

**CITY OF MIRAMAR
PROPOSED CITY COMMISSION AGENDA ITEM**

Meeting Date: April 15, 2020

Presenter's Name and Title: Michael Alpert, Principal Planner, on behalf of the Community Development Department

Prepared By: Deyman Rodriguez, Planner II

Temp. Reso. Number: 7156

Item Description: Temp. Reso. No. 7156, CONSIDERING VARIANCE APPLICATION NO. 2001726 FROM LAND DEVELOPMENT CODE ("LDC") SECTION 405.4.4 FOR A LIQUOR PACKAGE STORE THAT IS LOCATED WITHIN 2,500 FEET OF A CHILDCARE CENTER, LOCATED WITHIN THE MIRAMAR PARK PLACE COMMERCIAL DEVELOPMENT, AT THE NORTHWEST CORNER OF MIRAMAR PARKWAY AND RED ROAD. *(Michael Alpert, Community Development Principal Planner)*

Consent ☐ Resolution ☐ Ordinance ☐ Quasi-Judicial ☒ Public Hearing ☐

Instructions for the Office of the City Clerk:

Public Notice – As required by the Sec. ____ of the City Code and/or Sec. ____, Florida Statutes, public notice for this item was provided as follows: on _____ in a _____ ad in the _____; by the posting the property on 04/01/20 and/or by sending mailed notice to property owners within 1,000 feet of the property on 04/01/20 (fill in all that apply)

Special Voting Requirement – As required by Sec. ____, of the City Code and/or Sec. ____, Florida Statutes, approval of this item requires a _____ (unanimous, 4/5ths etc.) vote by the City Commission.

Fiscal Impact: Yes ☐ No ☒

REMARKS:

Content:

- **Agenda Item Memo from the City Manager to City Commission**
- **Resolution TR 7156**
- **Attachment(s)**
 - **Attachment 1: Location Map**
 - **Attachment 2: Distance Separation Variance Analysis**



**CITY OF MIRAMAR
INTEROFFICE MEMORANDUM**

TO: Mayor, Vice Mayor, & City Commissioners

FROM: Vernon E. Hargray, City Manager *V. Hargray*

BY: Eric B. Silva, Director, Community Development Department

DATE: April 30, 2020

RE: Temp. Reso. No. 7156, for the approval of distance separation variance for a liquor package store use that is within 2,500 feet of a childcare center, located within the Miramar Park Place commercial development, at the northwest corner of Miramar Parkway and Red Road

RECOMMENDATION: The City Manager recommends approval of Temp. Reso. 7156, Application 2001726, for a liquor package store distance separation variance.

ISSUE: City Commission approval is required for the granting of variances for properties within the City.

BACKGROUND: In November of 2018, the City Commission approved via Resolution 19-50, the Miramar Park Place development, consisting of a 50,000-square foot shopping center accompanying 650 residential dwelling units on approximately 30.73 acres of vacant land located at the northwest corner of Miramar Parkway and Red Road. In May of 2019, the Development Review Committee ("DRC") approved Application No. 1902594 for a modification to the approved site plan by increasing the building square footage of the shopping center by more than 7,000 square feet.

At such time, the applicant made Staff aware that they intended to have a 2,000-square foot tenant bay on the main commercial structure (*Building B*) that would be filing for conditional use approval for a liquor package store. Liquor package stores are designated as conditional use for properties located within a Mixed-use Low (ML) zoning district. Consequently, the applicant submitted Application 1908615 (*for conditional use approval of a liquor package store*). The applicant also submitted a variance application after it was discovered that an existing childcare center was located approximately 554 feet from the proposed development, as verified by a distance proximity survey, signed and sealed by a Florida Registered Land Surveyor.

According to Section 405.4.4 of the City's Land Development Code, vendors are permitted to sell alcoholic beverages for consumption off premises if located at least 2,500 feet by straight air-line measurement from any school, childcare center, or library as measured from the main entrance of the alcohol vendor to the nearest property line of the school, childcare center, or library grounds. Although the Broward County Miramar Branch Library and New Renaissance Middle School are located within a mile of the subject site, Precious Years Christian Learning Center is the only facility that is located within 2,500 feet.

