

Application No.: V 2018-021

Attachment "B"

Application

Frontier Development

Variance to permit 24.89% building frontage where 75% is required along a secondary street.



DEPARTMENT OF COMMUNITY DEVELOPMENT PLANNING AND ZONING

VARIANCE APPLICATION

LIST ALL FOLIO #S:				
DA	DATE RECEIVED:			
PR	OPOSED PROJECT NAME: Frontier Development			
1.	NAME OF APPLICANT (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required). Frontier Building Corp.			
	APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:			
	Mailing Address: 1801 Sw 3rd Ave, Suite 500			
	City: Miami State FLzip: 33129 Phone #: 305-692-9992			
	OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER: Owner's Name (Provide name of ALL owners): Peggie B Schultz INC Mailing Address: 6995 Bird Road			
	City: Miami State: FL Zip: 33155 Phone#:			
4. CONTACT PERSON'S INFORMATION: Name: Blaine Bergstresser, P.E. Company: Kimley Horn and Associates				
	Mailing Address: 445 24th Street, Suite 200			
(City: Vero Beach State: FL Zip: 32960			
	Phone# 772-794-4100 Fax# E-mail: Blaine.Bergstresser@kimle	y-		





r	GAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION (Provide complete legal description, i.e., lot, block, subdivision name, plat book &page number, or metes and bounds. Include section, township, and range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets, as needed).
	See Attached Survey.
6. AD etc	DRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of,
	19875 S Dixie Highway, Cutler Bay FL, 33157
7. S	SIZE OF PROPERTY (in acres): 0.99 (divide total sq. ft. by 43,560 to obtain acreage)
8. C	DATE PROPERTY acquired leased:
9. L	EASE TERM:Years (Month & year)
10.	IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S), provide Complete legal description of said contiguous property. N/A
124	
5.9	
9	



	eto? 🛮 no 🗆 yes (if yes, identify potentic closure of Interest' form)	ar porchaser or lessee and complete
12. PRE	SENT ZONING AND FLU CLASSIFICATION	ON:TRC, Mixed Use
	POSED USE OF PROPERTY (describe no al Office, General Office	ature of the request in space provided)
🛚 N If ye	a public hearing been held on this po poss. s, provide applicant's name, and date, plution number:	property within the last year & a half? purpose and results of hearing, and
		:e? Violation notice was served and describe t
	s property owner own contiguous prote legal description of entire contigu	operty to the subject property? If so, gi
17. Is the	ere any existing use on the property?	? No 3 yes. If yes, what use and when
	Commercial	Year: 1979



18. Submitted Materials Required: Please check all that Apply:

Letter of intent
Justifications for change
Statement of hardship
Poof of ownership or letter from owner
Power of attorney
Contract to purchase (if applicable)
Current survey (2 original sealed and signed and 10 reduced 11x17 copies)
Complete set of plans 24'x36", scale 1'=50' (2 original sealed and signed
and 10 reduced 11x17 copies)
Colored rendering of all 4 sides of each proposed building (If applicable)
20% Property owner signatures (If required)
Mailing Labels (set amount depends on number of hearings) and map (If
required)
Required Fee(s)
Plans must be approved by Miami-Dade County Fire and Rescue
Department with an original stamp and signature from the Fire Dept.
Necessary documentation from DERM and WASD



APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.		
OWNER OR TENAN	T AFFIDAVIT	
depose and say that (I am) (We are) the downer of which is the subject matter of the proposed hearing.	tenant of the property described and	
Signature	Signature /	
Sworn to and subscribed to before me This 12 day of JUNE 2018	Notary Public: Commission Expression Expression # FF 906822 My Comm. Express Aug 4, 2019	
***************************************	Ronde hypersis and Notary Assn.	
CORPORATION A	AFFIDAVIT	
(I)(WE), Mayoret S. Wingard , being first duly sworn, depose and say that (I am) (We are) the president vice-President's Secretary Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the powner tenant of the property described herein and which is the subject matter of the proposed hearing.		
	pm.	
Attest:	Authorized Signature Secretary / Treasurer	
	Office Held	
(Corp. Seal)		
Sworn to and subscribed to before me	Notary Public:	
This 12 day of June 2018	CARLOS FERNANDEZ Notary Public - State of Florida Commission # FF 906822 My Comm. Expires Aug 4, 2019	
********************	**************************************	



