



Architects & Planners Inc.

October 16, 2020  
Revised: January 15, 2021

Ava Pecherzewski  
City of Longmont  
Planning and Development Services Center  
Longmont, CO 80501

RE: Southmoor Retail Plaza Conditional Use Site Plan & Minor Subdivision Plat – Variance Request

Project Record Number: DV-CUSP-20-00003

Ava,

A variance request is being sought for two items in the Land Development Code that the project is unable to meet at an interval of less than a 20% deviation. Both can be linked to a change in the Land Development Code within the duration of the project. With a property subdivision replat in place including the public improvement of extending Grand Avenue to the east, the project is unable to meet the Land Use Code requirements.

#### Variance Request 1

Variance Request 1 is for a reduction in required Landscaping. Attached to this document is a variance request spreadsheet of required and proposed landscaping by code category. The column to the right is an explanation of the deficiency often citing conflicts with utility easements and water quality areas.

#### Variance Request 2

Variance Request 2 is for a reduction of required transparency to the rear of the building facing Grand Avenue, 15.05.120.C.6.

*15.05.120.C.6. Building facades facing a public street shall provide a minimum of 50% windows or doorways.*

The building is sited facing the main arterial Ken Pratt Blvd. The “front” of the building facing Ken Pratt exceeds the 50% transparency. The determination that Grand Ave is also a public street is problematic for the retail building shell typology. This building type utilizes a functional back to provide visual security, access deliveries, and to provide interior functions such as kitchens, storerooms and restrooms. The lots directly east and west of the proposed project are clear examples of non-transparent applications. In addition, the function of the drive through window on the building's east side prompts the requirement of a six-foot screen wall to shield the cars at the drive through from the residential zoned property to the south of Grand Avenue and east of South Terry Street. A six-foot high screen wall has been designed the length of the southeast parking lot shielding not only the drive through lane but also building from view.

Review Criteria Analysis – Variance Request 1

General Standards the project needs to meet:

- A. The application is consistent with the comprehensive plan and the purpose of the code and zoning district; conforms to any previously approved concept plan, preliminary plat, or PUD overall development plan; and complies with all applicable statutes, codes, ordinances and regulations.

The Southmoor Retail Plaza is being proposed in the MU-C, Mixed-Use Corridor zone district which is a consistent use per the Land Development Code 15.03.030.C.1. A replat of the property is part of the CUSP submittal and an integral part of the development strategy. The project has been proposed to be permitted and built per any applicable statutes, codes, ordinances and regulations.

- B. The application complies with applicable city standards, including for street and utility design and layout, and adequate utilities are available or will be provided for appropriate urban-level services.

The Southmoor Retail Plaza project is engaged with the public improvement of Grand Ave as part of the subdivision replat of the property. As such, the design has been mitigated through the Longmont Planning Department, Public Works, Transportation, LPC, and Fire Department. LPC has provided utility design for the site that is part of the CUSP.

- C. The application proposes development compatible with surrounding properties in terms of land use, site and building layout and design, and access.

The Southmoor Retail Plaza project is located on Ken Pratt Blvd which is a mixed-use but largely retail building environment. The project proposes to extend Grand Avenue the length of the property to the east. The proposed vehicular access points are from Ken Pratt Blvd, Grand Avenue and across from S. Terry St. The adjacent retail structures are functioning in an identical way providing on site parking and building access facing Ken Pratt Blvd.

- D. The application will not adversely affect surrounding properties, the natural environment, existing or planned city transportation, or utility services or facilities, or the adverse impacts of the use will be mitigated to the maximum extent feasible.

The Southmoor Retail Plaza seeks to enhance surrounding properties in the following ways. The retail properties to the east and west will be connected by vehicular traffic through cross access easements. The continuation of Grand Avenue to the east supports the comprehensive master plan and creates future access to the residentially zoned site to the south of Grand Avenue.

- E. The application includes an appropriate transportation plan, including multi-modal transportation access, and is integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails and similar features.

