



Item 3

#3
3/8/10

ZA 002210

145 NW CENTRAL PARK PLAZA
SUITE 200
PORT ST. LUCIE, FLORIDA 34986

(772) 873-5910
FAX: (772) 873-3110
NOREEN.DREYER@RUDEN.COM

February 17, 2010

VIA E-MAIL & US MAIL

Board of Zoning Appeals
City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, Florida 34984

Re: Zoning Appeal 10-3, Appeal of Planning & Zoning Board Variance Denial
JPMorgan Chase Bank NA at Gatlin Commons, P09-162

Dear Honorable Board Members:

This letter is written on behalf of our client JPMorgan Chase Bank NA ("Applicant"), in support and furtherance of its appeal of the Planning & Zoning Board's denial of Chase's request for a variance for façade signage greater than the permitted square footage for its new bank at Gatlin Commons. At its meeting of February 2, 2010, the Planning & Zoning Board denied the variance by a vote of four (4) in favor of the variance and three (3) opposed. Section 158.299, City of Port St. Lucie Code of Ordinances, requires a vote of approval of five (5) members to grant the variance and thus the variance was denied.

We respectfully believe that the criteria for granting the variance has been met and that this Board should agree with a majority of the Planning & Zoning Board members and grant the Applicant's variance request. The Applicant's complete application and justification statement are provided in the back up for the appeal. This letter summarizes the application and the Applicant's justification for the requested variance.

The Applicant has requested a variance to permit façade signage of 43.86 square feet greater than permitted. No additional variances are requested and all proposed signs for the bank otherwise meet existing sign code requirements. Although the Applicant originally sought additional variances to allow both the letters and logos to be larger than permitted, after meeting with staff and reworking the sign program, these additional variance requests were withdrawn and the requested variance for additional square footage was reduced by approximately 64%. Thus, we believe that the requested variance has been reduced to the minimum necessary to allow proper identification of the business and safe access to the site.

RM:7191889:1

RUDEN, McCLOSKEY, SMITH, SCHUSTER & RUSSELL, P.A.

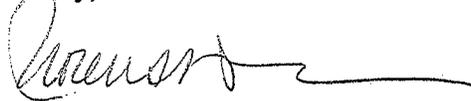
BOCA RATON • FT. LAUDERDALE • MIAMI • NAPLES • ORLANDO • PORT ST. LUCIE • TALLAHASSEE • TAMPA • WEST PALM BEACH

The primary reason for the additional square footage for the façade signage is because of the location of the lot in Gatlin Commons and the location of the required site access. The lot on which the bank is situated is bordered by S.W. Gatlin Boulevard on the North and S.W. Rosser Boulevard on the East and an access way to the west. Access to this site is unusual, in that direct access is not permitted to the site from either S.W. Gatlin Boulevard or S.W. Rosser Boulevard, but is instead from an access way along the Sam's Club parking lot to the rear of the bank. (Please see attached aerial.) These access requirements were determined during the original planning and approval of Gatlin Commons and not by the Applicant. Since access to the site is from the rear, additional signage is required so that customers can locate the bank from the access road and identify their destination when accessing the bank from either the east or west along the access way, and from within Gatlin Commons, where the main signs are not visible. Without additional signage, motorists may become confused and make unexpected stops or turns in attempting to identify their destination, which could unnecessarily present a safety issue.

The City has already granted multiple variances for sites within Gatlin Commons and in some cases multiple variances were granted for a single site. As stated in the staff report, variances have been granted for Wal-Mart (4 variances); Sam's Club (4 variances); Seacoast National Bank (1 variance); McDonalds (1 variance); Colonial Bank (3 variances); and Taco Bell (1 variance). These variances were necessitated by the special circumstances of each site within Gatlin Commons just as the subject request is necessitated by the special circumstances of the Applicant's site. In evaluating the request, the staff has acknowledged that the variance is minor in nature and should not be injurious to the area.

Based on the foregoing and on the Applicant's complete application, we believe that it has been demonstrated that each of the criteria for granting a variance has been met and respectfully request that the Board of Zoning Appeals reverse the decision of the Planning & Zoning Board and grant the requested variance.

Sincerely,



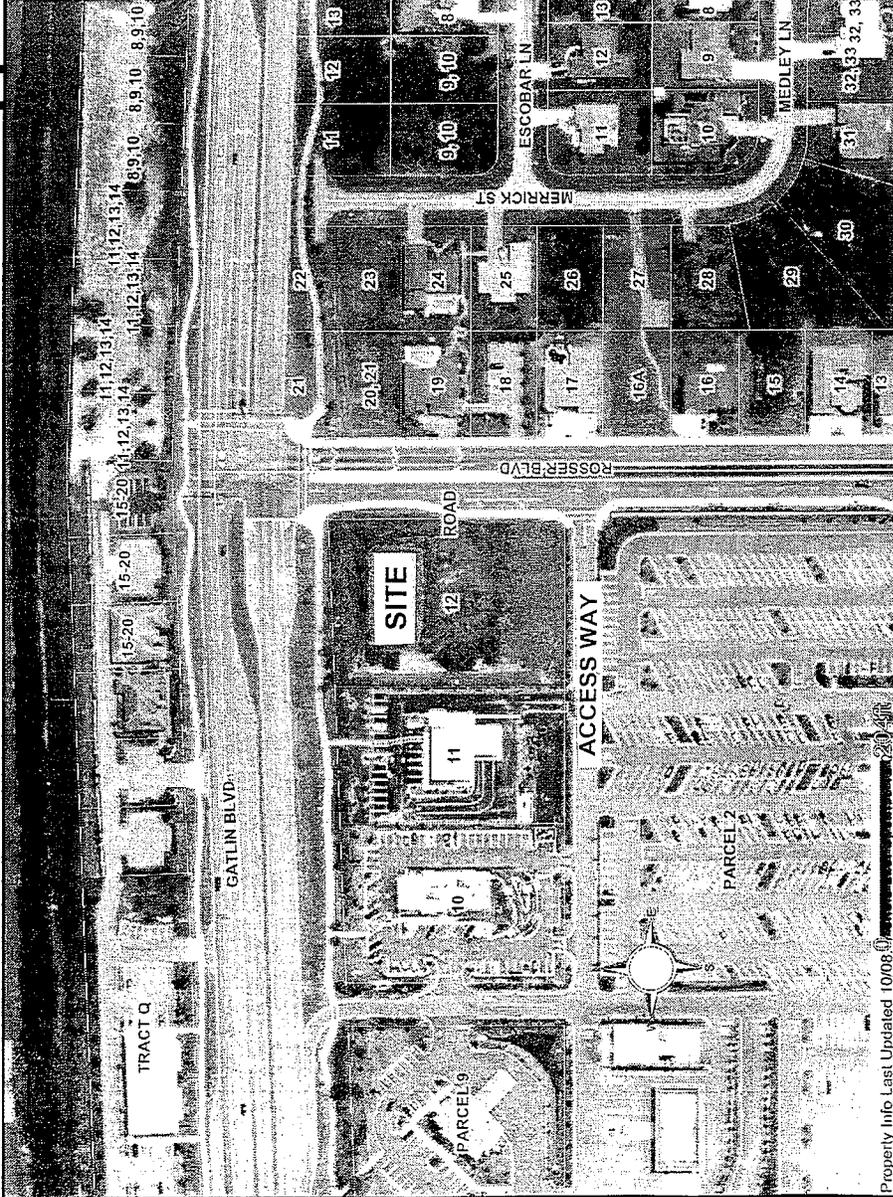
Noreen S. Dreyer

NSD/pw
Enclosure

cc: Daniel Holbrook, Director Planning & Zoning
Pam E. Hakim, Assistant City Attorney
Deborah Brown, JPMorgan Chase Bank,

