



MEMORANDUM

"...meeting community needs...enhancing quality of life."

TO: Community & Economic Development Committee (CEDC)
FROM: Monica Stage, Deputy Director
DATE: October 25, 2019
RE: Variance to the Declaration of Covenants and Restrictions for Parcel 31-1-6622-00 located at 2101 East Evergreen Drive, Rollie Winter & Associates, LTD on behalf of BTS Properties LLC

The City has received a request from Rollie Winter & Associates, LLC on behalf of BTS Properties LLC for a variance to the Declaration of Covenants and Restrictions to allow for restaurant use at 2101 East Evergreen Drive as outlined in the attached letter of October 22, 2019.

The subject parcel is located in the Northeast Business Park Plat #3. Shopko Express was the previous tenant. Allowable uses from the Restrictive Covenants include (*see the permitted uses for Lots 29 and 30 Northeast Business Park Plat #3 attached*):

- Offices;
- Professional services, except as provided for in Section 23-113(e), special uses;
- Personal services, except as provided for in Section 23-113(e), special uses;
- Parking lot, surface.

In September 2007, the Community & Economic Development Committee (CEDC) and Common Council approved a partial waiver of the Restrictive Covenants for Northeast Business Park Plat #3 to also allow for retail use on this lot (see the attached memo from the CEDC agenda from September 10, 2007). The Common Council approved this action on September 19, 2007.

Additional information I have attached to document allowable uses includes:

- the Development Agreement for this area that includes a stipulation that these lots will follow the Northeast Business Park Plat #3 Restrictive Covenants;
- a copy of the Northeast Business Park Plat #3 Restrictive Covenants;
- the Northeast Business Park Plat #3 Plat Map; and
- aerial photo of the site documenting the current status of development around the subject parcel.

As noted in the written request, the area to the east of this parcel does allow for restaurant uses. The current zoning for this parcel also allows for restaurant use.

Staff Recommendation:

A variance to the Declaration of Covenants and Restrictions, Parcel 31-1-6622-00 in Plat 3 in the Northeast Business Park, allowing for a restaurant use (with or without alcohol) **BE APPROVED**.