



**STAFF REPORT  
CITY OF PARKLAND  
DEVELOPMENT SERVICES DEPARTMENT**

Date Prepared: July 28, 2017

Updated:

**I. Petition Description**

Petition No.: V17-004

Project Name: BJs Gas Station: Variances relating to setbacks, vehicular use area (VUA) separation, and perimeter landscaping.

Owner, Petitioner: New Market- Parkland Outparcel LLC  
3284 Northside Pkwy NW Suite 515  
Atlanta, GA 30327

Request: Variance approval relating to rear yard setbacks, vehicular use area (VUA) separation, and perimeter buffering as follows:

- Relief from 1998 Code Sec.22-226(3) which requires a rear yard setback of twenty (20) feet to permit a minimum of 10.69 feet.
- Relief from 1998 Code Sec. 9-31(f)(1) which requires a minimum of ten (10) feet of separation between a building line and a vehicular use area (VUA), to permit a minimum separation of 5.33 feet.
- Relief from 1998 Code Sec.9-32(e)(1) which requires a minimum of twenty (20) feet of perimeter landscaping along all property lines, to permit a minimum of 17.10 feet along the west, 5 feet along the east, and 8.63 along the north property lines.

Location: Generally located at the northwest corner of State Road 7 and Hillsboro Boulevard. Attachment "A" shows the site location and the proposed sign location.

Land area: The 'Shoppes of Parkland' parcel contains approximately 21 acres.

**II. Land Use and Zoning**

	<b>Existing Land Use</b>	<b>Future Land Use</b>	<b>Zoning</b>
Subject Site	Bank	Commercial	Broward County B-3 District
North	Riverstone Shoppes	Commercial	B-2, Community Business District
East	Shopping Center	City of Coconut Creek	City of Coconut Creek
South	Bell Parkland Apartments opposite Hillsboro Boulevard	R-4.0 (Residential 4 du/ac)	Broward County RM-5 (Residential Multi-Family)
West	Open Space	Park	Open Space District

**II. Background**

The Shoppes of Parkland is Parkland’s largest shopping center, with approximately 145,000 square-feet of gross leasable area, predominantly devoted to a 108,000 square-foot BJ’s Wholesale Club anchor tenant. There are three (3) outparcels under separate ownership: SunTrust bank (proposed BJ’s gas station); a Chevron gas station; and, an 11,000 square-foot office building. The subject site is designated Broward County B-3 zoning and is designated as Commercial Future Land Use.

The shopping center was the subject of a court settlement in 1998. The settlement agreement stated the parent tract and outparcels were permitted in perpetuity to develop those uses permitted by the County B-3 zoning at the time of the settlement. It should be noted, CAB review is not required for this application based on its location within an identified outparcel at the time of the settlement. In addition, the application was reviewed under the land development code as it existed in 1998, per the settlement agreement.

BJs proposes to develop a six (6) pump gas station on the outparcel, including both standard and diesel fuel. A small kiosk will be constructed for use by the on-site attendant. Bathrooms will available in the kiosk, but will be locked at all times. The kiosk will only sell BJ’s memberships, and will not sell traditional gas station items such as lottery tickets, cigarettes, or snacks. Access to the site is granted via a shared driveway off Hillsboro Boulevard. Based on the proposed development’s nature, there is no need for on-site parking.

**III. Staff Analysis:**

As indicated, the applicant is requesting relief from three (3) sections of the 1998 land development code. These include standards for rear yard setbacks, VUA separation, and perimeter buffering. These three requirements are largely inter-related, meaning if an applicant cannot meet rear yard setbacks they cannot meet the perimeter-buffering requirement either - as they both require twenty (20) feet. Furthermore, the outparcel and parent tract are under the same ownership. It was

not the intent of the code to require buffering and setbacks between outparcels under the same ownership, but the technical language does not reflect this.