RM:7191889:1

GIS Interactive Mapping



Legend

City Limits

Parcels

Streets

Highways and Water



Aerials December 2008

Property Info Last Updated 10/08/08

Disclaimer Statement

The information contained herein is believed to be true and correct however, it is not warranted or certified for accuracy. The City shall not be liable for errors contained herein or for incidental consequential damages in connection with the use of this material. Any use or re-use of this information will be at the risk of the user.



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(772) 873-5910
FAX: (772) 873-3110
NOREEN.DREYER@RUDEN.COM

February 5, 2010

Via Hand Delivery

Ms. Karen Phillips, City Clerk
City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, FL 34984

Re: Appeal of February 2, 2010 Planning and Zoning Board Determination
Variance Application Project No. P09-162
JPMorgan Chase Bank, NA at Gatlin Commons

Dear Ms. Phillips:

Pursuant to Section 158.302 of the City of Port St. Lucie Code of Ordinances, this letter is to appeal to the Board of Zoning Appeals, the Planning and Zoning Board's decision of February 2, 2010, to deny the variance requested by JPMorgan Chase Bank, NA for façade signage greater than the permitted square footage for its new bank at Gatlin Commons.

Enclosed is our check Number 3987 in the amount of \$150.00 for the required application fee. Please also advise me when the Board of Zoning Appeals will hear this matter and the last date by which to submit any back up material for the Board's agenda packet.

Thank you very much for your assistance. If any further information is required, please contact me at 772-873-5910.

Sincerely,

Noreen S. Dreyer

NSD/pw

Enclosure: Check Number 3987

cc: Deborah Brown, JPMorgan Chase, NA
Trish Sengebusch, NW Sign Industries

RM:7169707:1

FEB 5 '10 AM 11:19

RUDEN, McCLOSKEY, SMITH, SCHUSTER & RUSSELL, P.A.

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DRAFT

A. P09-162 J.P. MORGAN CHASE BANK @ GATLIN COMMONS -
VARIANCE

Ms. Kuruvilla stated, "This is a variance application for J.P. Morgan Chase Bank at Gatlin Commons. The applicants are J.P. Morgan Chase Bank and Noreen Dreyer, Esquire. The owner is Edgewood Investment Partners LLC. The property is located south of Gatlin Boulevard, west of Rosser Boulevard, and east of Import Drive. The legal description is Gatlin Commons 1st Replat, Lot 12. The existing zoning is PUD, and the existing use is a bank that is under construction. The applicant has requested a variance to façade signage for more than the permitted square footage. The total permitted is 114.5 square feet. The proposed total is 158.36 square feet; a variance of 43.86 square feet is requested. The bank's location fronts on Gatlin Boulevard; the side faces Rosser Boulevard. The entrance is by way of an internal access road. The 43.125-square-foot façade signage is shown on the north elevation, facing Gatlin. The applicant is permitted a total of 114.5 square feet, based on the linear frontage of the building, leaving 71.375 square feet available for additional signage without a variance. The applicant is requesting an additional 2.855 square feet to add the 'Business, Drive Up, ATM, Clearance 0'00" and Do Not Enter' bands to the monument. The total square footage requested is 158.36; the permissible square footage is 114.5. Hence, the requested variance is 43.86 square feet. Granting this variance will confer special privilege that is denied by this chapter to other lands, buildings, or structures in the same zoning district. Although granting of the variance will not be in harmony with the general intent and purpose of the chapter, the variance is minor in nature and should not be intrusive to the area. Other parcels in Gatlin Commons were granted similar sign variances. It should be noted that the Sign Code Review Committee has made final recommendations to update the Sign Code. On January 5, 2010, the Planning and Zoning Board discussed the update. Staff will present the amendment today as a Public Hearing after this item. The proposed update will not impact this application request. The Planning and Zoning staff finds the request to be inconsistent with the variance criteria as stipulated in Section 158.295(c) of the Zoning code and recommends denial." Chairman Lillo asked whether the amendment would have any impact on the application, or if it is just a matter of timing. Mr. Holbrook replied, "The proposed update would not impact or benefit the applicant. They would still be requesting a variance, either way."

Noreen Dreyer, Esq., Ruden, McClosky, representing the applicant, stated, "You have our justification statement and response to the criteria. I would like to go over that briefly. Our request is for an additional 43.86 square feet of façade signage. Our original request was for much more. We had applied for 120.08 square feet above the allowed area, with additional variances for taller logos and letters. After meeting with staff, we reworked our application to bring it down to something significantly less than our original application. We dropped the request for the taller logos and letters; we reduced the requested additional square footage by about 63%. As staff indicated, the request is minimal at this point and is harmonious with the neighborhood. Staff recommended denial because they are bound by the requirements of your Sign Code. I would like to briefly go through why we are requesting this variance."

Ms. Dreyer continued, "The site is located at the corner of Rosser and Gatlin, which looks ideal, except that there is no access to the site from either of those major streets. Instead, it is through an access way behind the site at the edge of the Sam's parking lot. Consequently, people accessing the bank site will drive east or west behind the building to get into the site. Because of this, additional signage is requested, so that drivers can see where they are going. They may be entering the site from other areas in Gatlin Commons. We also have concerns that as motorists approach the site, they may be confused as to where they are going if they can't identify the building. They may stop or turn in the wrong place, potentially causing safety issues. We assume that is why the access road was required of the PUD in the first place, rather than access off Gatlin or Rosser. We feel that adequate signage would address safety problems. The first Code criterion in considering a variance application is that special circumstances exist. The location and site access are special circumstances. There is no Master Sign Program for this development. The applicant is a lessee of the property and has no control over whether or not such a program is implemented. This is a major commercial corridor, so we assume the City would like businesses to develop there. The second criterion is that the special conditions are not the result of the applicant's action. Again, the applicant had no control over whether or not a Master Sign Program was adopted. That was determined quite a while before this applicant became involved with this location. The access was determined at the time the PUD was approved. The third criterion is that the variance will confer no special privileges on the applicant. Other commercial programs have Master Sign Programs, which allow the flexibility requested by this applicant and others within Gatlin Commons. The City has already granted many variances in

Gatlin Commons. There are been signs that exceed the height from grade, larger monument signs, larger letters, and additional square footage. That also goes to the next criterion, that the denial of the request would deprive the applicant of rights enjoyed by others and create a hardship. Other applicants have received variances, which is a factor to be considered in whether or not you grant this variance. The request is a minimum variance to make possible the reasonable use of the building. I have described how we have reduced the scope of the request; we believe this is the minimum for signage that we feel is necessary for access and safety. Finally, granting the variance would be in harmony with the general intent and purpose of the chapter and not injurious to the area or detrimental to the public. Staff has acknowledged that this variance is minor and harmonious to the area. We believe that it also promotes safety requirements, which is why the access road was placed there to begin with. We would request that you grant the variance. We will be happy to respond to any questions."