The Southmoor Retail Plaza CUSP submittal has provided a Traffic Information Study for the development to meet the Design Review Committees' recommendations. The site is accessible to Ken Pratt Blvd for multi-modal transportation options. CDOT access permits are also part of the submittal. Connectivity of cross access drives and sidewalks to adjacent sites access been

addressed in the design submittal. Vehicular connectivity has also been provided to the south of the site on Grand Avenue and across from South Terry St.

**Additional Standards for Variances:**

- A. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property. Special circumstances include, but are not limited to, exceptional limitations to the dimensions, shape or topography of the property. The following factors shall be considered in determining practical difficulty: **1** whether the property and development can have any beneficial use without the variance; **2** the degree to which the variance deviates from the otherwise applicable standard; **3** whether the applicant purchased the property with knowledge of the standard; **4** whether the standard can be addressed through some means other than a variance; and **5** whether the purpose and intent behind the regulation would be maintained by granting the variance.

The simplest explanation for the variance request that the site is a product of a replat that was determined before the revision of the land development code which contains different planning criteria. With multiple points of access from Grand Avenue and Ken Pratt Boulevard, the required parking counts and site amenities, and a requirement from Public Works for surface water quality, the site is maxed out with the landscaping designed and provided. In addition, the part of the site bordering Ken Pratt has a public tree screen and sidewalk. While not on the project property, these existing trees meet the intent of screening the building from Ken Pratt.

1. Without the variance the project would need to be replanned.
2. The requested deviations are not a product of trying to minimize landscaping, they are a product of having insufficient space to achieve the standards given the unique conditions of the site.
3. The property was purchased, planned and then the standard criteria was revised by the land development code.
4. The project would need to be replanned. The project team tried to work with Public Works on alternatives to the sand filters (which absorb what would be a large landscaping area opportunity) but no alternative approaches were approved.
5. The landscape criteria is being met on all available landscaped area. Generous landscape buffers have been provided on three sides of the lot with the fourth an undeveloped pad site that will have a landscape buffer in the future.

- B. A variance shall not nullify or impair the purpose and intent of the code or the comprehensive plan. Explain how the proposed variance meets the standard.

The distance from the attached walk to the property line is 2.6' as there is a lack of ROW which is insufficient for a tree; LPC electric lines & equipment are in the ROW. The other buffer/perimeter area total qty of trees is being met by utilizing smaller diameter deciduous/ornamental/coniferous trees. (See attached worksheet).

- C. A variance shall not adversely impact surrounding properties, neighborhoods, or the natural environment. Explain how the proposed variance meets the standard. What mitigation is being provided in lieu of meeting the code standard?

The distance from the attached walk to the property line is 2.6' as there is a lack of ROW which is insufficient for a tree; LPC electric lines & equipment are in the ROW. The other buffer/perimeter

area total qty of trees is being met by utilizing smaller diameter deciduous/ornamental/coniferous trees. (See attached worksheet).

- D. A variance shall not create a building or fire code violation or other safety hazard. Explain how the proposed variance meets the standard.

The variance is about meeting the total qty of trees that the city requires.

- E. A variance shall not be granted for a self-imposed hardship. Explain how the proposed variance is not a result of a self-imposed hardship.

The situation is similar but different for each buffer/perimeter as follows: (2) ex 15' Wide utility easements, proposed sand filters that the City has mandated, proposed 7' LPC & 5' Gas easements, ex row trees along Ken Pratt whose mature canopy would prohibit planting another decid canopy tree as this creates weak branches prone to breakage, ex water line on adjacent property that trees need to be 10' horizontal separation; The distance from the attached walk to the property line is 2.6' as there is a lack of ROW which is insufficient for a tree; LPC electric lines & equipment are in the ROW which is insufficient planting area for a tree.

- F. A variance shall allow only the least deviation from the standard that will afford relief. Explain what other alternatives were attempted to meet the code standard and why each of those alternatives was not viable. Explain how this variance is the least deviation from the code standard possible.

The distance from the attached walk to the property line is 2.6' as there is a lack of ROW which is insufficient for a tree; LPC electric lines & equipment are in the ROW. The other buffer/perimeter area total qty of trees is being met by utilizing smaller diameter deciduous/ornamental/coniferous trees. (See attached worksheet).