COMPREHENSIVE PLAN ELEMENT: The retail use itself, a liquor package store, is consistent with Policy 1.13 since the property is located within the Regional Activity Center which permits and encourages a mix of land uses. The proposed liquor store is also consistent with Objective 3 of the City's Comprehensive Plan as it assures that future land uses are compatible given the proposed liquor store would be located on the commercial portion of the Miramar Park Place development, as approved by Resolution 19-50. With the implementation of CPTED standards, the proposed use would be consistent with Policy 8.2 of the Comprehensive Plan. Staff finds the proposed liquor store use consistent with the City's Comprehensive Plan.

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**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, CONSIDERING VARIANCE APPLICATION NO. 2001726 FROM LAND DEVELOPMENT CODE (“LDC”) SECTION 405.4.4 FOR A LIQUOR PACKAGE STORE THAT IS LOCATED WITHIN 2,500 FEET OF A CHILDCARE CENTER, LOCATED WITHIN THE MIRAMAR PARK PLACE COMMERCIAL DEVELOPMENT, AT THE NORTHWEST CORNER OF MIRAMAR PARKWAY AND RED ROAD; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CORRECTION OF SCRIVENER’S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Applicant has submitted Application No. 2001726, a complete application for variance review as provided for in Section 315 of the LDC; and

WHEREAS, the DRC has reviewed the evaluated the Variance Application No. 2001726 and made a determination that the variance is in substantial conformance with the applicable requirements, including those set forth in Section 315.7 of the LDC; and

WHEREAS, the Applicant has complied with the courtesy notice requirements of Section 301.11.1. of the LDC; and

WHEREAS, the City Manager recommends approval; and

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WHEREAS, the City Commission finds that the approval of Variance Application No. 2001726, is in the best interest of the citizens and residents of the City of Miramar, Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:

Section 1: Recitals; Definitions.

(a) That the foregoing “**WHEREAS**” clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

(b) As used herein, unless the context or City Code of Ordinances requires to the contrary, the following terms will be defined as set forth below:

(1) “City” means the City of Miramar, a Florida Municipal Corporation.

(2) “Development” is defined as set forth in Section 163.3164, Florida Statutes.

(3) “DRC” means the City’s Development Review Committee.

(4) “LDC” means the City’s Land Development Code of Ordinances.

(5) “Applicant” means Miramar Park Place Associates LLC, a Florida Limited Liability Company, their successors and assigns.

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(6) "Subject Property" is real property situate and lying in the State
of Florida, County of Broward, City of Miramar, to-wit:

A parcel of land being a portion of Tracts 2 and 3 and Tracts 28 through 32, inclusive of THE EVERGLADES SUGAR & LAND CO. SUBDIVISION OF SECTIONS 6,7,18,19,30 AND 31, TOWNSHIP 51 SOUTH, RANGE 41 EAST AND THE EAST HALF OF TOWNSHIP 51 SOUTH, RANGE 40 EAST, being in Section 25, Township 51 South, Range 40 East, according to the Plat thereof as recorded in Plat Book 2, Page 39, of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the northeast corner of Parcel "D", MIRAMAR RESIDENTIAL PLAT, according to the Plat thereof as recorded in Plat Book 175, Page 84, of the Public Records of Broward County, Florida, said point being on the southerly Right-of-Way line of Flamingo/Red Road Extension, as depicted on that certain Florida Department of Transportation Right-of-Way Map Section 86190-2514, Sheet 6 and 7 of 10, last revision 10-11-94; thence along said southerly Right-of-Way line, South 65°11' 09" East, 28.11 feet to a point on the arc of a tangent curve; thence along said Right-of-Way line and southeasterly along the arc of said curve being concave to the southwest, having a radius of 1537.02 feet, a central angle of 12°42'00", an arc distance of 340.69 feet to the POINT OF BEGINNING; thence along said Right-of-Way line and continuing southeasterly along the arc of said curve being concave to the southwest, having a radius of 1537.02 feet, a central angle of 50°43' 30", an arc distance of 1360.75 feet; thence along said Right-of-Way line and tangent to said curve, South 1°45'39" East, 289.85 feet to a point on the North Right-of-Way line of Miramar Parkway, as described in Official Records Book 11810, Page 681, of the Public Records of Broward County, Florida; thence along said Right-of-Way line, South 89°41'54" West, 1536.34 feet to a point on a line being 367.80 feet easterly of and parallel with the easterly line of Parcel "E" of aforesaid MIRAMAR RESIDENTIAL PLAT; thence along said line being 367.80 feet easterly of and parallel with the easterly line of said Parcel "E" and the easterly line of aforesaid Parcel "D", North 32°14'35" East, 1737.71 feet to the Point of Beginning.