Mr. Stermer asked, "Prior to Chase obtaining the lot, was the lot already designed in the PUD, showing the access points that were already in place?" Ms. Dreyer answered, "I expect that is the case." Mr. Stermer continued, "Chase knew that there wasn't going to be an access from Gatlin or Rosser." Ms. Dreyer noted, "Sometimes when you're looking at a Site Plan, the access points aren't that clear. They become more apparent as the Site Plan application progresses. I can't answer that definitively." Mr. Rich asked, "At what point did your client become aware that there was no Master Sign Program for this parcel? Was it prior to purchasing the property?" Andy Felberg, Director of Construction for the Southeast Region of Chase Bank, said, "We would have done our due diligence within the timelines of the lease to determine that." Mr. Rich asked, "Did you buy the property and then find out, or was it part of your research before you bought the property, knowing there was no Master Sign Program?" Mr. Felberg replied, "I can't recall exactly. Usually, after the lease is signed, we have a due-diligence timeline to be able to go back through the information." Mr. Rich said, "You mentioned that this is a safety issue, and drivers may become confused and make unexpected stops. Do you really think that's going to happen?" Ms. Dreyer responded, "I do, or our application wouldn't have proposed it. As you see from the Site Plan, drivers will enter from the road along the back of the Sam's parking lot. If you're coming from the west, signage on Gatlin and Rosser would not be visible at all. Drivers could potentially go right past the driveway."

Chairman Lillo said, "In our packet we have a drawing of elevations. I am relying on that. As I have stated in the past

on sign-variance applications, even with the 1,000-page Sign Code, it requires some level of subjective and aesthetic evaluation. Based on what I see, the signs are not too intrusive, considering the purpose." Ms. Dreyer added, "If your new Sign Code were adopted there would be some very slight benefit, in that some of the signs we need to include in our total façade square footage are directional under the new Code. There would also be a few feet less signage than we have requested, because the proportion of the logo and letters needs to change a little. Maybe it would come down by about five square feet. I just wanted to call that to your attention."

Chairman Lillo opened the Public Hearing.

MARTY HORN, said, "We just finished seven months on the Sign Code Committee. I was one of the members. The Codes are established for a purpose. I don't see the logic to allowing Chase to go forward, because you are just granting another variance. The problem is of course that we granted previous variances. I don't believe in variances. We are a Code-oriented City. Based on that, I don't hear anything that would require a variance to what we're looking at." Mr. Stermer asked, "Did you review the sign height and size? What was the feeling on the size of signs in general?" Mr. Horn answered, "We reviewed every line of every paragraph in the Sign Code. We arrived at a package that we felt comfortable with."

There being no further comments, Chairman Lillo closed the Public Hearing.

Trish Englebush, NW Sign Industries, said, "I work with Chase on their signage. I do understand the sign restrictions. Chase has set criteria of signage that they use. They did give up a lot of signage here. I would want people driving in the back to see signs showing that this is a bank."

Vice Chair Parks said, "As a board we need to be committed to our Codes and to those people who work so diligently to make our Sign Code. It's time that we keep within our Codes, so I **move** to deny P09-162." Mr. Stermer **seconded** the motion. The **motion failed** by roll call vote, with Mr. Stermer, Vice Chair Parks, and Mr. Rich voting in favor, and Mr. Gardner, Mr. Lesko, Chairman Lillo, and Mr. Rooksberry voting against.

Mr. Lesko **moved** to approve P09-162. Mr. Gardner **seconded** the motion. The **motion failed** by roll call vote, with Mr. Lesko, Chairman Lillo, Mr. Rooksberry, and Mr. Gardner voting in favor, and Mr. Stermer, Vice Chair Parks, and Mr. Rich voting against. Chairman Lillo advised that the variance has not passed. Mr.

Holbrook noted that it can be appealed to the Board of Zoning Appeals through the City Clerk's Office within fifteen days, as outlined in the staff report.



City of Port St. Lucie

Planning and Zoning Department Memorandum

TO: PLANNING AND ZONING BOARD - MEETING OF FEBRUARY 2, 2010

FROM: THRESIAMMA KURUVILLA, PLANNER *JK*

RE: VARIANCE APPLICATION (PROJECT NO. P09-162)
JP MORGAN CHASE BANK @ GATLIN COMMONS

DATE: JANUARY 21, 2010

APPLICANT: JP Morgan Chase Bank, NA and Noreen S. Dreyer, Esquire of the law firm of Ruden, McClosky, Smith, Schuster & Russel, P.A, as agents for Chase Bank @ Gatlin Commons. Authorization letter is in the file.

OWNER: Edgewood Investment Partners L.L.C.

LOCATION: 1720 SW Gatlin Blvd., south of Gatlin Blvd., west of Rosser Blvd., and east of Import Drive.

LEGAL DESCRIPTION: Gatlin Commons 1st Replat, Lot 12

SIZE: 1.257 acres (54,793 square feet)

EXISTING ZONING: PUD (Gatlin Commons Planned Unit Development)

EXISTING USE: Bank (under construction)

REQUESTED VARIANCE: The following variance is requested: Facade signage with greater than the permitted square footage (114.5 sq. ft. total permitted, 158.36 sq. ft. total proposed, 43.86 sq. ft. variance requested).

SURROUNDING USES: North – P (Professional); East – CG (General Commercial), vacant lot; South – Sam's Club (Gatlin Commons PUD); West – Colonial Bank (Gatlin Commons PUD)

IMPACTS AND FINDINGS

Compatibility with variance criteria:

- 1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

- a. Applicant response

The lot on which the bank is situated is located in Gatlin Commons and is surrounded by roads on two sides and an access way on the third side. The lot is bordered by S.W. Gatlin Boulevard on the North and S.W. Rosser Boulevard on the East. There is no direct access to the subject site from either S.W. Gatlin Boulevard or S.W. Rosser Boulevard, but instead from an access way along the Sam's Club parking lot to the south. Another bank is situated on the adjacent lot to the west.