In regards to VUA separation, the applicant worked with the City's Landscape Reviewer to locate the kiosk in the best location to save as many healthy and mature trees as possible. In addition to this limitation, fire truck and fuel truck turning radii also limited the location of the kiosk. It is Staff's opinion, given the nature and intended use of the kiosk, that the Code did not contemplate such a use within the VUA separation standard. The VUA separation is intended to provide opportunities for pedestrian pathways and landscape buffers between commercial operations and adjacent drive aisles. However, since the kiosk has limited commercial capacities (only selling memberships), the separation is not warranted. The kiosk is primarily intended to provide shelter for the attendant. Patrons will predominately remain by their cars during their entire experience on the site. Occasionally, a patron may purchase a membership or use the restrooms, but this is not anticipated to occur frequently.

Variance approval relating to site plan issues are subject to the following criteria. Applicant responses and Staff findings are provided following each criterion.

*Criterion 1:* Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of said land, structure or building.

“Special conditions and circumstances exist as to the Outparcel as the proposed gasoline station will serve as an ancillary use to the main BJ's Club on the Parent Track. The Outparcel is a very small area of property consisting of only 0.95 acres. Due to the small configuration of the Outparcel as well as the required vehicular connection to the Outparcel to the east, the Applicant is very limited in its ability to fully meet the requirements of the 1998 Code. The Applicant is requesting the above-referenced variances to meet the confines of the size of the Outparcel as well as to accommodate vehicular safety to the BJ's Club members and patrons of The Shoppes of Parkland and to make reasonable use of the Outparcel.

Reasonable use of the Outparcel will be prevented if there is a strict application of the 1998 City Code. Specifically, the required 20 foot perimeter landscape buffer on the north, east, and west sides and the required 45 foot perimeter landscape buffer on the south side would consist of 0.43 acres. The entire Outparcel is only 0.95 acres. Therefore, the perimeter landscape buffer would essentially eliminate 45% of the Outparcel. The small size of the site limits the Applicant's ability to fully meet the requirements of the 1998 City Code. The constraints imposed on the Outparcel necessitate the need for the variance requests. As such, the requested variances will make possible the reasonable use of the Outparcel.”

*Staff Finding:* Staff finds that special circumstances are found on this site given the nature of ownership between the parent tract and outparcel. The

Code requirements for setbacks and buffering did not contemplate such a scenario. Furthermore, the limited use of the kiosk does not require a VUA separation of the same depth as a standard commercial operation.

*Criterion 2:* The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.

“The circumstances which cause the hardship are particular to the Outparcel. As discussed above, the proposed BJ’s gasoline station on the Outparcel will serve the main BJ’s Club on the Parent Track. The proposed BJ’s gasoline station is ancillary to the BJ’s Wholesale Club. Additionally, the Outparcel is a very small area of property consisting of only 0.95 acres. Due to the small size of the Outparcel, the Applicant is very limited in its ability to fully comply with the provisions of the 1998 City Code. The Applicant is requesting the variances to meet the confines of the size of the Property as well as to accommodate vehicular safety for the BJ’s Club members and patrons of The Shoppes of Parkland and to make reasonable use of the Outparcel.”

Staff Finding: The City as a whole has limited outparcel conditions. The subject parcel is the only parcel under the same ownership as the parent tract within the Shoppes of Parkland center. Furthermore, it appears this parcel is the only instance of outparcels being under the same ownership within the City as a whole. The parcel is also unique because it is a direct ancillary use of an anchor store (BJs Club) on the parent tract, where most outparcel uses have no relation to the parent tract.

*Criterion 3:* The literal interpretation of the provision of the land development code would deprive the applicant of a substantial property right that is enjoyed by other property owners in the district.