Said lands situate, lying and being in the City of Miramar, Broward County, Florida and containing 30.7240 acres, 1,338,338 square feet, more or less.

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Section 2: Application(s) in Substantial Compliance. That it finds that:

(a) The **Variance Application No. 2001726** from the distance separation requirement for a liquor package store, as per Section 405.4.4 of the LDC, will allow the Applicant to locate a liquor package store 554 feet from an existing childcare center and should be approved subject to Conditional Use Application 1908615.

Section 3: Approval of Application(s). The City Commission hereby approves:

(a) **Variance Application No. 2001726** allowing a liquor package store at least 554 feet from an existing childcare center, for the Applicant on the Subject Property, as recommended for approval by the DRC on March 11, 2020.

Section 4: Approval does not Create a Vested Right. That issuance of this approval by the City does not in any way create any right on the part of the Applicant/Developer to obtain a permit from a state or federal agency and does not create any liability on the part of the City for issuance of the approval if the Applicant/Developer fails to obtain the requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in the violation of state or federal law. All applicable state and federal permits must be obtained before commencement of the Development. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.

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Section 5: Failure to Adhere to Resolution. That failure to adhere to the approval terms and conditions contained in this Resolution shall be considered a violation of this Resolution and the City Code, and persons found violating this Resolution shall be subject to the penalties prescribed by the City Code, including but not limited to the revocation of any of the approval(s) granted in this Resolution and any other approvals conditioned on this approval. The Applicant/Developer understands and acknowledges that it must comply with all other applicable requirements of the City Code before it may commence construction or operation, and that the foregoing approval in this Resolution may be revoked by the City at any time upon a determination that the Applicant/Developer is in non-compliance with the City Code.

Section 6: Scrivener's Error. That the City Attorney is hereby authorized to correct scrivener's errors found in this Resolution by filing a corrected copy with the City Clerk.

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Section 7: **Effective Date.** That this Resolution shall become effective upon adoption.

PASSED AND ADOPTED this _____ day of _____, _____.

Mayor, Wayne M. Messam

Vice Mayor, Maxwell B. Chambers

ATTEST:

City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved
this RESOLUTION as to form:

City Attorney,
Austin Pamies Norris Weeks Powell, PLLC

Requested by Administration

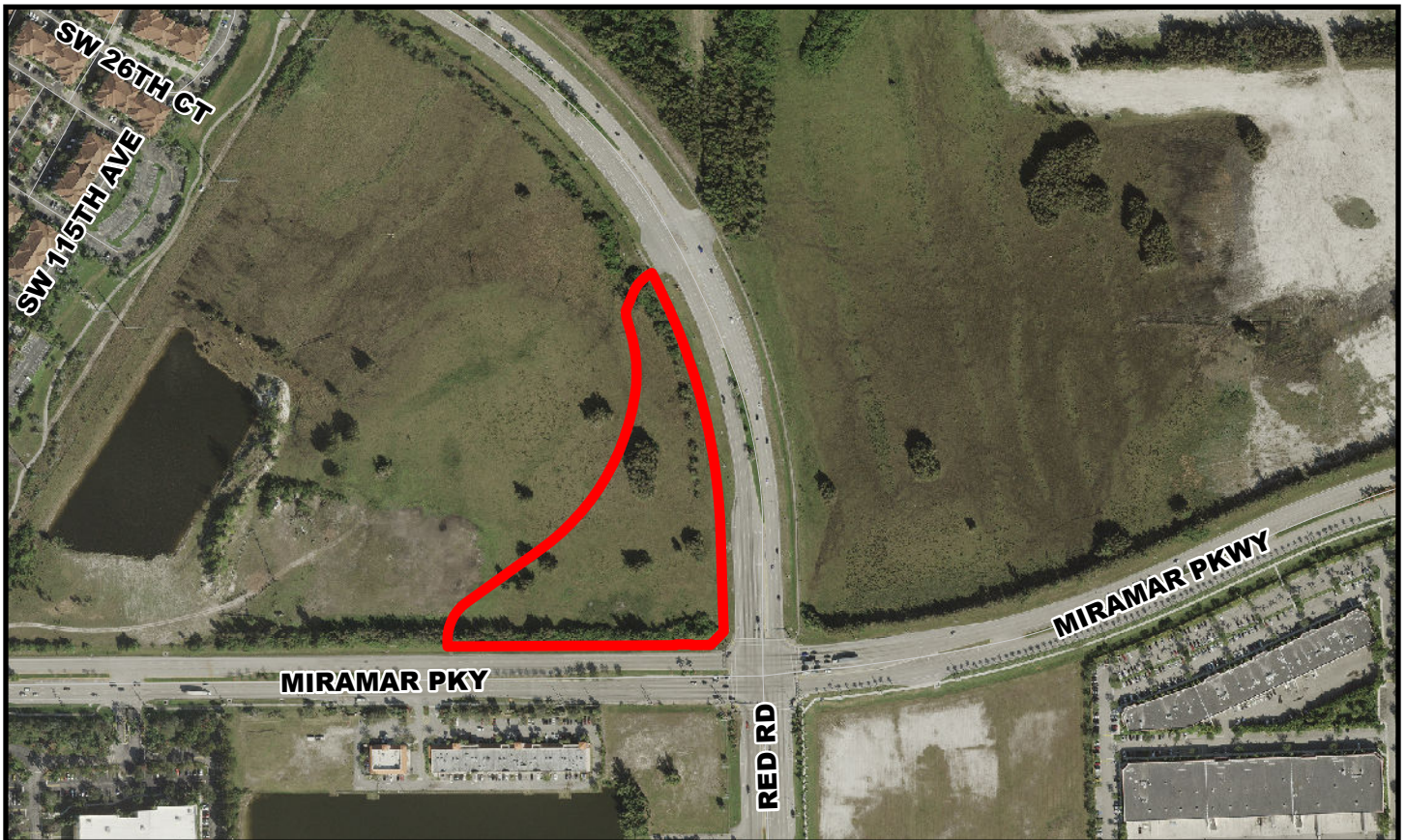
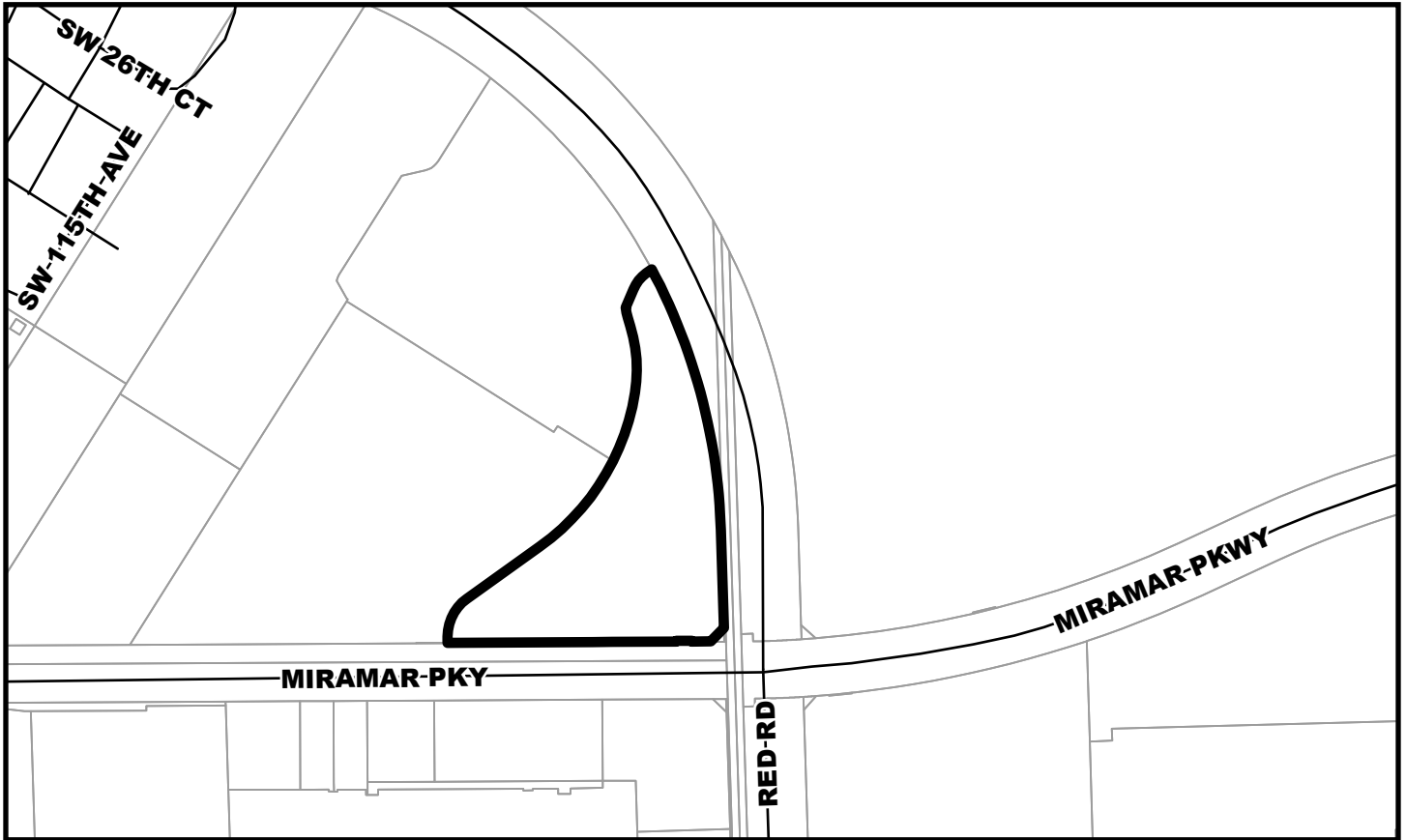
Commissioner Winston F. Barnes
Vice Mayor Maxwell B. Chambers
Commissioner Yvette Colbourne
Commissioner Alexandra P. Davis
Mayor Wayne M. Messam