Since access to this lot is from the rear, additional signage is required so that customers can easily locate their destination. Without adequate signage, customers looking for their destination while driving are likely to become confused and make unexpected stops or turns which could present unnecessary safety issues. The additional signage along the access drive and on the west elevation provides much clearer direction for motorists attempting to find their destination.

The requested signs are in good proportion to the building, present a neat appearance and the main sign along Gatlin Boulevard is actually behind a window. The signs are consistent with the corporate sign program for Chase banks in general, both within and without Florida.

- b. Staff evaluation

Special conditions and circumstances do not exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. This bank is at the corner of S.W. Gatlin Boulevard and S.W. Rosser Boulevard and the access is from an internal road in the rear. The attached site plan shows the access to this bank. As this is the first building on the right side from S.W. Rosser Boulevard, customers may locate their destination without any problem. Staff feels that the façade signage (logo and the white letters) can be placed without the need for a square footage variance. It should be noted, that variances for square footage have already been granted in Gatlin Commons for Wal-Mart, Sam's Club, and Colonial Bank. Seacoast National Bank and McDonald's in Gatlin Commons have also been granted variances for

height above grade. Recently Taco Bell at Gatlin Commons was allowed to have a smaller letter height for the business name on a freestanding monument sign.

- 2) That the special conditions and circumstances do not result from any action of the applicant.

- a. Applicant response

These conditions and circumstances are not the result of the applicant. The development site and access provisions were previously determined through the master site planning process for Gatlin Commons.

- b. Staff evaluation

The façade signage (logo and the white letters) can be placed without the need for a square footage variance. Gatlin Commons has never requested a Master Sign Program for the entire project. Staff again calls attention to the fact that other buildings have been granted for similar variances for façade square footage in Gatlin Commons.

- 3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district.

- a. Applicant response

Most commercial areas like Gatlin Commons are governed by master sign programs developed by the master developer which allow for more flexibility in the signage. While Gatlin Commons does not have a master sign program, the variance process provides a mechanism for businesses within the Commons to request relief from the strict application of the code based upon the special or unique circumstances presented by each request.

A variety of variances have already been granted within Gatlin Commons. Several variances have been granted for signs which exceed the current 20 foot height limit from grade, for monument signs that exceed the permitted square footage, and for signs with letters larger than the permitted size, none of which this applicant is requesting. In addition, the City has granted several variances in Gatlin Commons for signs exceeding the total permitted square footage, and those applicants also received other variances from the sign code as well. This applicant is requesting only one variance for total square footage.

b. Staff evaluation

The bank's location fronts on Gatlin Blvd. and the side faces Rosser Blvd. however, the entrance is by way of an internal access road. A 43.125 sq. ft. façade sign is shown on the north elevation facing Gatlin Blvd. The applicant is permitted a total of 114.5 sq. ft. based on the linear frontage of the building, leaving 71.375 sq. ft. available for additional signage without a variance. A 36.86 sq. ft. façade sign is shown on the east, west and south elevations (total 110.58 sq. ft.). The applicant is requesting an additional 2.855 sq. ft. to add the "Business, Drive-up, ATM, Clearance 0'-00' and Do Not Enter" bands to the monument. The total square footage requested by the applicant is 158.36 and the permissible square footage is 114.5, and hence the requested variance is 43.86 sq. ft. The granting of this variance will confer special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district.

- 4) That literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant.

a. Applicant response

As mentioned in the response to factor (3) above, a variety of variances have previously been granted within this area. Several variances have been granted for signs which exceed the current 20 foot height limit from grade, for monument signs that exceed the permitted square footage and for letters larger than the permitted size, none of which this applicant is requesting. In addition, the City has also granted several variances in Gatlin Commons for signs exceeding the total permitted square footage, and those applicants also received other variances as well. Each parcel within the Gatlin Commons PUD is different and presents its unique set of circumstances which have often required variances based on the site itself or the specific building design. This applicant similarly requests a variance to exceed the total square footage, based upon the site location and the unusual access requirements.

b. Staff evaluation

Literal interpretation of the provisions of the chapter would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. However, other parcels in Gatlin Commons were granted similar sign variances. Gatlin Commons has never requested a Master Sign Program for the entire project.

5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

a. Applicant response

The requested variance is required because of the location of the site and the relatively low-profile building design, but primarily because of the unusual access to the site. Access is not permitted from either of the major roads bordering the site. Instead, access is limited to an access way through the Gatlin Commons parking lot behind the building, thus necessitating additional signage so that customers can identify the bank from the access road and from the approach from the west along the access road.

b. Staff evaluation

The variance requested is not the minimum variance that will make possible the reasonable use of the land, building, or structure. Others in the plaza have been granted similar variances. The applicant reduced the logo size and letter size based on discussion with staff, and avoided all other variances but a lesser façade square footage than the original façade square footage. That the granting of the variance will be in harmony with the general intent and purpose of the chapter and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

6) That the granting of the variance will be in harmony with the general intent and purpose of the chapter and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

a. Applicant response

The overall color and design of the proposed signs are compatible and harmonious with the size and shape of the building. The additional signage will allow the public to clearly identify the building from the access road. This will increase safety which is likely why the access to the building was restricted to the rear access road in the first place.

b. Staff evaluation

Although the granting of the variance will not be in harmony with the general intent and purpose of the chapter, the variance is minor in nature and should not be injurious to the area.

7) That there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.

a. Applicant response

The owner will fully comply with any and all conditions and safeguards which may be prescribed in conjunction with the granting of the requested variance.

b. Staff evaluation

The applicant has agreed to comply with any additional conditions.

OTHER

Site plan approval was granted by the City Council on June 22, 2009 (P09-059) for the construction of a 4,284 square foot bank with three drive-through lanes with one ATM lane and one bypass lane.

The following variances have been granted in Gatlin Commons:

July 6, 2005 - P05-212 - Wal-Mart – for greater than the permitted square footage, size of letters, height above grade, and location on buildings. This was based on the size of the structure and the distance from the road.

December 6, 2005 - P05-234 - Sam's Club – for greater than the permitted number of signs, greater than the permitted square footage, size of letters, and number of monument signs. This was based on the size of the project, its location on a major roadway, and its distance from the roadway.

November 6, 2007 - P07-334 – Seacoast National Bank - for greater than the permitted height for the front façade sign from the then permitted 15' to 26'.

December 6, 2007 - P07-368 – McDonalds – for greater than the permitted height from the then permitted 15' to 17'.

August 10, 2009 - P09-009 -Colonial Bank - for greater than the permitted height of logos, square footage of the façade and monument sign.

October 6, 2009 - P09-115-Taco Bell - to allow a smaller letter height for the business name on a freestanding monument sign.