“The Applicant would be deprived of substantial property right if there is a strict enforcement of the provisions of the form-based design standards pertaining the vehicular use area, perimeter landscape buffer, and setback. As explained above, the entire Outparcel is only 0.95 acres and the required 20 foot perimeter landscape buffer on the north, east and west sides and the required 45 foot perimeter landscape buffer on the south side would consist of 0.43 acres. As such, the perimeter landscape buffer would essentially eliminate 45% of the site. The small size of the Outparcel limits the Applicant’s ability to fully meet the requirements of the 1998 City Code. As discussed above, the proposed BJ’s gasoline station is an ancillary use to the main BJ’s Club on the Parent Track. As such, under these particular circumstances, a literal interpretation of the 1998 City Code would deprive the Applicant of a substantial property right.”

Staff Finding: Since outparcel developments at the Shoppes at Parkland are uniquely reviewed under the 1998 code, Staff reviewed this parcel against other outparcels in the center. The two other outparcels include the Chevron

gas station and the law office. The Chevron station does not meet the perimeter buffering requirements along the west (rear yard) and south (side yard) property lines. It also does not meet VUA separation along the rear of the property where the car wash drive aisle is located. The law office does not comply with side yard setbacks, perimeter buffering, or VUA separation. As such, to make the subject parcel comply with all requirements would be unique, and would deprive the applicant of similar outparcel conditions granted to the other two parcels.

*Criterion 4:* The hardship is not self-created or the result of mere disregard for or ignorance of the provisions of this land development code.

“As discussed above, the Property is a very small Outparcel of only 0.95 acres. Due to the small size of the property, the Applicant is very limited in its ability to provide the required vehicular use area on the east side of the kiosk and the landscape buffers along the rear and side yards or the rear yard setback pursuant to the 1998 City Code. The Applicant is requesting the variances to meet the confines of the size of the property as well as to accommodate pedestrian and vehicular safety to the BJ’s Club members and patrons of The Shoppes of Parkland.”

*Staff Finding:* Staff finds the hardships are not self-created, rather they are the result of existing parcel geometries and other code requirements placed upon the site. The applicant’s engineering team provided an auto-turn study that demonstrated the gas tanker needs almost the entire site with no obstructions to be able to turn around. This, in combination with the City’s desire to preserve certain trees, greatly limited the kiosk’s locational options. Dimensional standards for drive aisle widths also reduced the feasibility of providing twenty (20) feet of perimeter buffering.

*Criterion 5:* The variance is the minimum variance that will make possible the reasonable use of the property, and that the variance will be in harmony with the general purposes and intent of this land development code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

“The Applicant is requesting the minimum variances necessary to alleviate the hardship. The Applicant meets and exceeds the minimum of 10 feet between a vehicular use area on the north, south, and west sides of the kiosk building. The Applicant exceeds the required 45 foot perimeter landscape buffer along the front (south) yard adjacent to Hillsboro Boulevard by providing a 54.50 foot (51.16 foot average) landscape buffer. The Applicant also exceeds the minimum requirement as to the west side yard by providing 12.58 feet. Per the settlement agreement, the Applicant is required to provide a minimum front setback of 80 feet and the Applicant exceeds this requirement by providing 85 feet. As such, the extent of the variance requests are the minimum necessary to allow reasonable use of the Outparcel.

Moreover, as depicted on Applicant's site plan, landscape plan, and signage plans, the BJ's gasoline station will be aesthetically pleasing as it is compatible with the surrounding buildings, zoning districts and uses located near the Outparcel. The Applicant is incorporating design elements that beautify the propose use. Specifically, the Applicant is providing a stone façade to all canopy columns and coping was added to the top of the canopy. Additionally, a stone façade was added to the kiosk. The Applicant was mindful of customizing the color palate to match the kiosk with the existing main BJ's Club and The Shoppes of Parkland. The Applicant worked cooperatively with City staff to support the intent of the land development code by amending the kiosk location and site layout to preserve an existing 16 foot live oak tree. The Applicant is also relocating two very large 30 foot live oak trees that the City specifically desired to be preserved. To this end, the variance requests for the proposed gasoline station are in harmony with the general purpose and intent of the 1998 City Code as well as the Current City Code."