Voted

Reso. No. _____

Location Map/Aerial View
VR 2001726

Attachment 1



0 400 800 Feet





City of Miramar
Community Development Department
Development Review Report

I. Project Summary

Project Name: Liquor Package Store at Miramar Park Place

Application: 2001726 – Distance Separation Variance

Application Summary: The Applicant/Developer, is proposing a liquor store at the Miramar Park Place development through the City's conditional use process. Pursuant to Section 405.4.4 of the Code, vendors are permitted to sell alcoholic beverages for consumption off premises given they are located at least 2,500 feet by straight air-line measurement from any school, childcare center or library. The proposed liquor store is located approximately 554 feet from an existing childcare center.

Related Application(s): 1908615 – Conditional Use for Liquor Package store

Agent: Jordanna Ishmael
Greenspoon Marder LLP
200 East Broward boulevard, Suite 1800
Fort Lauderdale, FL 33301
Phone: (954) 527- 2487
E-mail: Jordanna.Ishmael@gmlaw.com

Applicant/Owner: Miramar Park Place Associates, LLC
431 Fairway Drive, Suite 201,
Deerfield Beach, FL 33441
Phone: (954) 354-8282
E-mail: jgerb@konoversouth.com

II. Planning Information

Site Location:	Northwest corner of Miramar Parkway and Red Road (Folio No. 514025120012)
Land Use Plan Designation:	Regional Activity Center, RAC
Existing Zoning:	Mixed-Use Low (ML)
Existing Use:	Vacant land
Proposed Zoning:	Mixed-Use Low (ML)
Adjacent properties:	

	EXISTING USE	ZONING	LAND USE PLAN
North	FPL Conservation Easement; Miramar Town Center	Rural (RL); Traditional Neighborhood District (TND)	Regional Activity Center (RAC)
East	Red Road; Vacant lot	Transportation; Planned Industrial Development (PID)	Regional Activity Center (RAC)
South	Miramar Parkway; Miramar Crossings shopping center	Transportation; Community Business (B2)	Regional Activity Center (RAC)
West	FPL Conservation Easement; Milano and Solano Apartments	Rural (RL); Multi-family Residential District (RM2)	Regional Activity Center (RAC)

Location Map



III. Background

In November of 2018, the City Commission approved via Resolution 19-50, the Miramar Park Place development, consisting of a 50,000-square foot shopping center accompanying 650 residential dwelling units on approximately 30.73 acres of vacant land located at the northwest corner of Miramar Parkway and Red Road. In May of 2019, the Development Review Committee approved Application No. 1902594 for a modification to the approved site plan by increasing the building square footage of the shopping center by more than 7,000 square feet.

At such time, the applicant made Staff aware that they intended to have a 2,000-square foot tenant bay of the main commercial structure (*Building B*). It was identified that the applicant would require filing for conditional use approval, as liquor package stores were designated as conditional use for properties located within a Mixed-use Low (ML) zoning district. Consequently, the applicant submitted Application 1908615 (*for conditional use approval of a liquor package store*). The applicant also submitted a variance application after it was discovered that an existing childcare center was located approximately 554 feet from the proposed development, as verified by a distance proximity survey, signed and sealed by a Florida Registered Land Surveyor.