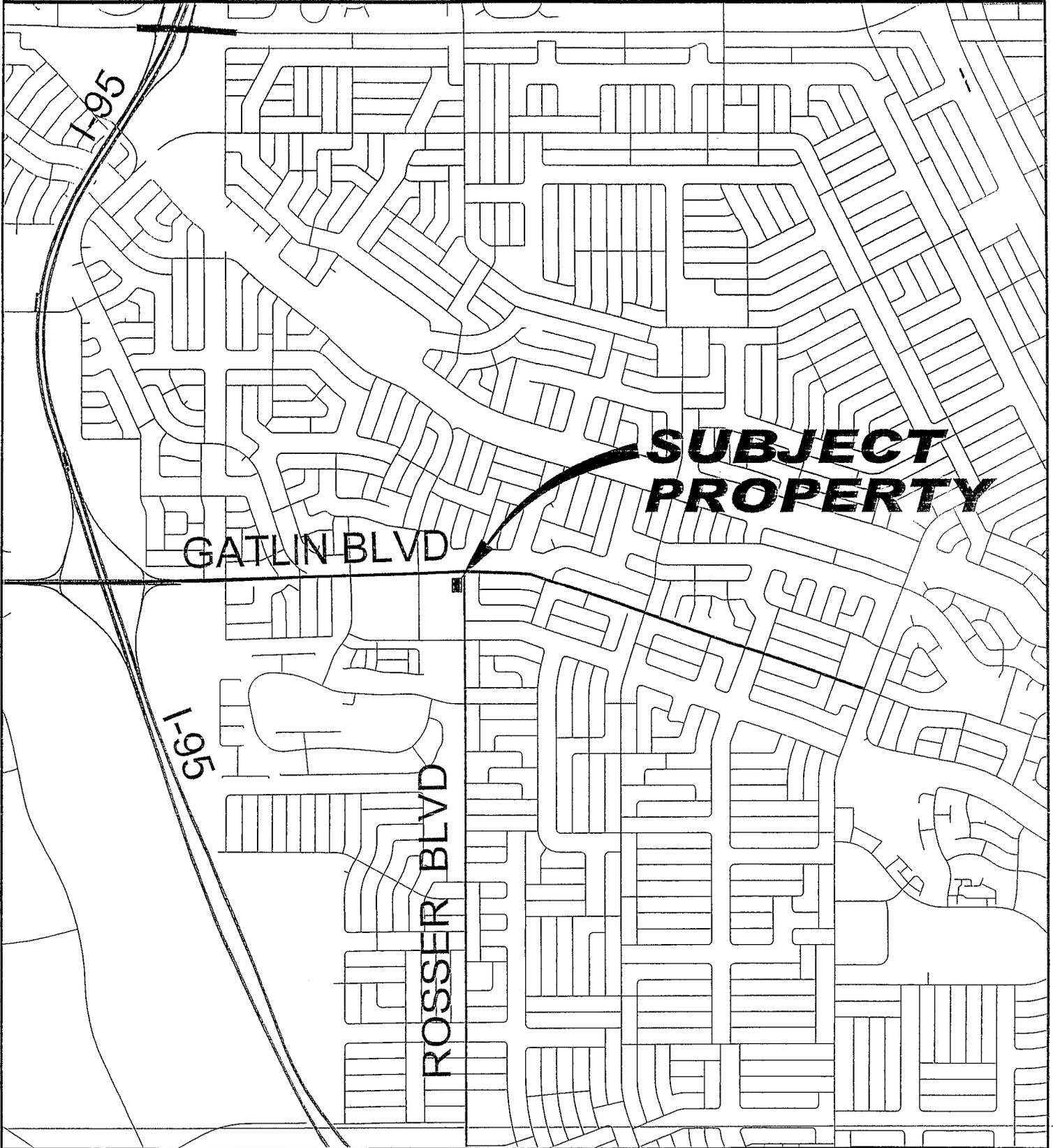
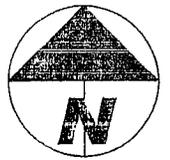
It should be noted that the Sign Code Review Committee has made final recommendations to update the Sign Code. The Planning and Zoning Board on 1/5/10 discussed the Sign Code update and staff will present the Zoning Text Amendment to Section 155 – Sign Code of the Land Development Regulation (P09-029) as a public hearing on 2/2/10. The proposed update will not impact this application request.

STAFF RECOMMENDATION:

The Planning and Zoning Department staff finds the request to be inconsistent with variance criteria as stipulated in Section 158.295(C) of the Zoning Code. Therefore, staff recommends denial.

(NOTE TO APPLICANT: Any request for a variance that is denied by the Planning and Zoning Board may be appealed to the Board of Zoning Appeals. Appeal applications are made through the City Clerk's office and must be submitted within 15 days after the Planning and Zoning Board hearing).

SITE LOCATION



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
GIS. Division of M.I.S.

PZ2008.DWG

VARIANCE

LOT 12

GATLIN COMMONS 1ST REPLAT

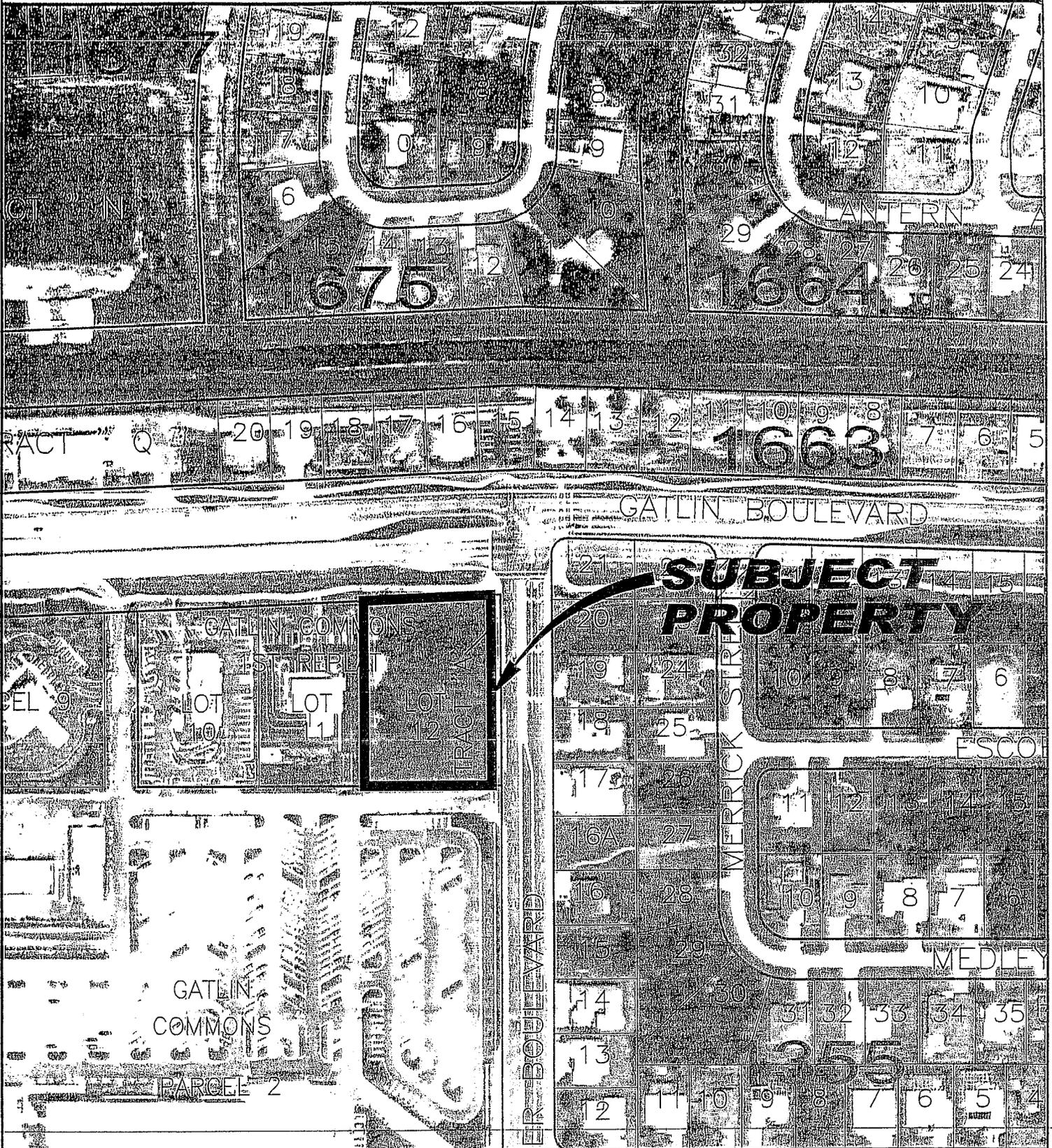
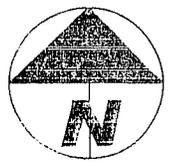
DATE: 12/18/09

