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February 15, 2019

Via Federal Express

Mr. Kevin D. Keller, AICP
Planning and Development Director
Town of Braselton
4986 Highway 53
Braselton, Georgia 30517

Re: Variance Application (the "**Application**") by NTW, LLC ("**Applicant**") to remove fencing and alter parking and landscaping requirements for Automobile Repair facility on property located at 2137 Friendship Road, Flowery Branch, Georgia (the "**Property**")

Dear Kevin:

As you know, this law firm had the pleasure of representing Applicant with respect to the Conditional Use Permit Application (Application Number 18-05-CU) that was approved by the Town on February 11, 2019. We now respectfully submits for the Town's consideration the Application, seeking minor variances to the fencing, parking space size and landscaping requirements otherwise required for the construction of Applicant's automotive repair facility on the Property.

The Property is an approximately 1.34 acre tract zoned GC, with the approved CUP for Applicant's automotive repair facility. Applicant proposes to construct an approximately 6,800 square foot building on the site, with associated parking. The general exterior of the building will be in keeping with the design and aesthetic of the Friendship Springs shopping center and the standards required by the Town, including dumpster enclosures and the like. Applicant's project will comply with all aspects of the Development Ordinance of the Town of Braselton, Georgia (the "**Ordinance**") except in three instances:

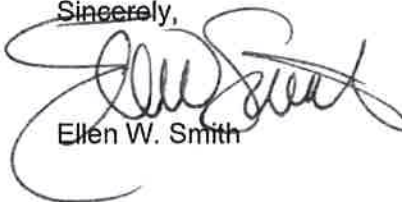
- (1) Ordinance Section 9.2.9(B) requires the a 20-foot landscape buffer and an 8 foot tall opaque fence on all adjoining property lines.
- (2) Ordinance Section 9.2.9(C)a vegetative area at least 15 feet wide planted with at least 4 foot tall evergreen shrubs.

PPAB 4712090v2

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The first two standards target automotive repair facilities that are stand-alone, adjacent to residential or other areas that require screening. In this instance, compliance with these two standards is not appropriate given the location of the Property within an existing shopping center development. This is particularly true given that Condition 1(a) of Applicant's approved CUP incorporates a landscape concept plan that has enhanced landscaping for the Property (a copy of which is enclosed for reference). Similarly, Applicant notes that the fence required by Section 9.2.9(B) would serve no practical purpose as Condition No. 3 of the Applicant's Conditional Use Permit requires that "[n]o tires, wheels or other items from the business shall be placed outside of the building either temporarily or permanently. The exception is the placement of such items in an approved enclosed dumpster." Accordingly, the requirements for 4 foot tall landscaping or for fencing is not necessary. Applicant believes that these standards are targeted to "Mom and Pop" enterprises in undeveloped areas. Furthermore, the shape of the Property does not allow appropriate space for a 20 foot landscape buffer around the perimeter of the Property and Applicant has proposed an alternative, enhanced landscape plan to mitigate the impact of its request to reduce this buffer as shown on the site plan. Similarly, the topography of the Property is such that the installation of 4 foot tall shrubs to shield parking will not produce true shielding and, in any event, this would be the only parking area in the entire shopping center that has this kind of requirement.

Applicant respectfully requests your recommendation of approval of the Application to the Board of Appeals, and that you notice and calendar same for consideration at the next available public hearing, which we understand will be March 19, 2019 at 7:30 p.m. We are happy to answer any questions or provide any information that the Department or the Braselton Board of Appeals may have with regard to the Application.

Sincerely,

Ellen W. Smith

CEM:EWS

STANDARDS GOVERNING THE GRANT OF A VARIANCE

PURSUANT TO ARTICLE XVIII OF THE TOWN OF BRASELTON DEVELOPMENT CODE, THE ZONING BOARD OF APPEALS FINDS THAT THE FOLLOWING CONDITIONS ARE RELEVANT IN BALANCING THE INTEREST IN PROMOTING THE PUBLIC HEALTH, SAFETY, MORALITY OR GENERAL WELFARE AGAINST THE RIGHT TO THE UNRESTRICTED USE OF PROPERTY AND SHALL GOVERN THE CONSIDERATION OF VARIANCE REQUESTS.