PARTNERSHIP AFFIDAVIT _____, being first duly sworn, depose and (I)(WE), say that (I am) (We are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the $\ \square$ owner \square tenant of the property described herein which is the subject matter of the proposed hearing. (Name of Partnership) Notary Public: ____ Sworn to and subscribed to before me Commission Expires: This _____, day of _____, ____ ATTORNEY AFFIDAVIT _____, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing. Nanature Notary Public: Sworn to and subscribed to before me Commission Expires: This 12 day of 5000 , 2018 CARLOS FERNANDEZ Notary Public - State of Florida Commission # FF 906822 My Comm. Expires Aug 4, 2019 Bonded through National Notary Assn.



RESPONSIBILITIES OF THE APPLICANT

I AM AWARE THAT:

- The Department Environmental Resources Management (DERM), and other agencies
 review and critique zoning applications which may affect the scheduling and outcome
 of applications. These reviews may require additional public hearings before DERM's
 Environmental Quality Control Board (EQCB), or other boards, and /or the proffering of
 agreements to be recorded. I am also aware that I must comply promptly with any
 DERM conditions and advise this office in writing if my application will be withdrawn.
- 2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Application withdrawn within 30 days of the filing are eligible for a refund of 25% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fess must be paid promptly.
- 3. The South Florida Building Code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and that a building permit will probably be required. I am responsible for obtaining permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use and Occupancy must be obtained for the use of the property after it has been approved at Zoning Hearing, and that failure to obtain the required permits and/or Certificates of Completion or of Use and Occupancy will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
- 4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
- 5. In Miami-Dade County v. Omnipoint Holdings, Inc. Case No. 3d01-2347 (Fla. 3rd DCA 2002), the 3rd District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of covenants. This is not a final decision and the County Attorney's Department professional staff to develop new standards that will address the Court's concerns. While the new standards are being developed, applicants are advised that any non-use variance, special exception, unusual use, new use requiring a public hearing or request for modification of covenants granted under the existing standards are subject to being reversed in the courts. An applicant wishing to avoid the substantial legal risks associated with going forward under the existing standard may seek a deferral until the new standards are developed.
- 6. Any covenant to be proffered must be submitted to the Town of Cutler Bay Legal Counsel, on Town form, at least 1 month prior to the hearing date. The covenant will be



Applicant's Signature)



My Commission Expires: __

reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. And that Legal Counsel must carry a cover letter indicating subject matter, application number and hearing date.

- 7. The Town of Cutler Bay Department of Public Works reviews and critiques Zoning applications and may require conditions for approval.
- 8. Each party will be limited to a presentation of 20 minutes. This time limitation may be extended by the Chair of the meeting.
- 9. THE APPLICANT IS RESPONSIBLE FOR TRACKING THE STATUS OF THE APPLICATION AND ALL HEARINGS THAT MAY BE ASSOCIATED WITH THIS APPLICATION.

Sworn to and subscribed before me this 12 day of 300E, 20	18
Affiant is personally known to me or has producedidentification.	as
CARLOS FERNANDEZ Notary Public - State of Florida Commission # FF 906822	
My Comm. Expires Aug 4, 2019	



Reggie B. Schutz, Inc.

DISCLOSURE OF INTEREST

If the property, which is the subject of the Application, is owned or leased by a **CORPORATION**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

Corporation Name	
Name, Address and Office	Percentage of stock
Peggie B. Scho Hz, President	76°00
John T. Scholtz, Vice-President	12%
Margaret S. Wingard, Sec/Tres	12%
If the property, which is the subject of the Application, is Stockholders and the percentage of stock owned by e Stockholders consist of another Corporation(s), Trustee(disclosure shall be required which discloses the identity ultimate ownership interest in the aforementioned entit	each. NOTE: Where the Principal Officers or (s), Partnership(s) or other similar entities, further of the individual(s) (natural persons) having the
Trust Name	
Name, Address and Office	Percentage of stock
	-
If the property, which is the subject of the Application, i PARTNERSHIP, list the Principal Stockholders and the per Principal Officers or Stockholders consist of another Cor entities, further disclosure shall be required which disclohaving the ultimate ownership interest in the aforement	centage of stock owned by each. NOTE: Where the poration(s), Trustee(s), Partnership(s) or other similar ses the identity of the individual(s) (natural persons)
Partnership or Limited Partnership Name	
Name, Address and Office	Percentage of stock





COST RECOVERY AFFIDAVIT

I hereby acknowledge and consent to the payment of <u>all applicable fees</u> involved as part of my application process. These fees include but are not limited to: application fees, postage, advertising, and attorney fees **regardless of the outcome of the public hearing**.