APPLICATION NUMBER:
P09-162

GADD FILE NAME:
P09-162L

SCALE: 1" = .5 MI

SITE LOCATION



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
GIS. Division of M.I.S.

PZ2008.DWG

VARIANCE

LOT 12

GATLIN COMMONS 1ST REPLAT

AERIAL JAN 2009

DATE: 12/18/09

APPLICATION NUMBER:
P09-162

CADD FILE NAME:
P09-162A

SCALE: 1"=200'

VARIANCE APPLICATION

CITY OF PORT ST. LUCIE
Planning & Zoning Department
121 SW Port St. Lucie Blvd.
Port St. Lucie, Florida 34984
(772)871-5212 FAX: (772)871-5124

RECEIVED

DEC 10 2009

FOR OFFICE USE ONLY

Planning Dept 09-162
Fee (Nonrefundable)\$ 27,633.00
Receipt # 10146

Refer to "Fee Schedule" for application fee. ^{PLANNING DEPARTMENT} ~~Make check payable~~ to the "City of Port St. Lucie. Fee is nonrefundable unless application is withdrawn prior to advertising for the Planning and Zoning Board meeting. **Attach two copies of proof of ownership (e.g., warranty deed, affidavit), a copy of recent survey and a statement addressing each of the attached criteria.**

PROPERTY OWNER:

Name: Edgewood Investment Partners, L.L.C.
Address: 7307 NW 122nd Avenue, Parkland, FL 33076
Telephone No. _____ Fax No. _____

APPLICANT (IF OTHER THAN OWNER, ATTACH AUTHORIZATION TO ACT AS AGENT):

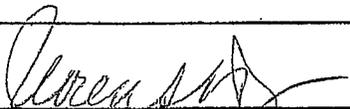
Name: JPMorgan Chase Bank, NA and Noreen S. Dreyer, Esq. / Ruden, McClosky, Smith, Schuster & Russell, P.A.
Address: 145 NW Central Park Plaza, Suite 200, Port St. Lucie, FL 34986
Telephone No. 772-873-5910 Fax No. 772-873-3110

SUBJECT PROPERTY:

Legal Description: Lot 12, Gatlin Commons 1st Replat, as recorded Plat Book 55, Page 30, of the Public Records of St. Lucie County, Florida
Parcel I.D. Number: 4314-506-0004-000-7
Address: 1710 SW Gatlin Boulevard, Port St. Lucie, FL 34953
Current Zoning Classification PUD

Description of requested variance and applicable conditions/circumstances justifying request (continue on separate sheet, if necessary): Provide documentation that the attached variance criteria have been met.

Please see attached sheet


Signature of Applicant

Noreen S. Dreyer, Esq.
Hand Print Name

12/9/09
Date

NOTE: Signature on this application acknowledges that a certificate of concurrency for adequate public facilities as needed to service this project has not yet been determined. Adequacy of public facility services is not guaranteed at this stage in the development review process. Adequacy for public facilities is determined through certification of concurrency and the issuance of final local development orders as may be necessary for this project to be determined based on the application material submitted.
HAPZISHARED\APPLCTN\VARAPPL (07/29/04)

VARIANCES

The Planning and Zoning Board and Zoning Administrator may authorize the variance from the provisions of this chapter as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the Planning and Zoning Board or Zoning Administrator will consider the variance criteria in § 158.295 (C) 1-7 and consider your responses to the following when making a determination.

(1) Please explain special conditions and circumstances that exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

See attached

(2) Please explain if these conditions and circumstances result from actions by the applicant;

See attached

(3) Please explain how granting the variance requested will not confer on the applicant special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district;

See attached

(4) Please explain how a literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant;

See attached

(5) Please illustrate and explain if the variance requested is the minimum variance that will make possible the reasonable use of the land, building, or structure;

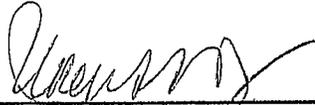
See attached

(6) Please indicate how granting variance will be in harmony with the general intent and purpose of the chapter and that granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;

See attached

(7) Please indicate that there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.

See attached



Signature of Applicant

Noreen S. Dreyer, Esq.

Print Name

12/9/09

Date

Agent Authorization

Edgewood Investment Partners L.L.C. hereby authorizes JPMorgan Chase Bank, NA and Noreen S. Dreyer, Esquire of the law firm of Ruden, McClosky, Smith, Schuster & Russell, P.A. to act as its agent in connection with the application for a variance for property it owns at 1710 SW Gatlin Boulevard, Port St. Lucie, Florida and legally described as Lot 12 of Gatlin Commons 1st replat, according to the Plat thereof, as recorded in Plat Book 55, Page 30, of the Public Records of St. Lucie County.