#### Review Criteria Analysis – Variance Request 2

##### General Standards the project needs to meet:

- F. The application is consistent with the comprehensive plan and the purpose of the code and zoning district; conforms to any previously approved concept plan, preliminary plat, or PUD overall development plan; and complies with all applicable statutes, codes, ordinances and regulations.

The Southmoor Retail Plaza is being proposed in the MU-C, Mixed-Use Corridor zone district which is a consistent use per the Land Development Code 15.03.030.C.1. A replat of the property is part of the CUSP submittal and an integral part of the development strategy. The project has been proposed to be permitted and built per any applicable statutes, codes, ordinances and regulations.

- G. The application complies with applicable city standards, including for street and utility design and layout, and adequate utilities are available or will be provided for appropriate urban-level services.

The Southmoor Retail Plaza project is engaged with the public improvement of Grand Ave as part of the subdivision replat of the property. As such, the design has been mitigated through

the Longmont Planning Department, Public Works, Transportation, LPC, and Fire Department. LPC has provided utility design for the site that is part of the CUSP.

- H. The application proposes development compatible with surrounding properties in terms of land use, site and building layout and design, and access.

The Southmoor Retail Plaza project is located on Ken Pratt Blvd which is a mixed-use but largely retail building environment. The project proposes to extend Grand Avenue the length of the property to the east. The proposed vehicular access points are from Ken Pratt Blvd, Grand Avenue and across from S. Terry St. The adjacent retail structures are functioning in an identical way providing on-site parking and building access facing Ken Pratt Blvd.

- I. The application will not adversely affect surrounding properties, the natural environment, existing or planned city transportation, or utility services or facilities, or the adverse impacts of the use will be mitigated to the maximum extent feasible.

The Southmoor Retail Plaza seeks to enhance surrounding properties in the following ways. The retail properties to the east and west will be connected by vehicular traffic through cross access easements. The continuation of Grand Avenue to the east supports the comprehensive master plan and creates future access to the residentially zoned site to the south of Grand Avenue.

- J. The application includes an appropriate transportation plan, including multi-modal transportation access, and is integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails and similar features.

The Southmoor Retail Plaza CUSP submittal has provided a Traffic Information Study for the development to meet the Design Review Committees' recommendations. The site is accessible to Ken Pratt Blvd for multi-modal transportation options. CDOT access permits to Ken Pratt are also part of the submittal. Connectivity of cross access drives and sidewalks to adjacent sites access been addressed in the design submittal. Vehicular connectivity has also been provided to the south of the site on Grand Avenue and across from South Terry St.

#### **Additional Standards for Variances:**

- G. Special circumstances exist that strict application of the standards adopted in this development code would result in undue hardship or practical difficulties for the owner of such property. Special circumstances include, but are not limited to, exceptional limitations to the dimensions, shape or topography of the property. The following factors shall be considered in determining practical difficulty: **1** whether the property and development can have any beneficial use without the variance; **2** the degree to which the variance deviates from the otherwise applicable standard; **3** whether the applicant purchased the property with knowledge of the standard; **4** whether the standard can be addressed through some means other than a variance; **5** and whether the purpose and intent behind the regulation would be maintained by granting the variance.

The simplest explanation for the variance request that the building design was determined before the revision of the land development code which contains different planning criteria. Any glazing on the rear of the "strip" retail building would be unusual. 50% glazing on both sides of a strip retail building does not support the diagram for the building type as further explained below.

1. Without the variance the building will not work for its' intended use.
2. The requested deviations are not a product of trying to minimize the transparency requirement, they are a product of constructing a retail building type with a historically transparent front and opaque back.
3. The property was purchased, planned and the standard criteria was revised by the land development code.
4. Most of the rear elevation is not visible from Grand Avenue due to the screening requirement for the drive through. Any improvement would be visually blocked.
5. The project team embraced the purpose and intent of the land development code by revising the design to increase the transparency of the Grand Avenue elevation upon receipt of the staff comment.

H. A variance shall not nullify or impair the purpose and intent of the code or the comprehensive plan. Explain how the proposed variance meets the standard.