According to Section 405.4.4 of the City's Land Development Code, vendors are permitted to sell alcoholic beverages for consumption off premises if located at least 2,500 feet by straight air-line measurement from any school, child care center, or library as measured from the main entrance of the alcohol vendor to the nearest property line of the school, child care center, or library grounds. Although the Broward County Miramar Branch library and New Renaissance Middle School are located within a mile of the subject site, Precious Years Christian Learning Center is the only facility that is located within the 2,500-foot radius.

IV. Review Criteria

The City's Land Development Code, "LDC", (Section 315.7) provides that a variance can only be granted if a preponderance of the evidence demonstrates that the conditions listed herein are met.

(1) The Variance shall not be substantial in relation to what is required by the Code.

Applicant's Response: The City Code [LDC] would require a distance separation of at least 2,500 feet, where the proposed use is approximately 554 feet from the existing day care use. However, the uses are separated by a major arterial roadway that is not conducive to pedestrian crossing, especially for attendees of a childcare center. The proposed location of the liquor store will ensure the use is one of many uses located in a highly active area of the commercial portion of the Property. The variance that is being requested by the Applicant is not substantial in relation to what is required by the Code.

Staff's Evaluation: The variance request is, in fact, substantial in relation to what is required by the Code as it's a considerable percentage of the 2,500-foot straight air-line measurement distance. However, Staff agrees with the Applicant's statement that pedestrian walkability is not conducive from the proposed establishment to the daycare as Miramar Parkway, an arterial roadway with a Broward County trafficways designation of at least 120-foot width, separates both properties and the nearest intersection is located at Red Road and Miramar Parkway.

(2) The approval of the Variance will be compatible with development patterns, and whether a substantial change will be produced in the character of the neighborhood.

Applicant's Response: The proposed liquor store is located within a commercial shopping center and will not have any singular impact on the character of this neighborhood, both existing and proposed. The larger mixed-use development is in line with the intention and current development pattern of the City RAC. The proposed liquor store is akin to the ABC Fine Wine & Spirits store that is set to open in March of 2020. The ABC Store, located at 16941 Miramar Parkway, is across Miramar Parkway from Dolphin Bay Elementary School. The ABC Store, though in range of a large elementary school, has taken on significant measures to ensure that the building façade and plans would be compatible with the character of its neighborhood. This is absolutely applicable to the proposed liquor store. The proposed liquor store use will occupy a tenant bay in the largest structure (Building B), centrally located within the commercial portion of the Property. The liquor store will be owned and operated by the same entity as the adjacent restaurant use. The operator is regionally established with more than a dozen establishments in South Florida. The presence of a high-quality, regionally known operator will ensure the branding and aesthetics of the liquor use will be consistent with the plaza overall. The location of the liquor use within a structure containing more than a dozen other commercial bays will work to minimize any aesthetic impacts that might be associated with standalone liquor stores. Further, the design of the proposed structure will ensure sufficient visibility into and out of the store. The proposed location will maximize the safety and comfort of the public visiting the Property.

Staff's Evaluation: With the approval of the subject distance separation variance for the proposed liquor package store, the Development Review Committee members do not anticipate any noticeable change in the character of the neighborhood. Staff notes that by implementing Crime Prevention Through Environmental Design ("CPTED") principles, as required by conditions of approval of Conditional Use Application 1908615, it will assist in deterring potential nuisances such as crime. Some CPTED design modification required for the applicant to comply with include installing security cameras, providing for bright interior store lighting, and having the interior design of the store to allow for natural surveillance capability (visibility from the outside). Furthermore, signs will be posted on site that consumption on premises will be prohibited, which allows law enforcement to deal with patrons that violate state and local regulations.

(3) *The essential character of the neighborhood would be preserved.*

Applicant's Response: The essential character of the neighborhood will be preserved with the proposed liquor store use. The proposed liquor store is part of a larger [commercial] shopping center with multiple restaurants and retail options – a liquor store use would be most appropriate in such a scenario versus a standalone liquor store. Further, based on the adjacent restaurant use, the essential character of the entirety of the mixed-use development will be kept intact.

Staff's Evaluation: The distance separation variance will not affect the approved façade for the proposed Miramar Park Place development, as the liquor store would be located within a 2,000-square foot bay of the main shopping center building, with one primary access to patrons through a front door, and a restricted rear entrance for employees and emergency access. In addition, with the layout of this mixed-use site located at a prominent intersection, there will be quite a few "eyes on the street" to enhance security of patrons and residents.