Edgewood Investment Partners, L.L.C.
A Florida limited liability company

WITNESSES

Witness

Print Name: Martha Mendible

Witness

Print Name: Martha Mendible

By: Rich Leonard

Name: Rich Leonard

Its: Member - Managing Member

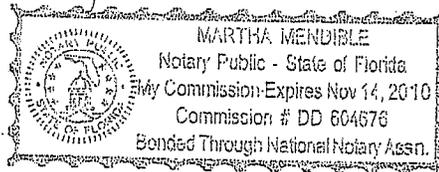
STATE OF FLORIDA
COUNTY OF Broward

The foregoing instrument was acknowledged before me this 8 day of December 2009 by Rich Leonard as MEMBER of Edgewood Investment Partners, L.L.C, a Florida limited liability company, on behalf of the company. He/she is personally know to me or has produced _____ as identification.

Notary Public, State of Florida

My Commission Expires:

Nov. 14, 2010



Attachment to Variance Application
Edgewood Investment Partners L.L.C.
Agent: JPMorgan Chase Bank, NA and Noreen S. Dreyer, Esquire
Requested Sign Variance for Chase Bank, 1710 SW Gatlin Boulevard, Port St. Lucie

Requested Variances:

Façade signage greater than the permitted total square footage:
114.5 square feet permitted, 158.36 square feet requested, for an additional
43.86 square feet.

In accordance with Section 158.295 of the City of Port St. Lucie Code, the Planning and Zoning Board may authorize a variance when it is not contrary to the public interest and when owing to special conditions a literal enforcement would result in unnecessary and undue hardship. The code provides that the Planning and Zoning Board should consider seven factors in authorizing a variance. The applicant has responded to each of these factors below, and respectfully requests that the Planning and Zoning Board authorize the variances requested above.

(1) Please explain special conditions and circumstances that exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

The lot on which the bank is situated is located in Gatlin Commons and is surrounded by roads on two sides and an access way on the third side. The lot is bordered by S.W. Gatlin Boulevard on the North and S.W. Rosser Boulevard on the East. There is no direct access to the subject site from either S.W. Gatlin Boulevard or S.W. Rosser Boulevard, but instead from an access way along the Sam's Club parking lot to the south. Another bank is situated on the adjacent lot to the west.

Since access to this lot is from the rear, additional signage is required so that customers can easily locate their destination. Without adequate signage, customers looking for their destination while driving are likely to become confused and make unexpected stops or turns which could present unnecessary safety issues. The additional signage along the access drive and on the west elevation provides much clearer direction for motorists attempting to find their destination.

The requested signs are in good proportion to the building, present a neat appearance and the main sign along Gatlin Boulevard is actually behind a window. The signs are consistent with the corporate sign program for Chase banks in general both within and without Florida.

(2) Please explain if these conditions and circumstances result from actions of the applicant;

These conditions and circumstances are not the result of the applicant. The development site and access provisions were previously determined through the master site planning process for Gatlin Commons.

(3) Please explain how granting the variance requested will not confer on the applicant special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district;

Most commercial areas like Gatlin Commons are governed by master sign programs developed by the master developer which allow for more flexibility in the signage. While Gatlin Commons does not have a master sign program, the variance process provides a mechanism for businesses within the Commons to request relief from the strict application of the code based upon the special or unique circumstances presented by each request.

A variety of variances have already been granted within Gatlin Commons. Several variances have been granted for signs which exceed the current 20 foot height limit from grade, for monument signs that exceed the permitted square footage, and for signs with letters larger than the permitted size, none of which this applicant is requesting. In addition, the City has granted several variances in Gatlin Commons for signs exceeding the total permitted square footage, and those applicants also received other variances from the sign code as well. This applicant is requesting only one variance, for total square footage.

(4) Please explain how a literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant.

As mentioned in the response to factor (3) above, a variety of variances have previously been granted within this area. Several variances have been granted for signs which exceed the current 20 foot height limit from grade, for monument signs that exceed the permitted square footage, and for letters larger than the permitted size, none of which this applicant is requesting. In addition, the City has also granted several variances in Gatlin Commons for signs exceeding the total permitted square footage, and those applicants also received other variances as well. Each parcel within the Gatlin Commons PUD is different and presents its unique set of circumstances which have often required variances based on the site itself or the specific building design. This applicant similarly requests a variance to exceed the total square footage, based upon the site location and the unusual access requirements.

(5) Please illustrate and explain if the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.

The requested variance is required because of the location of the site and the relatively low-profile building design, but primarily because of the unusual access to the site. Access is not permitted from either of the major roads bordering the site. Instead, access is limited to an access way through the Gatlin Commons parking lot behind the building thus necessitating additional signage so that customers can identify the bank from the access road and from the approach from the west along the access road.

(6) Please indicate how granting the variance will be in harmony with the general intent and purpose of the chapter and that granting the variance will not be injurious to the area involved or otherwise detrimental to the public.

The overall color and design of the proposed signs are compatible and harmonious with the size and shape of the building. The additional signage will allow the public to clearly identify the building from the access road. This will increase safety which is likely why the access to the building was restricted to the rear access road in the first place.

(7) That there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which the variance is required shall be begun or completed, or both.

The owner will fully comply with any and all conditions and safeguards which may be prescribed in conjunction with the granting of the requested variance.

OK, we'll set it up. Thank you.

Karen A. Phillips, CMC
City Clerk
City of Port St. Lucie
(772) 344-4370
(772) 344-4094 Fax

From: Mayor Christensen
Sent: Thursday, February 04, 2010 1:36 PM
To: Karen Phillips
Subject: Re: Zoning Appeal

Feb. 22

From: Karen Phillips
To: Mayor Christensen
Sent: Thu Feb 04 13:16:10 2010
Subject: RE: Zoning Appeal
OK, just let me know which meeting.

Karen A. Phillips, CMC
City Clerk
City of Port St. Lucie
(772) 344-4370
(772) 344-4094 Fax

From: Mayor Christensen
Sent: Thursday, February 04, 2010 11:41 AM
To: Karen Phillips
Subject: Re: Zoning Appeal

Ok

From: Karen Phillips
To: Mayor Christensen
Cc: Bonnie Cruz; Susan Skinner; Pat Garthwaite
Sent: Thu Feb 04 08:35:18 2010
Subject: Zoning Appeal

We received a request for another Zoning Appeal from JP Morgan/Chase Bank – denied Sign Variance. Would you like to schedule this for 6:30 on 2/22 or 6:30 on 3/8 ? Please advise. Thank you.

Karen A. Phillips, CMC

1940

CITY OF PORT ST. LUCIE
CITY CLERK'S OFFICE
121 SW Port St. Lucie Blvd. Port St. Lucie, FL 34984
(772) 871-5157

RECEIVED FROM Ruden, Mc Closky \$ 150.00 DOLLARS

FOR One Hundred fifty and 00/100

BY Janeet Janssen

DATE 2/5/10

AMOUNT OF ACCOUNT	<input type="checkbox"/> CASH
THIS PAYMENT <u>3987</u>	<input checked="" type="checkbox"/> CHECK
BALANCE DUE	<input type="checkbox"/> M.O.

