

PASCO COUNTY, FLORIDA  
INTEROFFICE MEMORANDUM

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TO: Development Review Committee

DATE: 4/30/10

FILE: ZN10-192

SUBJECT: Class I, Commercial Development  
Review - Sweet Tomatoes Variance  
Requests (Project No. VAC10-505)  
DRC: 5/13/10, 1:30 p.m., DC  
Recommendation: Approval with  
Conditions

FROM: Debra M. Zampetti  
Zoning/Code Compliance  
Administrator

REFERENCES: Land Development Code,  
Section 306, Development  
Review Procedures;  
Comm. Dist. 4

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It is recommended that the data herein presented be given formal consideration by the Development Review Committee (DRC).

|                                 |   |
|---------------------------------|---|
| Commission District:            | The Honorable Michael Cox, CFP <sup>®</sup>   |
| Project Name:                   | Sweet Tomatoes  |
| Developer's Name:               | Soni Plaza Associates, LLC, c/o Assessment<br>Advisors  |
| Location:                       | On the northeast corner of Graphic Drive and<br>U.S. Highway 19, Section 16, Township 25 South,<br>Range 16 East. |
| Parcel ID No.:                  | 16-25-16-0000-00300-0020  |
| Land Use Classification:        | ROR (Retail/Office/Residential)   |
| Zoning District:                | C-2 General Commercial  |
| Acreage:                        | 5.05 Acres, m.o.l. (Entire Parcel)  |
| Number of Units:                | 1   |
| Type of Unit:                   | Restaurant  |
| Square Feet:                    | 4,200 Square Feet   |
| Water/Sewage:                   | Pasco/Pasco   |
| Transportation Impact Fee Zone: | 1   |
| Transportation Analysis Zone:   | 11  |

DEVELOPER'S REQUEST:

The developer of Sweet Tomatoes is requesting variances from the Land Development Code (LDC), Sections 603.6 and 603.9, whereas the entire site is not required to be upgraded at this time and the developer wishes to landscape only the areas immediately used by the Sweet Tomatoes which is the front, side, and 50 parking spaces, as listed below and as further explained herein:

Variances:

Section 603.6, Minimum Interior Required for Vehicular Use Areas

Section 603.9, Landscape Buffering and Screening

BACKGROUND:

1. On July 28, 1981, the Board of County Commissioners approved a rezoning from C-2 General Commercial and R-4 High Density Residential Districts to a C-2 General Commercial District (Petition No. 1631).
2. On June 26, 1990, the Planning Commission approved a Conditional Use for the consumption of alcohol on premises for the Outback Restaurant (CU90-15).
3. In 1983, the Regency Park Square received preliminary/construction site plan approval (File No. CRD83-123).

- The applicant's submittal of Building Permit applications for remodeling exceeding 25 percent of the Property Appraiser's appraised value of the existing structure has triggered compliance with the LDC, Section 603, Landscape and Irrigation.

FINDINGS OF FACT:

- Presently, the subject site contains a vacant 6,200-square-foot building, previously the Outback Steak House restaurant. Sweet Tomatoes will utilize approximately 4, 200 square feet of this area.
- The subject property is located in Flood Zone "A13-12." Development is subject to the requirements of the LDC, Article 700, Flood Damage Prevention.
- The surrounding zoning is as follows and, for reference purposes, the buffer requirements for the abutting properties is also provided:

|        | <u>Zoning Districts</u> | <u>Types/Buffer Requirements</u> |
|--------|-------------------------|----------------------------------|
| North: | C-2 General Commercial  | Type A Buffer 10 Feet            |
| South: | Graphic Drive           | Type D Buffer 10 Feet            |
| East:  | C-2 General Commercial  | Type A Buffer 10 Feet            |
| West:  | U.S. 19                 | Type D Buffer 15 Feet            |

- The variance requests have been reviewed by the Zoning and Site Development Department, and it has been determined that the proposed use is consistent with the above-referenced zoning district's permitted uses.
- The variance requests for the above-subject project were prepared for Soni Plaza Associates, LLC, c/o Assessment Advisors by Studio 4, LLC, and consist of five sheets dated March 9, 2010. The plans were originally received by the Zoning and Site Development Department on April 9, 2010, and final revisions will be received after the DRC meeting.
- Access to the property is from U.S. 19, a Florida Department of Transportation maintained road, which has 220 feet of right-of-way with 130 feet of pavement, and has been designated a six-lane, arterial facility on Map 7-22, 2025 Future Number of Lanes, and Map 7-24, 2025 Future Roadway Functional Classification, of the Comprehensive Plan.
- The proposed request is consistent with the Pasco County applicable provisions of the Comprehensive Plan as conditioned.