Please respond to the following standards in the space provided or use an attachment as necessary:

- A) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography: The shape and topography of this property are unique as there is significant topography from the Friendship Road right of way to the rear of the site and to the adjacent parcel. The shape of the property does not allow for significant area for installation of landscape strips and buffers and the topography makes visibility an issue.

- B) The application of this ordinance to the particular piece of property would create an unnecessary hardship: the ordinance provisions requiring fencing and 4' tall landscaping are intended to shield automotive repair facilities and the cars located thereon from sight, but are appropriate for stand alone parcels and not for parcels like this one that are part of a shopping center development.

- C) Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this ordinance: Instead, relief from the provisions of this ordinance will ensure a uniform development withing the existing shopping center and ensure safety in access and visibility.

- D) Such conditions are peculiar to the particular piece of property involved: The other outparcels in this center have already been developed and do not suffer from the same topographic or shape issues. Similarly, because these ordinance requirements are only applicable to automotive repair facilities, they are not applicable to other outparcels.

- E) The special circumstances surrounding the request for a variance are not the result of acts by the applicant: The special circumstances for this request are due to the nature of the location, size and shape of the outparcel (as part of an already developed shopping center where it makes no sense to be fenced, for example, around the perimeter of the property) and are not the result of the applicant's acts.

- F) The variance is not a request to permit a use of land, buildings, or structures that is not permitted by right or by conditional use permit in the district involved: Applicant has obtained a conditional use permit for its use and no variance is sought with respect to use.





NTB - BRASELTON, GA

CONCEPT LANDSCAPE PLAN

FORESITE



EXHIBIT "A-3"
Legal Description of Retained Outparcel 3

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN G.M.D. 1270, CITY OF BRASELTON, HALL COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY OF REPRESENTATIVE WAY (RW VARIES) AND THE NORTHERLY RIGHT-OF-WAY OF FRIENDSHIP ROAD (80' RW); THENCE LEAVING SAID EASTERLY RIGHT OF WAY OF REPRESENTATIVE WAY AND CONTINUING ALONG SAID NORTHERLY RIGHT OF WAY OF FRIENDSHIP ROAD NORTH 88 DEGREES 10 MINUTES 56 SECONDS EAST, 673.97 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT, AN ARC DISTANCE OF 229.81 FEET, SAID CURVE HAVING A RADIUS OF 5500.00 FEET AND BEING SUBTENDED BY A CHORD OF 229.79 FEET, AT NORTH 86 DEGREES 59 MINUTES 07 SECONDS EAST, TO A POINT; THENCE NORTH 04 DEGREES 12 MINUTES 43 SECONDS WEST, 11.30 FEET TO A #4 REBAR SET; THENCE NORTH 82 DEGREES 41 MINUTES 44 SECONDS EAST, 506.81 FEET TO A POINT; SAID POINT BEING THE POINT OF BEGINNING;