Please type or print the following:
Date: <u>JUNE 12, 2018</u> Public Hearing No
Full Name:
Mr. I Mrs. I Ms. MR. JAMES LEACH
Current Address: 1801 SW 312D ANENUE SWITE 500 City: MIAMI
State: <u>FL</u> Zip: <u>33129</u> Telephone Number (<u>305</u>) <u>692 - 9992</u>
Date of Birth: 10 68 Signature
SWORN AND SUBSCRIBED BEFORE ME THIS 12 DAY OF JONE 20 18
Notary Public, State of Florida at Large CARLOS FERNANDEZ CARLOS FERNANDEZ
My Commission expires 8 4 20 19 My Commission expires 8 4 20 19 Bonded through National Notary Assn.

Pursuant to Ordinance No. 2000-09-33-Cost Recovery





DIRECT LINE: (305) 377-6229 E-Mail: gpenn@BRZoningLaw.com

VIA HAND DELIVERY

March 4, 2019

Kathryn Lyon Director Community Development Department Town of Cutler Bay 10720 Caribbean Boulevard Suite 110 Cutler Bay, Florida 33189

RE: <u>Frontier Cutler Plaza 19875 S. Dixie Highway - Supplementary Letter</u> of Intent for Variance Application (Folio 36-6006-024-0010)

Dear Ms. Lyon:

Our firm represents Frontier Development (the "Applicant") regarding the redevelopment of the above-referenced property (the "Property"). Please consider this letter the Applicant's supplementary letter of intent in support of the variance request for the Property.

<u>The Property.</u> The Property consists of 0.99 acres located on the east side of South Dixie Highway just north of SW 107 Avenue Road. The southwest corner of the tract is adjacent to portions of the Homestead Extension of Florida's Turnpike ("HEFT"), with the ramp to the highway located immediately south of SW 107 Avenue Road. The Property is zoned Transit Corridor ("TRC") and has been developed with an approximately 3,658 square foot retail structure since 1979. The Property is oddly shaped, with a large triangular portion removed from the southwest corner to accommodate portions of the HEFT.

Redevelopment Plan. The Applicant proposes to redevelop the Property with a new single-story commercial building of approximately 8,370 square

Kathryn Lyon Director Community Development Department March 4, 2019 Page 2 of 4

feet. The development has been designed to maximize building frontage along South Dixie Highway (given the constraints of the frontage), while still allowing for a development that can accommodate its current and future parking requirements. The proposed building has been designed for multiple tenants.

<u>Frontage Requirements.</u> As noted above, the Property is quite small, less than an acre in size. It is also burdened by two other factors: (1) its irregular shape; and (2) its two frontages. These limitations make compliance with the Town's building frontage requirements very difficult. Section 3-59 of the Town's Code would require 100% building frontage on South Dixie Highway and 75% building frontage on SW 107 Avenue Road.

The Applicant has been able to provide 100% frontage along South Dixie Highway. Because of the size of the Property, however, it has been impossible to accommodate the required building frontage on SW 107 Avenue Road.

<u>Variance Request.</u> In order to realize the above-described development plan, the Applicant hereby makes the following variance request:

Waiving Section 3-59(5) of the Town Code relating to the minimum percentage required for building frontage – allowing 24.89% on SW 107 Avenue Road where 75% would be required.

Application Requirements. As you know, Section 3-36(a) sets forth multiple pre-requisites for any variance application. We believe that all but a few of the pre-requisites have been dealt with elsewhere in our submittal and this letter. The following will address the remaining requirements, which include a description of the "[t]he special circumstances, conditions or characteristics of the land, building or structure that prevent the use of the [Property]" in full compliance with the City's Land Development Regulations and the "particular hardship that would result if the specified provisions" were applied without modification.