THANK YOU



3987

WACHOVIA BANK, NA
68-643/670

2/4/2010

\$ **150.00

Pay to the Order of City Of Port St. Lucie

One Hundred Fifty and 00/100 ***** Dollars

RUDEN, McCLOSKEY, SMITH, SCHUSTER, ET AL 06-00
145 NW CENTRAL PARK PLAZA STE 200
PORT ST LUCIE, FL 34986

61618-0002 Fee for Appeal Hearing

⑈003987⑈ ⑆067006432⑆ 2000007386343⑈

61618-0002 Fee for Appeal Hearing



CITY OF PORT ST. LUCIE

CITY CLERK'S OFFICE

.....
A CITY FOR ALL AGES

February 5, 2010

CERTIFIED MAIL

JP Morgan Chase Bank, NA and
Noreen S. Dreyer, Esq.
Ruden, McClosky, Smith, Schuster & Russell, P.A.
145 NW Central Park Plaza
Suite 200
Port St. Lucie, FL 34986

Attn: Noreen S. Dreyer

RE: ZONING APPEAL 10-3, Appeal the decision of the Planning & Zoning Board of February 2, 2010, denying a variance request for facade signage with greater than the permitted square footage (114.5 sq. ft. total permitted, 158.36 sq. ft. total proposed, 43.86 sq. ft. variance requested). JP Morgan Chase Bank @ Gatlin Commons, P09-162

Please consider this notice of Public Hearing before the City Council serving as Board of Zoning Appeals to be held on **Monday, February 22, 2010, at 6:30 p.m.** or as closely thereafter as business permits, at the Port. St. Lucie Council Chambers, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

Any back-up material you wish to have put into the packet should be in the City Clerk's office by 12:00 noon on Wednesday, February 17, 2010.

If you should have any questions, please do not hesitate to contact me at 344-4296.

Sincerely,

Karen A. Phillips,
City Clerk

cc: Daniel Holbrook, Director Planning & Zoning
Pam E. Hakim, Assistant City Attorney

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Noreen S. Dreyer, Esq.
 Ruden, McClosky, Smith, Schuster
 & Russell, P.A.
 145 NW Central Park Plaza
 Suite 200
 Port St. Lucie, FL 34986

COMPLETE THIS SECTION ON DELIVERY

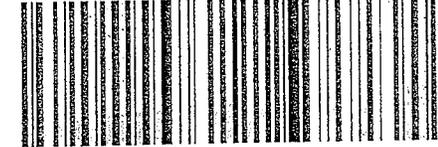
- A. Signature Agent
 Addressee
- B. Received by (Printed Name)
Kathy Candrey
- C. Date of Delivery
2-8-04
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Transfer from service label) **7009 0960 0000 7885 2528**

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

MAIL DELIVERED



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U.S. Postal Service™
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 (Domestic Mail Only, No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

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Return Receipt Fee (Endorsement Required) \$
 Restricted Delivery Fee (Endorsement Required) \$
 Total Postage & Fees \$

Postmark Here

Sent To: *Noreen S. Dreyer, Esq. Ruden, McClosky, Smith, Schuster & Russell, P.A. 145 NW Central Park Plaza Suite 200 Port St. Lucie, FL 34986*

PS Form 3800, August 2003 See Reverse for Instructions

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only, No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage \$
 Certified Fee \$
 Return Receipt Fee (Endorsement Required) \$
 Restricted Delivery Fee (Endorsement Required) \$
 Total Postage & Fees \$

Postmark Here

Sent To: *Noreen S. Dreyer, Esq. Ruden, McClosky, Smith, Schuster & Russell, P.A. 145 NW Central Park Plaza Suite 200 Port St. Lucie, FL 34986*

PS Form 3800, August 2003 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Noreen S. Dreyer, Esq.
 Ruden, McClosky, Smith, Schuster
 & Russell, P.A.
 145 NW Central Park Plaza
 Suite 200
 Port St. Lucie, FL 34986

2. Article Number (Transfer from service label) **7009 0960 0000 7885 2528**

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 Addressee
- B. Received by (Printed Name)
Kathy Candrey
- C. Date of Delivery
2-8-04
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
4. Restricted Delivery? (Extra Fee) Yes

7009 0960 0000 7885 2528

COUPRE03

clerk initial _____

The Port St. Lucie News
Legal Advertising
Proof of Publication to:

Karen A. Phillips
City Clerk
City Hall Plaza
121 S.W. Port St. Lucie Blvd.
Port St. Lucie, FL 34984

NOTICE OF PUBLIC HEARING

The City Council of the City of Port St. Lucie serving as the Board of Zoning Appeals will consider an appeal on February 22, 2010, at 6:30 p.m., at Port St. Lucie City Hall, 121 S.W. Port St. Lucie Boulevard, Port St. Lucie, Florida as follows:

Zoning Appeal #10-3
Legal Description: Gatlin Commons 1st Replat, Lot 12
Location: 1720 SW Gatlin Blvd., Port St. Lucie, FL
Action Sought: Appeal the decision of the Planning & Zoning Board of February 2, 2010, to deny granting a variance request for facade signage with greater than the permitted square footage (114.5 sq. ft. total permitted, 158.36 sq. ft. total proposed, 43.86 sq. ft. variance requested). JP Morgan Chase Bank @ Gatlin Commons, P09-162
Appellant: Owner: Edgewood Investment Partners, LLC

Copies of the above appeal documents are available in the City Clerk's office for public inspection Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m. Interested parties may appear at the meeting and be heard with respect to the appeal.

No stenographic record by a certified court reporter will be made of the foregoing meeting. Accordingly, any person who may seek to appeal any decision involving the matters noticed herein will be responsible for making a verbatim record of the testimony and evidence at said meeting upon which any appeal is to be based.

Karen A. Phillips, CMC
City Clerk

PUBLISH: February 11, 2010

NOTICE OF MEETING

**NOTICE OF
PUBLIC HEARING**

The City Council of the City of Port St. Lucie serving as the Board of Zoning Appeals will consider an appeal on February 22, 2010, at 6:30 p.m., at Port St. Lucie City Hall, 121 S.W. Port St. Lucie Boulevard, Port St. Lucie, Florida as follows:

Zoning Appeal
#10-3

Legal Description:
Gatlin Commons
1st Replat, Lot 12

Location:
1720 SW Gatlin
Blvd., Port St. Lucie,
FL

Action Sought:
Appeal the decision of the Planning & Zoning Board of February 2, 2010, to deny granting a variance request for facade signage with greater than the permitted square footage (114.5 sq. ft. total permitted, 158.36 sq. ft. total proposed, 43.86 sq. ft. variance requested). JP Morgan Chase Bank @ Gatlin Commons, P09-162

Appellant:
Owner: Edgewood
Investment Partners,
LLC

Copies of the above appeal documents are available in the City Clerk's office for public inspection Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m.

Interested parties may appear at the meeting and be heard with respect to the appeal.

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Karen A. Phillips,
CMC
City Clerk

Publish: February 11,
2010
2113241