(4) *The Variance can be approved without causing substantial detriment to adjoining properties.*

Applicant's Response: The variance can be approved without causing substantial detriment to adjoining properties. The development of this vacant property, including the liquor store use as one of many commercial operators will improve this area of the City by providing a range of housing options and additional commercial uses that complement existing development in the surrounding area. Further, this liquor store is the only liquor store within the entirety of the City's RAC. Though the liquor store is not within the distance separation criterion of the City Code, it is sufficiently far enough and buffered enough by Miramar Parkway to create a significant distance between the liquor store and the childcare center.

Staff's Evaluation: While the Code may be limiting for a liquor or package store use, it would not impede other retail development on this site. Restaurants and bars with alcoholic beverage sales licenses for Consumption on Premises (C.O.P.) from the State of Florida for beer, wine and liquor are permitted at the subject property without any use-specific regulations that would present a hardship. Although LDC Section 405.4.4 explicitly calls out the distance separation from any established school or child care center or library, it does not prohibit commercial establishments of a retail, office, and medical nature to be located within the proposed Miramar Park Place development and adjacent commercially-zoned developments such as Miramar Crossings and Cross Town Shoppes.

(5) *The request is due to unique circumstances of the property, the property owner, and/or the applicant which would render conformity with the strict requirements of the code unnecessarily burdensome.*

Applicant's Response: Strict adherence to this Code requirement would effectively prohibit the liquor store use where it is permitted as a conditional use. This is severely limiting considering the large separation requirement of 2,500 feet, the manner of measurement by straight line to property line, and the practical impact of locating a liquor store use within a commercial center that promises to be an important hub for the City. The mixed-use development where the liquor store use is being proposed was planned with the intent of allowing for this liquor store use to be adjacent with the proposed restaurant, given the nexus between the two entities. The Applicant requests the approval of this variance to allow for the liquor store use so as to not create a completely restrictive barrier of entry.

Staff's Evaluation: Staff believes that this request is not due to unique circumstances of the property, or the property owner and/or applicant; however, research into Code provisions from nearby municipalities show that the distance separation requirement of 2,500 feet from a child care center might be excessive and as such the strict requirements of the Code would be unnecessarily burdensome on the Applicant.

The table below highlights the distance separation requirement for liquor/package stores for municipalities of similar scale and composition as Miramar.

Municipality	Distance	From	Measurement
Coconut Creek	500 feet	Places of worship or school	Measured by the nearest pedestrian travel along public right-of-way from main entrance to main entrance, except that in case of a school, to the nearest point of the school grounds, used as part of the school facilities
Davie	1,200 feet	The premises of any other package liquor store; and from any elementary, middle or high school, whether public, private or parochial, or any place of public assembly	Measured in a straight line from the furthest extension of the premises of the package liquor store to the nearest primary or accessory building associated with an elementary school, middle school, high school, or place of public assembly
Hollywood	500 feet	An established place of worship or school	Measured by the nearest pedestrian travel on the public right-of-way from main entrance to main entrance, except that in case of a school, to the nearest point of the school grounds used as part of the school facilities
Miami Gardens	1,500 feet	Similar establishments	Measured by following a straight line from the nearest portion of the structure of the place of business
	2,500 feet	Religious facility or school	Measured and computed as follows: From a religious facility or school, the

			distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest point of the religious facility grounds or school grounds
	500 feet	Public parks and recreational areas and residential zoned property	Measured and computed as follows: From a public park or residentially zoned property, the distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest point of the parks or residentially zoned property
Oakland Park	500 feet	Church or School	Measured by the closest feasible route on public right-of-way, from any church or school, measured from main entrance to main entrance, except, in case of a school, to the nearest point of the school grounds used as part of the school facilities
Pembroke Pines	200 feet	Any day care, church, public, private, or parochial, elementary, middle, or high school	Air-line measurement; measurements being between the nearest entrance to the alcoholic beverage establishment and the nearest entrance to the day care, church, public, private, or parochial, elementary, middle, or high school
Plantation	1,000 feet	Houses of worship, schools, hospitals, parks, and childcare centers	Air-line measurement, from main entrance to main entrance of the place of business of any similar type licensed purveyor of liquor for off-site consumption, and must be separated from similar type licensed establishments by the one thousand-foot distance
Pompano Beach	1,000 feet	Similar establishments	Measured from main entrance to main entrance of the establishments by air-line route
	500 feet	Houses of worship, schools, and childcare centers	Separation shall be measured from main normal public entrance of Alcoholic Beverage Establishment to the nearest point of the Child Care facility, School, or Place of Worship's property used as a part of the facility measured along public thoroughfares by the shortest route of ordinary pedestrian traffic; and measured from main normal public entrance of Alcoholic Beverage Establishment to the nearest point of the Child Care facility, School, or Place of Worship's