*Staff Finding:* Staff finds these are the minimum variances required to ensure functional use and operation of the site, while complying with code requirements to the maximum degree possible. The variance requests are consistent with relief granted to the other outparcels within the Shoppes of Parkland, and are consistent with best-practice treatment of an outparcel under the same ownership as a parent tract.

#### **IV. Staff Recommendation**

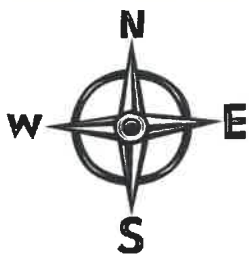
- 1) Staff recommends approval of V17-004 subject to the following conditions:
  - i. The City shall inspect all landscaping on a periodic basis to ensure that it is being properly maintained and is growing in at a normal rate. The City may require the Owner to add additional landscaping material if planted material is not growing at a normal rate as would be expected based upon the professional judgement of the City Landscape Architect or landscape consultant retained by the City. Failure to maintain the landscaping and signs or respond to a City request as set forth herein shall constitute a violation of this approval and of the Land Development Code.
  - ii. Any approval shall be subject to the Applicant paying to the City of Parkland an amount equal to the total expenses incurred by the City in the processing and finalizing of the subject applications prior to issuance of any building permit. This includes, but may not be limited to, expenses for planning, legal, advertising, and landscape review, and any related expenses that the City has or will incur as a direct cost of the application.

#### **V. Planning and Zoning Board Recommendation**

*To be provided.*

# Attachment "A"

## Location Map



**Attachment "B"**

**Application**





# City of Parkland Planning and Zoning Department

6600 University Drive  
Parkland, FL 33067

Phone (954) 753-5040  
Fax (954) 341-5161

### STAFF USE ONLY

Intake Date: \_\_\_\_\_ By \_\_\_\_\_

Fee Paid: \_\_\_\_\_ Receipt # \_\_\_\_\_

Case #: \_\_\_\_\_

Administrative review only (sec.22-204H.)

Full review process (sec. 22-199 J.1)

## VARIANCE APPLICATION

### INSTRUCTIONS TO APPLICANT:

1. Please complete all sections of this application. If not applicable, indicate with N/A
2. Provide required attachments as shown on the attached checklist.
3. Pay filing fees in the amount of seven hundred dollars (\$700.00) for residential property variances, and eight hundred fifty dollars (\$850.00) for multi-family or non-residential property, plus an escrow in the amount of four hundred dollars (\$400.00) for advertisement fees, and one thousand dollars (\$1,000.00) for professional fees. Since advertising costs vary, the final amount will be reconciled upon receipt of invoices from the newspaper. **NOTE:** All cost recovery accounts must be current prior to any public hearing before the City Commission.

### I. PROPERTY OWNER AND AGENT INFORMATION

Property Owner(s) of Record: New Market - Parkland Outparcel LLC

Address: 3284 Northside Pkwy NW Suite 515 City: Atlanta ST: GA ZIP: 30327

Phone: (404) 228-9313 E-Mail Address: michael@newmarketprop.com

Applicant (if other than owner): BJ's Wholesale Club, Inc.

Address: 25 Research Drive City: Westborough ST: MA ZIP: 01581

Phone: (774) 512-7964 E-Mail Address: ncabral@bjs.com

Agent: Greenspoon Marder, P.A.

Address: 200 E. Broward Blvd., Suite 1800 City: Fort Lauderdale ST: FL ZIP: 33301

Phone: (954) 524-2443 E-Mail Address: deena.gray@gmlaw.com & dennis.mele@gmlaw.com

Consultants: If applicable to your request, please attach a separate list of all consultants that will provide information on this request. You should include the name, address, telephone number, and fax number as well as the type of professional service provided.

### II. VARIANCE REQUEST

The application is a request for: Variances for building setback, landscape buffer, and vehicular use area.