VARIANCE REQUESTS:

The applicant/developer has requested specific variances from the following provisions of the LDC to be considered:

- Section 603.6, Minimum Interior Landscaping Requirements for Vehicular Use Areas

Subsections 603.6.G, 603.6.H, and 603.6.I, which, if approved, would relieve the applicant/developer of providing for the entire site at this time (other than what Sweet Tomatoes is developing):

603.6.G - A minimum of one shade tree for every 200 square feet of required interior landscaped areas.

603.6.H - All the interior rows of parking which is required to be not more than ten parking spaces uninterrupted.

603.6.I - All the perimeter rows of parking requirements to contain not more than eight parking spaces without a landscape island for the entire plaza.

Relief is being sought pursuant to the LDC, Section 316.1.A.1, as the purpose for the variance which reads as follows:

"The strict application of the land development regulation creates an unreasonable or unfair non-economic hardship, or an inordinate burden, that was not created by the variance applicant."

The applicant states [sic]:

**"603.6.G and H - Minimum interior landscaping required for vehicular use areas."**

"Sweet Tomatoes is requesting a variance to the requirement for interior landscaping for vehicular use of the entire development.

"The interior rows of parking require no more than ten parking spaces uninterrupted by a landscaped island. We request a variance to install landscaped islands and plantings to the row of double parking spaces directly adjacent to the south facade of the Sweet Tomatoes restaurant project, and not the entire development interior parking area. (drawing attached). The parking requirements for the restaurant of 50 parking spaces will be met as a total of 65 parking spaces are currently available. The 3 parking spaces that would be converted to landscaped islands would allow for 62 parking spaces for our use, surpassing the minimum requirement by 12 parking spaces.

"We posit that complying with the interior landscaping requirements would create an unreasonable hardship for Sweet Tomatoes and other tenants of the center by decreasing the overall parking count to an unacceptable level.

**"603.6.I - Minimum interior landscaping required for vehicular use areas."**

"Sweet Tomatoes is requesting a variance to the perimeter row landscaping for vehicular use.

"The west perimeter row of parking requires a landscaped island every 8 uninterrupted spaces. We request variance to install a minimum 100 square foot landscaped island to be placed in the middle of the 11 current parking spaces (Between the north entrance and the landscape island containing the center's pole sign). 5 parking spaces to the south of the landscaped island and 5 parking spaces to the north. (drawing attached) The parking requirements for the restaurant are 42 parking spaces and will be met as a total of 65 parking spaces exist. The 1 parking space that would be converted to landscaped island would allow 61 parking spaces for the restaurant.

"No changes would be made to the parking area south of the center's pole sign in that it is not the demised property of the proposed Sweet Tomatoes restaurant.

"To comply with the interior landscaping requirements would be restrictive and visually unbalanced. We believe that adding the landscape island in the center of the frontage row of parking is in compliance with the spirit of the ordinance and would be more visually appealing and supply a pleasing balance and symmetry to the parking area."

Sweet Tomatoes is requesting variance from 603.6 and 603.9 where as the entire site is not required to be upgraded at this time and wishes to landscape only the areas immediately used by the Sweet Tomatoes which is the front, side and 50 parking spaces immediately adjacent to our space.

"To upgrade the required buffers for the entire development would create an unnecessary hardship for Sweet Tomatoes in that our demised premises consists only of the space that we will occupy and the adjacent fifty (50) parking spaces, not the entire center. Sweet Tomatoes is willing to upgrade the landscaping in the buffers and add the agreed islands in

the parking area adjacent our proposed restaurant as defined by our meeting with the Zoning & Site Development Department."