			property used as a part of the facility measure by air-line route
Sunrise	600 feet	Any existing place of worship, public or private school or public park	The distance measurement shall be by air-line from property line to property line, using the closest property lines of the parcels, if the establishment occupies its own parcel, or, from door to door, if measuring to a place of worship, school or public park located on the same parcel or if the establishment is located within a shopping center; such measurement shall also apply to existing places of worship, schools, and public parks in another municipality adjoining the city

Based on the information presented in the table above, it is Staff's supposition that a majority of municipalities have distance regulations that fall at or under 1,000 feet for similar establishments (e.g. liquor/package stores) and religious institutions, schools (public and private K-12), and childcare centers. Only two municipalities from the list, Davie and Miami Gardens, exceeded a 1,000-foot distance separation. Although the distance separation measurement also varied by municipality, and exceptions to those provisions also vary by municipality, the information presented does support Staff's submission that a distance separation of 2,500 feet might be burdensome to the Applicant.

(6) The special conditions and circumstances which exist are the result of the actions beyond the control of the applicant.

Applicant's Response: The current conditions and circumstances that exist with respect to the proposed liquor store use are beyond the control of the Applicant. Based on the mixed-use development's location in connection with the childcare center, there is no other portion of the development where the proposed liquor store could be placed in order to meet the stringent distance separation requirement proposed by the City Code. In an effort to remedy this, the Applicant intends on developing a liquor store that is top of the line, operated by a nationally recognized brand, and will implement all necessary security features to ensure the viability of the store and the safety of the overall neighborhood.

Staff's Evaluation: Staff finds that the special conditions and circumstances that exist are the result of the actions beyond the control of the applicant. The Precious Years Christian Learning Center has been in operation for several years, and the subject property, Miramar Park Place, falls within the 2,500-foot air-line measurement, so relocating the liquor store elsewhere on site is simply not feasible. Additionally, although the site plan for Miramar Park Place was approved by the City Commission in November of 2018 for the proposed 50,000-square foot shopping center, it was not until the subsequent site plan amendment submitted in April of 2019, that the Applicant had approached Staff to inquire about a potential liquor package store tenant. Therefore, the only viable method for the applicant was to submit for conditional use and variance approval.

(7) The difficulty cannot be obviated by some method feasible for the applicant to pursue other than by a variance.

Applicant's Response: As discussed in subsection (6) above, the difficulty cannot be obviated by some method feasible for the Applicant to pursue other than a variance. Due to the location of the existing childcare center and the location of the already approved mixed-use development, it is not possible to locate the liquor store anywhere else on site to avoid a variance for distance separation. The Applicant is willing to work with the City to ensure that all security features are met.

Staff's Evaluation: Staff finds that because the childcare center is existing, the only feasible method for the applicant to pursue the liquor store on the subject property is through this variance application. Furthermore, as stated previously, the entire shopping center property falls within the Code required 2,500-foot air-line measurement, so relocating the liquor store elsewhere on site would not work.

(8) In view of the manner in which the difficulty arose, the interest of justice will be served by allowing the Variance.

Applicant's Response: The interest of justice will be served by allowing the variance. The location of the proposed liquor store had been contemplated during the site plan modification approval process for the mixed-use development. The Applicant believes that the proposed liquor store use as a part of this development will create a hub within the City that contributes to something that the City does not currently have-a high-quality development with an emphasis on restaurants, bars, and walkability. The proposed liquor store use has been a part of the Applicant's vision throughout since the modifications to the site plan were made. The approval of this variance would allow for this vision to be realized and to serve the interests of justice.

Staff's Evaluation: The granting of the variance does not appear to have any detrimental impacts to the City or the general public. It is not anticipated that public health, safety and welfare would be compromised by the approval of the subject variance. CPTED standards applied through the related conditional use application for the liquor store will assist in discouraging and minimizing crime. Based on Staff's findings, the interest of justice will be served by allowing the variance.

V. Development Review Committee (DRC)

The Development Review Committee recommended approval on March 11, 2020

VI. Staff Recommendation

Staff finds that this application does satisfy the criteria of LDC Section 315.7 for granting a variance and therefore recommends approval.