As explained above, the Property is on a corner, very small in size, and of an unusual shape, which has made site planning a challenge. The Applicant has found it impossible to develop vibrant commercial project on the site without the need for the minor frontage variance.

Kathryn Lyon Director Community Development Department March 4, 2019 Page 3 of 4

The Property simply cannot accommodate significant additional building floor area without it becoming impossible for adequate parking, access, and landscaping to be provided. Any structure developed along SW 107 Avenue Road that otherwise complies with the Town's regulations would be essentially unusable for commercial purposes, with a building depth of under 20 feet. The Applicant, therefore, is being faced with an impossible situation – any commercially viable space extended along SW 107 Avenue Road would be impossible to support with parking and landscaping. Any commercial space that would meet the Town's frontage requirements would not be viable. Therefore, extending the building east along SW 107 Avenue Road is simply not possible.

<u>Variance Approval Standards.</u> To supplement the above narrative on the request, we are including below the evaluation standards that apply to all variance use requests, as well as a description of the project's consistency with the requirements.

- 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 requested variance will allow the development of a compatible, well-designed project on a parcel that has long been ready for redevelopment. The proposed project has been carefully designed to minimize impacts on the surrounding area.
- 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 proposed variance will have a negligible impact on surrounding uses and will allow the development of the Property in a manner consistent with the goals of the TRC zoning.
- 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.

Kathryn Lyon Director Community Development Department March 4, 2019 Page 4 of 4

The variance is not related to any economic loss for the Applicant. Instead, it is necessary for the reasonable development of the proposed project.

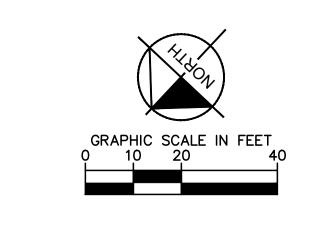
Sincerely

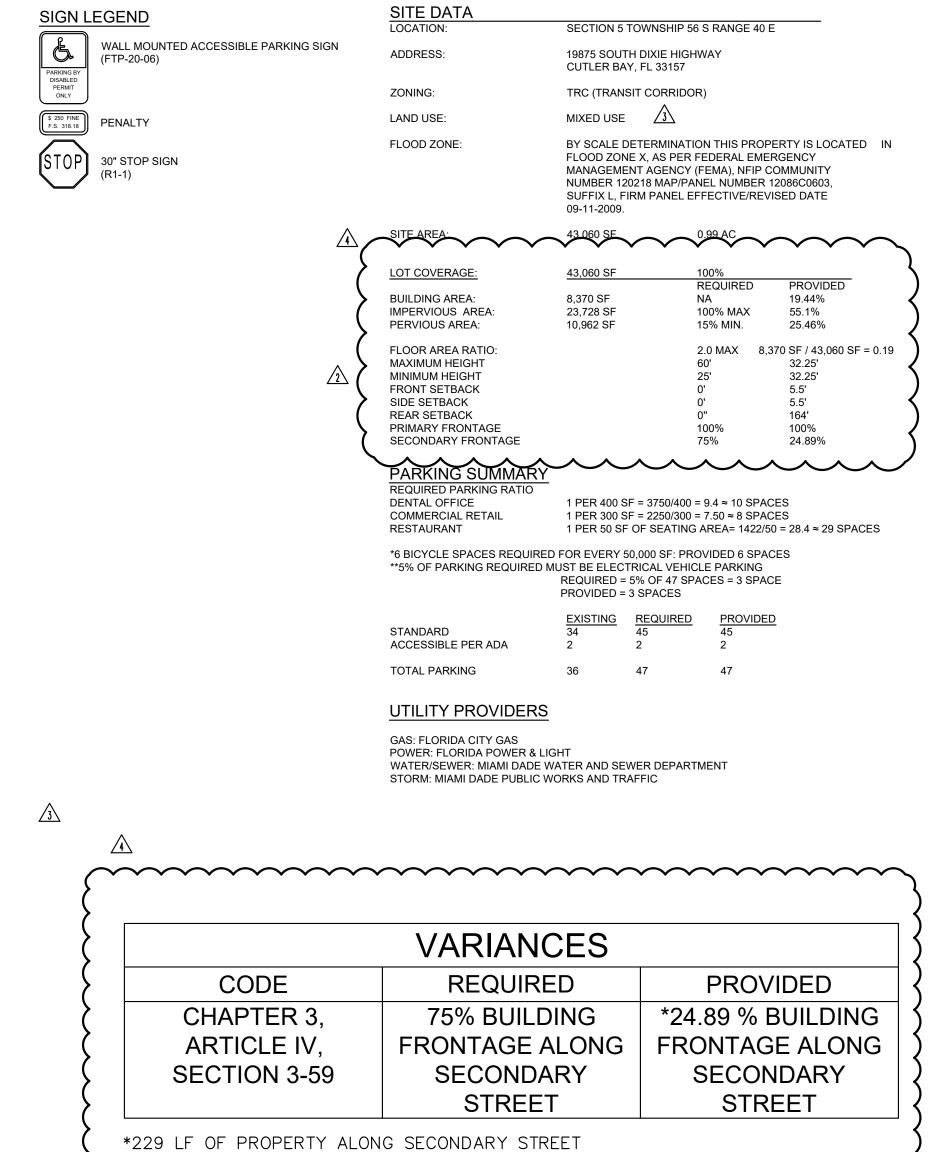
Thanks again for your help. Should you have any questions or concerns, please do not hesitate to phone my direct line at (305) 377-6229.