THENCE LEAVING SAID FRIENDSHIP ROAD ALONG A CURVE TO THE RIGHT, AN ARC DISTANCE OF 57.21 FEET, SAID CURVE HAVING A RADIUS OF 69.50 FEET AND BEING SUBTENDED BY A CHORD OF 55.61 FEET, AT NORTH 30 DEGREES 20 MINUTES 05 SECONDS WEST, TO A POINT; THENCE NORTH 06 DEGREES 45 MINUTES 11 SECONDS WEST, 87.38 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT, AN ARC DISTANCE OF 60.19 FEET, SAID CURVE HAVING A RADIUS OF 94.50 FEET AND BEING SUBTENDED BY A CHORD OF 59.18 FEET, AT NORTH 11 DEGREES 29 MINUTES 35 SECONDS EAST, TO A POINT; THENCE NORTH 29 DEGREES 19 MINUTES 50 SECONDS EAST, 203.01 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT, AN ARC DISTANCE OF 30.48 FEET, SAID CURVE HAVING A RADIUS OF 19.50 FEET AND BEING SUBTENDED BY A CHORD OF 27.47 FEET, AT NORTH 74 DEGREES 06 MINUTES 44 SECONDS EAST, TO A POINT; THENCE SOUTH 61 DEGREES 06 MINUTES 23 SECONDS EAST, 103.13 FEET TO A POINT; THENCE SOUTH 28 DEGREES 53 MINUTES 37 SECONDS WEST, 100.65 FEET TO A POINT; THENCE SOUTH 07 DEGREES 12 MINUTES 17 SECONDS EAST, 219.46 FEET TO A POINT AT SAID NORTHERLY RIGHT OF WAY OF FRIENDSHIP ROAD; THENCE ALONG SAID NORTHERLY RIGHT OF WAY OF FRIENDSHIP ROAD SOUTH 82 DEGREES 41 MINUTES 44 SECONDS WEST, 169.86 FEET TO A POINT; SAID POINT BEING THE POINT OF BEGINNING;

SAID TRACT OR PARCEL CONTAINING 1.34 ACRES

VARIANCE APPLICANT'S CERTIFICATION

THE UNDERSIGNED BELOW IS AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR RE-APPLICATION AFFECTING THE SAME LAND SHALL BE SUBMITTED WITHIN SIX (6) MONTHS FROM THE DATE OF THE LAST ACTION BY THE ZONING BOARD OF APPEALS UNLESS WAIVED BY BOARD OF APPEALS.

NTW, LLC

Signature of Applicant Applicant's Name and Title Date

Signature of Notary Public Date (SEAL)

VARIANCE PROPERTY OWNER'S CERTIFICATION

THE UNDERSIGNED BELOW, OR AS ATTACHED, IS THE OWNER OF THE PROPERTY CONSIDERED IN THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR RE-APPLICATION AFFECTING THE SAME LAND SHALL BE SUBMITTED WITHIN SIX (6) MONTHS FROM THE DATE OF THE LAST ACTION BY THE ZONING BOARD OF APPEALS UNLESS WAIVED BY BOARD OF APPEALS.

[Handwritten Signature] *Manager* *2-12-19*

Signature of Owner Owner's Name and Title Date

[Handwritten Signature] *2/12/19*

Signature of Notary Public Date



BRASELTON CLERK'S OFFICE USE ONLY

Receipt No: _____ Amount of Fee: _____

Date: _____ Received By: _____

CONFLICT OF INTEREST CERTIFICATION FOR REZONINGS

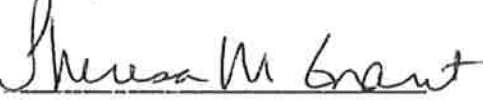
THE UNDERSIGNED BELOW, MAKING AN APPLICATION FOR A VARIANCE, HAS COMPLIED WITH THE OFFICIAL CODE OF GEORGIA, SECTION 36-67A-1, ET SEQ., CONFLICT OF INTEREST IN ZONING ACTIONS, AND HAS SUBMITTED OR ATTACHED THE REQUIRED INFORMATION ON THE FORMS PROVIDED.



Signature of Applicant

2/13/19 Raymond Underwood
Date Type or print name and title
V.P. & F.S.T.A.E.


Signature of Applicant's
Attorney or Representative

2/13/19 Elken W. Smith, Partner
Date Type or print name and title


Signature of Notary Public

2/13/2019 
Date Notary

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

I have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to any official of the Town of Braselton?

Yes No

NOT APPLICABLE

YOUR NAME

If the answer is yes, please complete the following section:

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or more)	DATE CONTRIBUTION WAS MADE (Within last 2 years)

Attach additional sheets if necessary to disclose or describe all contributions.