Providing glazing to the rear of the retail building has been revised to meet the intent of the Land Development Code. The transparency requirement for the true front and public street facing façade to Ken Pratt Blvd. exceeds the transparency requirement.

I. A variance shall not adversely impact surrounding properties, neighborhoods, or the natural environment. Explain how the proposed variance meets the standard. What mitigation is being provided in lieu of meeting the code standard?

The existing adjacent retail properties which back to Grand Avenue were constructed prior to the transparency requirement and function naturally to using the rear of a retail building for deliveries, no transparency for visual security, and utilizing interior space at the rear of the buildings for "back of house" functions. Providing transparency to our project would not seem to be perceived as adverse. The proposed variance meets the standard as the project by adding glazing sidelites and transom lites at each tenant doorway on the Grand Avenue elevation. Mitigation seems unintuitive for a building elevation with a shielded drive through, gas meters, electric meters, and delivery access doors. Landscaping has been provided along Grand Avenue and in the parking lot for visual enhancement and mitigation.

J. A variance shall not create a building or fire code violation or other safety hazard. Explain how the proposed variance meets the standard.

The building shell does not have any rated assemblies. While the empty core building can only achieve a Temporary Certificate of Occupancy, the number of egress doors provided on both Ken Pratt Blvd. and Grand Avenue for future tenants to support two means of egress per building and fire code would not be impacted by adding glazing in the form of a sidelite and transom lite.

K. A variance shall not be granted for a self-imposed hardship. Explain how the proposed variance is not a result of a self-imposed hardship.

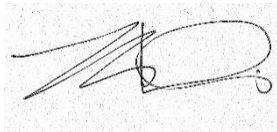
The 15,000 sf retail building typology specifically has a front and a back functionally. The front to be open and welcoming to the public, the back to be secure and function as delivery and business support. The circumstance of Ken Pratt Blvd and Grand Avenue being interpreted as public streets for a change in the development code since the projects' conception could not be anticipated. Further the hardship is imposed by site circumstance of two parallel public

streets, not the building design. The Development Code does not take into account a single building on a narrow lot.

- L. A variance shall allow only the least deviation from the standard that will afford relief. Explain what other alternatives were attempted to meet the code standard and why each of those alternatives was not viable. Explain how this variance is the least deviation from the code standard possible.

The proposed solution is looking to introduce a reasonable deviation from the standard. Making the rear of the building appear as the front of the building with 50% glazing with windows or doors was never considered in the building's cost model, use patterns, access patterns or design. Meeting this requirement would not benefit the project's value or public's value to the building. The Development Code does not take into account a single building on a narrow lot.

Sincerely,

A handwritten signature in black ink, appearing to read 'TD', is positioned above the typed name and title.

Tom Davis, AIA, NCARB, LEED AP  
Senior Associate Architect  
PWN Architects and Planners

Southmoor Plaza Retail Landscape Variance Request Worksheet 2.2.2021

Area	Item	
Arterial buffer 15' (Ken Pratt Blvd.) *	Total Trees required = 10 Total trees Provided = 6	Unable to plant additional trees due to ex utility easements, proposed sand filters, 7' LPC & 5' Gas easements.
Non-arterial buffer 20' (Grand Ave.)	Total Trees required = 10 Total trees Provided = 2	Unable to plant additional trees due to ex 20' drainage easement, proposed sand filters, horizontal separation of proposed water/storm/sewer lines, 7' LPC & 5' Gas easements, LPC electric lines & equipment in the ROW.
R.O.W. (Grand Ave. Local	Total Trees required = 7 Total trees Provided = 0	Unable to plant additional trees due to the distance from the attached walk to the property line is 2.6' as there is a lack of ROW which is insufficient for a tree; LPC electric lines & equipment are now in the ROW.
Sand Filter / WQ Perimeter	Total Trees required = 14 Total trees Provided = 7	Unable to plant additional trees due to (2) ex 15' Wide utility easements, proposed: sand filters, horizontal separation of proposed water /storm/sewer lines, 7' LPC & 5' Gas easements. LPC electric lines & equipment are now in the ROW.