Enclosures

0 4

SITE





SEE LANDSCAPE PLAN FOR TREE REMOVAL/RELOCATION AND TREE PROTECTION

THE PRESENCE OF GROUNDWATER SHOULD BE ANTICIPATED ON THIS PROJECT. CONTRACTOR'S BID SHALL INCLUDE CONSIDERATION FOR ADDRESSING THIS ISSUE.

CALL 48 HOURS BEFORE YOU DIG

IT'S THE LAW!

DIAL 811

Know what's **below.**

SHEET NUMBER C-101 SUNSHINE STATE ONE CALL OF FLORIDA, INC.

SIGN (R1-1) 5.44'--- **─**15.04'-- 226.38 PROPOSED STOP -SIGN (R1-1) - PROPOSED STOP-LIGHT POLE └ PROPOSED STOP SIGN (R1-1) (TYP.) -SIGN (R1-1) LANDSCAPE -PLANTER 4.5' — PROPOSED BICYCLE PARKING ELECTRIC VEHICLE
PARKING SIGN STAMPED — STAMPED CONCRETE PARKING SIGN CONCRETE ACCESSIBLE PARKING SIGN FTP-20-06 PROPOSED —
TRANSFORMER RETAIL DENTAL OFFICE RESTAURANT 3750 SF 2250 SF — SOUTH DIXIE HIGHWAY STATE ROAD No. 5 / US No. 1

RECYCLING —

9.3' 23.3' 10.4'

PROPOSED STOP -

SIGN (R1-1)

. ₹3'—

LIGHT POLE

`—R20'

PROPOSED STOR -

— GARBAGE

10' EXISTING UTIL. EASEMENT

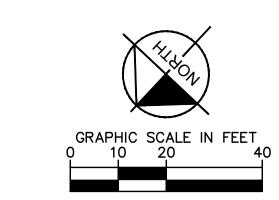
(P.B 110, PG 27)