See Attached Narrative.

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(VARIANCE REQUEST, CONTINUED)

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**III. PROPERTY LOCATION**

- A. Is the subject property located within one mile of another municipality?  yes  no  
If 'yes' please specify: The City of Coconut Creek is located across U.S. 441.
- B. Folio Number: If additional folios, list on a separate sheet and attach to the application.  
484101013553
- Section: 01 Township: 48 Range: 41 Total Acreage of Subject Property: 0.95 acres
- C. Project Name: BJ's Gas - Parkland
- D. Project Address:  
5801 W. Hillsboro Boulevard
- E. General Location Description (proximity to closest major intersection in miles or fractions thereof): \_\_\_\_\_  
Approximately 400 feet west of the NW corner of the intersection of U.S. 441 and W. Hillsboro Boulevard.

**IV. LAND USE AND ZONING INFORMATION**

- A. Zoning Designation: BCB-3 Future Land Use Designation: Commercial
- B. Existing Use(s) on Property: SunTrust Bank with drive-thru (currently unoccupied).
- C. Proposed Use(s): BJ's automotive fueling station with 6 pumps (12 fueling positions)

**V. PROJECT HISTORY**

(List in sequence from first application to most recent – attach additional page if necessary):

Petition Number	Request	Action	Date	Resolution Number
09-SP-02	Site Plan & Spedal Exception Approval (SunTrust)	Passed	Nov. 6, 2002	Resolution #2002-60
04-SP-98	Site Plan (Parkland Plaza/Shoppes of Parkland)	Settlement Agreement	Feb. 26, 1999	Resolution #99-09
SP 17-001	Site Plan and Signage	Pending	Mar. 16, 2017	Pending

**OWNER ACKNOWLEDGEMENT**

I/We: New Market - Parkland Outparcel, LLC, do hereby swear/affirm that I/we am/are the owner(s) of the property referenced in this application.

I/We certify that the above statements and the statements or showings made in any paper or plans submitted herewith are true to the best of my/our knowledge and belief. Further, I/we understand that this application, attachments and fee become part of the official record of the Planning & Zoning Department of the City of Parkland and the fee is not refundable. I/We understand that any knowingly false information given by me/us will result in the denial, revocation or administrative withdrawal of the application or permit. I/We further acknowledge that additional information may be required by the City of Parkland in order to process this application.

I/We further consent to the City of Parkland to publish, copy or reproduce any copyrighted document for any third party submitted as part of this application.

I acknowledge that applications are reviewed on a full cost recovery basis, and that the professional services escrow must be current with sufficient funds to cover anticipated services prior to the application being advertised and heard by the City Commission. By signing this application I request that escrows for separate applications be combined, if applicable, and that any balance of professional services escrow be refunded within seven (7) months after the final public hearing for all related applications.

Signature(s) of Owner(s) \_\_\_\_\_

Print Name(s) \_\_\_\_\_

*Jeffrey Spinks GC of P&Z, City Agent*

**CONSENT STATEMENT**

Owner to complete if using agent/representative

I/We, the aforementioned owner(s), do hereby give consent to Greenspoon Marder, P.A. to act on my/our behalf to submit this application, all required material and documents, and attend and represent me/us at all meetings and public hearings pertaining to the request(s) and property I/we own described in the attached application. Furthermore, as owner(s) of the subject property, I/we hereby give consent to the party designated above to agree to all terms or conditions that may arise as part of the approval of this application for the proposed use.

Signature(s) of Owner(s) \_\_\_\_\_

SEE ATTACHED.

Print Name(s) \_\_\_\_\_

**NOTARY**

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ He/She is personally known to me or has produced \_\_\_\_\_ as identification and did/did not take an oath.

\_\_\_\_\_  
(Signature of Notary) My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
(Name – Must be typed, printed, or stamped)

(NOTARY'S SEAL OR STAMP)