structures shall be clad in materials matching the building facade.

The Applicant has complied with this subsection.

- (f) The first floor of street level building facades shall be a minimum of 50 percent and a maximum of 70 percent in windows or doorways. Faux or display casements are not permitted in lieu of exterior window treatments for the frontage elevation. No frontage wall shall remain unpierced by a window or functional general access doorway for more than 16 feet.

The Applicant has complied with this subsection.

- (g) No more than 45 percent of the total area of the facade may be comprised of glass area or other openings.

The Applicant has complied with this subsection.

- (h) Mirrored or reflected glass is not permitted in any location.

The Applicant has complied with this subsection.



**Memorandum**

- (i) A change in design, doors, window rhythm and articulation, and building materials and textures shall be required at least every 100 feet along a building's street frontage. Minimum spacing between the similar architectural compositions shall be 300 feet. Development in the town center is exempt from this provision.

The Applicant has complied with this subsection.

- (j) Building facades shall have a maximum width of 70 feet before new facade articulation is required.

The Applicant has complied with this subsection.

- (k) No exterior wall facing a street or pedestrian walkway shall have a blank, uninterrupted length exceeding 30 feet without including at least two of the following: change in plane, change in texture or masonry pattern, windows, lattice work with vines, or an equivalent element that subdivides the wall into human scale proportions.

The Applicant has complied with this subsection.

- (l) Side and rear walls adjoining pedestrian walkways shall include windows and door openings defined by frames (false windows and doors may be allowed in certain situations), sills and lintels; or similarly proportioned modulations of the wall. All sides of the building shall include materials and design characteristics consistent with those on the front of the building.

The Applicant has complied with this subsection.

- (m) Building facades shall have a recognizable "base," including, but not limited to, thicker walls, ledges and sills using integrally textured materials such as stone or other masonry or inclusion of planters.

The Applicant has complied with this subsection.

- (n) Building facades shall have a recognizable "top," including, but not limited to, cornice treatments (other than just colored "stripes" or "bands,") with integrally textured materials such as stone or other masonry, sloping roof with overhangs or brackets, or parapets with three-dimensional cornice treatment.

The Applicant has complied with this subsection.

- (o) Development located along designated transit routes shall provide on-site accommodations for public transit access, such as pedestrian walkways, a bus pullout and shelters where applicable following transit plans.

Not applicable. The South Dade Transitway is only accessible via Caribbean Blvd.



## Memorandum

- (p) Where multiple stores are located within a larger retail development, each such store shall have a separate exterior customer entrance.

The Applicant has complied with this subsection.

- (q) Pedestrian sidewalks shall be provided from building entries to surrounding streets, parking spaces, external sidewalks, and outparcels.

The Applicant has complied with this subsection.

- (r) Entrance canopies shall face the street. Bays and garage entrances may not face the fronting street.

The Applicant has complied with this subsection.

- (s) The use of exterior colors that are of high-intensity, metallic, or fluorescent tones shall be prohibited.

The Applicant has complied with this subsection.

- (t) Development over five acres in area shall provide at least four of the following:
- (1) Patio with a minimum of 1,000 square feet in area with shaded seating;
  - (2) Pedestrian plaza with a minimum of 1,000 square feet in area with benches and shade structures;
  - (3) Green roof, rooftop garden or a green wall covering a minimum of 75 percent of the area;
  - (4) Window shopping covered arcade with a minimum of 1,000 linear feet in length;
  - (5) Outdoor shaded playground area with a minimum of 1,000 square feet in area;
  - (6) Covered kiosk area with a minimum of 1,000 square feet in area;
  - (7) Water feature with a minimum of 1,000 square feet in area; or
  - (8) Clock tower or other focal feature;

that, in the judgment of the director, adequately enhances such community and public spaces. Such areas may be combined into one or more locations, in order to create a larger amenity. Any such areas shall have direct access to the public sidewalk network and shall not be constructed of materials inferior to the principal materials of the building and landscape.

Not Applicable.

- (u) Buildings shall incorporate a minimum of eight of the following design treatments:
- (1) Canopies or portico integrated with the building's massing and style;
  - (2) Overhangs with a minimum of three feet in depth along all building walls;
  - (3) Arcades with a minimum of eight feet clear in width along the building facade;
  - (4) Artwork accessible and visible to the public;
  - (5) Raised cornice or building banding with a minimum of two reliefs along the building facade;
  - (6) Peaked roof forms;
  - (7) Consistent pattern of arches across the street level primary building facade;





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- (8) Consistent rhythm of display windows across the street level primary building facade;
- (9) Ornamental and structural architectural details, other than cornices, which are integrated into the building structure and overall design;
- (10) Projected and covered entry a minimum of five feet in width;
- (11) Metal or tile roof as the dominant roof material;
- (12) Decorative landscape planters, a minimum of five feet wide, and areas for shaded seating consisting of a minimum of 100 square feet;
- (13) Integration of specialty pavers, or stamped concrete along the building's walkway. Said treatment shall constitute a minimum of 60 percent of walkway area;
- (14) Water elements, such as a decorative fountain or similar water feature, a minimum of 300 square feet in area;
- (15) Integration of porous surfaces over at least 1,000 square feet or 25 percent of a pervious area, whichever is greater.

The Applicant has not complied with 2, 3, 4, 6, 7, 11, 14 and 15 of this subsection.

The proposed development will contain a total of four (4) retail/office buildings totaling 18,182 sq. ft. Based on the above code the application meets the spirit and intent of this section. The Applicant has addressed a majority of the Nonresidential and Mixed Use requirements.

### **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. 3-80 Nonresidential and Mixed Use Developments to allow waivers of certain Subsection (U) requirements.



## Memorandum

### 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 Architecture and Form Standards to allow waivers of certain subsection requirements. In the Letter of Intent, the applicant states the property's unusual linear shape creates a situation where it makes it difficult to provide architectural features such as canopies, overhangs or arcades.

In staff's opinion the applicant is dealing with an unusually linear and narrow lot which makes the placement of these features difficult.

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.



## Memorandum

The long, narrow parcel shape and need to orient buildings to U.S.-1 make the provision of any architectural features that require additional setback areas very difficult.

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.

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 does not allow for flexibility in building, loading and parking placement and those additional setbacks to allow for greater building articulation.

### RECOMMENDATION

Town Staff recommends approval with of the Variance.