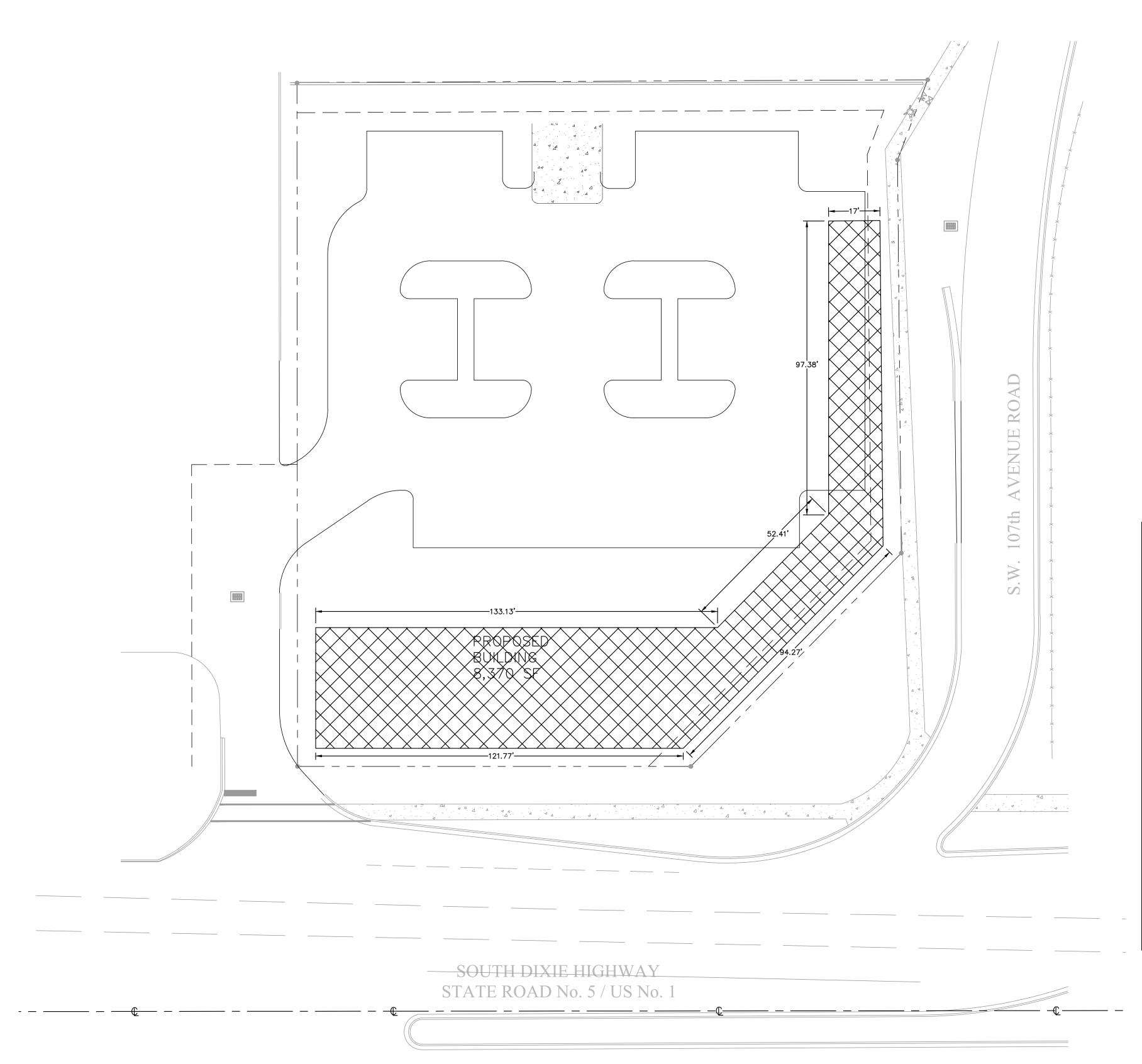
EXISTING 5.5' CMU WALL

SIGN LEGEND

57 LF OF BUILDING FRONTAGE PROVIDED

57 LF/229 LF= 24.89%





229 LF OF PROPERTY LINE ALONG SECONDARY STREET 57 LF BUILDING FRONTAGE PROVIDED

VARIANCES			
CODE	REQUIRED	PROVIDED	
CHAPTER 3,	75%	24.89 %	
ARTICLE IV,	BUILDING	BUILDING	
SECTION 3-59	FRONTAGE	FRONTAGE	
	ALONG	ALONG	
	SECONDARY	SECONDARY	
	STREET	STREET	

BLAINE BERGSTRESSER,
HOWN
ACY
FLORIDA LICENSE NUMBE
ACY
BPB 64598

DATE
06/20/2018
SCALE AS SHOWN
DESIGNED BY ACY
DRAWN BY ACY

RIANCE EXHIBI

ONTIER CUTLER

PREPARED FOR

ATIER DEVELOPMENT

LLC

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