Staff has reviewed the applicant's request and recommends approval. The additional installation of landscape islands on the site would cause the loss of required parking spaces as required by the LDC. The developer is adding landscape islands where possible immediately adjacent to the project site. The parking lot and current landscape and buffers are existing as approved and constructed under the previous code. This request will enhance the existing building, parking lot, and landscape areas for that portion where redevelopment will occur.

2. Section 603.9, Landscaping and Screening

Subsections 603.9.D.1, Type A 10-Foot Wide Landscape Buffers, and 603.9.D.4, Type D 15-Foot-Wide Landscape Buffers, which, if approved, would allow the applicant/developer to reduce the required 15-foot buffer to 4 feet in width on the west side of the project abutting U.S. 19 and also relieve the applicant/developer from the requirement to provide buffering for the entire site.

Relief is being sought pursuant to the LDC, Section 316.1.A.1, as the purpose for the variance which reads as follows:

"The strict application of the land development regulation creates an unreasonable or unfair non-economic hardship, or an inordinate burden, that was not created by the variance applicant."

The applicant states:

"Sweet Tomatoes is requesting a variance to the landscape buffer width requirements.

"The west property line is required to have a Type D buffer, specified as 15 feet in width if ROW is greater than 100 feet.

"Sweet Tomatoes request a variance for the buffer to reduce the required 15-foot buffer to 4 feet in width on the west side of the project site and also not to provide all of the required buffering for the entire site.

"To comply with a 15' buffer width would encroach into the existing parking and result in a loss of eleven (11) parking spaces, rendering the site unsuitable for the parking needs and demands of customers and staff. The new landscaping required will be installed in the existing buffer. (see attached drawing)

"Sweet Tomatoes is requesting variance from 603.6 and 603.9 where as the entire site is not required to be upgraded at this time and wishes to just landscape the areas immediately used by the Sweet Tomatoes which is the front, side and 50 parking spaces immediately adjacent to our space.

"To upgrade the required buffers for the entire development would create an unnecessary hardship for Sweet Tomatoes in that our demised premises consists only of the space that we will occupy and the adjacent fifty (50) parking spaces, not the entire center. Sweet Tomatoes is willing to upgrade the landscaping in the buffers and add the islands in the parking area adjacent to our proposed restaurant as defined by our meeting with the Zoning & Site Review Department."

Staff has reviewed the applicant's request and recommends approval of this variance. The granting of this variance will allow the owner to upgrade and enhance the existing, unoccupied building as well as improve the landscaping within the portion of the Sweet Tomatoes.

RECOMMENDATION:

The Zoning and Site Development Department recommends approval of the variance requests from the LDC, Sections 603.6 and 603.9, with the following conditions:

1. The applicant/developer shall provide the appropriate landscaping plan and any required variances for the remaining portion of the plaza prior to the issuance of any further Building Permits.
2. The landscape plans and any variances shall be reviewed and appropriate action (denial or approval) shall be taken prior to the issuance of any further Building Permits.
3. The developer acknowledges that an appeal may be filed against the decision of the DRC within 30 days of the date of this approval. Any development that takes place within the 30-day-appeal deadline shall not establish vested rights with respect to construction of the project.

The DRC's approval of these variance requests constitutes a finding by the DRC that the variance requests, as conditioned, are consistent with those Goals, Objectives, and Policies of the Comprehensive Plan and those provisions of the LDC that are applicable to variance request approvals. This action is based on the office review of the plans, supporting documentation, and certifications of the Engineer of Record.

DEVELOPER'S ACKNOWLEDGMENT:

The developer acknowledges that it has read, understood, and accepted the above-listed conditions of approval.

\_\_\_\_\_ Date

\_\_\_\_\_ SONI PLAZA ASSOCIATES, LLC  
C/O ASSESSMENT ADVISORS

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_ Title

The foregoing instrument was acknowledged before me this \_\_\_\_\_ (date), by \_\_\_\_\_ (name of corporation acknowledging) a \_\_\_\_\_ (State or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

Seal:

\_\_\_\_\_ NOTARY

ATTACHMENTS:

1. Location Map
2. Site Plan
3. Variance Visuals
4. Letter for Developer

DMZ/BET/ecm/drc051310/drc/sweettomszn10192drc/48

DEVELOPMENT REVIEW COMMITTEE ACTION: